

HERE COME MANY MORE MAIL-ORDER BRIDES: WHY IMBRA FAILS WOMEN ESCAPING THE RUSSIAN FEDERATION

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I. INTRODUCTION

The business of brokering mail-order brides sparks a tension between those who use the services of an international marriage broker and those who recognize its potential for abuse. Proponents claim that it is simply a forum for men and women to meet each other and fall in love, placing it in the same category as “match.com” and singles clubs.¹ Advocates argue that parties to the arrangement should remain free to make choices for themselves.² Opponents of regulating so-called “international marriage organizations” or “brokers” (“marriage brokers”) eschew business restriction schemes and any additional immigration restrictions on the influx of the chosen brides.³

Advocates for restriction of the business cry foul at the practices of marriage brokers.⁴ They view the mail-order bride business as one “of growing epidemic proportions.”⁵ Members of Congress who push for reform place the industry in the human trafficking context and describe it

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¹ Erin K. Pleasant, *The International Marriage Broker Regulation Act: Protecting Foreign Women or Punishing American Men?*, 29 CAMPBELL L. REV. 311, 311–12 (2007).

² Christina Del Vecchio, Note, *Match-Made in Cyberspace: How Best to Regulate the International Mail-Order Bride Industry*, 46 COLUM. J. TRANSNAT’L L. 177, 181 (2007).

³ *Id.* at 200.

⁴ *Id.* at 184–85.

⁵ *Human Trafficking: Mail Order Bride Abuses: Hearing Before the Subcomm. on E. Asian & Pac. Affairs of the S. Comm. on Foreign Relations*, 108th Cong. 5 (2004) [hereinafter *Human Trafficking*] (statement of Sen. Maria Cantwell).

as “one of the dark clouds of . . . globalization.”⁶ Some scholars indeed make the leap, with little explanation, from mail-order bride to trafficking and domestic violence, as though one reality inevitably leads to another.⁷ Additional opponents claim that mail-order brides are exploited, lied to, and enticed in such a way that their vulnerability makes them impervious to the possible negative consequences. Instead, the brides are motivated by the draw of a better life in the United States with an American husband.⁸ Victim advocates, including members of Congress who believe the industry must be controlled, favor regulating the industry to ensure full notice to the prospective brides of the possible consequences of their new adventure.⁹

The reality lies, as it often does, somewhere between these two extremes. Some matches result in bona fide, happy marriages that survive the scrutiny of the immigration services and do not necessitate 911 calls relating to abuse.¹⁰ American bridegrooms have imported foreign brides since the birth of the United States, and a practice this entrenched in the American experience is unlikely to disappear.¹¹ Yet, the complaints of

⁶ Senator Sam Brownback (Kansas) stated at a subcommittee hearing:

[Senator] Paul [Wellstone] and I both looked at this and said this is one of the dark clouds of the globalization, where you get in a world that opens up and people can travel more freely and the fall of the wall and communism and people are able to move. But this has been one of the dark sides of it, and we really have to continue to be real vigilant.

Id. at 13 (statement of Sen. Sam Brownback, Member, S. Comm. on Foreign Relations).

⁷ Del Vecchio, *supra* note 2, at 181.

⁸ *Id.* at 194.

⁹ *Id.* at 196–97.

¹⁰ *Id.* at 213.

¹¹ The history of the mail-order bride industry is beyond the scope of this article. See *Human Trafficking*, *supra* note 5, at 14 (statement of Michele A. Clark, Co-Director, Prot. Project of the Foreign Policy Inst., Johns Hopkins Univ.); Suzanne H. Jackson, *To Honor and Obey: Trafficking In “Mail-Order Brides”*, 70 GEO. WASH. L. REV. 475, 482–89 (2002); IMMIGRATION & NATURALIZATION SERV., INTERNATIONAL MATCHMAKING ORGANIZATIONS: A REPORT TO CONGRESS, (Feb. 1999), <http://library.niwap.org/wp-content/uploads/2015/IMM-Art-IntrtnlMatchmaking.ReportCongress.pdf> [<https://perma.cc/L5YB-FHJY>] [hereinafter 1999 INS REPORT]; Christine S.Y. Chun, *The Mail-Order Bride Industry: The Perpetuation of Transnational Economic Inequalities and* (continued)

men, who simply wish to marry their mail-order brides and bring them to the United States without complication, were unheard by Congress. Instead, Congress created another immigration law, the International Marriage Broker Regulation Act (IMBRA),¹² amending a statute already filled with restrictions on family-based and marriage-based immigration, no matter how that marriage originated.¹³ Perhaps no entity has the right to take away a prospective mail-order bride's prerogative to seek marriage in such a fashion. It can be degrading to dictate to a woman that she may not make such a choice. It also may be unjust to categorize all men who marry mail-order brides as abusers. Perhaps the male prerogative to choose a bride in such a manner should be protected as well. IMBRA has not curtailed the choice of men and women to mate via participation with international marriage brokers, and the market continues to thrive.¹⁴

Unfortunately, marriage brokers rarely present to the potential bride a realistic picture of what she may face in the United States. Brokers traditionally were not required to, nor did they tend to, tell brides of the risk of domestic violence, nor did they warn of the possibility of complicated ramifications of failed immigrant spouse visa petitions.¹⁵ And most certainly, mail-order brides lack the opportunity to get to know their future husbands well enough to discern possible "red flags." IMBRA, enacted in 2005, placed a measure of control over the industry;¹⁶ however, the effectiveness of this legislation falls short of preventing abuse, by eliminating the "push factors" a prospective mail-order bride may face, and by demolishing the demand presented by the American men who shop for brides online.

The "push factors" matter when reviewing the legislation that purports to protect the very women compelled to use the services of an online broker to arrange a marriage to an unknown man thousands of miles away. Many American women find it inconceivable that any woman would subject herself to the scrutiny and risk of being advertised on the internet as a potential bride without knowing what kind of person may be willing to pay thousands of dollars to make her his wife. Yet, something compels

Stereotypes, 17 U. PA. J. INT'L ECON. L. 1155, 1157-59 (1996); MILA GLODAVA & RICHARD ONIZUKA, MAIL-ORDER BRIDES: WOMEN FOR SALE (1994).

¹² Pleasant, *supra* note 1, at 315-16.

¹³ *Id.*

¹⁴ Del Vecchio, *supra* note 2, at 180-81.

¹⁵ *Id.* at 196-97.

¹⁶ Pleasant, *supra* note 1, at 315-16.

women from particular countries, and heavily in the last few decades from the former Soviet Union, to make these choices. The question remains: does one choose to become a mail-order bride, or does the reality of existence in Russia prove so dismal that the industry provides the only viable option?

Important realities exist in the Russian Federation that can help explain the sustained movement by women to offer themselves as brides to American men through marriage brokers. There are also reasons why lawmakers and domestic violence victim advocates espouse the nexus between mail-order brides and domestic violence. This Article explores these influential factors with an analytical eye toward legal definitions, immigration provisions, the potential for abusive dynamics crafted in the very structure of the mail-order marriage, and laws that purport to offer protection.

Part I of this Article provides an in-depth examination of the conditions in Russia for women from the Soviet era to today's tumultuous society under President Putin. It argues that many incentives exist for Russian women to commit themselves to a future with an unknown American husband using an international marriage broker. Critical analysis of IMBRA's effectiveness cannot take place without a full examination of the multiple "push factors" that lead women (the supply) to use the international marriage broker business to find a U.S. husband (the demand). If the "push factors" ceased to exist, there would likely be no need for IMBRA.

Part II examines the conditions that mail-order brides face, conditions that make brides susceptible to domestic violence. Throughout the beginning of the twenty-first century, several high-profile murders of mail-order brides dominated the media. This Article argues that such murders will not necessarily end with the passage of IMBRA, because immigration policy still contains an imbalance of power between the U.S. citizen-husband and immigrant-wife. This Part also examines the dynamics of domestic violence and the common characteristics of men who use international marriage brokers. Both factors contribute to the tendency of domestic violence in the relationship.

Part III analyzes IMBRA and its legislative roots but also provides a critique of its gaps and shortcomings. After more than a decade and even helpful amendments in 2013, IMBRA still has not been fully

implemented,¹⁷ and gaping holes remain in its effectiveness. While some recommendations for legislative changes are presented, the true message is global: if gender conditions in Russia and other supply countries are not addressed, IMBRA will continue to fall short of its goal to protect and inform women in the international marriage broker industry.

II. THE “PUSH FACTORS”: EXISTING CONDITIONS IN THE RUSSIAN FEDERATION THAT MAY BE INFLUENCING WOMEN TO SIGN UP FOR INTERNATIONAL MARRIAGE BROKERS

Economic and social factors in the former Soviet Union contribute to the increase of mail-order brides migrating to the United States. Some potential brides are desperate to escape these conditions and are drawn by attractive prospects of life in the United States. This Part explores the reasons for migration, along with the ways in which the mail-order bride industry has flourished as a result, both practically unregulated, then somewhat restricted by IMBRA, since the fall of the Soviet Union.

A. Mail-Order Brides and the Russian Federation: A History

It is well known that mail-order brides have been a part of U.S. history for some time, given the numerous brides who have come to the United States from Asian countries.¹⁸ In fact, America’s western frontier benefitted from literal mail-order brides, when the male population grossly outweighed the presence of female companionship.¹⁹ Yet, focus on the marriage broker industry began only when it caught the attention of Congress in 1996.²⁰ At that time, a possible causal relationship became evident among the fall of the Soviet Union, the increased influx of mail-order brides, anecdotal abuse of those brides, and the burgeoning knowledge of the possible relationship between these brides and violence. The Mail-Order Bride Act was implemented as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).²¹ A link between the life of the typical mail-order bride and

¹⁷ Victoria I. Kusel, *Gender Disparity, Domestic Abuse, and the Mail-Order Bride Industry*, 7 ALB. GOV’T L. REV. 166, 180–81 (2014).

¹⁸ *Id.* at 168–69.

¹⁹ See CHRIS ENSS, HEARTS WEST: TRUE STORIES OF MAIL-ORDER BRIDES ON THE FRONTIER 105 (2005).

²⁰ Del Vecchio, *supra* note 2, at 212.

²¹ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, § 652, 110 Stat. 3009, 3009-712 to -713 (repealed 2006).

potential domestic violence emerged as part of the findings of the Act.²² Congress required the marriage broker industry to give notice to their female recruits of the possibilities of domestic violence and of the immigration relief they may seek if abused by their U.S. citizen husbands.²³

Evidence exists that the marriage broker industry is responsible for a significant influx of Russian women. According to the 1999 study conducted by the former Immigration and Naturalization Service on international matchmaking organizations, “Since 1992, marketing of women from the newly independent states of the former Soviet Union and Eastern Europe and the number of international matchmaking businesses have grown dramatically.”²⁴ A 2001 study indicated that approximately 62,605 women from the Russian Federation were found to have been recruited by international marriage brokers.²⁵ A news program in 2004 estimated that annually approximately 92,000 Russian and Ukrainian women post themselves as mail-order brides on about 500 marriage broker websites.²⁶ Further, 2005 immigration statistics indicate that one-third to one-half of all fiancé visa recipients (11,000–16,500) may have been mail-order brides.²⁷

Even with the implementation of IMBRA in 2005, the immigration of Russian women has remained very steady for the past decade. Russia has

²² 1999 INS REPORT, *supra* note 11, at 2.

²³ *Id.* at 2–3.

²⁴ *Id.* at 5.

²⁵ Donna M. Hughes, *The Role of ‘Marriage Agencies’ in the Sexual Exploitation and Trafficking of Women from the Former Soviet Union*, 11 INT’L REV. VICTIMOLOGY 49, 52 (2004).

²⁶ Olly Bootle, ‘Cyber Brides’ Vulnerable to Abuse?, BBC NEWS (May 18, 2004), http://news.bbc.co.uk/go/pr/fr/-/1/hi/programmes/this_world/3700409.stm [<https://perma.cc/6VPW-8ZH2>].

²⁷ TAHIRIH JUSTICE CENTER, FREQUENTLY ASKED QUESTIONS: INTERNATIONAL MARRIAGE BROKER REGULATION ACT OF 2005 (IMBRA) 1, <http://www.tahirih.org/wp-content/uploads/2015/06/IMBRA-Frequently-Asked-Questions.pdf> [<https://perma.cc/GCZ4-DZQM>] [hereinafter TAHIRIH IMBRA FAQs]. Of the worldwide total of 265,367 spouses of U.S. citizens who were admitted as lawful permanent residents in 2015, 28,434 entered as fiancés, 36,950 were conditional new arrivals, and 4,813 were self-petitioners. U.S. Dep’t of Homeland Sec., *Yearbook of Immigration Statistics 2015* tbls.6–7, <https://www.dhs.gov/immigration-statistics/yearbook/2015> [<https://perma.cc/TSSF-Y2CM>] [hereinafter *2015 Immigration Statistics*].

remained in the top few countries for K-visa admissions to the United States throughout the decade.²⁸ According to statistics compiled by the U.S. Department of State, fluctuation in the number of K-visas issued from 2005 through 2014 went from 53,968 in 2005,²⁹ to 30,999 in 2010,³⁰ to 27,684 in 2012,³¹ and to 35,925 in 2014.³²

B. Reasons for Migration

“For the women living in the developing nations, from which most mail-order brides emerge, the dilemma of being a woman directly intersects with the dilemma of living in the developing world; their needs are ignored by their own State and by the international community.”³³

Multiple conditions exist that have caused the ongoing influx of post-Soviet women to the United States. To understand the growth of the Russian mail-order bride phenomenon in the last fifteen years, it is crucial to explore the issues that might compel a woman to advertise herself for marriage through a broker, leave “Mother Russia,” and risk an unfamiliar life in a foreign country with a man she does not know. After all, some experts consider that “[b]ecoming a [mail-order bride] is no quick fix for down and out Russian women—it is an act of desperation.”³⁴ There is a perception that mail-order brides choose this route, not because they want to be brides, but because of high unemployment and little opportunity at

²⁸ TAHIRIH IMBRA FAQs, *supra* note 27, at 7 n.5

²⁹ *Classes of Nonimmigrants Issued Visas, Fiscal Years 2001-2005*, U.S. DEP’T OF STATE, <https://travel.state.gov/content/dam/visas/Statistics/FY05tableXVIa.pdf> [<https://perma.cc/LU5L-L9QL>].

³⁰ *Nonimmigrant Visas Issued by Classification, Fiscal Years 2006-2010*, U.S. DEP’T OF STATE, https://travel.state.gov/content/dam/visas/Statistics/FY10AnnualReport-TableXVI_B.pdf [<https://perma.cc/89KR-3QZU>].

³¹ *Nonimmigrant Visas Issued by Classification, Fiscal Years 2008-2012*, U.S. DEP’T OF STATE, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2012AnnualReport/FY12AnnualReport-TableXVIB.pdf> [<https://perma.cc/LW82-V8HJ>].

³² *Nonimmigrant Visas Issued by Classification, Fiscal Years 2010-2014*, U.S. DEP’T OF STATE, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2014AnnualReport/FY14AnnualReport-TableXVIB.pdf> [<https://perma.cc/3H62-2NF5>].

³³ Kate O’Rourke, *To Have and to Hold: A Postmodern Feminist Response to the Mail-Order Bride Industry*, 30 DENV. J. INT’L L. & POL’Y 476, 482 (2002).

³⁴ Gina Welch, *To Have and to Hold Down*, IRIS, Spring 2005, at 28, 31.

home.³⁵ Conditions in the Russian Federation after the break-up of the Soviet Union, and in particular, how those conditions affected women, provide some explanation regarding this phenomenon.

Soviet propaganda under the communist mentality advertised gender equality. The idea of family during Soviet times was that of an “egalitarian partnership.”³⁶ The labor market did not differentiate between the sexes, unemployment was low for both men and women, and for the most part women were involved in the same industries as men.³⁷ In addition, women were well-educated, partly due to state funds allocated for higher education for both men and women.³⁸ The government also spent much money on providing daycare and after-school activities for children, which enabled women to work full-time with relative ease.³⁹ Thus, women were able to take funded maternity leaves without the lack of childcare interfering with an eventual return to work.⁴⁰

However, most post-Soviet reports assert that true gender equality existed only in Soviet propaganda.⁴¹ For example, the Soviets boasted statistics that revealed that 80% of their doctors and teachers were women;⁴² however, these professions were not as highly regarded as their American counterparts.⁴³ Propaganda successfully downplayed this inequity.⁴⁴ In fact, while the Soviet “equality” mentality may have colored the labor force, it did not trickle down to the household. Traditional roles

³⁵ O'Rourke, *supra* note 33, at 480.

³⁶ Marianna Muravyeva, *Traditional Values and Modern Families: Legal Understanding of Tradition and Modernity in Contemporary Russia*, 12 J. SOC. POL'Y STUD. 625, 627 (2014).

³⁷ Louise I. Shelley, *The Changing Position of Women: Trafficking, Crime, and Corruption*, in *THE LEGACY OF STATE SOCIALISM AND THE FUTURE OF TRANSFORMATION* 207, 207 (David Lane ed., 2002).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Hilary Pilkington, 'For the Sake of the Children': Gender and Migration in the Former Soviet Union, in *POST-SOVIET WOMEN: FROM THE BALTIC TO CENTRAL ASIA* 119, 129 (Mary Buckley ed., 1997).

⁴¹ Shelley, *supra* note 37, at 207.

⁴² Aleksandr Gurgenevich Dovlatov, *Globalization, Gender, and Partner Selection Age Preference/Entitlement: A Russo-American Case Study*, Publication No. AAT 1426416, 11 (Dec. 2005), (published Ph.D. dissertation, Michigan State University) (on file with author).

⁴³ *Id.*

⁴⁴ *Id.*

and expectations for women still had potency; thus, stereotypical gender roles for women under communism persevered.⁴⁵ While women worked full-time jobs and were well represented in the labor force, they were expected also to return home during “off” hours and take care of the home and family with little help from a male counterpart.⁴⁶ Care for the home in the Soviet Union differed greatly than in Western nations, due to the decrepit consumer system in existence under communism.⁴⁷ This system often made shopping for essentials a full-time job within itself.⁴⁸ Women could be found lining up on the street for hours on the off chance that some rare commodity, such as fresh fruit, might be for sale.⁴⁹ Female participation in the political process was also quite a different experience from what women enjoyed in the job market.⁵⁰ They generally were excluded from political positions within the “Party,” due to the time constraints of working, family, and battling consumer nothingness.⁵¹

The transition from communism to a free-market economy witnessed a power shift that was predominantly patriarchic; it showed little concern for its effect on women. Under Soviet rule, supportive and independent women’s groups were suppressed; thus, once the transition occurred, women as a group lacked an infrastructure and organizational response to the gender issues that overwhelmed them.⁵² Thus, the typical Soviet woman lived a life that was much different than the gender stereotypes inferred by the “feminine” and “traditional” images broadcast over the internet of Russian mail-order brides.

Further discussion of the tremendous growth of the Russian mail-order bride business must also include the economic transition that took place in post-Soviet Russia. The fall of communism and the unregulated rise of a corrupt market economy placed vulnerable populations, such as women, in

⁴⁵ Beth Holmgren, *Toward an Understanding of Gendered Agency in Contemporary Russia*, 38 SIGNS 535, 537 (2013).

⁴⁶ Shelley, *supra* note 37, at 207.

⁴⁷ JOINT ECON. COMM., 97TH CONG., CONSUMPTION IN THE USSR: AN INTERNATIONAL COMPARISON 30 (1981).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Shelley, *supra* note 37, at 207.

⁵¹ *Id.*

⁵² Donna M. Hughes & Tatyana A. Denisova, *The Transnational Political Criminal Nexus of Trafficking in Women from Ukraine*, 6 TRENDS IN ORGANIZED CRIME 43, 46 (2001).

a position of reliance on businesses whose motives involved profit and whose methods involved taking advantage of perceived weaknesses. The transition was partly a matter of shifting from a power-based to an ownership-based system. Under communism, people did not “own” property; rather, only certain individuals had control over property.⁵³ Not surprisingly, the control lay mainly in the hands of men, while women fulfilled their job requirements and then tended to the home.⁵⁴ Once the Soviet Union collapsed and property was redistributed, the “old” power brokers became the “new” owners, and such reality left women predominantly without property or power.⁵⁵ In addition, the primarily male Soviet power brokers and officials typically made the transition from a collapsed Soviet rule by staying in power and allying with oligarchs who mainly relied upon criminality to get anything done.⁵⁶ Thus, the power shift after communism left women behind, and the power structure that grew in its place, including attempts from democracy to organized crime, ignored the needs of women.

It is not surprising that women’s unemployment has grown to staggering heights. Women “suffer disproportionately from unemployment,” because not only did more women lose jobs after the fall of the Soviet Union, but they also found it more difficult than men to find new jobs.⁵⁷ In 1997, 94% of the women in Moscow were unemployed or had only temporary work.⁵⁸ In 1998, 6.5 million women were reported without jobs.⁵⁹ A 2005 source stated that 80% of the individuals who lost their jobs due to economic transition were women.⁶⁰

In addition to the plight suffered by women socially and economically, women were also left without government social benefits during the time of redistribution. In the name of economic efficiency, programs traditionally funded by the state, such as daycare, school activities

⁵³ Shelley, *supra* note 37, at 208.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Hughes & Denisova, *supra* note 52, at 47.

⁵⁷ Pilkington, *supra* note 40, at 127.

⁵⁸ *Id.*

⁵⁹ DONNA M. HUGHES, PIMPS AND PREDATORS ON THE INTERNET: GLOBALIZING THE SEXUAL EXPLOITATION OF WOMEN AND CHILDREN 38 (1999).

⁶⁰ Alexandra V. Orlova, *Trafficking of Women and Children for Exploitation in the Commercial Sex Trade: The Case of the Russian Federation*, 6 GEO. J. GENDER & L. 157, 164 (2005).

designed for care of children while both parents worked, higher education, etc., went by the wayside.⁶¹ The disappearance of such benefits disproportionately affected women because they still shouldered the dual burden of job and family care without the benefit of subsidized programs that made the balanced performance of both roles possible.⁶²

Maternity leaves may stretch from a mother's necessary break from work to an often-endless period of unemployment due to the disappearance of state-funded childcare. Women simply cannot afford to return to their jobs after having babies, because no childcare exists.⁶³ Instead, women sometimes use their "maternity leave" to sell produce, provide childcare for other mothers, or make and sell clothing.⁶⁴ This reality is a paradox, though, because women are considered less engaged in legitimate self-employment than male businessmen.⁶⁵ At present, Russian women face not only a double burden of work and family, but a triple burden: working, caring for family and children, and chasing after whatever public "allotment" remains for Russian citizens.⁶⁶

Added to the inequity for women described above, gender discrimination is a harsh reality in Russia that has not been adequately addressed by the recent administration.⁶⁷ Sexual harassment continues unchecked as well.⁶⁸ In fact, recent changes to laws regarding domestic violence certainly contribute to the widening of the gender gap.⁶⁹ The

⁶¹ Shelley, *supra* note 37, at 208.

⁶² Orlova, *supra* note 60, at 163.

⁶³ Pilkington, *supra* note 40, at 129.

⁶⁴ *Id.* at 129–30.

⁶⁵ *Id.* at 129.

⁶⁶ *Id.* at 131.

⁶⁷ Justin S. Merriman, *Holy Matrimony Plus Shipping and Handling: A Libertarian Perspective on the Mail-Order Bride Industry*, 17 INDEP. REV. 81, 85 (2012); Orlova, *supra* note 60, at 165.

⁶⁸ Orlova, *supra* note 60, at 165. For a 1995 overview of gender discrimination, sexual harassment, and violence against women after the fall of the Soviet Union, see generally *Russia: Neither Jobs Nor Justice: State Discrimination Against Women in Russia*, 7 HUM. RTS. WATCH (1995), <http://www.hrw.org/reports/1995/Russia2a.htm> [<https://perma.cc/AC8M-5HTF>] [hereinafter HUMAN RIGHTS WATCH]. See also Steven Rosefielde, *The Civilian Labour Force and Unemployment in the Russian Federation*, 52 EUROPE-ASIA STUD. 1433, 1437 (2000).

⁶⁹ See *Putin Signs Law Easing Punishment for Domestic Abuse*, ZULULAND OBSERVER (Feb. 7, 2017), <https://zululandobserver.co.za/afp/246255/putin-signs-law-easing->
(continued)

labor market in Russia has undergone enormous change and has not fully evolved into a regulated financial framework that works for all those willing to work.⁷⁰ Some companies outright refuse to hire women.⁷¹ The old Soviet ideal of unisex employment positions shifted to more gender-specific jobs, and women were left searching in vain for positions they held earlier.⁷² Women fell from “highly skilled” in their professions to “barely skilled” at the “new” jobs carved out just for women, in part due to the inaccessibility by women to networking or other employment connections now available mainly to men.⁷³ Highly educated women often settle for cleaning work, factory work, or concierge work.⁷⁴

Aside from these conditions, the decentralization and privatization processes resulted in extreme downsizing of industries that previously employed primarily women.⁷⁵ Plus, as was common during Soviet times, if one town functioned around one industry or factory, and that industry fell victim to downsizing, entire towns were economically devastated, and women were doubly impacted by the “washing out” of female jobs in these scenarios.⁷⁶

1998 statistics revealed that salaries of Russian women stood at only 43% of their male counterparts’ salaries.⁷⁷ Estimated wages ranged from \$200-\$300 per month, per capita.⁷⁸ A 2015 study revealed that women earned 38% less than their male counterparts although 85% of women had completed higher education compared to 68% of men.⁷⁹ Such conditions

punishment-for-domestic-abuse [<https://perma.cc/2PAX-36WD>] [hereinafter ZULULAND OBSERVER].

⁷⁰ Rosefielde, *supra* note 68, at 1440.

⁷¹ Pilkington, *supra* note 40, at 128.

⁷² *Id.* at 127–28.

⁷³ *Id.*

⁷⁴ *Id.* at 128–29.

⁷⁵ Orlova, *supra* note 60, at 163–64.

⁷⁶ *Id.* at 164.

⁷⁷ HUGHES, *supra* note 59, at 38.

⁷⁸ Anna Fastenko & Irini Timofeeva, *Russia*, in INTERNATIONAL PERSPECTIVES ON FAMILY VIOLENCE AND ABUSE: A COGNITIVE ECOLOGICAL APPROACH 111 (Kathleen Malley-Morrison ed., 2004).

⁷⁹ U.S. DEP’T OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2016: RUSSIA 80 (2016) <https://www.state.gov/documents/organization/265678.pdf> [<https://perma.cc/JSV5-4XSB>] [hereinafter U.S. DEP’T OF STATE COUNTRY REPORT ON RUSSIA].

have psychological implications, as well. The need and desire to work was deeply ingrained in the Soviet psyche of both men and women, and it remains.⁸⁰ The sudden loss of work and the inability to find new work caused a loss of identity among women, often leading to depression and feelings of uselessness.⁸¹ The professional downgrade, too, fostered dissatisfaction among women, which led to depression.⁸²

An additional factor affecting the struggle for women finding employment in Russia is the influx of ethnic Russian women who lived in other Soviet republics at the time of the collapse.⁸³ These women face even worse difficulties in Russia.⁸⁴ Traditionally, women are considered to have a “primordial connection” to *rodina*, the land.⁸⁵ Yet paradoxically, ethnic Russian women, in the aftermath of the Soviet split, became the driving force behind migration from former Soviet republics back to Russia.⁸⁶ Some scholars consider this movement by ethnic Russian women “forced migration,” motivated by fear of ethnic conflict, protection of children, fear for their lives, and struggles with new language and religious laws in the former republics, as opposed to the economic goals of migration with which Russian men typically are attributed in the same situation.⁸⁷

Unfortunately, female migrants generally are considered “burden[s] on the state;” unlike their male counterparts, since these women are more likely to be of the age to collect pensions, more likely to have children dependent upon them for survival, and typically need more welfare.⁸⁸ Forced migrant women are the primary beneficiaries of public benefits.⁸⁹ Women also are the ones who physically undertake the errands for

⁸⁰ Pilkington, *supra* note 40, at 129.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.* at 127.

⁸⁴ A full discussion of the issues regarding the forced migration of individuals from former Soviet republics to Russia is beyond the scope of this Article. For further information, see generally ARTHUR C. HELTON & NATALIA VORONINA, FORCED DISPLACEMENT AND HUMAN SECURITY IN THE FORMER SOVIET UNION: LAW & POLICY (2000).

⁸⁵ Pilkington, *supra* note 40, at 121.

⁸⁶ *Id.* See also Orlova, *supra* note 60, at 167.

⁸⁷ Pilkington, *supra* note 40, at 123.

⁸⁸ *Id.* at 126.

⁸⁹ *Id.*

collection of public benefits, registration, and gathering documents, which makes them more visible to the state, and thus more unwelcome.⁹⁰

Domestic violence is another factor that may motivate women to leave Russia because the problem is rampant and unchecked by the government.⁹¹ The popular saying, “if he beats you, it means he loves you,” summarizes the general attitude toward domestic violence.⁹² Russia never had laws that specifically outlawed domestic violence.⁹³ In furtherance of that perspective, in 2017 President Putin forced through a law that decriminalizes domestic violence.⁹⁴ For prospective mail-order brides, the possibility of domestic violence in the United States may be an issue that does not raise a great deal of concern. In a society in which

⁹⁰ *Id.*

⁹¹ See Daniel Schearf, *Russia's Move to Soften Domestic Violence Law Raises Fears*, VOICE OF AM. NEWS (Feb. 2, 2017, 12:30 PM), <https://www.voanews.com/a/russia-domestic-violence-partial-decriminalization/3703487.html> [<https://perma.cc/56JT-7DAL>]; JANET ELISE JOHNSON, GENDER VIOLENCE IN RUSSIA: THE POLITICS OF FEMINIST INTERVENTION 30 (2009); AM. BAR ASS'N CENT. EUROPEAN & EURASIAN LAW INITIATIVE, CEDAW ASSESSMENT TOOL REPORT FOR THE RUSSIAN FEDERATION 13 (Olga Vovk trans., 2006) [hereinafter ABA REPORT]; AMNESTY INT'L, RUSSIAN FEDERATION: NOWHERE TO TURN TO: VIOLENCE AGAINST WOMEN IN THE FAMILY (2005) <https://www.amnesty.org/en/documents/eur46/056/2005/en/> [<https://perma.cc/X3MG-NR9T>].

⁹² Rachel Roberts, *Domestic Violence Reports Soar in Russian City Following Partial Decriminalisation*, INDEP. (Feb. 11, 2017) <http://www.independent.co.uk/news/uk/home-news/domestic-violence-russia-yeketerinburg-reports-increase-following-partial-decriminalisation-law-a7575421.html> [<https://perma.cc/64NW-9R6F>]; Tom Embury-Dennis, *Russian Newspaper Tells Women to Be 'Proud of their Bruises' as State Partially Decriminalises Domestic Violence*, INDEP. (Feb. 9, 2017) <http://www.independent.co.uk/news/world/europe/russian-newspaper-proud-bruises-vladimir-putin-domestic-abuse-violence-signs-controversial-law-a7570351.html> [<https://perma.cc/JCA5-QSL3>]; *Not Afraid*, RUSSIAN LIFE, Sept./Oct. 2016 at 10.

⁹³ *Not Afraid*, *supra* note 92, at 10; Welch, *supra* note 34, at 28. See also Christina Misner-Pollard, *Domestic Violence in Russia: Is Current Law Meeting the Needs of Victims and the Obligations of Human Rights Instruments?*, 3 COLUM. J. E. EUR. L. 145, 146 (2009).

⁹⁴ Hillary Margolis, *A Slap Is Only the Start: New Domestic Violence Law in Russia Hurts Victims*, HUM. RTS. WATCH (Feb. 14, 2017), <https://www.hrw.org/news/2017/02/14/slap-only-start> [<https://perma.cc/K9K2-ZXZF>]; ZULULAND OBSERVER, *supra* note 69; *Putin Signs Law Decriminalizing Some Domestic Violence*, RADIO FREE EUR. RADIO LIBERTY (Feb. 7, 2017) <https://www.rferl.org/a/russia-decriminalizing-domestic-violence-putin-signs/28295098.html> [<https://perma.cc/8L3M-MAVG>].

violence against women is tolerated, domestic violence is not explicitly prohibited by law,⁹⁵ and a call to the police will not necessarily guarantee safety,⁹⁶ women often do not grasp the reality of living with abuse and can be immune to warnings.

On the other hand, one report indicates that a Russian social service agency that provides services for abused women actually offers mail-order bride services.⁹⁷ Among its other services, the agency offers a link to a typical mail-order bride website, claiming that it provides “assistance to the lonely people inside Russia and all over the world in creating families through Internet.”⁹⁸ This reflects the reality that abused women remain a major target for traffickers overall and traffickers who are female and complicit.⁹⁹ Russian law, the police, and society have failed to address domestic violence, making it unbearable for those women who suffer from it and an unpleasant fact for those who experience it and see it as acceptable in everyday life.¹⁰⁰

Russian news articles and statistics reveal that domestic violence has increased since IMBRA’s enactment.¹⁰¹ Russia’s domestic violence

⁹⁵ Misner–Pollard, *supra* note 93, at 146.

⁹⁶ Yulia Bragina & Sophia Jones, *Inside the Russian Police Force Answering Thousands of Calls for Help from Battered Women*, PRI (Mar. 8, 2017, 1:00 PM), <https://www.pri.org/stories/2017-03-08/inside-russian-police-force-answering-thousands-calls-help-battered-women> [<https://perma.cc/WNU5-JTGK>]; Scharf, *supra* note 91; Ivan Nechepurenko, *Russia Moves to Soften Domestic Violence Law*, N.Y. TIMES (Jan. 25, 2017), <https://www.nytimes.com/2017/01/25/world/europe/russia-domestic-violence.html> [<https://perma.cc/UK97-M4U3>].

⁹⁷ Hughes, *supra* note 25, at 66.

⁹⁸ *Id.* (describing the Family Social Assistance Center in Rostov-on-Don, Russia).

⁹⁹ Louise I. Shelley, *Russia’s Law Against Trade in People: A Response to International Pressure and Domestic Conditions*, in PUBLIC POLICY AND LAW IN RUSSIA: IN SEARCH OF A UNIFIED LEGAL AND POLITICAL SPACE 291, 292–93 (Ferdinand Feldbrugge & Robert Sharlet eds., 2005).

¹⁰⁰ *Id.* at 293.

¹⁰¹ Natalia Antonova & Maria Dmytrieva, “Shut Up, Woman. Your Day Is 8 March”, OPENDEMOCRACY (Mar. 8, 2017), <https://www.opendemocracy.net/od-russia/natalia-antonova-maria-dmytrieva/shut-up-woman-your-day-is-march-8> [<https://perma.cc/X4C7-HLYW>]; Margolis, *supra* note 94; Natalia Antonova, *Can Russia Confront the Horrors of Its Domestic Violence Epidemic?*, OPENDEMOCRACY (Aug. 10, 2015), <https://www.opendemocracy.net/5050/natalia-antonova/can-russia-confront-horrors-of-its-domestic-violence-epidemic-0> [<https://perma.cc/QF9C-STZ7>]; Anna Nemtsova, *Domestic* (continued)

problem is “about 37 times worse than the United States which has twice the population of Russia.”¹⁰² A 2010 *Newsweek* article reminded us that “[i]t is commonplace that men beat women in Russia. And it is commonplace in Russia, too, that women forgive their men for the beatings, and that the police always say, if a beaten woman calls them: ‘Call us only when he threatens your life.’”¹⁰³ The BBC reported in 2017:

According to the statistics presented last year by the Presidential Human Rights Council, 40 per cent of all violent crimes occur in families. The exact number of people suffering beatings from their family members is hard to calculate, because many do not report it, but the count has reached tens of thousands.¹⁰⁴

The U.S. Department of State Country Report on Human Rights Practices for 2016 states that “[d]omestic violence remained a major problem.”¹⁰⁵ The report cited NGO findings that law enforcement personnel continue to minimize reports of domestic violence and sometimes refused to respond

Violence Pervades Russian Homes, NEWSWEEK, Sept. 2, 2010, <http://www.newsweek.com/domestic-violence-pervades-russian-homes-72241>

[<https://perma.cc/FVZ9-E5Y7>]. Newsweek reported that in 2010, there were only twenty domestic violence shelters in Russia, hosting a population of 3.5 million, while the United Kingdom provided at least 400, with a substantially smaller population. *Id.*

¹⁰² Yulia Bragina & Sophia Jones, *Russia Decriminalized Domestic Violence. What Happened Next Is Wrenching*, USA TODAY (Mar. 9, 2017, 2:54 PM) <https://www.usatoday.com/story/news/world/2017/03/08/russian-police-force-calls-help-battered-women/98914566/> [<https://perma.cc/5E79-YBFZ>]; Daria Litnova, *They Fought the Law: Russia Edges Closer to Decriminalizing Domestic Violence*, MOSCOW TIMES (Jan. 20, 2017, 3:01 PM) <https://themoscowtimes.com/articles/they-fought-the-law-russia-edges-closer-to-decriminalizing-domestic-violence-56882> [<https://perma.cc/3U9L-2GS2>]. In 2013, more than 9,000 women died from criminal assaults in Russia, while in the United States, about 1,000 women per year died from the hands of an intimate partner from 2001 to 2012. Nechepurenko, *supra* note 96.

¹⁰³ Nemtsova, *supra* note 101 (quoting Marina Pisklakova-Parker, the first woman in Russia to found and direct a domestic violence hotline and crisis center for women). *See also* Bragina & Jones, *supra* note 102.

¹⁰⁴ Litnova, *supra* note 102.

¹⁰⁵ U.S. DEPT’T OF STATE COUNTRY REPORT ON RUSSIA, *supra* note 79, at 55.

to calls.¹⁰⁶ Likewise, the report also confirmed that women often simply never reported abuse because of the pushback.¹⁰⁷

Today's Russian Federation offers no new hope for women. The Putin era is often viewed through a "gloom and doom" framework when assessing the wellbeing of Russia's civil society.¹⁰⁸ The potential mail-order brides who sign up with still-thriving international marriage brokers did not grow up under communism, but their parents did. The cultural rules that persisted even through the resistance of communism were not lost on the offspring of President Gorbachev's *Perestroika*. Instead, those values resulted in a landslide loss of women's rights when the Russian Duma and President Putin enthusiastically eliminated the criminality of domestic violence in the rule of law.¹⁰⁹ On February 7, 2017, Vladimir Putin signed a bill that reduced the penalty for first-time domestic violence offenders who did not assault their partners so badly as to land them in the hospital.¹¹⁰ Blows less than those requiring a hospital stay—not a crime. The punishment for domestic battery went from two years in prison to a fine, fifteen days in jail, or compulsory labor.¹¹¹ Overwhelming legislative intent originated from the goal of preservation of the family, according to reports from the Duma.¹¹² An ingrained belief that "her husband has the right to beat her" did not defect from the legislation.¹¹³

After President Putin publicly declared that domestic violence is no longer a crime unless she ends up in the hospital, domestic violence

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Janet Elise Johnson et al., *Street-level Practice of Russia's Social Policymaking in Saint Petersburg: Federalism, Informal Politics, and Domestic Violence*, 45 J. SOC. POL'Y 287, 290 (2015).

¹⁰⁹ Editorial Board, *Russia's Blow to Women*, WASH. POST (Jan. 28, 2017), https://www.washingtonpost.com/opinions/russias-blow-to-women/2017/01/28/c259029c-e4b9-11e6-a547-5fb9411d332c_story.html [<https://perma.cc/Q7JP-3782>]; Laura Mills, *Russian Lawmakers Vote to Decriminalize Domestic Violence*, WALL STREET J. (Jan. 27, 2017, 8:11 AM), <https://www.wsj.com/articles/russian-lawmakers-vote-to-decriminalize-domestic-violence-1485522699> [<https://perma.cc/L78X-QU8C>].

¹¹⁰ Bragina & Jones, *supra* note 102.

¹¹¹ Bragina & Jones, *supra* note 96. The first conviction for domestic battery is considered an administrative offense, and criminal charges are reserved for incidents involving serious injuries or repeated offenses. Nechepurenko, *supra* note 96.

¹¹² Bragina & Jones, *supra* note 102; Bragina & Jones, *supra* note 96.

¹¹³ Bragina & Jones, *supra* note 102.

increased.¹¹⁴ The effect, officials said, “was felt immediately.”¹¹⁵ In March 2017, the mayor of Yekaterinburg announced that domestic violence calls to the police went from 120–130 calls per day before the bill to 300–350 calls per day after law went into effect.¹¹⁶

Many people, not just women, want to leave Russia, a trend that has been growing since the Soviet Union’s collapse.¹¹⁷ The freedom to emigrate has evolved since the rebirth of the nation, and Russians are no longer technically barred from leaving their county.¹¹⁸ Every year more than 100,000 people try to leave Russia and other former Soviet republics.¹¹⁹ However, barriers exist that still prevent people from leaving. Money is a huge issue because wages are very low and travel costs are very high, higher than simply the cost of an international airline ticket.¹²⁰ Those who are willing to go or work abroad simply cannot afford an airline ticket, which makes those seeking to leave vulnerable to human trafficking.¹²¹

The decriminalization of domestic violence in Russia transcends Putin and his Duma, the mail-order bride industry, and any shortcomings of U.S. immigration law. Its roots carve deeply into Russian culture and flourish in the current, conservative, misogynist politics in Moscow. The latest legislation means that for a Russian mail-order bride who successfully lands in the United States with a husband from the United States, there is no turning back.

C. Conditions Connecting International Marriage Brokers to their Niche in Russia: The Susceptibility of Russian Women

As Washington’s Senator Maria Cantwell stated when she advocated for marriage broker reform in Congress, “I do not know of any wealthy,

¹¹⁴ Margolis, *supra* note 94.

¹¹⁵ Bragina & Jones, *supra* note 102.

¹¹⁶ Bragina & Jones, *supra* note 96; Roberts, *supra* note 92.

¹¹⁷ CRAIG MCGILL, HUMAN TRAFFIC: SEX, SLAVES AND IMMIGRATION 158 (2003).

¹¹⁸ Tatia Lemondzhava, *In Russia, the Doors Are Closing*, FOREIGN POL’Y (Apr. 29, 2016, 12:59 PM), <http://foreignpolicy.com/2016/04/29/in-russia-the-doors-are-closing-tourism-putin-human-rights/> [<https://perma.cc/MJ88-M34V>].

¹¹⁹ MCGILL, *supra* note 117, at 158.

¹²⁰ *Id.*

¹²¹ LAURA J. LEDERER, HUMAN RIGHTS REPORT ON TRAFFICKING OF WOMEN AND CHILDREN: A COUNTRY-BY-COUNTRY REPORT ON A CONTEMPORARY FORM OF SLAVERY 339 (2001).

well-educated, well-to-do women who have applied for these brokered licenses.”¹²² Simply put, marriage brokers see the profit to be made from attracting down-and-out, attractive Russian women and unhappy American men to their marriage and matchmaking services. “Russia has become the world’s leading exporter of wives, and this is a tremendously profitable business,” said one female Moscow scholar in an interview about mail-order bride agencies.¹²³ Whether the marriage broker can be viewed as providing a valued service for women and the men who chose them, or on the contrary, as exploiting a vulnerable population susceptible to abuse, poor women are the target.¹²⁴

The international marriage broker industry thrives by tapping into the plight of the Russian woman by offering her a way out of Russia, a marriage, and financial stability, all of which are important to typical Russian women. The agencies appeal to women by describing the American men who seek Russian brides in idealistic terms.¹²⁵ On the “demand” side of the industry, marriage brokers offer American men the fantasy of the beautiful, submissive Russian wife by posting photographs, physical measurements, and personal statements of the available mail-order brides on the websites.¹²⁶ The women are advertised as “family-oriented,” “marriage-minded,” traditional, non-feminist, and pretty.¹²⁷

1. *Desire for American Men*

Russian women help stock the “supply” for the marriage broker industry, but the women have demands as well. Marriage traditionally holds a high position of importance in Russian society.¹²⁸ Women are still considered and treated as second-class citizens, and marriage is viewed as

¹²² *Human Trafficking*, *supra* note 5, at 9 (statement of Sen. Maria Cantwell).

¹²³ Fred Weir, *East Meets West on Love’s Risky Cyberhighway*, CHRISTIAN SCI. MONITOR (June 11, 2002), <https://www.csmonitor.com/2002/0611/p01s04-wogn.html> [<https://perma.cc/Y5SV-USLM>] (quoting Tatiana Gurko, who heads the Center for Gender Studies in Moscow and was interviewed for Christian Science Monitor in 2002).

¹²⁴ *Human Trafficking*, *supra* note 5, at 9 (statement of Sen. Maria Cantwell).

¹²⁵ See Hughes, *supra* note 25, at 60.

¹²⁶ Dovlatov, *supra* note 42, at 10.

¹²⁷ *Id.* at 12–13.

¹²⁸ Alexandra Buck, *The Prettier Sex: Understanding Gender Roles in Russia*, GEO. U. BERKLEY CTR. FOR RELIGION, PEACE, & WORLD AFF. (Oct. 25, 2012), <https://berkeleycenter.georgetown.edu/posts/the-prettier-sex-understanding-gender-roles-in-russia> [<https://perma.cc/9ZYD-NTGP>].

means by which to elevate one's status.¹²⁹ Russian women are encouraged, even pressured, to marry.¹³⁰ However, Russian women outnumber Russian men,¹³¹ and marriage prospects are slim. Russian women report that, quite literally, the number of marriageable men in Russia is very limited.¹³² One Russian "bachelorette" reported, "Unfortunately, in our collapsed economy, very few men are able to support a family properly."¹³³ Russian women complain about the weaknesses of Russian men and the perception that "there are fewer and fewer normal (*normalnye*) men around."¹³⁴ Russian men tend to die young¹³⁵ and often are lost to a poor health care system, fatal alcoholism, generally bad health habits, and a high rate of heart disease.¹³⁶

Some women view Russia as a "prison" and will go to great lengths to leave, viewing the mail-order bride possibility as an invitation to freedom.¹³⁷ Said one female candidate for mail-order bride recruitment, "A lot of these girls are desperate and will do anything to get out of here—they have few notions about love."¹³⁸ The desire of women to get married is typically Russian, and it is more fervent now in the reality of economic woes. Young women yearn to leave their villages to get married, often engaging in younger marriages and younger pregnancies to provide some way of exiting.¹³⁹ One young woman from a small village emphasized, "[T]hose my age are trying to get away from here, to get married. That is the aim of all young people, young women. To marry someone well-

¹²⁹ *Id.*

¹³⁰ Dovlatov, *supra* note 42, at 12.

¹³¹ Polina Levchenko & Catherine Solheim, *International Marriages Between Eastern European-Born Women and U.S.-Born Men*, 62 FAM. REL. 30, 32 (2013) (citing "push" factors for Eastern European women who seek international marriages).

¹³² Igor Ryabov, *Russian Wives in America: A Sketchy Portrait*, 9 QUALITATIVE SOC. REV. 44, 44 (2013).

¹³³ Weir, *supra* note 123.

¹³⁴ Jennifer Patino, *For Love, Money, or Normalcy: Meanings of Strategy and Sentiment in the Russian-American Matchmaking Industry*, 74 ETHNOS 307, 314 (2009).

¹³⁵ Dovlatov, *supra* note 42, at 1.

¹³⁶ *Id.* at 12.

¹³⁷ Hughes, *supra* note 25, at 60.

¹³⁸ John Varoli, *American Lion Seeks Russian Lioness*, N.Y. TIMES (Dec. 17, 2000), <http://www.nytimes.com/2000/12/17/style/american-lion-seeks-russian-lioness.html> [<https://perma.cc/WTH2-MNEF>].

¹³⁹ Pilkington, *supra* note 40, at 131.

off . . . and not return to the village.”¹⁴⁰ As far back as 1992, a phenomenon was observed in which Russian mothers encouraged their daughters to sign up as mail-order brides in order to get out of the country.¹⁴¹

Parallel to a perceived dissatisfaction with Russian men is the trend of Russian women’s attraction to American men, at least through the romanticized stereotypes presented by the media and by marriage broker companies.¹⁴² Frankly, Russian women report that they are tired of Russian men and think that American men will treat them better.¹⁴³ Russian women tend to view American men as encompassing attractive characteristics that do not belong to Russian men, such as sophistication, sobriety, thoughtfulness, faithfulness, wealth, ambition, energy, and security.¹⁴⁴ One woman called into a mail-order bride type hotline that advertised American men who wanted to marry Russian women in the mid-1990s and said, “Our men treat women like objects They drink; they smoke; they have bad hygiene and care only about themselves. These Americans don’t smoke or drink. They really seem to want to settle down and take care of their families.”¹⁴⁵ The media in Russia also teaches women that they are different than American feminist women, and the result is a feeling of sympathy for the American man.¹⁴⁶

“The Russian media have also created the belief that American men are being tortured by feminists. . . . This arouses in Russian girls both a feeling of sympathy for these men, as well as a feeling of empowerment that they are better, more womanly, than Western women.”¹⁴⁷

Russian women who watch the media find an attractive, comfortable picture of the American lifestyle, and given the dismal future of economic

¹⁴⁰ Pilkington, *supra* note 40, at 131.

¹⁴¹ GLODAVA & ONIZUKA, *supra* note 11, at 58.

¹⁴² Ryabov, *supra* note 132, at 55.

¹⁴³ O’Rourke, *supra* note 33, at 479.

¹⁴⁴ Hughes, *supra* note 25, at 60.

¹⁴⁵ Alessandra Stanley, *Video Valentines to Russia, Seeking Patient Brides*, N.Y. TIMES (Feb. 14, 1997), <http://www.nytimes.com/1997/02/14/world/video-valentines-to-russia-seeking-patient-brides.html> [<https://perma.cc/E6QC-TXY2>].

¹⁴⁶ *Id.*

¹⁴⁷ Varoli, *supra* note 138 (quoting Aleksandr Klyetsin, a Russian sociology and gender studies professor).

insecurity and unchecked gender discrimination in Russia, some women take their chances to achieve this beautifully presented lifestyle.¹⁴⁸

2. *The International Marriage Broker Business*

International marriage brokers operate websites that cater to a wealthier demographic of Western men to supply them with women from poorer countries with marriage as the goal.¹⁴⁹ This, in part, can explain why the rise of marriage agencies targeting the former Soviet Union has proven so prevalent in the last few decades.¹⁵⁰ Some describe these agencies as places “where race and ethnicity laden concepts of gender are manufactured, packaged and commodified to serve the perceived needs of Western male customers.”¹⁵¹

The mail-order bride industry is not new, but the Internet created a phenomenal growth of the practice and placed it in the spotlight.¹⁵² “It is the modern version of the mail-order bride industry that successfully migrated to the Internet.”¹⁵³ One businessman praised the advent of the Internet in 1997 as ideal for the mail-order bride industry, because high-resolution photographs of the brides are much better than the expensive paper required for print catalogues.¹⁵⁴ He also extolled the Internet’s ability to update quickly and to reach a global market.¹⁵⁵ A study in the summer of 2001 revealed almost 500 marriage agency websites advertising women from the former Soviet Union.¹⁵⁶

¹⁴⁸ *See id.*

¹⁴⁹ *Id.*

¹⁵⁰ Lena H. Sun, *The Search for Miss Right Takes a Turn Toward Russia*, WASH. POST (Mar. 8, 1998), https://www.washingtonpost.com/archive/politics/1998/03/08/the-search-for-miss-right-takes-a-turn-toward-russia/9655faec-8e11-49b0-84d7-8247c29fe305/?utm_term=.b3781ee39a7f [<https://perma.cc/56RW-D33V>].

¹⁵¹ Padma Rao Sahib et al., *Putting Your Best Cyber Identity Forward: An Analysis of ‘Success Stories’ from a Russian Internet Marriage Agency*, 21 INT’L SOC. 61, 62 (2006).

¹⁵² *See id.* at 61.

¹⁵³ *Id.* at 67.

¹⁵⁴ Donna M. Hughes, *Protecting Women from Sexual Exploitation via the Internet*, WOMAN & EARTH GLOBAL ECO-NETWORK (Dec. 10, 1997), http://www.academia.edu/4867240/Protecting_Women_from_Exploitation_via_the_Internet [<https://perma.cc/NQA2-RVBK>].

¹⁵⁵ *Id.*

¹⁵⁶ Hughes, *supra* note 25, at 52.

How do marriage brokers grasp their female recruits and their Western male clients? The rise of Internet technology has made such connections infinitely possible on a 24-hour basis. The 1999 INS report concluded, "The number of businesses engaged in some aspect of the international matchmaking industry is growing rapidly, potentially facilitated by the growth of the Internet."¹⁵⁷ Although Russia as a nation "discovered" the wonders of the Internet relatively late, Internet access is available, encouraged, and used in business on a wide-scale basis.¹⁵⁸ A 2002 article cited one agency that listed 25,000 Russian and former Soviet republic mail-order brides on its website, ready to marry American men.¹⁵⁹ Hundreds of additional websites list literally thousands of other women.¹⁶⁰ Recent estimates show about 400 to 500 international marriage websites operating in the United States, and 2,700 worldwide.¹⁶¹

It is well known that businesses on the Internet flourish yet sometimes vanish overnight.¹⁶² Thus, the numbers of legal or clandestine marriage brokers change rapidly, and statistics from one time period to the next could vary considerably. It is difficult to pinpoint at any given time the numbers of marriage broker websites and companies and whether they are in compliance with legislation.¹⁶³

The benefits of matching economically desperate, second-class Russian Federation women with American men must be viewed through the lens of the functioning business model. Marriage brokers are profit driven, and their practices treat women like a commodity to be traded.¹⁶⁴ The art of the business is in providing incentives at both ends of the bargain that satisfy both the husband and the wife; yet, the two parties approach the deal from vastly different bargaining positions. After all, the industry requires matches between men and women who are discouraged by their own environment (the men, with past relationships with American

¹⁵⁷ 1999 INS REPORT, *supra* note 11, at 19.

¹⁵⁸ Dovlatov, *supra* note 42, at 7–8.

¹⁵⁹ Weir, *supra* note 123.

¹⁶⁰ *Id.*

¹⁶¹ TAHIRIH IMBRA FAQs, *supra* note 27, at 1; Vanessa Brocato, *Profitable Proposals: Explaining and Addressing the Mail-Order Bride Industry Through International Human Rights Law*, 5 SAN DIEGO INT'L L.J. 225, 229 (2004).

¹⁶² Dovlatov, *supra* note 42, at 5.

¹⁶³ *Id.*

¹⁶⁴ "It's a profitable business," said a manager at A Foreign Affair to a *New York Times* reporter in 2000. Varoli, *supra* note 138.

women, and the women, with their condition in the Russian economic and social climate); thus, getting over that negativity is a challenge.¹⁶⁵ The *New York Times* summed up the match in a 1997 article on Russian mail-order brides:

American clients, who risk thousands of dollars in their quest, say Russian women look like Americans but are far more traditional and more feminine (read: not feminists). In turn, Russian women insist American men are more considerate, less prone to drunkenness and more ambitious (read: good providers).

These are matches made of codependent cultural stereotypes as much as love.¹⁶⁶

Typically, a marriage broker's website operates by advertising photographs and profiles of physically attractive Russian women.¹⁶⁷ The women are sexy and attractive, dressed nicely, and thus appealing to American societal stereotypes regarding beauty. The women are advertised as being "marriage-minded," wanting to fulfill traditional family roles as wife, mother, and cozy homemaker, and as wanting a groom who is ten to twenty years older than she.¹⁶⁸ They also express a desire to please men and are eager to claim that they are "untainted by Western feminism."¹⁶⁹ One potential bride wrote in her personal statement online:

I have big hope in my heart to find my big and only love. I'm not feminist at all—I admit my defeat before male sex in inability to make career or reach high social status. But I can cook very well, can create comfort and coziness at home, and give birth and raise child.¹⁷⁰

¹⁶⁵ *Id.*

¹⁶⁶ Stanley, *supra* note 145.

¹⁶⁷ See, e.g., LOVEME.COM, <http://www.loveme.com/women/russian/russian-women.htm> [<https://perma.cc/DA29-ZEXY>]; WOMENRUSSIA.COM, <http://www.womenrussia.com> [<https://perma.cc/BJ3T-ABTH>]; ENCOUNTERS INT'L, <http://www.encount.com/ladies> [<https://perma.cc/T7HA-X34R>].

¹⁶⁸ Dovlatov, *supra* note 42, at 10; Lorenza Munoz & Tini Tran, *From Russia with Love: Mail-Order Bride Service*, L.A. TIMES (Dec. 1, 1998) <http://articles.latimes.com/1998/dec/01/local/me-49468> [<https://perma.cc/CL5M-E7F2>].

¹⁶⁹ Sun, *supra* note 150.

¹⁷⁰ Welch, *supra* note 34, at 31.

Contrast these images with the effect of the harsh economic and social realities of living in Russia today, in which women generally feel they have lost their “feminine identity.”¹⁷¹ Thus, not only does the industry create an appeal to the American man, but it also creates an environment in which a Russian woman can feel feminine and look beautiful in spite of the reality of her home life.

Anyone can log in to hundreds of websites, look at photographs of mail-order brides, read about them, and begin corresponding with multiple women for various fees, all with the purpose of finding someone to marry.¹⁷² Prior to the enactment of IMBRA in 2005, men could pay a fee to the marriage broker for contact information of the chosen, potential brides.¹⁷³ IMBRA restricted the agencies’ ability to disclose personal contact information.¹⁷⁴ Some agencies sell tours to the men for them to travel to Russia to meet the women they chose from the Internet.¹⁷⁵ International marriage brokers also offer immigration services and referrals to immigration attorneys to bring a chosen bride to the United States.¹⁷⁶

Because this is a business, the marriage broker is concerned primarily with client satisfaction. The client is the potential groom, which makes the bride a commodity, a thing to be owned, to be returned if not up to standard or as advertised.¹⁷⁷ The marriage broker wants a reputation of outputting “good wives.” To that end, it is to the agency’s advantage to advertise “quality” brides, beautiful women, with accurate and complete

¹⁷¹ Pilkington, *supra* note 40, at 133.

¹⁷² See, e.g., LOVEME.COM, *supra* note 167; WOMENRUSSIA.COM, *supra* note 167; ENCOUNTERS INT’L, *supra* note 167.

¹⁷³ Sun, *supra* note 150.

¹⁷⁴ 8 U.S.C. § 1375a(d)(3)(A) (2012).

¹⁷⁵ See, e.g., *Single Tours*, LOVEME.COM, <http://www.loveme.com/tour/> [<https://perma.cc/YAG4-EGWF>]. These so-called “romance tours” offer the potential for abuse of the marriage purpose: many men take the tour to have sex with the women they meet yet have no intention of marrying them or bringing them back to the U.S. Hughes, *supra* note 25, at 62–63.

¹⁷⁶ See, e.g., *Fiancee Visa Information*, LOVEME.COM, <http://www.loveme.com/fiancee-visa> [<https://perma.cc/23VR-ZU53>]; *Fiancee Visas*, WOMENRUSSIA.COM, http://www.womenrussia.com/fiancee_visas.htm [<https://perma.cc/9Z4C-B2K4>]; *Fiancee Visa Package*, ANASTASIAWEB.COM, <http://www.anastasiaweb.com/Default.aspx?page=VisaPackage> [<https://perma.cc/A839-U6X9>].

¹⁷⁷ *Human Trafficking*, *supra* note 5, at 20 (statement of Michele A. Clark, Co-Director, Prot. Project of the Foreign Policy Inst., Johns Hopkins Univ.).

information about them. Thus, the marriage brokers have an incentive to provide attractive advertisements that lure men to buy from their site.¹⁷⁸ However, this incentive does not work in reverse. The groom's purpose when providing information to the agency is to make himself look as desirable as possible to make a match with his favorite bride(s), even with the new disclosure rules mandated under IMBRA.¹⁷⁹

Marriage brokers typically report that their matches are "successful," with low divorce rates and high satisfaction ratings.¹⁸⁰ The head of the Svetlana Agency in Newport Beach, California reported in 1998 that her agency had no problems,¹⁸¹ despite a growing concern about the possibility of abuse inherent in such a relationship.¹⁸² AnastasiaWeb conducted a survey of its clients in March 2006 and reported, "Russian-American couples who met each other online and married, say they are happy with their partner."¹⁸³

Unfortunately, much of the industry involves deception.¹⁸⁴ Marriage brokers operated largely unregulated before the passage of IMBRA.¹⁸⁵

¹⁷⁸ *Id.*

¹⁷⁹ *Ladies' Login*, ENCOUNTERS INT'L, <http://www.encount.com/gentlemen> [<https://perma.cc/G68U-KTV2>].

¹⁸⁰ *Encounters International's Marriage Statistics*, ENCOUNTERS INT'L, <http://www.encount.com/statistics> [<https://perma.cc/L7HU-G3PZ>]; *Bulletin Board*, LOVEME.COM, <http://www.loveme.com/information/b-board.shtml> [<https://perma.cc/M22U-9TK2>].

¹⁸¹ Munoz & Tran, *supra* note 168. A search of the agency online in 2017 revealed that the website no longer exists. YAHOO, https://local.yahoo.com/info-26984584-svetlana-agency-newport-beach;_ylt=AwrTHQpcIJ5ZYhwAoQ9XNyAoA;_ylu=X3oDMTEzOWgwa3FtBGNvbG8DZ3ExBHBvcwM2BHZ0aWQDVUkwMkM1XzEEc2VjA3Ny [<https://perma.cc/SL5H-YWD7>].

¹⁸² Munoz & Tran, *supra* note 168.

¹⁸³ Press Release, Daniel D. Jordan, *AnastasiaWeb Conducts Survey of Married Russian-American Couples*, ANASTASIAWEB.COM (May 16, 2006), (on file with author). The agency also advertises its "success stories," as do most agencies. *See Success Stories*, ANASTASIAWEB.COM, http://www.anastasiaweb.com/success_stories/index.php [<https://perma.cc/JFH8-WMDT>].

¹⁸⁴ *Human Trafficking*, *supra* note 5, at 10 (statement of Hon. John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Dep't of State).

¹⁸⁵ Suzanne H. Jackson, *Marriages of Convenience: International Marriage Brokers, "Mail-Order Brides," and Domestic Servitude*, 38 U. TOL. L. REV. 895, 907 (2007); Deborah Hastings, *Matchmakers Find New Commodity: Russian Women*, SEATTLE TIMES (continued)

Businesses naturally target vulnerable populations and seek women from impoverished nations.¹⁸⁶ The possibility of becoming a mail-order bride is presented as an attractive opportunity for a Russian woman.¹⁸⁷ With the plight of women in Russia, logic assumes that the Russian mail-order bride will be “happy and grateful” for whatever an American man is willing to give. A Special Lady states that the Russian female ideal of the “perfect man is someone with a stable job who is not an alcoholic . . . Looks, income, and material things are not so important to them.”¹⁸⁸ Marriage brokers often claim to Russian female recruits that American men do not possess characteristics so often abhorred in Russian men, such as unemployment, lack of money, alcoholism, and violent tendencies.¹⁸⁹ A recent sociological study reported that the websites reviewed for the study often used the high mortality rate of Russian men to its advertisement advantage, boasting that American men live much longer than Russian men.¹⁹⁰

Given the fees charged by marriage brokers, Russian female recruits logically expect the male clients to be economically stable. Russian female recruits logically expect the male clients to be economically stable.¹⁹¹ On the other hand, the male clients may carry the expectation that because they are paying for the service, the woman they choose should match certain standards that may or may not be reasonable.¹⁹² The danger inherent in such unequal bargaining power raises the distinct possibility of

(Dec. 21, 1998) <http://community.seattletimes.nwsources.com/archive/?date=19981221&slug=2790146> [<https://perma.cc/WWN3-5LJB>].

¹⁸⁶ O’Rourke, *supra* note 33, at 480.

¹⁸⁷ Welch, *supra* note 34, at 31.

¹⁸⁸ *Id.* (alteration in original). The website is *A Special Lady: Russian Brides*, <http://www.special-lady.com> (last visited Apr. 29, 2007) (on file with author). However, the business no longer exists.

¹⁸⁹ Hughes, *supra* note 25, at 60.

¹⁹⁰ Sahib et al., *supra* note 151, at 66.

¹⁹¹ In 1998, the *Washington Post* reported on a male IMO client who spent \$15,000 in the process of procuring a Russian mail-order bride. Sun, *supra* note 150. Other news articles report \$5,000.00 as the cost of the romance tour alone. See Shaun Walker, *The Men Who Go to Ukraine Looking for a Wife Then Fly Home Alone and Broke*, *GUARDIAN* (Apr. 6, 2014) <https://www.theguardian.com/lifeandstyle/2014/apr/06/ukraine-wife-internet-romance-industry-online-scam> [<https://perma.cc/88H2-2FEK>].

¹⁹² Sahib et al., *supra* note 151, at 63.

domestic violence in the mail-order bride marriage because of the overwhelming imbalance of control of husband over wife.

Internet technology makes migration possibilities more global in scale. In its ability to “shrink” the world, the Internet has given birth to a new method of migration.¹⁹³ An individual who wants or needs to leave their country, yet who is not physically forced out, can find in the Internet the means to move. Instead of buying scarce airline tickets, navigating unfamiliar locations, and obtaining a place to stay, marriage brokers provide an alternative “package” for migration, all available at the stroke of a key.¹⁹⁴ The dangers of such an easy market are numerous, however, and the price a Russian female migrant pays eventually could be her own life.

III. CONDITIONS THAT MAY CAUSE A MAIL-ORDER BRIDE TO BECOME A DOMESTIC VIOLENCE VICTIM

Once a Russian woman succumbs to the attractive advances of marriage broker recruitment, her journey could lead to fulfillment of the American dream or to a nightmarish trap. A mail-order bride’s vulnerability to abuse and trafficking has caught the attention of lawmakers and victims’ advocates throughout the United States.¹⁹⁵ While advocating for marriage broker regulation, Senator Maria Cantwell testified:

And tragically, it is becoming apparent that there is a growing epidemic of domestic abuse among couples who meet via international marriage brokers. Immigrant and women’s advocacy groups across the country report seeing an increase in the number of these wives seeking to escape a physically abusive husband they met through an [international marriage broker]. And in several cases, the abuse has progressed to murder.¹⁹⁶

The possibility of a Russian mail-order bride becoming a victim of domestic violence at the hands of her U.S. citizen husband cannot be ignored. In 1996, Congress enacted the first legislation to regulate the

¹⁹³ For a sociology study regarding the effects of globalization on the IMO industry, see Dovlatov, *supra* note 42.

¹⁹⁴ See, e.g., LOVEME.COM, *supra* note 167.

¹⁹⁵ *Human Trafficking*, *supra* note 5, at 5 (statement of Sen. Maria Cantwell).

¹⁹⁶ *Id.*

mail-order bride business.¹⁹⁷ In so doing, Congress made findings that “anecdotal evidence suggests that mail-order brides find themselves in abusive relationships,” and that “[m]ail-order brides who are battered often think that if they flee an abusive marriage, they will be deported.”¹⁹⁸ This legislation also ordered the then-Immigration and Naturalization Service to conduct a study on the mail-order bride industry to determine the link between the industry and domestic violence.¹⁹⁹ The result was a comprehensive report to Congress in 1999 that often is cited today.²⁰⁰ The study found a potential for abuse in mail-order bride marriages as well as an increased vulnerability of the brides to international trafficking but insisted that “[t]he subject is inherently difficult to study.”²⁰¹

In the 1999 INS Report, researchers stressed that the evidence of the link between mail-order brides and abuse was almost entirely anecdotal because statistics do not differentiate between mail-order brides from other spousal visa petitions, and mail-order bride victims of domestic violence as opposed to other female victims of domestic violence.²⁰² Statistics specifying the number of Russian mail-order brides who become victims of domestic violence are not available,²⁰³ but the 1999 INS Report estimated the prevalence of abuse in mail-order bride marriages by reviewing administrative immigration records and petitions to find descriptions of spousal abuse.²⁰⁴

¹⁹⁷ Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, § 652, 110 Stat. 3009, 3009-712 to -713 (repealed 2006).

¹⁹⁸ *Id.* §652(a)(3)–(4).

¹⁹⁹ *Id.* §652(c)–(d).

²⁰⁰ See 1999 INS REPORT, *supra* note 11.

²⁰¹ *Id.* at 1, 19.

²⁰² *Id.* at 6, 15.

²⁰³ One psychology scholar pointed out:

Some activists and NGOs suspect that women who find Western partners through marriage agencies are at higher risk of becoming victims of violence and exploitation, but there is not enough data or research to substantiate that. In the United States, there is no agency tasked with collecting this type of information. The exact number and proportion of women who become victims are unknown.

Hughes, *supra* note 25, at 50.

²⁰⁴ 1999 INS REPORT, *supra* note 11, at 15–16.

However, advocates for immigrant women stress the prevalence of abuse in mail-order bride marriages. Although the information may be strictly anecdotal, it comes directly from the individuals who work with mail-order brides. The Tahirih Justice Center works extensively on issues pertaining to international marriage organizations and mail-order brides and it represents several abused mail-order brides.²⁰⁵ In 2003, the organization surveyed a national sample of legal service providers and found that more than half of the clients who were battered immigrant women met their abusive spouse through an international marriage broker.²⁰⁶

A. Mail-Order Bride Accounts of Abuse

Lurid details of horrible abuse suffered by mail-order brides have been prevalent in the media over the last two decades. In Washington State, Anastasia King, a mail-order bride from Kyrgyzstan, was murdered by her U.S. citizen husband in 2001.²⁰⁷ Mr. King, who currently is serving twenty-nine years in prison for planning the murder, enticed his friend to strangle her with a tie, while King himself held her down.²⁰⁸ Her body was eventually found buried in a shallow grave in a remote, rural area.²⁰⁹ King's first wife, also a mail-order bride, had obtained a protection order

²⁰⁵ *What We Do*, TAHIRIH JUST. CTR., <http://www.tahirih.org/what-we-do/policy-advocacy/international-marriage-brokers> [<https://perma.cc/YT5U-WAET>].

²⁰⁶ TAHIRIH IMBRA FAQs, *supra* note 27, at 2; Daren Briscoe, *Mail-Order Misery*, NEWSWEEK, Feb. 7, 2005, <http://www.newsweek.com/mail-order-misery-122543> [<https://perma.cc/MYW7-JEX5>].

²⁰⁷ Welch, *supra* note 34, at 28; Janet Burkitt & Diane Brooks, *Guilty Verdict in Bride's Slaying: Prosecutor Says Jurors Found 'Too Many Lies' in King's Story*, SEATTLE TIMES (Feb. 22, 2002), <http://community.seattletimes.nwsourc.com/archive/?date=20020222&slug=mailorder22m> [<https://perma.cc/3JMX-E6R9>].

²⁰⁸ Diane Brooks, *Man Gets 20 Years in Mail-Order-Bride Murder*, SEATTLE TIMES (Mar. 23, 2002), <http://community.seattletimes.nwsourc.com/archive/?date=20020323&slug=l Larson23m> [<https://perma.cc/Y9QC-6USY>]; Janet Burkitt, *Parents: Mail-Order Bride Wanted Divorce*, SEATTLE TIMES, Mar. 8, 2001), <http://community.seattletimes.nwsourc.com/archive/?date=20010308&slug=mailorder08m> [<https://perma.cc/DCG7-P5LJ>]; Anne Koch, *A Search for Status and Mail-Order Wives*, SEATTLE TIMES (Feb. 25, 2001), <http://community.seattletimes.nwsourc.com/archive/?date=20010225&slug=indleking25m0> [<https://perma.cc/N43V-P7Y8>].

²⁰⁹ Koch, *supra* note 208; Bootle, *supra* note 26.

against him for punching her and for beating her head against the wall.²¹⁰ Anastasia was Mr. King's second mail-order bride, and he was looking online for a third.²¹¹ This murder was a driving force behind the State of Washington's congressional members' efforts to pass IMBRA.²¹²

The stabbing death of Alla Barney, a Ukrainian mail-order bride, by her American husband took place in 2003.²¹³ Before the murder, Ms. Barney had obtained a restraining order against her husband, Lester Barney,²¹⁴ who slashed her throat in front of the couple's four-year-old child.²¹⁵ Before coming to the United States, Alla was an engineer in Ukraine.²¹⁶

European Connections, an international marriage organization in the forefront of the fight against the application of IMBRA, matched Katerina from Siberia with Frank Sheridan.²¹⁷ Mr. Sheridan engaged in multiple controlling behaviors, such as taking away her papers (passport, visa and birth certificate), not allowing her to have a set of house keys, taking away her cell phone, and cutting all of the telephone lines to the house.²¹⁸ He beat her on occasion and once dragged her around the house by the legs.²¹⁹ Miserable, she told him she wanted to return to Russia, and he reacted by stabbing himself and accusing her of doing it.²²⁰ Although Katerina made it to a battered women's shelter, Frank followed her relentlessly and tried

²¹⁰ Bootle, *supra* note 26.

²¹¹ *Id.*; Brooks, *supra* note 208; Burkitt & Brooks, *supra* note 207; Koch, *supra* note 208.

²¹² *Human Trafficking*, *supra* note 5, at 2 (statement of Sen. Sam Brownback, Member, S. Comm. on Foreign Relations).

²¹³ Bo Susan Rosser, *Man Accused of Stabbing His Mail-Order Bride to Death*, COURT TV (Aug. 16, 2005), http://news.findlaw.com/court_tv/s/20050816/16aug2005171809.html [<https://perma.cc/V2CM-Y4UE>].

²¹⁴ Chris O'Connell, *Friend Recounts Suspect's Moves on the Lam*, CNN (Aug. 19, 2005), <http://www.cnn.com/2005/LAW/08/19/ctv.barney/> [<http://perma.cc/4QP4-829Z>].

²¹⁵ TAHIRIH JUSTICE CTR., ILLUSTRATIVE CASES OF WOMEN AND THEIR CHILDREN EXPLOITED AND ABUSED THROUGH THE INTERNATIONAL MARRIAGE BROKER INDUSTRY, (2015), <http://www.tahirih.org/wp-content/uploads/2015/06/IMB-Case-Stories.pdf> [<https://perma.cc/3PU8-LP2N>].

²¹⁶ *Id.*; Del Vecchio, *supra* note 2, at 193.

²¹⁷ TAHIRIH JUSTICE CTR., *supra* note 215.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

to have her arrested and deported.²²¹ He ultimately went to Russia to find a new bride.²²² When police later attempted to arrest him for stalking, he shot the arresting officer, forcing “suicide by cop.”²²³

In 2005, Nataliya Fox revealed her painful story in a civil lawsuit against the marriage broker Encounters International, who placed her and her abusive husband together.²²⁴ Ms. Fox was beaten severely by her husband, and Natasha Spivack, owner of Encounters International, encouraged her to stay in the relationship, to “work it out,” and warned that leaving her husband would result in deportation.²²⁵ The agency’s failure to give notice to Ms. Fox of the immigration relief available to her violated the provisions of the now-repealed Mail-Order Bride Act of 1996 and eventually resulted in a jury verdict of over \$400,000 in damages, including punitive damages.²²⁶

Scott Huss failed at three marriages before he turned to an international marriage broker for help finding a new wife.²²⁷ “I hadn’t really had any luck with American women,” he told his mother.²²⁸ After he met Yana from St. Petersburg through the Internet in 2002, he brought her and her young son to live with him in Florida.²²⁹ After they married in February

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

²²⁴ Fox v. Encounters Int’l, 318 F. Supp. 2d 279, 283 (D. Md. 2002). See also Press Release, Layli Miller-Muro, Executive Dir., Tahirih Justice Ctr., Abused Victim of International Marriage Broker Wins Historic Lawsuit (Nov. 18, 2004) (on file with author).

²²⁵ Welch, *supra* note 34, at 33.

²²⁶ Fox, 318 F. Supp. 2d at 296 (denying Defendants’ Motion to Dismiss). The judgment in favor of the plaintiff, Ms. Fox, was affirmed by the Fourth Circuit in an unpublished opinion at Fox v. Encounters Int’l, No. 05-1139, 05-1404, 2006 WL 952317, at *10 (4th Cir. Apr. 13, 2006). See also Briscoe, *supra* note 206.

²²⁷ Patrina A. Bostic, *Path to a Better Life Interrupted*, SARASOTA HERALD-TRIB., (Apr. 28, 2007, 4:17 AM), <http://www.heraldtribune.com/news/20070428/path-to-a-better-life-interrupted> [<https://perma.cc/8M4A-N93E>].

²²⁸ Zac Anderson, *A Woman Screaming for Help*, SARASOTA HERALD-TRIB. (May 13, 2007, 4:13 AM), <http://www.heraldtribune.com/article/LK/20070513/News/605216418/SH/> [<https://perma.cc/33DQ-MZUY>].

²²⁹ *Id.*

2003, Scott terrorized Yana on a daily basis.²³⁰ Yana called the police dozens of times, obtained restraining orders against him, and finally filed for divorce on April 11, 2007.²³¹ By April 25, 2007, Yana was dead.²³² Scott “stabbed her multiple times and slashed her throat so violently she was nearly decapitated.”²³³ Scott was convicted of second-degree murder and was sentenced to life in prison without the possibility of parole.²³⁴

These tragic stories reached the press, and the surviving victims were fortunate enough to find pro bono assistance from non-profit legal organizations.²³⁵ However, these illustrations do not include those stories that the public will never hear. Unfortunately, domestic violence is a silent and insidious problem that usually occurs in private, and if the victim is not murdered or is so controlled or afraid that she cannot escape or seek help, her voice will never be heard. One researcher bluntly stated, “These women are invisible unless some lunatic walks into a courthouse and shoots his mail-order wife.”²³⁶

B. How Immigration Policy Contributes to the Potential for Abuse

It is important to examine how U.S. immigration policy contributes to rendering mail-order brides vulnerable to domestic violence. Immigration law historically placed all control over mail-order brides in the hands of the husbands, with exceptions developed as recently as the passage of the Violence Against Women Act in 1994.²³⁷ Family-based immigration is structured so that a “qualifying relative,” a United States citizen or lawful

²³⁰ Heather Allen, *Troubled Marriage Ends in Death*, SARASOTA HERALD-TRIB. (Apr. 27, 2007, 4:25 AM), <http://www.heraldtribune.com/article/LK/20070427/News/605216426/SH/> [<https://perma.cc/U7Q9-XXXQ>].

²³¹ *Id.*

²³² Anderson, *supra* note 228.

²³³ *Id.*

²³⁴ Jason Witz, *Huss Sentenced to Life for Wife’s Murder*, SARASOTA HERALD-TRIB. (Jan. 12, 2011, 5:50 PM), <http://www.heraldtribune.com/article/LK/20110112/News/605181262/SH/> [<https://perma.cc/K4RY-ZK6B>].

²³⁵ TAHIRIH JUSTICE CTR., *supra* note 215.

²³⁶ Sun, *supra* note 150 (quoting Gillian Caldwell, then-director of Global Survival Network, regarding the 1995 murder in the Seattle, Washington courthouse of Susannah Blackwell, a Filipina mail-order bride, by her abusive husband).

²³⁷ Susan B. Henner, *A History Of The Violence Against Women Act for Immigrants* (Nov. 9, 2017), <https://whiteplainsimmigrationlawyer.com/violence-against-women-act-immigrants/> [<https://perma.cc/VV5U-T6UW>].

permanent resident, depending on the category, is the petitioner.²³⁸ The foreign national who intends to immigrate to the United States is the beneficiary. As such, the petitioner must file a “Petition for Alien Relative” for the beneficiary to initiate the immigration journey.²³⁹ With few exceptions, the beneficiary cannot file an immigration petition on her or his own.²⁴⁰ This structure naturally results in an imbalance of power between the petitioner and the beneficiary. It is entirely up to the petitioner whether to file, to maintain, or to withdraw a petition. The beneficiary has no control over the process.

Family-based immigration also functions entirely on categories of family relationships that qualify for immigration petitions. The petitioner and intending immigrant must fit into the statutory category; otherwise, no immigration benefit is available.²⁴¹ For example, a U.S. citizen may

²³⁸ *Filing for Permanent Residence Based on a Family Petition*, U.S. CITIZENSHIP & IMMIGR. SERVS., https://www.uscis.gov/sites/default/files/USCIS/About%20Us/Electronic%20Reading%20Room/Custom%20Service%20Reference%20Guide/Permanent_Residents_Fam.pdf [<https://perma.cc/RH98-4HLG>].

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ The family-based categories are outlined in § 203(a) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1153(a) (2012):

(a) Preference Allocation for Family-Sponsored Immigrants. - Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

(1) Unmarried sons and daughters of citizens. - Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the class specified in paragraph (4).

(2) Spouses and unmarried sons and unmarried daughters of permanent resident aliens. - Qualified immigrants -

(A) who are the spouses or children of an alien lawfully admitted for permanent residence, or

(B) who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence, shall be allocated visas in a number not to exceed 114,200, plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1); except that not less than 77 percent of such visa numbers shall be allocated to aliens described in subparagraph (A).

(continued)

petition for a sibling, but a lawful permanent resident may not.²⁴² Both U.S. citizens and lawful permanent residents may petition for their children, whether they are minors or adults.²⁴³ The availability of immigrant visas depends on the numerical limitations set by Congress.²⁴⁴ Worldwide ceilings on the number of immigrant visas issued are set by category and by country.²⁴⁵ For example, children of lawful permanent residents must wait years for a visa to become available, while the children of U.S. citizens obtain visas that are immediately available to them.²⁴⁶ The reason for the difference is that the children of lawful permanent residents fall into a category that has numerical limitations, while the children of U.S. citizens are “immediate relatives.” Only the “immediate relative” category lacks numerical limitations, thereby avoiding delays related to visa availability.²⁴⁷ Immediate relatives, which are spouses, children, and parents of U.S. citizens over the age of twenty-one, have visas immediately available to them once the petition is approved.²⁴⁸

(3) Married sons and married daughters of citizens. - Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the classes specified in paragraphs (1) and (2).

(4) Brothers and sisters of citizens. - Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 65,000, plus any visas not required for the classes specified in paragraphs (1) through (3).

²⁴² § 1153(a)(4).

²⁴³ § 1151(b)(2)(A)(i).

²⁴⁴ AM. IMMIGRATION COUNCIL, HOW THE UNITED STATES IMMIGRATION SYSTEM WORKS 2 (Aug. 2016), https://www.americanimmigrationcouncil.org/sites/default/files/research/how_the_united_states_immigration_system_works.pdf [<https://perma.cc/P6GA-KQBT>].

²⁴⁵ Categorical limitations are outlined in INA § 201(a)(1), 8 U.S.C. § 1151(a)(1), and country-based limitations are outlined in § 202(a)(1), 8 U.S.C. § 1152(a)(1).

²⁴⁶ Section 201(b)(2)(A)(i) of the INA demonstrates that “immediate relatives” are not subject to direct numerical limitations, but those who do not fall within an exception are subject to the numerical limitations. 8 U.S.C. § 1151(b)(2)(A)(i).

²⁴⁷ *Id.*; AM. IMMIGRATION COUNCIL, *supra* note 244, at 2.

²⁴⁸ “For purposes of this subsection, the term “immediate relatives” means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age.” 8 U.S.C. § 1151(b)(2)(A)(i).

The fact that a spouse of a U.S. citizen is an “immediate relative” renders this path to lawful permanent residence very appealing to U.S. citizens, potential mail-order brides, and the international marriage broker industry. While lawful permanent residents may petition for their immigrant spouses, the numerical limitations on that category result in significant, years-long delays.²⁴⁹ Lawful permanent residents may use the services of an international marriage broker, but the business model appears to target potential husbands and wives who want to meet, immigrate, and marry quickly.

The imbalance of the relationship between the U.S. citizen husband and the immigrant wife is illustrated in the inherent structure of U.S. immigration law. The immigration routes used most frequently by spouses are designed in such a way that the U.S. citizen spouse controls the petitioning process on behalf of the immigrant spouse.

1. *The “K” Fiancé Visa*

Immigration avenues for a typical mail-order bride include entering the United States on a non-immigrant visa, either a K-visa for fiancés of U.S. citizens, or a tourist visa.²⁵⁰ Typically, the mail-order bride then marries the U.S. citizen marriage-broker client, which allows the immigrant bride to file an application for adjustment of status to that of a lawful permanent resident as an “immediate relative.”²⁵¹

The fiancé or “K” visa is available to fiancés of U.S. citizens who wish to enter the United States solely to marry the U.S. citizen.²⁵² Both parties must have a bona fide intent to marry.²⁵³ A valid marriage between the

²⁴⁹ The August 2017 Visa Bulletin, published monthly by the U.S. Department of State, revealed that, as of the date of publication, an immigrant visa was available to the spouse of a lawful permanent resident for petitions that were filed prior to September 22, 2015. This could mean a two-year wait, or longer, until the visa becomes available. U.S. DEP’T OF STATE, VISA BULLETIN FOR AUGUST 2017, (July 11, 2017), <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2017/visa-bulletin-for-august-2017.html> [<https://perma.cc/S77M-CGJ8>].

²⁵⁰ 8 U.S.C. § 1101(a)(15)(K)(i) (2012).

²⁵¹ §§ 1101(a)(15)(K), 1151(b)(2)(A)(i), 1255(d).

²⁵² § 1255(a).

²⁵³ §§ 1101(a)(15)(K), 1184(r)(1). The K-visa is also available to noncitizens who marry U.S. citizens, then want to enter the U.S. after a spousal petition has been filed. The noncitizen spouse/fiancé may also bring her children on this visa. §§ 1101(a)(15)(K)(ii)–(iii).

petitioner (the U.S. citizen) and the beneficiary (the noncitizen fiancé) must be concluded within ninety days after the noncitizen is admitted.²⁵⁴ Otherwise, the consequences can be dire for the foreign national whose lawful status terminates; if she does not leave the country, she can be placed in removal proceedings.²⁵⁵

IMBRA somewhat changed the K-visa application process by imposing disclosure requirements on the U.S. citizen petitioner.²⁵⁶ The petitioner must disclose all previous K-visa petitions he filed; whether he met his fiancé through an international marriage broker, along with the identity of the company; whether he has been subject to any protection or restraining orders; and all prior arrests and convictions, excluding traffic infractions.²⁵⁷ If he has a criminal record, he must include certified court records with the petition.²⁵⁸ The Department of Homeland Security (DHS) has the discretion to deny a petition if the petitioner filed two or more K-visa petitions within two years of the current filing.²⁵⁹ If these circumstances exist, DHS has the discretion to waive the limitations unless “the petitioner has a record of violent criminal offenses against a person or persons.”²⁶⁰ Even then, waivers are available in certain circumstances, such as self-defense.²⁶¹

The two parties to the K-visa application must have met in person within two years prior to filing the petition, although this requirement may be waived at the discretion of the adjudicator.²⁶² This requirement is most likely the reason that international marriage organizations offer “romance tours.”²⁶³ If the couple does not meet beforehand, no immigration benefits are available; thus, the industry probably would not flourish. Instead, the K-visa process is heavily advertised by marriage brokers as the preferred immigration route to use.²⁶⁴

²⁵⁴ § 1101(a)(15)(K)(i).

²⁵⁵ § 1184(d)(1).

²⁵⁶ § 1375a(d)(2).

²⁵⁷ § 1184(d)(1); DEP'T OF HOMELAND SEC., U.S. CITIZENSHIP & IMMIGRATION SERVS., USCIS FORM I-129F, PETITION FOR ALIEN FIANCÉ(E) (2018) [hereinafter FORM I-129F].

²⁵⁸ § 1184(d)(1).

²⁵⁹ § 1184(d)(2)(A)(ii).

²⁶⁰ § 1184(d)(2)(B).

²⁶¹ § 1184(d)(2)(C).

²⁶² § 1184(d)(1).

²⁶³ See, e.g., *Singles Tours*, *supra* note 175.

²⁶⁴ See, e.g., *Fiancée Visa Package*, *supra* note 176.

The contrasting view is that ninety days gives either potential spouse an “out;” if they determine within that period that they are incompatible, the mail-order bride can go home or rejoin the list of prospects with her agency. It is even possible, and realistic, that some mail-order brides will take advantage of the ninety-day rule and will come to the United States with no intention of marrying the man who paid her way.²⁶⁵ However, if this deception is the case, then the “fiancé” has violated the terms of the visa, since the visa itself requires a “bona fide intention to marry.”²⁶⁶

The relationship between petitioner and beneficiary of the K-visa process creates its own control imbalance. The noncitizen fiancé remains in total reliance on the U.S. citizen to petition for the visa, since the noncitizen may not petition on her own behalf.²⁶⁷ The noncitizen fiancé also must rely on the U.S. citizen to marry her within ninety days.²⁶⁸ If the marriage does not take place, the noncitizen is penalized by having to depart, or if she does not depart voluntarily, by formal removal.²⁶⁹ The U.S. citizen husband suffers no legal consequences for failure to follow through with the marriage.²⁷⁰

2. *Immediate Relative Visas for Spouses of U.S. Citizens*

A K-visa is not required for a U.S. citizen to petition for his or her immigrant spouse’s lawful permanent resident status.²⁷¹ The U.S. citizen

²⁶⁵ One anthropologist reported in her study of mail-order brides that one of her male subjects “expressed disgust at Russian women who take men ‘for a 90 day shopping spree in the States and then return home.’” NICOLE CONSTABLE, ROMANCE ON A GLOBAL STAGE: PEN PALS, VIRTUAL ETHNOGRAPHY, AND “MAIL-ORDER” MARRIAGES 98 (2003). There are other reports of Russian women who exploit American men in this manner. See Weir, *supra* note 123. Some authors view such concern as “paranoia.” Welch, *supra* note 34, at 30.

²⁶⁶ § 1184(d)(1).

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.* For the provisions on removal of those who overstay and do not comply with the K-visa time restrictions, see §§ 1229a, 1231.

²⁷⁰ Neither INA sections 101(a)(15)(K) nor 214(d)(2) mention penalties imposed on the petitioner. 8 U.S.C. §§ 1101(a)(15)(K), 1184(d)(2).

²⁷¹ See Ilona Bray, *How Can the Fiancé of a U.S. Permanent Resident Get a Visa?*, NOLO, <https://www.nolo.com/legal-encyclopedia/free-books/fiance-marriage-visa-book/chapter6-1.html> [<https://perma.cc/R427-HLUN>] (discussing alternative ways to become a U.S. permanent resident if you are a fiancé of a permanent resident).

can simply file an immigrant visa petition, and the immigrant spouse can process the visa through the appropriate U.S. consulate.²⁷² The availability of this option reveals a serious gap in the effectiveness of IMBRA. The spousal immigrant visa enables the noncitizen spouse of a U.S. citizen to become a lawful permanent resident through the U.S. citizen's sponsorship as an "immediate relative."²⁷³ U.S. immigration law is constructed such that marriage to a U.S. citizen is the most efficient method by which a noncitizen can gain lawful permanent resident status in the United States.²⁷⁴ Spouses of U.S. citizens are considered "immediate relatives," and as opposed to other familial relationships, immigrant visas are available immediately.²⁷⁵ The potential for marriage fraud was born out of this benefit,²⁷⁶ and so, arguably, was the marriage broker industry, due to

²⁷² See *Spouse Immigration*, FINDLAW, <http://immigration.findlaw.com/visas/bringing-a-spouse-to-live-in-the-u-s.html> [<https://perma.cc/D9U5-99D9>].

²⁷³ *Id.* See also 8 U.S.C. § 1151(b)(2)(A)(i) (2012).

²⁷⁴ *For Many Immigrants, Marriage Is the Fastest and Easiest Way to Get Legal Rights*, NEWSWEEK, Aug. 8, 2017, <http://www.newsweek.com/immigration-legal-mating-game-647912> [<https://perma.cc/9EAA-Y2F6>] [hereinafter *Immigrant Marriage*] (discussing the result of fraudulent marriages because it is "easier for the spouse of a U.S. citizen to enter or remain in the U.S."). See also U.S. Dep't of Homeland Sec., *Yearbook of Immigration Statistics 2015* tbl.10, <https://www.dhs.gov/immigration-statistics/yearbook/2015/table10> [<https://perma.cc/UDG5-LRSU>]. The numbers are significant. In 2015, 4,335 Russians obtained lawful permanent resident status as "immediate relatives" of U.S. citizens. *Id.*

²⁷⁵ See *U.S. Immigration Guide—U.S. Visas and U.S. Immigration*, US-IMMIGRATION.COM, <https://www.us-immigration.com/us-immigration-guide-us-visas-and-us-immigration/> [<https://perma.cc/VE94-KUCN>]. See also *Spouse Immigration*, *supra* note 272; 8 U.S.C. § 1151(b)(2)(A)(i) (assuring that "immediate relatives," which includes spouses of United States citizens, are not subject to worldwide levels and numerical limitations). Other immigration categories of family-sponsored immigrants, employment-based immigrants, and diversity immigrants are subject to worldwide levels and numerical limitations, which have resulted in enormous, decades-long visa backlogs for many immigrant visa categories. See §§ 1151(a), (c)–(e).

²⁷⁶ See *Immigrant Marriage*, *supra* note 274; Immigration Marriage Fraud Amendments of 1986, Pub. L. No. 99-639, 100 Stat. 3537, amended by Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978; Lana Mobydeen, *Something Old, Something New, Something Borrowed, Something Mail-Ordered? The Mail-Order Bride Industry and Immigration Law*, 49 WAYNE L. REV. 939, 952 (2004).

the relative ease with which an enamored U.S. citizen can obtain an immigrant visa for a foreign bride he finds via the Internet.²⁷⁷

The U.S. citizen spouse must file an immigrant visa petition, the "Petition for Alien Relative," on behalf of the noncitizen spouse.²⁷⁸ The United States Citizenship and Immigration Service (USCIS) carefully examines the marriage to be certain that it is "bona fide."²⁷⁹ This may be more difficult to prove in mail-order bride scenarios. By their nature, mail-order bride courtships are not long; the couple probably does not spend much time together before the marriage. They also probably lack documentation showing joint residence, commingled funds, and mutual friends who can attest to the validity of the relationship. These are all items normally expected as evidence submitted in support of the spouse-based immigrant visa petition.²⁸⁰ However, such evidence may be created and gathered following the wedding.

The control imbalance in this situation is that the noncitizen spouse may not file a petition for herself unless there is an exception, and consequently, she must rely upon her U.S. citizen spouse to file the petition, attend the required interview, and follow through with all visa requirements.²⁸¹ Some spouses of U.S. citizens' use the power created by this superior position to control their noncitizen spouse, to threaten withdrawal of the petition, or to threaten deportation if the noncitizen spouse does not do as the U.S. citizen spouse desires.²⁸² Withdrawal or

²⁷⁷ See *Visa Availability and Priority Dates*, U.S. CITIZENSHIP AND IMMIGRATION SERVS., <https://www.uscis.gov/greencard/visa-availability-priority-dates> [<https://perma.cc/928L-NQDG>] ("Immigrant visas for 'immediate relatives' of U.S. citizens are unlimited, so they are always available.").

²⁷⁸ 8 U.S.C. § 1154(a)(1)(A)(i) ("[A]ny citizen of the United States claiming that an alien is entitled to . . . an immediate relative status under section 1151(b)(2)(A)(i) of this title may file a petition with the Attorney General for such classification.").

²⁷⁹ See 8 C.F.R. § 204.2(a)(1)(iii)(B) (2017).

²⁸⁰ *Id.*

²⁸¹ See Mobydeen, *supra* note 276, at 952–53. See also Tiffany E. Markee, *A Call for Cultural Understanding in the Creation, Interpretation and Application of Law: Is the United States Meeting the Needs of Russian Immigrant "Mail-Order Brides?"*, 31 CAL. W. INT'L. L.J. 277, 285–286 (2001).

²⁸² *Id.* at 286–87.

refusal to file by the U.S. citizen petitioner is a common tactic of abusive U.S. citizen spouses.²⁸³

3. *Conditional Permanent Residence*

Lawful permanent resident status is not always granted immediately upon approval of a spousal immigrant visa petition. New marriages are subject to the requirements of “conditional permanent resident status.”²⁸⁴ If a marriage is less than two years old at the time the status of lawful permanent residence is obtained, the immigrant spouse’s status, while permanent, remains conditional for two years.²⁸⁵ Conditional status is removed only when both spouses jointly submit to the USCIS a petition to remove the conditions and both participate in a joint interview with officials at USCIS.²⁸⁶ If no joint petition is filed within the ninety-day period prior to the end of the two years, the alien spouse’s status is terminated, and she or he is placed in removal proceedings.²⁸⁷ The stakes

²⁸³ *Id.* at 286. For examples of how immigrants are abused from their U.S. citizen spouse, see Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims*, in *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS* 5–6 (Am. Univ. Wash. Coll. of Law), <http://library.niwap.org/wp-content/uploads/2015/CULT-Man-Ch1.1-DynamicsDomesticViolence2016.pdf> [<https://perma.cc/6YF4-V47F>].

²⁸⁴ See 8 U.S.C. § 1186a(a)(1) (2012).

²⁸⁵ See § 1186a(h)(1). “Alien spouse” is defined as

an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise)—

(A) as an immediate relative . . . as the spouse of a citizen of the United States;

(B) . . . as the fiancée or fiancé of a citizen of the United States, or

(C) . . . as the spouse of an alien lawfully admitted for permanent residence,

by virtue of a marriage which was entered into less than 24 months before the date the alien obtains such status by virtue of such marriage

Id.

²⁸⁶ See § 1186a(c)(1).

²⁸⁷ See § 1186a(c)(2).

are high for the immigrant spouse who fails to file, but nothing untoward happens to the U.S. citizen spouse.²⁸⁸

At the end of the two-year period, USCIS then determines yet again whether the marriage is bona fide and whether the requirements have been followed properly by the alien spouse.²⁸⁹ In other words, the alien spouse's immigrant status is not secure until after the USCIS makes this final determination, after the joint petition and interview have concluded. The officer may make an adverse determination after the joint requirements are met, and so the marriage remains under immigration scrutiny until a favorable determination is made.²⁹⁰

While this requirement was enacted as part of the Immigration Marriage Fraud Act (IMFA) in 1986 to combat immigration marriage fraud,²⁹¹ it acts as a weight that ruins the balance between the U.S. citizen spouse and the alien spouse. The immigrant spouse must rely on his or her spouse to follow through with the joint requirements mandated at the end of the two-year period. For an abusive U.S. citizen husband, this provides an opportunity for further abuse because it enables him to keep the immigrant spouse captive. In essence, the immigrant spouse remains at the mercy of her U.S. citizen husband.²⁹²

Because mail-order bride marriages by their very nature tend to be young marriages at the time immigration status is sought for the mail-order bride, it is reasonable to assume that most mail-order brides face this conditional residency requirement.²⁹³ Thus, some legal scholars argue these requirements disproportionately impact mail-order brides.²⁹⁴ No law or policy addresses the possible disproportionate effect on mail-order brides under the conditional residency requirements; however, an

²⁸⁸ See generally § 1186a. Section 1186a, also known as INA § 216, does not mention any penalties for U.S.-citizen or lawful-permanent-resident spouses who fail to follow through on the joint requirements.

²⁸⁹ See § 1186a(c)(3)(A).

²⁹⁰ See §§ 1186a(c)(3)(B)–(C).

²⁹¹ Mobydeen, *supra* note 276, at 952.

²⁹² See Beverly Encarguez Perez, *Woman Warrior Meets Mail-Order Bride: Finding an Asian American Voice in the Women's Movement*, 18 BERKELEY WOMEN'S L.J. 211, 229 (2003).

²⁹³ When a noncitizen is admitted to the United States pursuant to a K-visa, he or she must be subject to the conditional permanent residence requirements of INA § 216 in order to adjust status to that of a lawful permanent resident. 8 U.S.C. § 1255(d) (2012).

²⁹⁴ Perez, *supra* note 292, at 229.

exception is available to immigrants who suffer abuse at the hands of their U.S. citizen spouse.²⁹⁵

C. Domestic Violence Dynamics: Power and Control

1. Imbalance of Power: The Vulnerability of Mail-Order Brides

The immediate availability of immigrant visas makes the spouse-based, immediate-relative category very attractive. The marriage broker industry arguably recognizes this and uses it to target U.S. citizen men as opposed to all men in the United States. As Senator Maria Cantwell stated before IMBRA was passed, “Today an American seeking to marry someone through an international marriage broker holds all the cards.”²⁹⁶ The international marriage organization industry sets up a relationship in which the mail-order bride necessarily becomes entirely dependent on her “First World husband,” because she must rely upon him for immigration purposes as well as language and cultural integration in the United States.²⁹⁷ In addition, prior to IMBRA, the U.S. citizen husband was privy to the mail-order bride’s background check and all of the other minute details of her life as collected by the marriage broker in order to advertise her most attractively.²⁹⁸ The foreign mail-order bride, on the other hand, received only information regarding her suitor that he wanted to provide.²⁹⁹

The disclosure requirements imposed by IMBRA bring some balance back into the relationship. For the first time in immigration procedure, IMBRA requires fiancé visa petitioners (the U.S. citizens searching for mail-order brides) to reveal their criminal and marital histories so that the potential wife may be informed and more empowered when making decisions.³⁰⁰ The theory is that the mail-order bride will be less likely to choose a man who will turn out to be abusive because she enters the relationship armed with knowledge about his background. However,

²⁹⁵ 8 U.S.C. § 1186a(c)(4).

²⁹⁶ *Human Trafficking*, *supra* note 5, at 7 (statement of Sen. Maria Cantwell). *See also* 1999 INS REPORT, *supra* note 11, at 2.

²⁹⁷ Marie-Claire Belleau, *Mail-Order Brides in a Global World*, 67 ALB. L. REV. 595, 596 (2003).

²⁹⁸ LOUISE LANGEVIN & MARIE-CLAIRE BELLEAU, TRAFFICKING IN WOMEN IN CANADA: A CRITICAL ANALYSIS OF THE LEGAL FRAMEWORK GOVERNING IMMIGRANT LIVE-IN CAREGIVERS AND MAIL-ORDER BRIDES 99–100 (Status of Women Can. Policy Research Fund 2000).

²⁹⁹ *Id.* at 100.

³⁰⁰ 8 U.S.C. § 1375a(a)(5)(A)(iii) (2012).

batterers can be cunning, secretive, and skillful at dodging such requirements. While IMBRA provides some protection for women, it cannot restore a true balance of power in the relationship.

The power imbalance of the spouse-based immigrant visa process and the disparity of access to information by both spouses creates an environment that is ripe for abuse. The bride can become subservient to her husband for immigration benefits, freedom of movement, and whatever degree of independence the husband wants to allow his wife.³⁰¹ The reality of the unequal power structure that exists in a U.S. citizen/mail-order bride relationship lends credence among experts that immigrant women, including mail-order brides, are especially vulnerable to abuse.³⁰² The lack of a power balance in the relationship kindles the typical characteristics of an abusive relationship, including physical abuse, economic abuse, intimidation, emotional abuse, isolation, denial of privileges, use of male privilege, and possible use and abuse of children.³⁰³

Immigrant women are more susceptible to abuse than their citizen counterparts due to the extra layer of potential abuse that immigration status provides.³⁰⁴ Immigrant women rarely know English nor are they familiar with the legal system in the United States. Mail-order brides who come to the United States alone not only live in an unfamiliar area without family or friends but often are isolated from the community by their husbands, thus limiting their ability to reach out for help or to learn of alternatives.³⁰⁵ Her only source of information may be her husband, who can distort the accuracy of such information as a means of control. She

³⁰¹ Orloff & Garcia, *supra* note 283, at 7.

³⁰² *Id.*

³⁰³ *Id.* at 4–6 (list also adapted from author's experiences representing immigrant survivors of domestic violence and the "Immigrant Power and Control Wheel," developed by the National Center on Domestic and Sexual Violence, Austin, Texas, as adapted from the original wheel by the Domestic Abuse Intervention Project, Duluth, Minnesota). For a detailed discussion of the definition of "domestic violence," which is beyond the scope of this Article, see generally ELIZABETH M. SCHNEIDER, BATTERED WOMEN AND FEMINIST LAWMAKING 59–67 (2000); ANN JONES, NEXT TIME, SHE'LL BE DEAD: BATTERING AND HOW TO STOP IT 81–105 (1994).

³⁰⁴ See SCHNEIDER, *supra* note 303, at 64; Joan Fitzpatrick, *The Gender Dimension of U.S. Immigration Policy*, 9 YALE J.L. & FEMINISM 23, 31 (1997); Leslye E. Orloff et al., *With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29 FAM. L.Q. 313, 313–14 (1995); Orloff & Garcia, *supra* note 283, at 1.

³⁰⁵ Orloff & Garcia, *supra* note 283, at 2–3.

may be kept from learning about resources or how to seek help if she is abused. Batterers often use the threat of deportation or the threat of not following through with immigration petition requirements as a means of control and abuse as well.³⁰⁶ The U.S. citizen husband can refuse to file for the mail-order bride's immigration status, withdraw petitions, and fail to follow through on conditional residency requirements.³⁰⁷

Economic dependence of an immigrant spouse on an abusive U.S. citizen spouse is exacerbated by her limited English skills, her possibly non-existent job marketing potential, and batterers who do not allow their victims to work, to have access to money, or to acquire necessary training for job skills in the United States. Once the Russian mail-order bride arrives in the proverbial land of opportunity, she is completely, economically dependent on her husband.³⁰⁸

An additional factor that may provide opportunity for abuse is that mail-order brides have few chances to meet their prospective husbands and cannot observe them in their daily private lives.³⁰⁹ During the short time between meeting and marrying, a batterer may disguise his true nature through charm, romance, and grand gestures, much of which may disappear once the marriage has taken place. Mail-order brides are touted as a kind of "commodity" by marriage brokers, which can contribute to perceived entitlement for control of the wife by the man who has paid for services.³¹⁰

The prevalent Russian mentality regarding domestic violence adds another layer to the possibility that Russian mail-order brides may never escape abuse at the hands of their U.S. citizen husbands. Russian women are less likely to call the police for protection from their batterers because calling the police in Russia is of no use to them.³¹¹ Russian police are perceived as corrupt, in cahoots with traffickers, retaliatory, and incapable

³⁰⁶ Markee, *supra* note 281, at 283. See also Maurice Goldman, *The Violence Against Women Act: Meeting Its Goals in Protecting Battered Immigrant Women?*, 37 FAM. & CONCILIATION CTS. REV. 375, 377 (1999).

³⁰⁷ Markee, *supra* note 281, at 283.

³⁰⁸ *Human Trafficking*, *supra* note 5, at 20 (statement of Michele A. Clark, Co-Director, Protection Project of the Foreign Policy Institute, Johns Hopkins University, Washington, D.C.).

³⁰⁹ LANGEVIN & BELLEAU, *supra* note 298, at 100.

³¹⁰ *Human Trafficking*, *supra* note 5, at 20 (statement of Michele A. Clark).

³¹¹ Bragina & Jones, *supra* note 96.

or unwilling to provide proper protection.³¹² Russian women often fear that it is too difficult to prove that a crime has occurred and therefore downplay the usefulness of dialing 911 in Russia or in the United States.³¹³ In addition, the Russian female recruit may be escaping an abusive situation in Russia by using the mail-order bride route. For example, it was reported that one Russian woman escaped twenty-eight years of life in Russia; she was an orphan, worked five jobs to support her husband and child, and was being beaten by her husband.³¹⁴ She sought and found a life free of alcoholism, abuse, and unemployment as a mail-order bride.³¹⁵ On the other hand, those mail-order brides who are abused by their U.S. citizen husbands often change their perspective, and sometimes feel that their lives in Russia were better.³¹⁶

2. *Profile of U.S. Citizen Husbands: The Demand Side of the Industry and Potentially Abusive Characteristics*

“The men walk around like children in a toy store. But these toys talk back, they’re warm and they breathe.”³¹⁷

Because of this noticeable trend of mail-order bride abuse, it is important to examine the characteristics of the men who purchase the services of a marriage broker. It is crucial to understand “who they are,” not simply to create a profile of an abuser, but to determine whether industry legislation is necessary or whether it inaccurately labels international marriage-broker customers.

A 2001 article in a Moscow newspaper is illustrative.³¹⁸ The female columnist wrote the article to “warn” women in a small Russian town of the intentions of her acquaintance, who was determined to find a Russian mail-order bride.³¹⁹ He was a software businessman in his fifties, and he renounced American women as “untraditional and hateful” based on his

³¹² See ABA REPORT, *supra* note 91, at 49; AMNESTY INT’L, *supra* note 91, at 35.

³¹³ See Hughes & Denisova, *supra* note 52, at 48–49.

³¹⁴ Sun, *supra* note 150.

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ Arnun Grunberg, *This Writer Wants a Wife*, TIMES (Nov. 6, 2010, 2:23 PM), <https://www.thetimes.co.uk/article/this-writer-wants-a-wife-8h37gl7hch6> [https://perma.cc/JQL6-KGKF].

³¹⁸ Yana Djin, *Perm Ladies, Come to Your Senses!*, MOSCOW NEWS (Feb. 2001), http://yanadjin.narod.ru/rus_girls_of_perm_look_out.html [https://perma.cc/QYU5-LBUN].

³¹⁹ *Id.*

own dating experiences.³²⁰ He explored a marriage broker website offering women from a small town because he believed the women would “make more compliant, less-demanding wives.”³²¹ He expressed a desire for a beautiful, intelligent, white woman, who would obey him and bear his children “with love and humility.”³²² He did not want to “mix races” by obtaining an Asian mail-order bride.³²³ The author was so alarmed by his intentions and attitudes that she wrote the column as an admonition, and cautioned, “If the conditions that you are living in now are not totally deplorable, I urge you to reconsider and not sell yourself so cheaply.”³²⁴

Studies that have been conducted on mail-order bride marriages usually indicate that it is difficult to pigeonhole the men who seek such brides. Studies show that information continues to be lacking regarding a man’s motives for seeking a wife in this manner.³²⁵ It is difficult to gather information about these husbands due to a lack of response to study requests,³²⁶ and until 2005, no law existed that provided a mechanism to keep track of the husbands.³²⁷ One anthropologist interviewed many men who took mail-order brides and concluded that the men are very diverse; some have good intentions and a genuine desire to find a wife to love.³²⁸ However, it is important to study male clients of marriage brokers because they control the demand side of the marriage broker industry.

A typical profile gathered in the early 1990s revealed a mail-order bride seeker as white, highly-educated, conservative, marriage-minded, a financially stable city-dweller, and frequently divorced.³²⁹ Also, some of

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

³²⁵ Sahib et al., *supra* note 151, at 65.

³²⁶ Some survey studies have been conducted of men who engage mail-order brides. *See, e.g.,* CONSTABLE, *supra* note 265, at 6; GLODAVA & ONIZUKA, *supra* note 11, at 25. Other journalists embarked on “romance tours” provided by international marriage brokers and reported on their experiences. Grunberg *supra* note 317; Walker, *supra* note 191.

³²⁷ IMBRA was the first legislation to impose a disclosure requirement on the petitioning U.S. citizen. Jackson, *supra* note 185, at 911.

³²⁸ CONSTABLE, *supra* note 265, at 6–7.

³²⁹ GLODAVA & ONIZUKA, *supra* note 11, at 25–26. *See also* Sahib et al., *supra* note 151, at 65.

the men may be much older than the brides they choose.³³⁰ A 2006 sociological study confirmed that men who seek Russian mail-order brides typically are older, have been married and divorced, and have children.³³¹ Some of the men call themselves “workaholics” and find the American dating scene too fast-paced and impersonal.³³² They find marriage brokers helpful in finding a mate.³³³ Certainly, such men most likely have the financial resources to pay the fees demanded by the marriage broker. Yet, another study profiled the American wife-seeker as typically from “not-large cities, older . . . [previously] married with children, and . . . college-educat[ed].”³³⁴ The study compared the men with the women they sought. The mail-order brides appeared to be young, educated, single, without children, foreign language speakers, with jobs in the service or unskilled labor fields.³³⁵

Yet, even among the decent subjects, there were some common themes. Before passing IMBRA, the Senate Committee on Foreign Relations heard the following testimony:

Many matchmaking Web sites advertise their mail-order brides (implicitly, or in some cases, explicitly) as submissive, docile, faithful and loving domesticated wives who are looking to build a traditional, old fashioned home in which they will cater to their man. It is not unlikely that the men who choose to pursue the search for a wife through the mail-order bride path might be looking for just such a woman. It is also likely that a man who is seeking out a submissive woman is not seeking an equal partnership, but rather a relationship of dominance and control.³³⁶

³³⁰ GLODAVA & ONIZUKA, *supra* note 11, at 27.

³³¹ Koning et al., *supra* note 151, at 65.

³³² Weir, *supra* note 123.

³³³ *Id.*

³³⁴ Dovlatov, *supra* note 42, at 21.

³³⁵ *Id.* See also Del Vecchio, *supra* note 2, at 187; Holli B Newsome, *Mail Dominance: A Critical Look at the International Marriage Broker Regulation Act and Its Sufficiency in Curtailing Mail-Order Bride Domestic Abuse*, 29 CAMPBELL L. REV. 291, 295–96 (2007).

³³⁶ *Human Trafficking*, *supra* note 5, at 19 (statement of Michele A. Clark).

To add to this, the typical U.S. citizen husband tends to assume authority over his mail-order wife and speaks on her behalf, even when she is in his presence.³³⁷

Mail-order bride seekers primarily are dissatisfied with “liberated” American women, and they believe that foreign women will be more devoted to their needs.³³⁸ Most male marriage broker clients have given up on American women and view them as ruined for marriage by “feminism.”³³⁹ They see “feminism” as the opposite of “femininity.”³⁴⁰ They complain of abandonment, feelings of worthlessness, unreasonable demands, independence, all on the part of the American women with whom they have had past relationships.³⁴¹

International marriage brokers exploit these attitudes by promoting the image of Russian women as attractive, using advertising photographs of the women in seductive poses in sexual dress.³⁴² As one fortyish male consumer in the market for a twenty-something Russian woman put it, “I wanted a drop-dead gorgeous woman.”³⁴³ One marriage agency explained its use of the stereotype by stating in a Moscow newspaper:

The attraction of Russian girls is that they’re not so feminized, not so business minded, they think about home, kids, and their appearance. Western women want to have careers, demand cash, have expensive divorces, but Russian women are very pretty, there are plenty of them, they’re not spoiled and not too demanding.³⁴⁴

Marriage brokers use these sexual stereotypes of the Russian woman to attract American men who want women to serve them in every way and to

³³⁷ CONSTABLE, *supra* note 265, at 7.

³³⁸ O’Rourke, *supra* note 33, at 479.

³³⁹ Julia Meszaros, *American Men and Romance Tourism: Searching for Traditional Trophy Wives as Status Symbols of Masculinity*, 45 WOMEN’S STUD. Q. 225, 227 (2017); Welch, *supra* note 34, at 28; 1999 INS REPORT, *supra* note 11, app. A at 3.

³⁴⁰ Welch, *supra* note 34, at 28.

³⁴¹ *Id.*

³⁴² The anthropologist who conducted this study pointed out that the images of Russian and East European women contrasted with the more conservative photographs of their Asian, mostly Filipina, counterparts. CONSTABLE, *supra* note 265, at 95. *See also* Meszaros, *supra* note 339, at 231.

³⁴³ Sun, *supra* note 150.

³⁴⁴ Hughes, *supra* note 25, at 60.

play a more traditional, non-feminist role in a marriage. The women, at least as advertised by the agencies, are less career-oriented, and more devoted to family and taking care of the home and of their husband.³⁴⁵

One website customer boasted, "When was the last time a first date offered to make you a home-cooked meal or to sew that little tear in your shirt? Makes you appreciate the basics."³⁴⁶ The Christian Science Monitor introduced a typical American marriage broker client:

"American women are too independent, too demanding, too critical," says Chris, a middle-aged US businessman visiting Moscow to meet "several very nice ladies" he contacted over the Web. The visitor, who asked that his last name not be used, cites a joke often repeated here: "A Russian wife wants to keep house for you. An American wife wants to get rid of you, and keep the house."³⁴⁷

Other anecdotes reveal men who want a "live-in nurse," a "sock-sorter," those who are disillusioned by past marriages or who feel the need to be "rescued."³⁴⁸

Some husbands who report "successful" mail-order bride marriages may not define "successful" in the same manner as would their wives should they be questioned alone. Interviews in the early 1990s revealed that men who were satisfied with their marriages were those who remained in control of the marriage, held the power over their foreign spouses, and could mold their wives into what they wanted.³⁴⁹ Many of these men seek the kind of dominance over a woman that is inherent in the mail-order bride marriage.³⁵⁰ He likes the fact that the woman lives in his country, among his culture, in his language, and according to his own laws.³⁵¹ One male client stated about his fiancé, "Her hesitant English and sweet innocence and ignorance of most things 'American' is very appealing."³⁵²

³⁴⁵ Sahib et al., *supra* note 151, at 65.

³⁴⁶ *Id.* at 66.

³⁴⁷ Weir, *supra* note 123.

³⁴⁸ GLODAVA & ONIZUKA, *supra* note 11, at 26.

³⁴⁹ *Id.* at 29.

³⁵⁰ Welch, *supra* note 34, at 28; 1999 INS REPORT, *supra* note 11, at 19; Daniel Epstein, *Romance Is Dead: Mail Order Brides as Surrogate Corpses*, 17 *BUFF. J. GENDER L. & SOC. POL'Y.* 61, 90-91 (2009).

³⁵¹ 1999 INS REPORT, *supra* note 11, at 19.

³⁵² Welch, *supra* note 34, at 28.

Successful agencies advertise successful matches. Encounters International, a well-known marriage broker involved in recent litigation, boasts high success rates for its married couples, both on its website and in the media.³⁵³ The website boasts statistics on its marriages, engagements, and babies, but not its divorces.³⁵⁴ In 1998, A Foreign Affair claimed an engagement or marriage achieved every week.³⁵⁵

Racial preferences also are illustrated in the booming popularity of Russian and East European mail-order brides in the last fifteen years.³⁵⁶ “They play to men’s desires for women who are white—yet exotic, several men said.”³⁵⁷ Prior to the rise in the Russian bride trade, Filipina women were considered the “queens” among those in the mail-order bride business.³⁵⁸ Most Russian mail-order brides are Caucasian, as opposed to the more traditional image of the Asian mail-order bride, typically available by catalogue.³⁵⁹ “Touted by some as ‘superior’ because of their Caucasian appearance, women from Eastern Europe and the former Soviet Union have experienced unprecedented popularity since the end of the Cold War.”³⁶⁰

Some marriage brokers also appeal to certain men’s desires to monitor every activity of their mail-order bride.

Another service the agency runs is a “digital studio” to provide photographs and videos of the women to the men. The service offers to follow the woman for one week to photograph her in “the world, which surrounds her every day.” According to the web site, “You can see what books she likes to read, what films she likes to watch, what juice she likes to drink, what place she likes to walk at.” Men

³⁵³ ENCOUNTERS INT’L, *supra* note 167.

³⁵⁴ *Id.* (“Only one service boasts a 100 percent success rate . . . guarantees nuptials within a year of membership or clients get their \$1850 fee back.”).

³⁵⁵ Sun, *supra* note 150.

³⁵⁶ Russian women were labeled “the hottest commodities” in the mail-order bride industry by one scholar in 1994. GLODAVA & ONIZUKA, *supra* note 11, at 32. Regarding racial preferences, see Djin, *supra* note 318; Stanley, *supra* note 145.

³⁵⁷ Sun, *supra* note 150.

³⁵⁸ GLODAVA & ONIZUKA, *supra* note 11, at 55.

³⁵⁹ See Sun, *supra* note 150; Stanley, *supra* note 145. For background on the Asian mail-order bride business, see Encarguez Perez, *supra* note 292, at 211–14; Chun, *supra* note 11.

³⁶⁰ CONSTABLE, *supra* note 265, at 97.

are also offered personalized pornography of the women.³⁶¹

Once abuse has begun, many husbands play a dangerous game of “blame the victim.”³⁶² This is dangerous in that it downplays legitimate cries for help from abused mail-order brides and other immigrant women, and it decreases the credibility of bona fide victims. Chat rooms are filled with comments such as, “Women seem to love to push our buttons to get us angry. I think that triggers a lot of men to abuse their wives. They should just leave us alone a while or just stay quiet and go for a walk with us until things cool off.”³⁶³ A victim cannot shoulder the blame for being abused because she has no control over whether her partner will abuse her overall or in response to particular behaviors she may exhibit.

Men whose mail-order bride marriages fail sometimes seek solace in obtaining additional mail-order brides or in chat rooms with other men who have experienced the same disappointment.³⁶⁴ For example, one man complained about a Russian mail-order bride for whom he obtained the proper immigration documentation who, upon arrival in the United States, treated him coldly, refused to sleep with him, and eventually fled to a battered women’s shelter and filed for divorce.³⁶⁵ The man claimed that his mail-order bride fabricated the domestic violence charges so that she would fare better in the divorce—the same excuse tirelessly heralded in hundreds of divorces across the country.³⁶⁶ What the man omitted, however, were details about the months between the time of his marriage and the time his wife fled for protection, indicating his story may not be accurate.³⁶⁷

A husband in Denver sits in prison, serving thirty-seven years-to-life for six counts of sexual assault against his Russian mail-order bride, and thirty more for trying to have her murdered while he was in prison.³⁶⁸ Yet in the face of such convictions he claims that his bride took advantage of

³⁶¹ Hughes, *supra* note 25, at 65.

³⁶² A common tactic employed by batterers is to blame the victim for the abuse and claiming either that she was the perpetrator or that her behavior somehow caused the batterer to engage in the abuse. Orloff & Garcia, *supra* note 283, at 15–16.

³⁶³ Welch, *supra* note 34, at 31.

³⁶⁴ *Id.* at 30–32.

³⁶⁵ *Id.* at 28.

³⁶⁶ *Id.*

³⁶⁷ *Id.*

³⁶⁸ *Id.* at 30.

him and made up all of the charges against him, in an elaborate scheme to get rid of him in order to gain immigration benefits that would allow her to stay in the United States.³⁶⁹ Mr. Fox, the infamous husband of lawsuit victor Natalya Fox, testified at the civil trial that it was Mrs. Fox who beat him, even though he was the one charged with attempted murder after the beating he gave his wife that sent her to the emergency room.³⁷⁰

A mistrust of the women they are seeking, a dislike for American women, and a tendency to blame mail-order brides for the domestic violence of which the brides accuse their husbands—these are what many of the male clients have in common. Scholars who have extensively perused Internet chat websites devoted to husbands of mail-order brides document such trends.³⁷¹ These men are not looking for a relationship with an equal partner; they are seeking subservience.

3. *Immigration Relief for Battered Mail-Order Brides.*

Fortunately, immigration relief options are available to mail-order brides if the family-based immigration methods do not go smoothly, but the forms of relief contain their own set of limitations that can be daunting to the battered immigrant wife.³⁷² This Section briefly examines two avenues of possible immigration relief that are available to mail-order brides whose U.S. citizen husbands abuse them: the VAWA self-petition and the hardship waiver for removing the conditions on permanent residence following two years of marriage.³⁷³

³⁶⁹ *Id.*

³⁷⁰ Briscoe, *supra* note 206.

³⁷¹ Welch, *supra* note 34, at 28.

³⁷² Family-based immigration provisions are gender-neutral, and either spouse can sponsor the other as long as one's immigration status is eligible; however, for the purposes of this Article, the U.S. citizen spouse is considered male, and the immigrant spouse is considered female. The mail-order bride industry is targeted to female recruits and male U.S. citizen clients, and no industry for women seeking men is apparent in the literature.

³⁷³ 8 U.S.C. §§ 1154(a)(1)(A)(iii), 1186a(c)(4)(C) (2012). Several other immigration avenues of relief are available for battered immigrants in general, such as the U visa, available to certain victims of crime who cooperate with law enforcement; the T visa, available to certain victims of human trafficking; and gender-based asylum based on A-C-R-G- and its progeny. §§ 1101(a)(15)(T)–(U); *A-R-C-G-*, 26 I&N Dec. 388, 388 (BIA 2014). Analysis of each possible benefit is beyond the scope of this Article. These avenues are available to mail-order brides, as well, if the individual meets the statutory requirements.

a. Self-Petitioning as a Victim of Domestic Violence Under the Violence Against Women Act

Often an abusive U.S. citizen spouse will, as a tool of further abuse, refuse to file for any immigration relief on behalf of his immigrant spouse. He may threaten to refuse to file for her and warn that if she does not behave according to his wishes, she will be deported. He may file the appropriate documentation with USCIS and subsequently withdraw the immediate-relative petition as a means of abuse or if he determines that the marriage has gone sour.³⁷⁴ The abusive spouse's threats of deportation have some merit, because if an immigrant petition is not pending with USCIS, on behalf of the immigrant spouse, she has no immigration status, no right to work, no access to many public benefits. If she cannot navigate the maze of the legal immigration relief provisions of the Immigration and Nationality Act, she will not gain any of these benefits on her own.³⁷⁵ If she cannot afford an attorney, she could be removed from the country, through no fault of her own.

Congress recognized the overwhelming burden placed on abused immigrant spouses in the Violence Against Women Act (VAWA) in 1994 and created the VAWA self-petition process.³⁷⁶ If a noncitizen spouse has been battered or subjected to extreme cruelty by her U.S. citizen husband, she may file an immigration petition on her own behalf, without having to rely upon the abusive spouse.³⁷⁷ A noncitizen spouse may file this self-petition either affirmatively or as a defense if she is placed in removal proceedings.³⁷⁸ Her petition must demonstrate that she entered the marriage in good faith, that she has good moral character, and that during the marriage she was "battered" or was "the subject of extreme cruelty perpetrated by" her spouse.³⁷⁹

³⁷⁴ Orloff & Garcia, *supra* note 283.

³⁷⁵ If a mail-order bride arrives in the United States on a visitor visa or fiancé visa, her lawful status lasts only a few months. Visitor visas are typically granted for no more than six months. 8 C.F.R. § 214.2(b)(1) (2017). The fiancé visa is good only for ninety days. 8 U.S.C. § 1184(d)(1) (2012). Employment authorization is limited to specific statuses and is not granted to those who are simply undocumented and present beyond an authorized period of stay. *See* 8 C.F.R. § 274a.12(a) (2017).

³⁷⁶ Pub. L. No. 103-322, Title IV, § 40701, 1994, 108 Stat. 1902 (codified as amended in scattered sections of Titles 8, 16, 18, 28, and 42 of U.S.C.).

³⁷⁷ 8 U.S.C. § 1154(a)(1)(A)(iii) (2012).

³⁷⁸ *Id.*; § 1229b(b)(2)(A).

³⁷⁹ § 1154(a)(1)(A)(iii).

To be eligible to file the VAWA self-petition, the immigrant spouse must fit several categories including marital status, character, and residence with the U.S. citizen spouse.³⁸⁰ At the time of filing the petition, the noncitizen spouse must prove that she either is married to the abusive U.S. citizen spouse or that the marriage was terminated within the last two years.³⁸¹ If divorce occurred, the self-petitioner must show that the divorce was connected to the battering or extreme cruelty perpetrated by the U.S. citizen spouse.³⁸² The noncitizen spouse must also prove that she is a person of good moral character and that she has resided with her abusive spouse.³⁸³

VAWA self-petitions are not always successful.³⁸⁴ The burden of proving eligibility again lies with the noncitizen, who must provide extensive documentation regarding the validity of the marriage and the veracity of her claim of abuse.³⁸⁵ Legal scholars have identified several shortcomings to the VAWA self-petitioning process.³⁸⁶ VAWA self-

³⁸⁰ § 1154(a)(1)(A)(iii)(II)(aa)(AA). The VAWA self-petition is also available to abused spouses of lawful permanent residents. Because this Article focuses on mail-order brides who marry U.S. citizens, discussion of immigration status obtained through a marriage to a lawful permanent resident is beyond the scope of this Article.

³⁸¹ § 1154(a)(1)(A)(iii)(II)(aa)(CC).

³⁸² § 1154(a)(1)(A)(iii)(II)(aa)(CC)(ccc).

³⁸³ 8 U.S.C. § 1154(a)(1)(A)(iii).

³⁸⁴ Lauri J. Owen, *Forced Through the Cracks: Deprivation of the Violence Against Women Act's Immigration Relief in San Francisco Bay Area Immigrant Domestic Violence Survivors' Cases*, 21 BERKELEY J. GENDER, L. & JUST. 13, 28 (2006) ("In three cases, USCIS improperly denied the application or requested further information because the applicant did not demonstrate that she would experience 'extreme hardship' if she were removed. In the two VAWA denial cases, the legal service provider contacted USCIS directly, sent a legal memo or other documentation showing that the client was VAWA 2000-eligible, and the decision was later reversed.").

³⁸⁵ 8 C.F.R. § 204.2(c)(2) (2017).

³⁸⁶ Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U. J. GENDER, SOC. POL'Y & L. 95, 130 (2002) ("Battered immigrants who applied for VAWA self-petitions pro se without the assistance of a trained attorney or advocate were having their self-petitions denied because they had not adequately proven extreme hardship. Battered immigrants also encountered unanticipated obstacles, like public charge issues that arose as untrained immigration officers in district offices across the country were being called upon to adjudicate adjustment applications for battered immigrant self-petitioners.

(continued)

petition adjudicators hold considerable discretion in making decisions regarding these claims.³⁸⁷ Judicial review of those decisions is limited.³⁸⁸

Another major obstacle was placed in the path of battered immigrant self-petitioners under VAWA when Congress allowed section 245(i) of the INA to expire, forcing some battered immigrants to leave the country as their only avenue to obtain lawful permanent residency based on an approved VAWA self-petition.” (footnotes omitted). Samar Aryani-Sabet, *Battered Iranian Immigrant Women and the Ineffectiveness of U.S. Antiviolence Remedies*, 88 TEMP. L. REV. 313, 332 (2016) (“While the VAWA self-petition is a valuable tool for empowering victims to leave their abusers and to lead independent lives, it has some drawbacks. First, victims whose spouses are on a nonimmigrant or temporary visa are ineligible for the VAWA self-petition. Second, the evidentiary burden on victims is heavy. For instance, a battered immigrant woman is required to prove her husband’s status through the relevant documentation, which is especially difficult when the woman has already left the home. A victim risks experiencing additional harm by attempting to go back to the abusive house for the relevant documentation. Finally, proving the abuse may be insurmountable for victims, especially in cases of emotional abuse . . .”) (footnotes omitted).

³⁸⁷ Alizabeth Newman, *Reflections on VAWA’s Strange Bedfellows: The Partnership Between the Battered Immigrant Women’s Movement and Law Enforcement*, 42 U. BALT. L. REV. 229, 267–68 (2013) (“Remarkably, VAWA officers are well-prepared for this complex challenge. All VAWA self-petitions are adjudicated by the staff of the USCIS Vermont Service Center, where a VAWA unit receives specialized training in the dynamics of domestic violence. The VAWA unit has been acknowledged for the quality of its application review. With few exceptions, if an adjudicator has doubt about the facts or if there are apparent inconsistencies, she will send the applicant a ‘request for evidence’ giving her an opportunity to clarify or elaborate on the point in question. While the self-petition process cannot escape the confines of the family petitioning schema, which generally disadvantages women, it does give broad flexibility for the applicant to portray herself more fully than the stereotypical, helpless victim, without jeopardizing her case.”) (footnotes omitted).

³⁸⁸ *Johnson v. Attorney General of the United States*, 602 F.3d 508, 510 (3d Cir. 2010) (“Our jurisdiction is limited by section 242 of the INA, 8 U.S.C. § 1252(a)(2)(B)(i), which provides that ‘any judgment regarding the granting of relief under . . . [8 U.S.C. § 1229b]’ is not subject to judicial review. Courts have interpreted a ‘judgment’ as a discretionary decision. It is settled in this circuit that we lack jurisdiction over discretionary decisions regarding the granting of relief under 8 U.S.C. § 1229b.”) (alteration in original) (footnote omitted).

Waiting times are long.³⁸⁹ Not only must she prove her case of abuse, but she must also defend herself against accusations of marrying only for a green card, a defense often employed by abusive spouses and their attorneys.³⁹⁰ Evidentiary standards remain high for the VAWA self-petitioner, and claims are difficult to win.

Immigration provisions that apply to mail-order brides have two common characteristics. First, if the form of immigration relief has nothing to do with abuse, then the U.S. citizen husband remains in control of the process and can still abuse his mail-order bride with the process without rising to the level of subjecting her to “extreme cruelty.”³⁹¹ Second, the battered immigration spouse relief provisions still require the vulnerable wife alone to mount an extensive, complicated case before the immigration service, without the certainty that she will prevail or stay safe from her batterer.³⁹²

b. Hardship Waivers

In 1990, Congress recognized the imbalance of power created between spouses by the joint petition and interview requirements of conditional permanent-resident status.³⁹³ The two-year conditional permanent resident status naturally results when the immigrant spouse is admitted to the United States pursuant to a fiancé visa.³⁹⁴ Amendments to the Immigration Marriage Fraud Act in 1990 created a “hardship waiver” for marriages that end before the two years lapse.³⁹⁵ Because of the high potential for abuse and the obvious imbalance of power inherent in the conditional residency requirements, Congress created exceptions to the joint petition and

³⁸⁹ The USCIS website indicates that as of September 2018, only VAWA self-petitions filed prior to December 18, 2016 were being processed. This could result in more than a year-long wait for a battered immigrant who files a VAWA self-petition today. *Processing Times*, U.S. CITIZENSHIP & IMMIGRATION SERVS., <https://egov.uscis.gov/processing-times/> (last visited Sept. 4, 2018) (select Form I-360 and Vermont Service Center).

³⁹⁰ 8 U.S.C. § 1154(a)(1)(A)(iii) (2012).

³⁹¹ If the U.S. citizen files an immigrant visa petition based on the marriage, then he remains the petitioner and his wife the beneficiary. *Id.* The imbalance of power persists in this scenario.

³⁹² For the filing requirements of a VAWA self-petition, see 8 C.F.R. § 204.2(c)(2) (2017).

³⁹³ 8 U.S.C. § 1186a(c)(1) (2012).

³⁹⁴ § 1255(d).

³⁹⁵ Mobydeen, *supra* note 276, at 953 (citing 8 U.S.C. § 1186a(c)(4)(C)).

interview requirements in certain cases, including abusive marriages.³⁹⁶ There are no special provisions for abused mail-order brides, but if she meets the evidentiary requirements and can prove that she warrants a waiver of the joint requirements, she may file and have her lawful permanent resident status granted in this manner.³⁹⁷

The government may waive the requirements of the joint petition and interview if the immigrant spouse can prove her eligibility under the statute. The hardship waiver is discretionary on the part of the immigration service.³⁹⁸ This process is not foolproof since the decision whether to grant the waiver is in the hands of the individual USCIS officer who reviews the petition and supporting evidence.³⁹⁹ The officer may remove the conditional basis of the immigrant spouse's status when she fails to meet the joint petition and interview requirements if she demonstrates:

[T]he qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements⁴⁰⁰

Thus, the immigrant spouse has access to an immigration escape route if her U.S. citizen husband does not cooperate in the joint requirements or if

³⁹⁶ § 1186a(c)(4).

³⁹⁷ § 1186a(c)(3)(B).

³⁹⁸ § 1186a(c)(4).

³⁹⁹ The hardship waiver section of the statute begins, "The Secretary of Homeland Security, in the Secretary's *discretion, may* remove the conditional basis of the permanent resident status for an alien who fails to meet the [joint filing requirements]." *Id.* (emphasis added).

⁴⁰⁰ § 1186a(c)(4)(C). The two other hardship waiver bases are:

- (A) extreme hardship would result if such alien is removed, or
- (B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) and the alien was not at fault in failing to meet the requirements of paragraph (1).

However, an abused mail-order bride would likely fall under subsection (C), which is the focus of this Article.

he withholds immigration relief as a means to abuse or control her, as long as she is able to submit the required evidence.

However, the filing requirements are technical and require an immigrant, whose familiarity with U.S. language, customs, and immigration law may be minimal, to provide proof of abuse in several pages of complicated legal forms.⁴⁰¹ Scholars stress that while the hardship waiver provides an avenue of relief for abused immigrant spouses, it does not alleviate the underlying imbalance of power between U.S. citizen spouse and immigrant spouse.⁴⁰² She herself must prove that she was “battered” or subjected to “extreme cruelty” by her U.S. citizen husband.⁴⁰³ She also legally bears the burden of proof that the marriage was bona fide, entered into with good faith, and that the abuse was the main reason for the failure to file a joint petition.⁴⁰⁴ The immigration officer, or the Attorney General, must decide whether her evidence is credible.⁴⁰⁵

The immigrant spouse still must remain dependent on her U.S. citizen spouse for the duration of the two-year conditional residence unless she has the courage and knowhow to file a hardship waiver or self-petition. This is not easy for abused women to do, and one scholar labeled the requirements “unrealistic” for the mail-order bride.⁴⁰⁶

IV. TAKING BACK CONTROL FROM INTERNATIONAL MARRIAGE BROKERS: THE INTERNATIONAL MARRIAGE BROKER REGULATION ACT OF 2005

Before a potential mail-order bride decides whether to marry a U.S. citizen consumer of international marriage brokers, she will be privy to more information about her potential spouse because of IMBRA. As part

⁴⁰¹ Orloff & Garcia, *supra* note 283, at 1. For hardship waiver filing requirements, see 8 C.F.R. § 216.5 (2001).

⁴⁰² Belleau, *supra* note 297, at 601 (“In short, the U.S. system of conditional residence subjects the bride to the control of her husband, who may keep her in a slavery-like state by brandishing the threat of deportation. Legislative attempts to limit the abuse—from improving the protections afforded to battered immigrant women to encouraging legal prosecution of their abusers—has had little effect on alleviating the fundamental problems caused by the dependency of mail-order brides and other immigrant women.”).

⁴⁰³ 8 U.S.C. § 1186a(c)(4)(C).

⁴⁰⁴ *Id.*

⁴⁰⁵ *Id.*

⁴⁰⁶ Encarguez Perez, *supra* note 292, at 230.

of the Violence Against Women Reauthorization Act of 2005 (VAWA 2005),⁴⁰⁷ Congress saw fit to take on the nexus between the mail-order bride business, domestic violence, and human trafficking and passed the International Marriage Broker Regulation Act of 2005 (IMBRA).⁴⁰⁸ The law repealed prior provisions regarding the mail-order bride business contained in the Immigration and Nationality Act (the Mail-Order Bride Act)⁴⁰⁹ and mandated new requirements for international marriage brokers.⁴¹⁰ IMBRA was amended in 2013 to include more protections for consumers of international marriage brokers.⁴¹¹

A. The Law's Treatment of International Marriage Organizations and Mail-Order Brides Prior to 2005

Prior to 2005, Congress acknowledged the “substantial” mail-order bride business in the United States and aimed to regulate it as part of the Immigration Reform and Immigrant Responsibility Act of 1996.⁴¹² In the so-called “Mail-Order Bride Act,” Congress conducted findings, required the dissemination of some information to potential mail-order brides, provided for civil penalties against violators, and endorsed further study on the issue.⁴¹³

Although the potential for misinformation and abuse was cited as part of the findings under the Mail-Order Bride Act, the provisions did little to protect mail-order brides who made choices about husbands without any useful information about them.⁴¹⁴ Only one paragraph listed the information that international marriage organizations were required to give

⁴⁰⁷ Pub. L. No. 109-162, 119 Stat. 2960 (codified as amended in scattered sections of Titles 8, 16, 18, 28, and 42 of U.S.C.).

⁴⁰⁸ 8 U.S.C. §§ 1375a(d)(2), (e)(4) (2012). IMBRA was partially authored by Senator Maria Cantwell of Washington, after observing several cases of abuse of mail-order brides in her state. *Human Trafficking*, *supra* note 5, at 1 (statement of Sen. Sam Brownback).

⁴⁰⁹ Pub. L. No. 109-162, 119 Stat. 3077.

⁴¹⁰ 8 U.S.C. § 1375a(d) (2012).

⁴¹¹ Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 54.

⁴¹² 8 U.S.C. § 1375 (1994) (repealed by Pub. L. 109-162, 119 Stat. 3077).

⁴¹³ § 1375(a)(4) (“Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.”).

⁴¹⁴ § 1375(b)(1).

its “recruits,” and none of the information was about the potential husband.⁴¹⁵ The required information was limited to information on available immigration relief for battered women, such as the battered spouse waiver to conditional permanent resident status.⁴¹⁶ The requirement was defined as “such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate.”⁴¹⁷

The unequal disclosure requirements under the Mail-Order Bride Act contributed to the imbalance of power between spouses from the very beginning of the relationship. The onus was on the bride, not on the groom, to provide information to the marriage agency, to the male client, and to U.S. immigration.⁴¹⁸ On the eve of the year IMBRA was passed, the Atlanta-Journal Constitution illustrated this dichotomy:

[T]he complex procedure of getting the visa would require a lot of Katerina. Under federal immigration laws, she would have to undergo a thorough medical examination, pass a complete criminal background check and travel to Moscow for an interview at the U.S. Embassy, where officials would probe into her marriage and family history.

Frank, on the other hand, would need to do little other than sign his name. And while he could get all the information gathered about her, she would know only what he chose to tell her.⁴¹⁹

The 1996 Mail-Order Bride Act required a minimal level of disclosure from the marriage broker to the “recruit,” or the mail-order bride.⁴²⁰ The information required was of a general nature and included the following:

⁴¹⁵ *Id.*

⁴¹⁶ *Id.*

⁴¹⁷ *Id.*

⁴¹⁸ Jane O. Hansen, *From Russia, For Love: She Sought a Fairy Tale Life in America. She Got Something Altogether Different*, ATLANTA J.-CONST. (Dec. 5, 2004), <http://everybodyiloveyou.blogspot.com/2005/08/from-russia-for-love.html> [<https://perma.cc/H66L-BV6Q>].

⁴¹⁹ *Id.* This couple was matched by European Connections, the international marriage broker that sued the U.S. government. *Id.* The constitutionality of IMBRA was upheld by court order dated March 23, 2007. *European Connections & Tours, Inc. v. Gonzales*, No. 1:06-CV-0426-CC, 2007 U.S. Dist. LEXIS 22823, at *36 (N.D. Ga. Mar. 23, 2007).

⁴²⁰ 8 U.S.C. § 1375(b)(1) (1994).

Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status and the battered spouse waiver under such status, permanent resident status, marriage fraud penalties, the unregulated nature of the business engaged in by such organizations, and the study required under subsection (c) of this section.⁴²¹

Marriage brokers were required to disclose these immigration options to their female recruits.⁴²² Thus, if they faced abuse by the U.S. citizen/male marriage broker client, they would be informed of their immigration rights. However, background information about the potential groom was rarely given to mail-order brides.⁴²³

Some international marriage brokers could not follow even these most skeletal of rules regarding disclosure. In *Fox v. Encounters International*, a Ukrainian mail-order bride proved that her international marriage organization owner, Natasha Spivack, breached a fiduciary duty by failing to counsel her.⁴²⁴ After Mrs. Fox, formerly Nataliya Derkach, married her husband James Fox through Ms. Spivack's marriage broker agency, Mr. Fox began beating her and abusing her.⁴²⁵ Because she was isolated by her husband, Mrs. Fox turned to one of the few people she knew in the United States, the owner of the agency that facilitated her move to the United States, Ms. Spivack.⁴²⁶ When Mrs. Fox told Ms. Spivack about the abuse she suffered, Ms. Spivack replied in a manner contrary to the Mail Order Bride Act, as Mrs. Fox testified at trial:

⁴²¹ *Id.* The study required by section (c) was completed in 1999. See 1999 INS REPORT, *supra* note 11.

⁴²² § 1375(b)(1).

⁴²³ “[S]erious background checks are almost never done” on the men who use the agencies. Varoli, *supra* note 138.

⁴²⁴ 318 F. Supp. 2d 279, 289 (D. Md. 2002), *aff'd*, Nos. 05-1139 & 05-1404, 2006 WL 952317 (4th Cir. Apr. 13, 2006).

⁴²⁵ *Id.* at 283.

⁴²⁶ *Fox*, 2006 WL 952317, at *2.

In response to Plaintiff's repeated reports of abuse and request for advice, Spivack always minimized the abuse Plaintiff suffered, advising her that it was nothing to worry about. With respect to the December 29th beating specifically, Spivack advised Plaintiff that "All Americans—all American men are crazy." Spivack continued: "Maybe you just listen to him, and do what he says." Spivack repeatedly advised Plaintiff that she had only two options, work things out with James Fox or be deported back to the Ukraine. Based upon this advice, Plaintiff remained in the marriage and awaited the birth of her daughter.⁴²⁷

After Mrs. Fox returned home to her husband at Ms. Spivack's instruction, Mr. Fox beat her so badly she ended up in the emergency room.⁴²⁸ She went to a battered women's shelter, then teamed with the Tahirih Justice Center, and sued Encounters International.⁴²⁹ In December 2004, a jury awarded Ms. Fox a verdict of \$433,500.⁴³⁰ The jury found that Encounters International engaged in fraud, deceptive and unfair trade practices, negligence, and defamation.⁴³¹ The court's main concern: the fact that Encounters International failed to disclose to Mrs. Fox the information required by the 1996 Act about the immigration relief possibilities for battered women.⁴³² The court also held Encounters International liable for failing to screen Mr. Fox properly before encouraging Ms. Fox to marry him.⁴³³

⁴²⁷ *Id.* at *3 (citations omitted).

⁴²⁸ *Fox*, 318 F. Supp. 2d at 283.

⁴²⁹ *Id.*; Jackson, *supra* note 185, at 902.

⁴³⁰ *Fox v. Encounters Int'l.*, No. CIV WDQ-02-1563, 2004 WL 3509855, at *1 (D. Md. Nov. 24, 2004). The verdict was upheld on appeal. *Fox*, 2006 WL 952317, at *1. For general information on the Fox lawsuit, see generally Briscoe, *supra* note 206, at 54; Jackson, *supra* note 185, at 901–02.

⁴³¹ *Fox v. Encounters Int'l.*, No. WDQ-02-1563, 2004 WL 3591295 (D. Md. Nov. 23, 2004).

⁴³² See *id.* (showing that the court's largest award to plaintiff was \$250,000 for Encounters International's breach of duty).

⁴³³ See *id.*; Jackson, *supra* note 185, at 901–03.

B. The Bipartisan Purpose of IMBRA

As a result, at least in part, of the verdict in the *Fox* case, bipartisan legislative efforts culminated in the passage of IMBRA, signed into law on January 5, 2006.⁴³⁴ Following Senate hearings on mail-order bride abuses in 2004,⁴³⁵ chief architects of the law, including co-sponsors from both parties in the House and Senate, as well as immigrant women's advocates, assured its status as part of VAWA 2005.⁴³⁶ The statute was meant to place control in the hands of the mail-order bride by giving her information about her potential husband, as well as about the U.S. legal system.⁴³⁷ Instead of solely regulating the brides through immigration requirements, this new law regulates the industry itself, with the goal of making the expectations of the bride more realistic.⁴³⁸ The international marriage broker agencies are now required to take a more proactive approach to protect their women from potential abuse by their client-husband.⁴³⁹ In effect, the statute purports to swing to the other end of the pendulum in terms of informed consent.

IMBRA was introduced in response to several cases in which a groom had a history of domestic violence but married a mail-order bride through one of many international marriage brokers, subsequently severely abused her, or, in some cases, killed her.⁴⁴⁰ The Act's goals were (1) to fully inform prospective brides about the characteristics of their potential partners prior to the relationship by requiring notice and information regarding past domestic violence on the part of the groom; (2) to limit the number of permissible alien fiancé visa application filings in order to stop the habit of some men who conduct a bride shopping spree by filing multiple visa applications for many different mail-order brides at the same

⁴³⁴ See Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162, 119 Stat. 2960.

⁴³⁵ See *Human Trafficking*, *supra* note 5.

⁴³⁶ Congressional co-sponsors of IMBRA included Senator Maria Cantwell (D-WA), Senator Sam Brownback (R-KS), Representative Rick Larsen (D-WA), and Representative Frank Wolf (R-VA). See TAHIRIH IMBRA FAQs, *supra* note 27, at 5.

⁴³⁷ *Human Trafficking*, *supra* note 5, at 8 (statement of Sen. Maria Cantwell).

⁴³⁸ *Id.* at 24 (statement of Donna M. Hughes, Ph.D., Professor, Women's Studies Program, University of Rhode Island).

⁴³⁹ See TAHIRIH IMBRA FAQs, *supra* note 27, at 2-3.

⁴⁴⁰ See *Human Trafficking*, *supra* note 5, at 8 (statement of Sen. Maria Cantwell).

time; and (3) to require a criminal background check for the U.S. citizen filing the fiancé petition, not just a check on the foreign fiancé.⁴⁴¹

C. An Overview of the Legal Requirements of IMBRA

The Act requires the Department of Homeland Security to develop and make available an informational pamphlet explaining immigration processes for foreign fiancés and laws and services for victims of domestic violence, including a warning of the potential for domestic abuse by mail-order bride suitors.⁴⁴² The pamphlet must include substantially more

⁴⁴¹ *Id.* at 6.

⁴⁴² The pamphlet requires the following information:

(A) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(B) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.

(C) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(D) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters, including access to protection orders.

(E) The obligations of parents to provide child support for children.

(F) Marriage fraud under United States immigration laws and the penalties for committing such fraud.

(G) A warning concerning the potential use of K nonimmigrant visas by United States citizens who have a history of committing domestic violence, sexual assault, child abuse, or other crimes and an explanation that such acts may not have resulted in a criminal record for such a citizen.

(H) Notification of the requirement under subsection (d)(3)(A) that international marriage brokers provide foreign national clients with background information gathered on United States clients from searches of the National Sex Offender Public Website and collected from United States clients regarding their marital history and domestic violence or other violent criminal history, but that such information may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported their marital or criminal record.

(continued)

information than was required for disclosure by marriage brokers under the repealed Mail-Order Bride Act.⁴⁴³ Plus, distribution of the pamphlet is much broader than the “information dissemination” route under the old law. The IMBRA pamphlet must be mailed to all K fiancé visa applicants,⁴⁴⁴ placed on federal immigration websites, and made available to international marriage brokers.⁴⁴⁵ The Secretary of Homeland Security is also obligated to translate the pamphlet into the language groups that best represent the highest number of K fiancé visa applicants, which, by statute, includes the Russian language.⁴⁴⁶ In January 2011, the Department of Homeland Security finally published the required pamphlet—six years after IMBRA mandated it.⁴⁴⁷

Several affirmative requirements have been placed on international marriage brokers, some of which represent a stark change from the laissez-faire practice of trading brides under the old law. No longer will legitimate agencies rely, as reported by one agency, on the agent’s “intuition and experience” in lieu of a background check on the male client.⁴⁴⁸ Days of such discretion are gone. Certainly, any marriage broker’s judgment as to whether a bachelor is appropriate for a particular agency may be completely inaccurate, given batterers’ ability to be very charming in public and clouded by a business desire to appear successful in matchmaking ability.

Under IMBRA, international marriage brokers must disclose to their mail-order brides several pieces of information about potential husband clients in the form of sex offender registries and background

8 U.S.C. § 1375a(a)(2) (2012).

⁴⁴³ § 1375a(b)(1).

⁴⁴⁴ § 1375a(a)(5)(A)(i).

⁴⁴⁵ § 1375a(a)(5)(D).

⁴⁴⁶ § 1375a(a)(4)(A).

⁴⁴⁷ U.S. CITIZENSHIP & IMMIGRATION SERVS., INFORMATION ON THE LEGAL RIGHTS AVAILABLE TO IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND FACTS ABOUT IMMIGRATING ON A MARRIAGE-BASED VISA, <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Battered%20Spouse,%20Children%20&%20Parents/IMBRA%20Pamphlet%20Final%20001-07-2011%20for%20Web%20Posting.pdf> [https://perma.cc/5MSX-E22Z]

⁴⁴⁸ Ms. Novikova, head of the Svetlana Agency, said in 1998, “If I see that he is not a polite person, then I don’t provide the service for him.” Munoz & Tran, *supra* note 168.

information.⁴⁴⁹ The marriage broker must collect from the male client⁴⁵⁰ the following information: temporary or permanent civil protection or restraining orders against the male client; all arrests or convictions for crimes listed specifically in the statute that typically cover acts of domestic violence; prostitution-related arrests or convictions; alcohol and drug-related arrests or convictions; marital history; a list of the male client's children's ages; and all countries in which the male client has resided as an adult.⁴⁵¹ The requirements for disclosure of the U.S. petitioner's marital

⁴⁴⁹ 8 U.S.C. § 1375a(d)(2)(A)(i) (2012) ("Each international marriage broker shall search the National Sex Offender Public Website . . ."). The marriage broker also must disclose the results of this search to the foreign national client. § 1375a(d)(3)(A)(iii)(I).

⁴⁵⁰ The statute labels the male clients, or the potential husbands who hire the international marriage broker, as the "United States client," who is normally a U.S. citizen and pays to use the services of an international marriage broker. § 1375a(e)(10).

⁴⁵¹ IMBRA states that the international marriage broker must collect the following information from the U.S. client:

(i) Any temporary or permanent civil protection order or restraining order issued against the United States client.

(ii) Any Federal, State, or local arrest or conviction of the United States client for homicide, murder, manslaughter, assault, battery, domestic violence, rape, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, stalking, or an attempt to commit any such crime.

(iii) Any Federal, State, or local arrest or conviction of the United States client for--

(I) solely, principally, or incidentally engaging in prostitution;

(II) a direct or indirect attempt to procure prostitutes or persons for the purpose of prostitution; or

(III) receiving, in whole or in part, of the proceeds of prostitution.

(iv) Any Federal, State, or local arrest or conviction of the United States client for offenses related to controlled substances or alcohol.

(v) Marital history of the United States client, including whether the client is currently married, whether the client has previously been married and how many times, how previous marriages of the client were terminated and the date of termination, and whether the client has

(continued)

history include “whether the client is currently married, whether the client has previously been married and how many times, how previous marriages of the client were terminated and the date of termination, and whether the client has previously sponsored an alien to whom the client was engaged or married.”⁴⁵²

The potential husband is required to sign and certify the information, which must be “accompanied by documentation” or attested to by the client himself.⁴⁵³ This background information, in turn, must be given by the marriage broker to the mail-order bride in her primary language, along with any sex offender registry information and the pamphlet mentioned above.⁴⁵⁴ Only after this information has been disclosed to the potential bride may the marriage broker release personal contact information about the foreign, female recruit to the male client.⁴⁵⁵ The foreign national client must sign a consent form in her own language before her personal contact information may be released to the male client.⁴⁵⁶

IMBRA also overhauled the K-visa application process to red-flag those petitioners whose applications may indicate the likelihood of abuse to their arriving immigrant fiancé.⁴⁵⁷ This tendency hopefully will be evidenced by the petitioner’s criminal background and the number of fiancé visa petitions the petitioner has filed. The current I-129F petition includes two questions required by IMBRA, including, “Did you meet your [fiancé or spouse] through the services of an [international marriage broker]?” and a section in which the petitioner must list convictions for a list of crimes involving domestic violence or crimes relating to controlled

previously sponsored an alien to whom the client was engaged or married.

(vi) The ages of any of the United States client's children who are under the age of 18.

(vii) All States and countries in which the United States client has resided since the client was 18 years of age.

§ 1375a(d)(2)(B).

⁴⁵² § 1375a(d)(2)(B)(v).

⁴⁵³ § 1375a(d)(2)(B).

⁴⁵⁴ § 1375a(d)(3)(A).

⁴⁵⁵ *Id.*

⁴⁵⁶ § 1375a(d)(3)(A)(iv).

⁴⁵⁷ § 1375a(a)(5).

substances.⁴⁵⁸ Congress wanted to stop “serial” K-visa petitioners who would obtain more than one mail-order bride, one after the other, if the preceding bride did not work out.⁴⁵⁹ The cap on K-visas given to U.S. citizens is meant to reduce the possibility of using marriage brokers to procure women to abuse.⁴⁶⁰ For that reason, consular officers are required to verify that the petitioning U.S. citizen has not filed more than two previous K-visa petitions within the past two years.⁴⁶¹ The Department of Homeland Security also must maintain a database to track filing of multiple K-visa petitions⁴⁶² and inform K-visa beneficiaries if her U.S. citizen fiancé or spouse petitioner has filed for more than two such petitions within the last ten years.⁴⁶³ However, the Secretary of Homeland Security has the discretion to waive the petition number limitation, unless the “petitioner has a record of violent criminal offenses,” and then the waiver can be granted only in “extraordinary circumstances.”⁴⁶⁴

Some international marriage brokers rushed to court to challenge the constitutionality of the new law. European Connections filed a lawsuit in early 2006 claiming that IMBRA violated First Amendment free-speech

⁴⁵⁸ FORM I-129F, *supra* note 257, at 8–9. The K-visa petition must include “information on any criminal convictions of the petitioner for any specified crime.” § 1184(d)(1).

⁴⁵⁹ *Human Trafficking*, *supra* note 5, at 6 (statement of Sen. Sam Brownback).

⁴⁶⁰ Before he was Deputy High Commissioner in the Office of the United Nations High Commissioner for Refugees, noted scholar T. Alexander Aleinikoff was a senior INS official, eventually serving as general counsel. When interviewed by the *Washington Post* in 1998, he said, “[G]iven the chances for abuse and exploitation, should we be handing out visas that are not subject to quotas, where the industry is totally unregulated?” Sun, *supra* note 150.

⁴⁶¹ 8 U.S.C. § 1184(d)(2)(A).

⁴⁶² § 1184(r)(4)(A).

⁴⁶³ The relevant statutory provision provides:

Once a petitioner has had two fiancé(e) or spousal petitions approved under clause (i) or (ii) of section 1101(a)(15)(K) of this title, if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiancé(e) or spousal petitions listed in the database.

§ 1184(r)(4)(B)(i).

⁴⁶⁴ § 1184(d)(2)(B).

protections as well as equal-protection constitutional provisions.⁴⁶⁵ European Connections successfully obtained a temporary restraining order against the United States Attorney General in March 2006, barring enforcement of IMBRA against the agency while litigation was pending.⁴⁶⁶ On March 23, 2007, Judge Clarence Cooper of the United States District Court for the Northern District of Georgia upheld IMBRA's constitutionality in a forty-page decision.⁴⁶⁷ The judge dismissed European Connections' case with prejudice and denied any further relief.⁴⁶⁸

In 2013, Congress made several amendments to IMBRA in the attempt to close some of the gaps that many scholars criticized.⁴⁶⁹ As part of the Violence Against Women Reauthorization Act of 2013, IMBRA now has better enforcement mechanisms, more required disclosures, and penalties for U.S. citizen petitioners who either lie on the petition or who withhold their criminal history.⁴⁷⁰ However, IMBRA still has not been fully implemented, and gaps remain that impede its effectiveness in protecting mail-order brides.⁴⁷¹ Certainly, the law is completely ineffective in addressing the growing "push factors" that remain in Russian society.⁴⁷²

D. Identification of Gaps in IMBRA and Recommendations for Effective Implementation

As envisioned by Congress, IMBRA takes significant steps to grant husbands and wives equal power and control over the decision to go

⁴⁶⁵ *European Connections & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1358 (N.D. Ga. 2007).

⁴⁶⁶ Order Granting Motion for Temporary Restraining Order at 6, *Gonzales*, 480 F. Supp. 2d 1355 (N.D. Ga. 2007), ECF No. 6. The court later dissolved the temporary restraining order prior to its ruling on constitutionality. Order Granting Motion to Dissolve Temporary Restraining Order at 1, *Gonzales*, 480 F. Supp. 2d 1355 (N.D. Ga. 2007), ECF No. 39.

⁴⁶⁷ *Gonzales*, 480 F. Supp. 2d 1355, 1381 (N.D. Ga. 2007).

⁴⁶⁸ *Id.*

⁴⁶⁹ Kusel, *supra* note 17, at 180–82.

⁴⁷⁰ Pub. L. No. 113-4, § 808(c), 127 Stat. 54, 114.

⁴⁷¹ U.S. 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 26 (2008); U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-15-3, IMMIGRATION BENEFITS: IMPROVEMENTS NEEDED TO FULLY IMPLEMENT THE INTERNATIONAL MARRIAGE BROKER REGULATION ACT 37 (2014) [hereinafter IMMIGRATION BENEFITS].

⁴⁷² *See supra* Part II.

through with a mail-order bride marriage. In theory, disclosure of the bride's complete history no longer so starkly contrasts with the virtual anonymity of the client-husband's past. However, many weaknesses of IMBRA may lessen its effectiveness in truly warning potential mail-order brides, arming them with sufficient knowledge to make informed decisions, and actually eliminating the high potential for abuse in these types of relationships.

1. IMBRA May Eliminate Law-Abiding International Marriage Organizations and Increase Trafficking Susceptibility

IMBRA may have pushed aside legitimate, law-abiding international marriage brokers from the business and encouraged unregulated, clandestine, or non-U.S.-based businesses to flourish without following the new law. The requirements, cost, and time it will take to comply with the reporting mandates may cause potential clients to seek mail-order brides elsewhere on the Internet.⁴⁷³ International marriage brokers can change the nature of their business. IMBRA may prove dangerous for the potential mail-order bride, because as the law-abiding agencies switch over to providing different services, the Russian woman who still wants to leave Russia must look elsewhere for a route of escape, thus placing her in an even more vulnerable position of succumbing to illegal traffickers.

One well-known hotbed of desirable Russian women advertises itself as more of an advice website for American men seeking Russian women, and vice versa.⁴⁷⁴ Upon specific investigation, however, a link to a website featuring available mail-order brides can be found.⁴⁷⁵

In fact, one well-known agency that the *L.A. Times* reported on in 1998 as a "Russian mail-order bride service," the Svetlana Agency, appeared in 2007 to provide more of a California dating service that matches U.S. men with Russian and other European women who already reside in the United States, thus attempting to avoid the requirements of the Act altogether.⁴⁷⁶

⁴⁷³ Dovlatov, *supra* note 42, at 15.

⁴⁷⁴ Elena Petrova, *Russian Brides Cyber Guide*, WOMENRUSSIA.COM, <http://www.womenrussia.com/> [<https://perma.cc/Z9QK-29DE>].

⁴⁷⁵ *Discover Our Dating Membership Package Online*, ELENA'S MODELS, <https://www.elenasmodels.com/membership/> [<https://perma.cc/VEJ6-7NAE>].

⁴⁷⁶ "We are the only company in California specializing in introductions to a large variety of women with *different international backgrounds*. All presently live in the United States." *Svetlana: From Russia With Love*, <http://www.svetlanaagency.com> (last visited Apr. 29, 2007) (emphasis in original) (on file with author).

As of 2017, the Svetlana Agency appears to be out of business.⁴⁷⁷ Another service in 2007 continued the business but offered a home page filled with warnings and instructions regarding the new law. A Special Lady clearly stated on its home page:

We can no longer sell the contact information of ladies to US residents and US citizens due to the new IMBRA law. . . . We would not be able to comply with this new law and still offer our services at a competitive price, the administrative task associated with compliance is too great.⁴⁷⁸

Immediately below this text was a link that stated, “US residents and US citizens please click here for alternate website to find your Russian bride.”⁴⁷⁹ This linked the reader to a new website entitled “A Russian Romance,” in which Russian mail-order brides are advertised.⁴⁸⁰ This website offered romance tours, translated phone conversations, and the ability to post personal advertisements for viewing by Russian women.⁴⁸¹ The site appeared to be more user-friendly, was very inviting to men, and contained no mention of IMBRA. As of 2017, the original website was for sale,⁴⁸² and an internet search for “A Russian Romance” leads to a new website that on its face appears to be a dating service.⁴⁸³

On the other hand, evidence shows that the industry continues to thrive. The websites have not disappeared even though implementation of IMBRA is over ten years old. A well-known international marriage broker called A Foreign Affair, which has compared mail-order brides to pizza,⁴⁸⁴

⁴⁷⁷ *Svetlana: From Russia With Love*, <http://www.svetlanaagency.com> (last visited Aug. 27, 2017) (on file with author) [<https://perma.cc/6339-QDXA>].

⁴⁷⁸ *A Special Lady: Russian Brides*, <http://www.special-lady.com/> (last visited Apr. 29, 2007).

⁴⁷⁹ *Id.*

⁴⁸⁰ *Id.*

⁴⁸¹ *Id.*

⁴⁸² *A Special Lady: Russian Brides*, <http://www.special-lady.com/> (last visited Aug. 25, 2017).

⁴⁸³ ROMANCECOMPASS, <https://romancecompass.com/> [<https://perma.cc/YF29-A77T>].

⁴⁸⁴ “Luckily, AFA has made searching its voluminous database as easy as ordering a pizza.” *Foreign Romance*, MAXIM MAGAZINE, <http://www.loveme.com/information/maxim.shtml> [<https://perma.cc/4A3N-RVGF>].

appears to be functioning well.⁴⁸⁵ When IMBRA was pending, owner John Adams told a reporter, “This legislation will cause major unfair trade issues. It will put legitimate [international marriage organization] companies, like mine, out of business.”⁴⁸⁶ A visit to Mr. Adams’ website today may refute this statement. The business appears to be thriving. A boast of 217 “engagements this year” when the website was viewed in 2017, and a recent profile of the website, shows that the business is thriving and that the company maintains an entire webpage devoted to profiles of clients who became engaged.⁴⁸⁷ Plus, the website informs clients that they will feel only “minor changes” due to IMBRA.⁴⁸⁸

Encounters International, the defendant in the *Fox* civil lawsuit discussed above, remains in business.⁴⁸⁹ A visit to the agency’s website reveals that the agency’s guarantees and high success rates remain foremost in its advertisement appeal.⁴⁹⁰ No mention of IMBRA was found.⁴⁹¹ The home page “guarantees nuptials within a year of membership or clients get their \$1850 fee back.”⁴⁹²

The international marriage broker industry abhors the regulations and claims that Congress dictates who can marry whom in a world rampant with overblown stories of abuse.⁴⁹³ One marriage broker businessman predicted in 1998 that because the domestic violence issue was “being blown out of proportion,” his “big fear” was that Congress would soon

⁴⁸⁵ *See id.*

⁴⁸⁶ Bootle, *supra* note 26.

⁴⁸⁷ *Foreign Bride Marriages*, LOVEME.COM, <http://www.loveme.com/women/engaged.htm> [<https://perma.cc/QCF8-D3CC>]. Disclaimer on IMBRA: “The Imbra form is fast, easy, and safe to complete and only needs to be completed once no matter how many women you are corresponding with or meeting, we will store it, translate it, and provide it to the women with whom you have an interest.” *See* LOVEME.COM, <https://www.loveme.com/> [<https://perma.cc/VRY3-MESC>].

⁴⁸⁸ *IMBRA*, LOVEME.COM, , <http://www.loveme.com/information/IMBRA/IMBRA-law.htm> [<https://perma.cc/CE95-NFCT>]. *See also* TAHIRIH IMBRA FAQs, *supra* note 27, at 4.

⁴⁸⁹ ENCOUNTERS INT’L, *supra* note 167.

⁴⁹⁰ *Id.*

⁴⁹¹ *Id.*

⁴⁹² *Id.*

⁴⁹³ Many websites that abhor the regulation can be found on the Internet. *See, e.g., IMBRA*, IMBRA BLOG, <http://www.imbra.org> [<https://perma.cc/L2S9-BLJG>] (last visited Apr. 28, 2007).

“legislate whether a man is able to meet and marry a girl from a foreign country.”⁴⁹⁴ Yet today, his international marriage organization still exists and appears to be functioning well, as are the many described above.⁴⁹⁵ In fact, the company Anastasia International has a new, additional website, anastasiadate.com, which is a dating website, skirting IMBRA altogether.⁴⁹⁶

As Judge Cooper concluded in *European Connections*, Congress’s purpose in enacting IMBRA will be served when abusive men may no longer use the services of international marriage brokers.⁴⁹⁷ Judge Cooper stated:

The only individuals who may no longer use IMBs [International Marriage Brokers] under IMBRA are those American men who have a significant history of violence toward women—the very type of person that Congress is concerned about. Thus, to the extent that any men will be driven from the IMB market, it will effectuate Congress’ remedial purpose. If Congress is successful in reducing abuses in the IMB industry, the industry may actually grow.⁴⁹⁸

Judge Cooper believes that IMBRA will reduce domestic violence and will save lives.⁴⁹⁹ To realize Judge Cooper’s prediction of the industry’s growth, marriage brokers should pass on additional costs generated by IMBRA compliance to the consumer. After all, U.S. clients who can afford to obtain a mail-order bride, especially those who return more than once to the industry, have the means by which to maintain the freedom to marry in this fashion.

⁴⁹⁴ Sun, *supra* note 150 (quoting David Besuden, owner of Anastasia International, Inc., husband of Russian mail-order bride).

⁴⁹⁵ ANASTASIAWEB, <http://www.anastasiaweb.com> [<https://perma.cc/S4SB-SFFM>].

⁴⁹⁶ *Id.*

⁴⁹⁷ *European Connections & Tours, Inc. v. Gonzales*, 480 F. Supp. 2d 1355, 1378 (N.D. Ga. 2007).

⁴⁹⁸ *Id.* at 1380–81.

⁴⁹⁹ *Id.* at 1381.

2. *Narrow Application to Fiancé K-visa Petitions*

IMBRA specifically focuses on fiancé (K-visa) petitions. The pamphlet information directly targets “K nonimmigrants” only.⁵⁰⁰ IMBRA takes a crucial step toward informing mail-order fiancés and spouses about possible criminal convictions or serial K-visa petitioners among grooms courting through marriage brokers. Disclosure to K-visa beneficiaries sidesteps the participation of the marriage broker agency in that the Secretary of Homeland Security is required to inform the beneficiary directly if the U.S. citizen petitioner has pushed through two successful fiancé petitions within the last ten years.⁵⁰¹ These processes do not involve the marriage broker directly.

Certainly, the fiancé visa provides a common method by which mail-order brides enter the United States.⁵⁰² However, not all mail-order bride fiancés, or those female clients of marriage brokers who are not yet “engaged” but are visiting their potential grooms, come to the United States as K-visa applicants. In fact, the 1999 INS Report revealed that only 7% of mail-order marriages proceeded via the K-visa route.⁵⁰³ Some

⁵⁰⁰ The first line of the statute reads, “Information for K nonimmigrants on legal rights and resources for immigrant victims of domestic violence.” 8 U.S.C. § 1375a(a) (2012). IMBRA uses the term “K nonimmigrant,” which can be used interchangeably with “K-visa applicant,” “fiancé visa applicant,” or any combination of these labels. The statutorily required pamphlet is available at <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Battered%20Spouse%2C%20Children%20%26%20Parents/IMBRA%20Pamphlet%20Final%2001-07-2011%20for%20Web%20Posting.pdf> [<https://perma.cc/E9GG-USTR>].

⁵⁰¹ 8 U.S.C. § 1184(r)(B)(i).

⁵⁰² 1999 INS REPORT, *supra* note 11, at 5.

⁵⁰³ The 1999 INS Report compiled fiancé visa applications from the Vermont Service Center for a one-month period, February 1998.

All fiancée petitions adjudicated during that month were reviewed for evidence that the parties had met through a commercial service. Of a total of 741 new fiancée petitions reviewed during that period, 41 or 5.5 percent were classified as definitely or probably mail-order introductions. If this percentage is representative, about 282 of the 5,100 women who currently become [lawful permanent residents] each year after entering as fiancées were mail-order introductions. Applied to the estimate of 4,000 mail-order marriages in 1996, the fiancée visa route represented about 7 percent of them. At this rate, mail-order

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marry their spouses outside the United States, which sometimes eliminates the need for a K-visa, and others visit their potential husband through the agency on a tourist visa.⁵⁰⁴

This gap could be filled in part by the requirement in section (b)(2), which requires that the pamphlet be distributed and thoroughly explained in visa interviews for all “family-based immigration petitions.”⁵⁰⁵ This would cover those who skip the K-visa process and move directly to the spousal immigrant petition, but it does not cover mail-order brides who arrive in the U.S. via less ordinary means.⁵⁰⁶ Plus, by the time the consular or adjustment interview for the family-based visa petition is underway, the marriage has already occurred, abuse may already be happening, and the need for help may be more urgent than anticipated by the drafters of this law.

In addition, the only information that a non-K-visa mail-order bride will receive is the information gathered by the international marriage broker directly from the male client. The marriage broker must disclose the proffered background information to the mail-order bride before her personal contact information is released.⁵⁰⁷ The other disclosure provisions that do not involve the marriage broker are specific only to K nonimmigrants.⁵⁰⁸ Thus, while the new requirements of IMBRA may help inform K-visa applicants of risks associated with being a mail-order bride,

marriages are twice as prevalent among fiancées as among all immigrant wives.

Id.

⁵⁰⁴ 8 U.S.C. § 1101(a)(15)(B). Nonimmigrants on tourist and business visas from Russia totaled 151,692 in 2017. *Nonimmigrant Visas Issued, Fiscal Year 2016*, U.S. DEP’T OF STATE, <https://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2016AnnualReport/FY16AnnualReport-TableXVII.pdf> [<https://perma.cc/A57S-48RD>].

⁵⁰⁵ 8 U.S.C. § 1375a(b)(2).

⁵⁰⁶ Pamphlets are also available to the public at all consular posts, to foreign service officers, to government agencies, to NGOs, to IMOs, and they are posted on federal websites. §§ 1375a(a)(5)(B)–(D).

⁵⁰⁷ § 1375a(d)(3)(A).

⁵⁰⁸ *See, e.g.*, § 1375a(a) (referring only to information for K nonimmigrants); § 1375a(a)(5)(A) (requiring the mailing of the pamphlet, the I-129F petition, and the petitioner’s criminal background to K nonimmigrants only); § 1375a(b)(1) (providing detailed requirements of interviews for K nonimmigrant visas only).

they cannot reach all mail-order brides. Many mail-order brides could “fall through the cracks” because of the K-visa specification in IMBRA.

Congress should amend IMBRA to include other possible immigration routes of mail-order brides. For example, Congress could require USCIS to amend the Petition for Alien Relative, Form I-130, again to solicit the same disclosures required by IMBRA. Form I-130 recently went from two pages to twelve pages and requires much more information. However, the form still does not require disclosure of a petitioner’s criminal background information or use of an international marriage broker to find the beneficiary.⁵⁰⁹ To uncomplicate the twelve-page Form I-130, USCIS could create a supplement form, similar to the new Form I-130A, that petitioners using an international marriage broker could fill out.

3. The Problem of Self-Reporting: The Potential Abuser Maintains Too Much Control

Much of the information that must be provided about the male client is based on his own report.⁵¹⁰ Batterers can often finesse reality in a way that makes things seem less ominous and more charming.⁵¹¹ U.S. citizen clients must disclose to marriage brokers the background information required under the statute, but not always to immigration authorities, unless they petition for a fiancé visa.⁵¹² A close examination of the statutory language reveals the problem. Before the list of required background information, the statute states: “The international marriage broker shall collect a certification signed (in written, electronic, or other form) by the United States client accompanied by documentation or an attestation of the following background information about the United States client.”⁵¹³ Thus, potential mail-order bride suitors remain in control of answering the questions about whether they have restraining orders, earlier abusive marriages, or prior domestic violence problems. They simply are required to attest to the background information that they provide.

⁵⁰⁹ DEP’T OF HOMELAND SEC., U.S. CITIZENSHIP & IMMIGRATION SERVS., USCIS FORM I-130, PETITION FOR ALIEN RELATIVE (2018), <https://www.uscis.gov/i-130> [<https://perma.cc/9DB9-XTM6>].

⁵¹⁰ 8 U.S.C. § 1375a.

⁵¹¹ See generally JOHN GOTTMAN & NEIL JACOBSON, WHEN MEN BATTER WOMEN: NEW INSIGHTS INTO ENDING ABUSIVE RELATIONSHIPS (1998).

⁵¹² 8 U.S.C. § 1375a.

⁵¹³ § 1375a(d)(2)(B).

Some of the information required in the background check can be verified by public record, such as the existence of divorce proceedings, criminal arrests and convictions, and civil protection or restraining orders. However, some requisite information cannot be verified, including details of marital history, reasons for divorces, or domestic violence incidents that did not lead to arrest or conviction. Furthermore, IMBRA does not require explicitly that the Department of Homeland Security verify all the information provided by the U.S. citizen K-visa petitioner nor that which is provided by the marriage broker male client.⁵¹⁴ Instead, USCIS conducts criminal background checks based on the information provided by the petitioner.⁵¹⁵ The disclosure requirements are phrased such that the burden is on the marriage broker to collect the information from the U.S. client.⁵¹⁶

The U.S. government is not responsible for collecting and verifying this information, with some exceptions. First, as outlined above, the U.S. citizen client must disclose criminal arrests and convictions required by the statute directly to the immigration service through the submission of the K-visa petition.⁵¹⁷ Documentation of required criminal background information then becomes part of the petitioner's fiancé visa petition, but no other verification by the consular officer is required beyond that necessary for adjudicating the petition.⁵¹⁸

⁵¹⁴ Immigration Benefits, *supra* note 471, at 15.

⁵¹⁵ *Id.*

⁵¹⁶ The statutory language reads, "The international marriage broker shall collect . . ." 8 U.S.C. § 1375a(d)(2)(B).

⁵¹⁷ §§ 1375a(a)(5)(A)(iii), 1184(d)(1), 1184(r). See also U.S. Citizenship & Immigration Servs., Interoffice Memorandum (Jul. 21, 2006), https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/Archives%201998-2008/2006/imbra072106.pdf [https://perma.cc/VZW3-FBNF] [hereinafter USCIS Memorandum].

⁵¹⁸ The USCIS interoffice memorandum advises:

If the petitioner indicates that he or she has been convicted by a court or by a military tribunal for one of the specified crimes by checking one or more of the boxes in Part C., question 2 of Form I-129F, or USCIS ascertains through relevant background checks that the petitioner has been convicted, the petitioner will be required to submit certified copies of all court and police records showing the charges and dispositions for every such conviction.

USCIS Memorandum, *supra* note 517, at 2.

Second, the marriage broker must conduct an independent search of the national and state sex-offender registries instead of relying solely on client disclosure.⁵¹⁹ International marriage brokers are required to search relevant registries themselves and to provide directly to the mail-order bride any records and information acquired.⁵²⁰

Third, at interviews with K-visa applicants, consular officers must provide the applicant the potential husband's criminal background, or as stated, "information, in the primary language of the visa applicant, on protection orders or criminal convictions collected under subsection (a)(5)(A)(iii) of this section."⁵²¹ Although protection orders are mentioned in this section, the other section listed in the quoted language articulates only the "criminal background information" possessed by the Department of Homeland Security, which must be mailed to the K-visa applicant.⁵²² Thus, only the *criminal* record information of the potential husband is verified through the federal agency and then given to the mail-order bride. Public information on divorces, civil restraining orders, drug and alcohol problems short of arrests and convictions, and other non-criminal abusive behavior is not required to be provided by the government or the marriage broker unless the potential husband discloses it himself.

As a result of the omission of a verification requirement, fiancé visas and other avenues of entry for mail-order brides are not barred by these disclosure requirements. If the marriage broker and U.S. client fully comply with all IMBRA requirements, a mail-order bride still may choose to come to the United States under the sponsorship of a U.S. client who

⁵¹⁹ 8 U.S.C. §§ 1375a(d)(2)(A)(i), (d)(3)(A)(i), (d)(3)(A)(iii)(I).

⁵²⁰ *Id.*

⁵²¹ § 1375a(b)(1)(A).

⁵²² § 1375a(a)(5)(A)(iii) ("The Secretary of Homeland Security shall provide to the Secretary of State 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 also shall 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. Nothing in this clause shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.").

discloses domestic violence-related criminal charges to her. Once the marriage broker complies with IMBRA and discloses, for example, a male client's previous protection order, the personal contact information of the female foreign national can be released to the U.S. citizen male client. He, therefore, can begin explaining to the female client why the protection order was entered against him, and he can say anything he pleases. He can lie, blame his previous victim, rationalize the entry of the order, and make excuses that may sound attractive to a Russian woman who suffers due to the economic conditions in her country. She may decide that despite the disclosure, she still wants to marry him and come to the United States. In such a scenario, IMBRA would not prevent any abuse that would befall this woman if the U.S. citizen male client in fact abuses her during their marriage.

4. *The Disclosed Information May Be Inadequate in Preventing Abuse of a Mail-Order Bride*

Domestic violence prevention requires more than disclosure of information, and at its heart, IMBRA is a disclosure law. As such, problems may arise with the completeness of the required information. Batterers often display an innate talent at keeping abuse private, thus avoiding arrests, convictions, protection orders, or divorces.⁵²³ Sometimes, the most dangerous individuals are so abusive that their victims are too afraid to get restraining orders, too afraid to call the police, and even if a divorce exists, an account of the abuse may not end up in the court record.⁵²⁴ Likewise, not all "sex offenders" have been arrested, convicted, and registered; not all men who have hired prostitutes have gotten caught; and not all drug and alcohol abuse problems are evidenced by arrests or convictions. IMBRA does not require disclosure of such information,⁵²⁵ but it would be difficult to draft a provision requiring such information that would not be vague or confusing.

In addition, reported domestic violence incidents often do not result in arrests or convictions, and IMBRA lacks any mechanism requiring disclosure of alternative results.⁵²⁶ Sometimes abusers who physically

⁵²³ *Domestic Violence: Reasons Why Battered Victims Stay with the Batterers*, L.A. POLICE DEP'T, http://lapdonline.org/get_informed/content_basic_view/8877 [<https://perma.cc/A97W-7L7S>].

⁵²⁴ *Id.*

⁵²⁵ *See* 8 U.S.C. § 1375a.

⁵²⁶ *See id.*

assault or threaten their intimate partners are cited through the filing of a complaint.⁵²⁷ Abusers may also be referred to domestic violence treatment programs, counseling, anger management, or be placed in deferred findings or sentencing programs that do not result in a conviction on record.⁵²⁸ Yet, IMBRA lacks any mechanism that requires disclosure of alternative results for domestic violence violators.⁵²⁹

Amendments of IMBRA would do well to include requirements to disclose these “less-than-criminal” domestic violence incidents. IMBRA should also require more substantial information about marital history. Potential mail-order brides could be privy to the court records of prior divorces (and, to be fair, the male client could look at her records, too). Thus, petitions, declarations, affidavits, and testimony, which could contain relevant information about the potential for abuse, reasons for divorce, and marital problems, would be revealed and could contribute to the bride’s decision-making process. While Form I-129F requires the petitioner to disclose the number of marriages, the IMBRA marital history disclosure requirement does not include the name of former spouses, and the date the marriage terminated, the nature of the termination.⁵³⁰ In addition, while Form I-192F requires the petitioner to disclose whether he used an international marriage broker to find his beneficiary, it does not require him to disclose whether he previously married mail-order brides obtained through international marriage brokers.⁵³¹

Certainly, court records are public, and any potential spouse may access them throughout the U.S. However, foreign nationals generally are unfamiliar with how to access such records and potential brides cannot access the records in their native language. Even if a potential fiancé is internet-savvy and fluent in English, her access could be blocked by poor internet service, difficulty identifying which state’s or county’s records to search, and the fact that many court records are not available online.

⁵²⁷ *Legal Consequences of Domestic Abuse*, LEGALMATCH, <https://www.legalmatch.com/law-library/article/legal-consequences-of-domestic-abuse.html> [<https://perma.cc/9C2D-52LT>].

⁵²⁸ *Id.*

⁵²⁹ See 8 U.S.C. § 1375a.

⁵³⁰ § 1375a(d)(2)(B)(v). Form I-192F asks whether the petitioner ever filed the form for any other beneficiary and requires disclosure of the beneficiary’s identity and the decision by USCIS. FORM I-129F, *supra* note 257. In addition, Form I-192F solicits disclosure of prior marriages. *Id.*

⁵³¹ *Id.*

One scholar recommends that IMBs be required to post photographs of petitioners with “violent criminal backgrounds” in an effort to better inform potential brides in a more visual manner.⁵³² This may alleviate the problem of name changes, as well.

Plus, no requirement exists that compels a male client to disclose information about HIV, AIDS, or other sexually-transmitted diseases.⁵³³ However, the bride is required to undergo a thorough medical examination to obtain her visa.⁵³⁴ Because the U.S. citizen spouse or fiancé is her sponsor for immigration purposes, he would be privy to her medical information. The inequality of this disclosure contributes to the imbalance of power between the spouses in a mail-order marriage.

The statute itself recognizes the potential for omitting vital information and for inaccurate reporting. The required pamphlet must include a warning that one’s history of domestic violence may not have resulted in a criminal record⁵³⁵ and that “such information may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported his marital or criminal record.”⁵³⁶

5. *The Possible “Personal Contact Information” Loophole*

Before the mail-order bride’s contact information may be released to the male client, the male client must disclose the required information to the international marriage broker, and the broker must give the information to the potential mail-order bride.⁵³⁷ However, the requirement is too narrow to have any teeth. The requirements read as follows: “An international marriage broker shall not provide any United States client or representative with the personal contact information of any foreign national client unless and until the international marriage broker” has provided to the “foreign national client”⁵³⁸ in her primary language the

⁵³² Newsome, *supra* note 335, at 305.

⁵³³ See 8 U.S.C. § 1375a.

⁵³⁴ *Medical Examination*, U.S. DEP’T OF STATE, BUREAU OF CONSULAR AFF., <https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/interview/interview-prepare/medical-examination.html> [<https://perma.cc/2PPY-3K32>].

⁵³⁵ 8 U.S.C. § 1375a(a)(2)(G).

⁵³⁶ § 1375a(a)(2)(H).

⁵³⁷ § 1375a(e)(3).

⁵³⁸ The “foreign national client” is the female recruit of the IMO agency, or the prospective mail-order bride, defined in IMBRA as

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information on the U.S. citizen male client, including the sex offender registry and the required background information provided by the U.S. citizen client.⁵³⁹

But what if the “foreign national client” is the one who actually provides her own contact information directly to the U.S. citizen client? Nothing in IMBRA addresses this possibility; the statute concerns itself mainly with contact that is facilitated directly through the agency itself. Some international marriage brokers appear to have identified this gap and operate strictly within its confines. For example, Anastasia International has the following policies, posted on its Frequently Asked Questions page, regarding the exchange of contact information:

Can I get the lady's Postal Address?

AnastasiaWeb employees can not under any circumstances give out any of the ladies' personal contact information. But you are absolutely free to ask any lady for her street address in your e-mail message. Please keep in mind however, that ladies are under no obligation to share their addresses with AnastasiaWeb clients.

After establishing a connection with a lady, meeting face to face is the next step. You may want to consider taking an Anastasia Romantic Tour, which will allow you to meet the ladies you are corresponding with, and meet 600-800+ more ladies at our Socials while you are there!⁵⁴⁰

How can I obtain the lady's personal contact information and pass her mine?

a person who is not who is not a United States citizen or national or an alien lawfully admitted to the United States for permanent residence and who utilizes the services of an international marriage broker. Such term includes an alien residing in the United States who is in the United States as a result of utilizing the services of an international marriage broker and any alien recruited by an international marriage broker or representative of such broker.

§ *Id.*

⁵³⁹ § 1375a(d)(3)(A).

⁵⁴⁰ *Frequently Asked Questions*, ANASTASIAWEB.COM, <http://www.anastasiaweb.com:80/default.aspx?page=FAQ> (last visited Apr. 29, 2007) [<https://web.archive.org/web/20070606165923/http://www.anastasiaweb.com:80/default.aspx?page=FAQ>].

According to our company's policy, which you can find at www.anastasiaweb.com/policy.php, the exchange of e-mails and telephone numbers in the letters, using our mailing system, is not allowed (this information is erased from the outgoing and incoming messages by the system automatically). However, it is possible to exchange postal addresses in your correspondence with the ladies. Once you have the lady's postal address, you can ask her for any personal contacts via regular mail. We highly recommend using our Phone Introduction service to contact the lady and ask her for her personal contacts. In this case you will be able to ask the lady for any personal contacts, which with the lady's consent, may be given to you. The other option to send your personal contacts to the lady is our Flower delivery feature. You can include any of your personal information in the postcard attached to the flowers.⁵⁴¹

Can I exchange e-mail addresses or phone numbers with a lady via correspondence on www.anastasiaweb.com?

No, it is not allowed by our policy, which you can find on our website at <http://www.anastasiaweb.com/policy.php>. See item 5, letter G: "You may not include in your correspondence with other members any URLs or email addresses."⁵⁴²

The company first establishes that it cannot give out any contact information of its female clients and prohibits the exchange of contact information through its website.⁵⁴³ Then, however, the agency instructs the U.S. citizen client how to obtain the contact information of the female client *on his own*, through methods that are profitable to the agency (use of the phone introduction service and the flower delivery service).⁵⁴⁴ The statutory prohibition on sharing contact information of the female recruits

⁵⁴¹ *Anastasia Customer Service*, ANASTASIAWEB, <http://www.anastasiaweb.com:80/default.aspx?page=SupportQuestion&type=1> (last visited Feb. 2, 2018) [<https://web.archive.org/web/20070901102432/http://www.anastasiaweb.com:80/default.aspx?page=SupportQuestion&type=1>].

⁵⁴² *Id.*

⁵⁴³ *Id.*

⁵⁴⁴ *Id.*

applies directly to the international marriage broker, not the male U.S. citizen client.⁵⁴⁵ The failure to limit information sharing by the male U.S. citizen clients may keep the statute from preventing the very evil it intends to eliminate, since it is the male client who eventually would engage in the abusive behavior.

On the other hand, in the scenario posed above, a court could rule that contact between two consenting parties that is facilitated by an international marriage broker constitutes a violation of IMBRA. One section of IMBRA limits an international marriage broker from providing the mail order bride's "personal contact information" to the male client "unless and until" the international marriage broker completes the tasks outlined in the statute, namely, disclosure of the male client's background information.⁵⁴⁶

A different part of the statute defines "personal contact information," and its definition is broad. First, the contact information includes not only the data normally associated with one's identification or contact, such as name, email, and telephone numbers, but also the "forum to obtain such information."⁵⁴⁷ Thus, if the marriage broker provides the means, in the form of a chat room, in-person visit, three-way calling, or the like, then arguably the broker is permitting "individuals to contact each other" through a "forum" contemplated in the definition of "personal contact information," which is forbidden until after the proper disclosures. Second, the definition of "personal contact information" includes "the

⁵⁴⁵ 8 U.S.C. § 1375a(d)(3)(A) (2012).

⁵⁴⁶ Under 8 U.S.C. § 1375a(e)(6), "personal contact information" is defined by IMBRA as follows:

(A) In general. The term "personal contact information" means information, or a forum to obtain such information, that would permit individuals to contact each other, including--

(i) the name or residential, postal, electronic mail, or instant message address of an individual;

(ii) the telephone, pager, cellphone, or fax number, or voice message mailbox of an individual; or

(iii) the provision of an opportunity for an in-person meeting.

(B) Exception. Such term does not include a photograph or general information about the background or interests of a person.

⁵⁴⁷ *Id.*

provision of an opportunity for an in-person meeting.”⁵⁴⁸ Thus, IMBRA appears to require the disclosure of required background information about male clients before the international marriage broker may sponsor romance tours, mingling parties, or any means by which a female recruit and male client can converse.

6. *The Possible “International Marriage Broker” Definition Loophole*

The website for A Foreign Affair illustrates a possible weakness in IMBRA’s definition of “international marriage broker.” On the home page, the agency clearly advertises, “We are an IMBRA Compliant Dating Service,” and further down on the page reads a claim, “We are not a ‘Mail-Order Bride’ Company.”⁵⁴⁹ In contrast to the “dating service” claim is the advertisement for an immigration attorney specializing in fiancé visas squarely in the middle of the homepage, as well as announcements of upcoming “romance tours” to foreign destinations.⁵⁵⁰

The technical difference is important in IMBRA because of the exceptions to the definition of “international marriage broker.” Under the previous legislation enacted in 1996, the only exception to the definition of “international matchmaking organization” was a religious matchmaking organization: “Such term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.”⁵⁵¹ IMBRA includes a similar exception regarding religious matchmaking organizations and added the requirement that such organizations operate “on a nonprofit basis.”⁵⁵² In addition, IMBRA includes a “dating service” exception to the definition of

⁵⁴⁸ § 1375a(e)(6)(A)(iii).

⁵⁴⁹ LOVEME.COM, *supra* note 487; *Frequently Asked Questions About Our Service*, LOVEME.COM, <http://www.loveme.com/information/faq.shtml> [<https://perma.cc/7AU5-JK3F>] [hereinafter *LoveMe.com FAQs*] (“NO! A Mail Order Bride company implies that you are actually ordering something or someone and paying for it. We simply supply you with the tools and support necessary for you to reach your goal of finding that one special person, no matter where she may reside. Our service is based on a mutual interest and respect, both parties must be attracted and interested in starting a meaningful relationship. We strive to bring people together who really want to form a loving, caring, and lasting relationship.”).

⁵⁵⁰ LOVEME.COM, *supra* note 487.

⁵⁵¹ 8 U.S.C. § 1375(e)(1)(B) (repealed 2006).

⁵⁵² 8 U.S.C. § 1375a(e)(4)(B)(i) (2012).

“international marriage broker” that did not exist under the 1996 Act.⁵⁵³ The exception states that a company providing “dating services” is not an “international marriage broker” covered by the statute “if its principal business is not to provide international dating services between United States citizens or United States residents and foreign nationals and it charges comparable rates and offers comparable services to all individuals it serves regardless of the individual’s gender or country of citizenship.”⁵⁵⁴

Thus, A Foreign Affair makes the official claim that it simply provides the tools to meet someone special, “no matter where she may reside.”⁵⁵⁵ Yet, the website maintains all appearances attributed to typical mail-order bride websites, including beautiful Russian women, boasts of marriage success rates, immigration attorney advertisements, pictures of hundreds of women, and romance tours.⁵⁵⁶ The company represents itself as a “dating service” catering to people of all nationalities, but its true purpose appears to be marriage between Americans and foreigners. Thus, the issue whether IMBRA applies must be determined.

The argument contrary to companies claiming that they are now “dating services” is that no matter how an international marriage broker labels its services, IMBRA applies to the company if its principal business is in fact to match Americans with foreign nationals for dating and marriage. Anastasia International labels itself a “quality international dating service” on one side of its home page, but on the other side of the page the agency boasts that it is “the fastest way to reach thousands of Russian ladies.”⁵⁵⁷ A “dating” service facilitates the act of dating, such as correspondence, numerous meetings and dates, and possible eventual romance. When a male client pays all the fees, transports a fiancé from a foreign country to the United States, and marries her, that is not “dating.” When determining whether an agency fits the definition of “international marriage broker” under IMBRA, a fact-finder must view the totality of the website and the company’s purpose and policies. An agency may provide a variety of services, including “dating services” between residents of the United States, but if the thrust of the business still appears to be matching

⁵⁵³ § 1375a(e)(4)(B)(ii).

⁵⁵⁴ *Id.*

⁵⁵⁵ *LoveMe.com FAQs*, *supra* note 549.

⁵⁵⁶ *LOVEME.COM*, *supra* note 487.

⁵⁵⁷ ANASTASIA INTERNATIONAL, <http://www.anastasia-international.com> (last visited Apr. 15, 2007) [<https://web.archive.org/web/20070429155750/http://www.anastasia-international.com>].

Americans with foreigners, then IMBRA should apply, no matter the semantics.

7. *Enforcement Gaps: Prosecutors Must Make Assertive Choices*

Prosecutors must be vigilant at this time to enforce IMBRA against agencies that purport to sidestep the legal definitions of both “international marriage broker” and “personal contact information.” Under the 1996 Mail-Order Bride Act, international marriage brokers were required to give information about domestic violence immigration relief to female recruits or risk up to a \$20,000 fine.⁵⁵⁸ However, it took a substantial jury verdict for Encounters International to be held liable to a mail-order bride victim, and even now, the company continues in the business of matching American men with foreign brides.⁵⁵⁹ If Congress finds it important to regulate the industry, then the Executive branch of government must be encouraged to prosecute the violators; otherwise, there is no incentive for the international marriage brokers to comply with the notice’s provisions. The lack of deterrence, in turn, will only result in more mail-order bride domestic violence cases.

Another opportunity for prosecutors and immigration officials is enforcing the provisions meant to stop serial K-visa petitioners. Despite the “cap” IMBRA purports to impose on the number of K-visa petitions a U.S. citizen may file, it remains relatively easy to obtain a mail-order bride. U.S. citizens may file up to two fiancé visa petitions with no restrictions.⁵⁶⁰ Thus, if the petitioner is truly abusive yet has no history that can be disclosed, abuse of those two mail-order bride beneficiaries will not be curtailed under IMBRA. Plus, the bar against such petitions that require a waiver does not come into effect until ten years after the U.S. citizen makes his last similar application.⁵⁶¹ Therefore, it is imperative that immigration officials deny the waiver, especially if the petitioner has a record of violent offenses, but also if the petitioner appears to be abusing the easy availability of mail-order brides.

⁵⁵⁸ 8 U.S.C. § 1375(b)(1)–(b)(2)(A) (repealed 2006).

⁵⁵⁹ ENCOUNTERS INT’L, *supra* note 167.

⁵⁶⁰ USCIS Memorandum, *supra* note 517, at 6.

⁵⁶¹ *Id.*

8. *Identification of Mail-Order Brides*

The 1996 Mail-Order Bride Act required disclosure of certain information to a potential mail-order bride.⁵⁶² IMBRA considerably increases the amount and substance of the information that must be disclosed.⁵⁶³ Still, the Act remains limited in that it only requires the disclosure of information. What a future mail-order bride will do once she is armed with the additional information is her choice. The law will not prevent a mail-order bride from coming to the United States; she simply will arrive knowing a little more about what she faces than she would have known two years ago. Similarly, the law will not hinder men who legitimately seek healthy love from a Russian woman. The law does not prohibit international marriage organization websites from operating, matching potential couples, offering “romance tours,” or facilitating immigration requirements.

If Congress and the immigration authorities intend to continue monitoring whether mail-order brides are abused once they come to the United States, the method of identifying a mail-order bride must be improved. The 1999 INS Report serves as a reminder that “few quantifiable sources of information exist,”⁵⁶⁴ and as the IMBRA study unfolds, it is important for researchers to avoid the same difficulties researchers faced during the 1999 study. The 1996 Mail-Order Bride Act required the Attorney General to determine the number of mail-order bride/marriage broker marriages, whether any of the marriages resulted in immigration relief filed under the Violence Against Women Act, and “the extent of domestic abuse in mail-order marriages.”⁵⁶⁵

Instead of simplifying this task, IMBRA made these determinations more complicated. First, mail-order brides do not enter the United States solely on K-visas,⁵⁶⁶ yet IMBRA focuses its efforts almost entirely on tracking marriage broker-related K-visa applications.⁵⁶⁷ This method inevitably will leave out many mail-order brides. Second, because of the definitions used in IMBRA, international marriage brokers appear to be shying away from the “mail-order bride” and the “international marriage

⁵⁶² 8 U.S.C. § 1375 (repealed 2006).

⁵⁶³ USCIS Memorandum, *supra* note 517, at 1–2.

⁵⁶⁴ 1999 INS REPORT, *supra* note 11, at 19.

⁵⁶⁵ 8 U.S.C. § 1375(c)(4) (repealed 2006).

⁵⁶⁶ TAHIRIH IMBRA FAQs, *supra* note 27, at 1.

⁵⁶⁷ USCIS Memorandum, *supra* note 517, at 6.

broker” labels,⁵⁶⁸ which makes tracking more difficult. These weaknesses dilute the effectiveness of one of the goals of the 2008 study—to examine the extent to which abusers use international marriage brokers.⁵⁶⁹ The study requires the tracking of K-visa applications and spousal immigrant visa applications as well. Finally, the study aims to assess the number of marriages that result from international marriage brokers.⁵⁷⁰ However, the study does not require that correlations be drawn between these petitions filed and any eventual domestic violence-related case filed in the immigration, criminal, civil, or family law arenas.⁵⁷¹ To determine IMBRA’s effectiveness at eliminating abuse of mail-order brides, such connections must be drawn and should be included in future studies.

Services and immigration relief do not need to be specialized solely for mail-order brides, but immigration officials must be educated on how to identify them and how to recognize the potential for abuse. Just as immigration relief typically does not distinguish between immigrants’ home countries, it ought not distinguish between mail-order brides and non-mail-order brides. After all, not all mail-order brides are abused. This is not to say that the immigration relief provisions available for domestic violence victims do not need to be improved, however. Balance is important in the immigration system in order to maintain the overall effectiveness and credibility of battered women’s relief provisions. For example, it would be ineffective and inaccurate to assume that all mail-order brides automatically warrant VAWA self-petition relief. Yet, immigration service decision makers might want to proceed with caution when they are faced with any immigration relief petition in which the mail-order bride industry is flagged.

9. *IMBRA is Too “King-Centric”*

The sad murder of Anastasia King was the impetus that motivated Washington State Senators to push IMBRA forward.⁵⁷² However, IMBRA is too closely modeled on the circumstances surrounding Anastasia King’s murder. IMBRA is designed to prevent the precise King scenario from

⁵⁶⁸ 8 U.S.C. § 1375a(e)(4) (2012).

⁵⁶⁹ § 1375a(f)(1)(D).

⁵⁷⁰ § 1375a(f)(1)(B).

⁵⁷¹ See § 1375a(f).

⁵⁷² Alayna Jehle & Monica K. Miller, *The Controversial International Marriage Broker Regulation Act of 2005: Protecting the Rights and Interests of All Parties*, 13 CONTEMP. JUST. REV. 35, 38 (2010).

happening again. For example, Anastasia was King's second mail-order bride.⁵⁷³ He was already searching for a third before he murdered her.⁵⁷⁴ IMBRA requires petitions to disclose prior fiancé visa petition filings yet established no possible consequences unless two or more petitions have been filed.⁵⁷⁵

Sadly, because of IMBRA's close resemblance to the King case, IMBRA would have had no role in the prevention of some high-profile mail-order-bride murders. Yana Huss, who was almost decapitated by her husband in April 2007, could not have seen the warning signs that IMBRA attempts to show potential brides.⁵⁷⁶ Scott Huss never filed a fiancé petition before seeking Yana through an international marriage broker.⁵⁷⁷ In fact, it is unclear from reports whether he filed a fiancé petition or even did anything to assure Yana's legal status.⁵⁷⁸ Part of his abuse was threatening to have her deported.⁵⁷⁹ If he did not file a fiancé petition, the only contact Yana would have had via IMBRA is the information the international marriage broker must give to each female client. Certainly, IMBRA will prevent Scott Huss from filing approvable fiancé visa petitions in the future. The point is moot, however, since Scott will never get out of prison in order to go to Russia to get a new bride.⁵⁸⁰

V. CONCLUSION

The goal of IMBRA is not to eliminate marriage choices but to prevent violence against mail-order brides from happening at all. The distinct advantage of IMBRA is that international marriage brokers may no longer take advantage of desperate Russian women seeking a better life without supplying them with better information with which to make more informed choices. A Russian woman who feels no other choice than to emigrate, but who does not have the means to do so on her own, must make a choice between a legal marriage broker and being a mail-order bride, and risking

⁵⁷³ *Id.*

⁵⁷⁴ *Id.*

⁵⁷⁵ USCIS Memorandum, *supra* note 517, at 6.

⁵⁷⁶ Anderson, *supra* note 228.

⁵⁷⁷ *Scott Huss Sentenced to Life in Wife's Murder*, NBC2 NEWS (Jan. 12, 2011, 6:31 PM), <http://www.nbc-2.com/story/13581129/2010/11/29/scott-huss-on-trial-for-russian-wifes-murder> [<https://perma.cc/3PR5-Q8LV>].

⁵⁷⁸ *Id.*

⁵⁷⁹ *Id.*

⁵⁸⁰ *Id.*

her life to be trafficked in other illegal, coercive schemes. This choice: stay, marry an American, or be trafficked, may be best supplemented with additional information about prospective grooms, and the potential bride can be empowered by still being permitted to make the choice.

IMBRA, of course, can do nothing to change conditions in Russia for women. IMBRA cannot eliminate the “push factors.” The underlying reasons for a Russian mail-order bride’s exit from Russia do not disappear. If women continue to sign up for international marriage brokers, there will be no incentive for the businesses to disappear. The Russian government must target gender discrimination, enact and enforce laws regarding violence against women, and make life more livable for Russian men as well. Plus, Russian prosecutors must hold accountable any marriage brokers operating illegal human trafficking businesses. IMBRA does not extend its educational reach to Russian women before they contact marriage brokers. Russian women would be well-served with educational resources that compete with any deceptive advertising from marriage brokers.