

Human Trafficking: Mail Order Bride Abuses

HEARING

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Thank you to Senator Brownback and to the rest of the Committee for the opportunity to testify today. My name is Suzanne Jackson, and I am an Associate Professor of Clinical Law at George Washington Law School. Before becoming a law professor, I worked as an attorney here in the District of Columbia, representing immigrants and refugees seeking to escape abusive relationships. Most of my clients did not speak much English, and had to overcome many obstacles before they could be free of the threat of domestic violence. Two of my clients had met their husbands through “mail-order bride” companies, and it is because of the particular hardships they endured within the legal system that I began to research the relationship between the “mail-order bride” industry and trafficking in women. The legal landscape has, on the whole, improved significantly since those days, thanks in great part to the work of this Committee in conducting hearings on and shaping the Trafficking Victims Protection Act of 2000.

I will refer to the companies as international matchmaking organizations or IMOs rather than “mail-order bride” agencies, even though the term IMO inaccurately conveys gender neutrality and a “match” or some level of equality between the parties. Nothing could be further from the truth: IMOs exist for the benefit of their paying customers: men¹ from wealthy nations, including the United States, Japan and Germany, who want access to women who, most often, have neither economic nor social power. Marketing strategies used by IMOs advertise women as generic to their ethnicity – all Russian women are X, all Asian women are Y, all Latinas are Z – and emphasize that the women they offer (women who are in fact hoping to leave their home countries) will all be “home-oriented” and “traditional” wives. Some companies guarantee women’s

availability, others guarantee marriage within a year of subscribing to their service, one even allows a man to remove a woman from the website to prevent competition during a courtship: “Select One, She’s Yours,” promises this company.²

IMOs have been linked to criminal trafficking in several ways. They can be nothing more than fronts for criminal trafficking organizations, in which adults and girls are offered to the public as brides but sold privately into prostitution, forced into marriage (including marriages to men who then prostitute them),³ or held in domestic slavery. Police in the United Kingdom found organized criminal gangs from Russia, the former Soviet Union and the Balkans using the Internet to advertise women for sale to brothels in Western Europe and also to men as “internet brides.”⁴ A study by Global Survival Network (GSN) found that most mail-order bride agencies in Russia have expanded their activities to include trafficking for prostitution. European embassies have reported that a number of matchmaking agencies conceal organized prostitution rings victimizing newly-arrived Filipina women. Asian groups have used fiancée visas and marriage with a so-called “jockey” (an escort bringing women across the U.S. border) to bring women into the U.S. for purposes of prostitution;⁵ jockeys have even included U.S. military personnel posted abroad.

IMOs are almost completely unregulated, advertise minors for marriage, and fail to screen their male clients for criminal histories. IMO practices exacerbate problems with false expectations: they require women to complete long questionnaires asking intrusive personal questions, encouraging disclosure by implying or stating that false answers could lead to cancellation of any ensuing immigration benefits. Women are also subjected to medical and background checks, and may assume that participating men are evaluated with the same level of scrutiny. Women from other countries often assume that all governmental agencies in the United States – a country with extraordinary resources and technology – have access to information held by other agencies, that facts asserted in applications for immigration benefits would be checked, and that a man who had been convicted of serious violent crimes would not be permitted to bring a spouse or fiancée into the U.S. from abroad. The industry does nothing, however, to screen male customers: no detailed questionnaire, no check for a criminal record for spousal or child abuse, no formal inquiry as to whether men are already married. Until recently, the U.S. government also did not conduct these inquiries.

An IMO can also be a useful tool of, and sometimes a knowing collaborator with, an individual man who wishes to obtain control over a woman in order to exploit her. A U.S. citizen can use isolation, domination, and threats of deportation to get an immigrant woman to perform domestic and sexual services on demand. One commentator in an Internet discussion of the pros and cons of paying for a “mail-order” bride, pointed out that it can be much less expensive to purchase a wife than to pay for prostitution services, which don’t also include free housekeeping and cooking. Men have also used imprisonment and vicious violence to sexually exploit and prostitute young women. One Honduran woman was kept a prisoner – together with the U.S. citizen’s wife – in a man’s home by bars on the windows; another was kept in the house on an ankle chain; one 17-

year old from the Phillipines was abused, sexually exploited, and then pimped into prostitution.⁶

Because of these practices, the CIA found that “[m]ail order bride brokers...are not traffickers per se; but, where there is deception or fraudulent non-disclosure of known facts concerning the nature of the relationship being entered into or the criminal or abusive background of the client, the brokers should be liable as traffickers.”⁷

Individuals using IMO's to find women whom they prostitute to others or use as their own “personal prostitutes”⁸ or domestic servants should be criminally liable as traffickers on the same theory. Knowing deception – fraud – used intentionally to cause a woman or girl to travel to the U.S. and perhaps even to marry, in order to mistreat and exploit her for personal profit or gain, is no less criminal trafficking in persons when accomplished by an individual instead of an organization. Although the Department of Justice is enforcing the criminal laws against international travel for purposes of having sex with a child, not one sex trafficking case has been brought against an individual who has used a mail-order bride organization to obtain and sexually exploit a vulnerable immigrant woman.⁹

Abusive IMO-arranged marriages should be evaluated for evidence of criminal trafficking. Consider the following examples:

- * A U.S. citizen puts new locks on the outside of his doors, and installs a security system with keyed window locks. He searches the Internet for the youngest possible girls available on mail-order bride Web sites. He pays a company's \$4,500 fee, travels abroad, proposes marriage to a young woman, and brings his prospective wife to the U.S. with a fiancée visa. When they arrive at his home, he takes her down to the basement and terrorizes her, keeping her locked there for weeks. When he believes that she is too afraid to try to escape, he allows her out of the basement but not out of the house, forcing her to do housework and have sex with him on demand.
- * A U.S. citizen lives in a remote, rural area, and accomplishes the above with repeated physical and sexual abuse, but without need for locks, as the nearest house is thirty miles away.
- * Add to the facts in both scenarios above that the citizen forces a woman to have sex with other men who pay him for the privilege.
- * Add to the facts in any scenario that instead of using a fiancée visa to secure a woman's entry into the U.S., the man marries her abroad and brings her to the U.S. as his wife.

These scenarios, distilled from actual cases,¹⁰ all fulfill the elements of the federal crime of forced labor: domestic labor or sexual services intentionally obtained by the use of physical restraint and threats of serious harm. They should also satisfy the elements of criminal sex trafficking, if the required element of “commercial sex act” is interpreted on the basis of the statutory language rather than a myopic interpretation focusing exclusively on brothel-based prostitution or monetary transactions.

Commercial sex is defined in the Trafficking Victims Protection Act as “any sex act, on account of which anything of value is given to or received by any person.” When an IMO sells a young woman for sexual purposes, as in a Web page openly offering sex with fifteen- to seventeen-year old Thai girls, boasting that a girl could be delivered “anywhere in the world,” charging extra to deliver a virgin, and also offered girls for sale outright – pay \$4,000 more, the company promised, “and then she is like your slave forever.”¹¹ – this is clearly commercial sex trafficking. If both parties to the sale know that the person will be forced or coerced to have sex, both are sex traffickers. The formality of a marriage or a supposed engagement to marry should not blind us to the federal crimes of sex trafficking, forced labor and involuntary servitude: when a citizen threatens to revoke an application for a green card unless an immigrant submits to sex, the valuable consideration of legal residency in the United States fulfills both the “commercial sex” requirement and the coercion requirement of the criminal sex trafficking statute. The same applies in the context of sexual exploitation of domestic workers, migrant workers, sweatshop workers, or any instance where sex is coerced or forced through threats of deportation, so that a person is led to believe that on account of the sex act, the person will receive respite from threats of deportation.¹² The criminal penalties for sex trafficking should be brought to bear against individuals who use IMOs to extort sex and domestic services from individual brought into the U.S. through fiancée visas or through marriage.

IMOs also camouflage trafficking indirectly by inflating the number of visa applicants, which reduces governmental resources to evaluate individuals’ requests for fiancée visas. Until recently, U.S. immigration authorities conducted no investigation of applicants for fiancée or spousal visas, not requiring any background criminal check, not asking whether the petitioner is legally able to marry, not even checking its own records to see if an applicant previously petitioned for another person. During the 1970s and 1980s, an average of 5,300 fiancée petitions were filed each year, about 1,100 of which did not result in an adjustment to permanent resident status. During the 1990s, however, the number of fiancée petitions rose to 6,400 per year while adjustments remained the same. The number of missing or rejected fiancées had apparently doubled in a decade, averaging about 2,200 a year. A report by the INS noted that traffickers were interested in sending women to the U.S. because fiancée visas were easy to obtain, but did not observe that the rise in “missing” or rejected fiancées was itself evidence of trafficking.¹³ Since the tragedy of September 11th, the Bureau of Citizenship and Immigration Services has increased scrutiny of all petitioners and beneficiaries of petitions for immigration benefits, including petitions for fiancée visas and marriage-based adjustment, and although implementation of these changes is only just beginning, they have reportedly already found much of interest as a result of these investigations.

Senator Cantwell has made several excellent proposals to change the process for obtaining a fiancée visa, which if enacted and implemented would place minimal burdens on the IMOs and on the participants in the process, while likely preventing some serious abuses of the system. But even enacting such a law will accomplish nothing if Congress is not prepared to ensure that the laws are implemented by the Executive Branch. This is

not the first piece of legislation recognizing and attempting to address problems in the IMO industry. So many serious abuses were noted against “mail-order brides” in the U.S. that Congress in 1996 ordered IMOs to provide information to their “recruits” on their rights under U.S. laws. Eight years later, this law is still not implemented or enforced.¹⁴ The comment period for the proposed regulation expired in 1997, yet the June 23, 2004 Federal Register announced that the Notice of Proposed Rulemaking will not be issued until sometime in December of this year. Senator Cantwell’s legislation asks the Bureau of Citizenship and Immigration Services to complete a study of the IMO industry and the extent of its compliance with the new requirements within two years of the legislation’s enactment, but if the regulations are not in place to ensure that Congress’ enactments have the force of law, this study and the other reforms contemplated, will be meaningless.

Thank you for the Committee’s efforts to combat trafficking and abuses of the international matchmaking industry, for the invitation to appear before you today, and for your consideration of my testimony.

¹ In three years of research I identified only two websites purporting to offer “mail-order husbands,” one of which was defunct, and the other a satire. Although one or two sites listed at Mail Order Bride Warehouse (www.goodwife.com) had listings for both men and women, over 350 sites (in 2002) provided only listings of women for review by male customers.

² *The Mail Order Bride Latin Page*, at <http://www.goodwife.com/latin> (last visited Aug. 15, 2002).

³ In a recent study of trafficked women in the U.S., experts interviewed forty trafficked women, finding that “[h]usbands and boyfriends acted as pimps for some of the international (20%) and U.S. (28%) women. Coalition Against Trafficking in Women, “Sex Trafficking,” at 10. One of these women had been sold into marriage.

⁴ Miller, *Sex Gangs Sell Prostitutes over the Internet*, *The Guardian* (U.K.), July 16, 2000, at 13

⁵ Amy O’Neill Richard, Center for the Study of Intelligence, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime* (Nov. 1999), at 8.

⁶ See Suzanne H. Jackson, *To Honor and Obey: Trafficking in “Mail-order Brides,”* 70 *George Wash. L. Rev.* 475, at notes 560-563 (June 2002).

⁷ Amy O’Neill Richard, “International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime,” Center for the Study of Intelligence, November, 1999, citing Ali Miller and Alison Stewart, “Report from the Roundtable on the Meaning of Trafficking in Persons: A Human Rights Perspective,” *Women’s Rights Law Reporter*, Rutgers Law School Fall/Winter 1998. The INS agreed. “International Matchmaking Organizations: A Report to Congress,” at 17-18 (March, 1999).

⁸ The phrase “personal prostitute” was used by a reporter to describe a fifteen-year old Costa Rican boy brought into Florida for sex by a much older man, Marvin Hersh. The case against Mr. Hersh is described in my article cited above, text accompanying notes 617-632.

⁹ Conversation with Professor Mohammed Mattar, Protection Project, Johns Hopkins University, July 12, 2004. Professor Mattar has reviewed the cases brought by the Department of Justice under the Trafficking Victims Protection Act.

¹⁰ Jackson, *To Honor and Obey*, supra note 6, at notes 560-563.

¹¹ Stuart Miller, *Sex Gangs Sell Prostitutes over the Internet*, *The Guardian* (U.K.), July 16, 2000, at 13.

¹² The requirement that some action occur in interstate commerce will limit this provision to instances when an intent to extort sex existed before the person is brought to the U.S., or the course of conduct extends across state lines. This stops the definition of sex trafficking from encompassing all IMO-arranged relationships, regardless of the parties’ intent.

¹³ “International Matchmaking Organizations: A Report to Congress,” at 10 (March, 1999). Some level of oversight has been exercised, however, as one IMO agent complained: “The [IMO] service itself is not

restricted by the American government, although they are real picky about getting your bride into the states – they won't give a visa to a bride under age sixteen." Donna M. Hughes, "Pimps and Predators on the Internet: Globalizing the Sexual Exploitation of Women and Children," Coalition Against Trafficking in Women, March 1999, citing "Be a Mail Order Husband (For Men Only)," World Class Service, 1996, available at <http://www.filipina.com/FAQ.html>.

¹⁴ *See, e.g.*, "Kohl Urges I.N.S. to Crack Down on 'Mail-Order Bride' Industry," Press Release, Senator Herb Kohl, February 9, 2001. "The INS has ignored the law. It has been dragging its feet. By not doing its job, it has allowed the mail-order bride industry to flourish unchecked and rife with abuse. Meanwhile, more women walk blindly into these marriages with little or no information about their rights. The rules are in place. All the INS has to do is enforce them to prevent another senseless tragedy." *Id.*