

COMMENTS

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?”

INTRODUCTION

Natasha¹ limped into the Southern California law office, obviously nursing a sore left foot. The dark circles under her eyes were a stark contrast to her beautiful blue eyes and blonde hair. The manner in which she spoke conveyed a deep sadness in her heart. As she entered the attorney's office, a single tear rolled down her face following the well-worn path of the many tears before it. An hour later, Natasha emerged from the office and gave her female attorney a gentle hug; for the first time in nearly a year, Natasha had hope.

Natasha's story is one of happiness and promise, sadness and brutality, hardship and eventual success. A Russian national, Natasha entered the United States with her son Nikoli on a fiancée visa. She had been enticed by the romantic promises of John, a Southern California professional whom she had met via an international Internet matchmaking service. Less than a year later, a bruised and broken Natasha filed a petition to end her short but violent marriage to John.

Sadly, Natasha's story is not unique. Each year, a significant percentage of the women who enter the United States (U.S.) as fiancées or wives find their dreams of happy lives destroyed by domestic violence.² This Comment will examine domestic violence within Russian “mail-order bride” marriages as an illustration of the need for increased cultural and social awareness during the creation, application, and interpretation of American laws that pertain to such marriages. Part I will look at the development of the relationship between American men and mail-order brides. Part II will investigate the prevalence of domestic violence in such marriages and discuss the cultural

1. All names have been changed to protect the identity of the client.

2. Leslie E. Orloff et al., *New Dangers for Battered Immigrants: The Untold Effects of the Demise of 254(i)*, at <http://www.house.gov/judiciary/orlo0720.htm> (last modified July 20, 2000) (up to 34-49.8% of immigrant women experience domestic violence during their lifetimes, and immigrant women experience a higher level of domestic violence (up to 59.5%) than their U.S. counterparts).

and situational factors that promote and perpetuate that violence. Part III will focus on the basic immigration laws that allow the immigration of Russian brides and discuss laws aimed at protecting battered immigrant brides. Part IV will discuss the shortcomings of the federal laws enacted to help these women and illustrate other legal and social hurdles for battered immigrant women once they choose to leave their violent marriages. Finally, Part V will examine recent positive legislative changes, discuss the likely impact and flaws of those laws, and advance this author's argument for cultural understanding and education in creating and applying the relevant U.S. laws.

I. A SHAKY FOUNDATION: THE CREATION OF THE RELATIONSHIP

Often called "mail-order bride" services, International Matchmaking Organizations (IMO) are truly flourishing. According to studies conducted by the Department of Justice, there are over two hundred IMOs that arrange for up to five thousand women to immigrate and marry U.S. men each year.³ In the 1980s, the women predominantly came from the Pacific Rim countries.⁴ The 1992 breakdown of the former Soviet Union created a new and fertile ground of women for the IMOs.⁵ As an illustration, there are currently eight IMOs based in the U.S. that operate exclusively in Moscow;⁶ nearly half of the IMOs in one mail order bride study featured women of the former Soviet Union.⁷ Moreover, up to twenty-five thousand women each year apply to an individual Russian-based IMO,⁸ competing for the eye and affection of a few thousand American, Canadian, and European men.

The services provided by the IMOs are extensive. While some IMOs simply act as a conduit, providing information to facilitate correspondence, others offer month-long "romance tours" on which a prospective groom may meet and select his bride at arranged social parties and dinners.⁹ While many

3. IMMIGRATION AND NATURALIZATION SERVICE, INTERNATIONAL MATCHMAKING ORGANIZATIONS: A REPORT TO CONGRESS *3 (1999), available at <http://www.ins.usdoj.gov/graphics/aboutins/repstudies/Mobrept.htm> (last modified Dec. 21, 1999) [hereinafter I.N.S.].

4. Valerie Chittenden, *Case 487: Russian Mail Order Brides*, AM. U. TRADE & ENV'T DATABASE, pt. 2 (Apr. 2000) (last modified Apr. 2000) <http://www.american.edu/TED/bride.htm> (last modified Apr. 2000) (stating that the revival of the mail-order bride industry in or around 1975 primarily targeted women of the Asian nations.).

5. I.N.S., *supra* note 3, at *3.

6. *Id.*

7. *Id.*; see also Robert J. Scholes, *Appendix A: The 'Mail-Order Bride' Industry and Its Impact on U.S. Immigration*, at http://www.kwik-mail.com/ins_report.htm (last visited Oct. 19, 2000), *2.

8. Chittenden, *supra* note 4, at *7.

9. Associated Press, *Internet Matchmakers Doing Lovely Business*, ARIZ. DAILY STAR, May 9, 1999, at 2B, available at 1999 WL 5718282. See also internet sites such as <http://www.loveme.com> and <http://www.russianbride.com> (listing services ranging from e-mail addresses to romance tours).

men pay only a few hundred dollars for a woman's address,¹⁰ others see the IMO as an investment, paying several thousand dollars to attend arranged social events in Russia.¹¹ Additionally, the IMOs' male clientele vastly outnumber the females. For example, a thousand Russian women may attend an IMO sponsored social event that only a few dozen American men attend.¹²

Studies show that the IMOs' male clientele are typically educated caucasian professionals,¹³ with an average age of thirty-seven. They are ideologically conservative and often express distaste for American women, viewing them as career-obsessed and unappreciative of American men.¹⁴ The male IMO customers consider Russian women as ideal wives because they are feminine, traditional, educated, and appreciative of the simple things in life.¹⁵ Often beaten down by brutal economic conditions,¹⁶ the Russian women are viewed as less materialistic¹⁷ and wanting for a better life.¹⁸

Indeed, some Russian women do strive for what they view as the "promised land" of the United States. As citizens of a failing economy, the Russian female IMO customers are typically struggling to earn a living.¹⁹ Although highly educated (80% of Russia's doctors and teachers are women), Russian women earn an average of only 43% of the salaries of Russian men.²⁰ Russian women are most often the first to be laid off, creating a situation in which 75% of the Russian unemployed are women.²¹ In addition, women vastly outnumber men in Russia;²² while the average life expectancy of a Russian woman is seventy-one, her male contemporaries live only to an average age of fifty-eight.²³ Finally, in a country that sees the institution of family as the "cell of society,"²⁴ Russian women are under intense social and familial pressure to marry; yet given the population statistics, only a percent-

10. Chittenden, *supra* note 4, at *7.

11. *Id.*

12. I.N.S., *supra* note 3, at *3.

13. Scholes, *supra* note 7, at *4 (the men were highly-educated (50% of the men had 2 or more years of college, 6% had Ph.D.'s or M.D.'s, and only 5% did not complete high school), and professionally-successful (64% earned more than \$20,000 per year, and 42% were in managerial or professional positions)).

14. Chittenden, *supra* note 4, at *6.

15. *Id.*; see also Associated Press, *supra* note 9; I.N.S., *supra* note 3.

16. Chittenden, *supra* note 4, at *3.

17. *Id.* at *6.

18. *Id.* at *3.

19. Melissa Fletcher Stoeltje, *Couple Helps Lonely Hearts Spin Web to Russian Wives*, HOUS. CHRON., Dec. 31, 2000, at A-5, available at 2000 WL 31222797.

20. Chittenden, *supra* note 4, at *4.

21. *Id.*

22. See, e.g., *id.* at *5 (as listed in a 1999 CIA factbook, there were approximately 3,361,255 more women than men aged 15-64).

23. *Id.*

24. Andrei Sinelnikov, *Prevention Around the Globe: Global Frontlines: Russia: Inside the Broken Cell*, *1, at http://www.fvpf.org/global/gf_russia.html (visited Oct. 19, 2000).

age of Russian women actually do.²⁵ A Russian woman is often considered an old maid if not married by age twenty-two, perpetuating a social stereotype that serves to prevent her eventual marriage.²⁶

Thus, the very nature of the IMO-based relationship fosters and promotes a distinct power differential prior to any exchange of marital vows. These American men, who have often tried and failed within the United States dating scene, feel flattered and empowered by the sheer number of woman they have to choose from. The women, desperate to leave their economically failing homeland and fulfill their social requirement to marry, are thrilled that they have been chosen from the large pool. Also, the men may invest quite a lot of money to find the "perfect" wife, one who is beautiful and attentive, traditional and marriage-minded, and dependent upon their husbands for emotional and financial support. This financial exchange potentially fosters a sense of "ownership" by the men, who may subconsciously view their brides as commodities. In short, it creates a relationship that is primed for domestic violence.²⁷

II. A MARRIAGE MADE IN HELL

While domestic violence can and does exist in any marriage, statistics support the proposition that IMO-based marriages have higher rates of abuse. A 1999 Department of Justice study found that an average of 8.8% of all immigration-related, non-IMO-based marriages had reported incidents of domestic violence. Conversely, in the pool of studied IMO-based marriages, roughly 25% of the women had been victims of domestic violence at the hands of their American husbands.²⁸

As discussed above, the IMO-created marriage contains a power differential. The American men have invested extensive amounts of money to "rescue" their Russian brides. The basis for the initial conflict derives from the perceptions of these men:

Authorities agree that abuse in [IMO-based] marriages can be expected based on the men's desire for a submissive wife and the women's desire for a better life. At some point, after the alien bride has had time to adjust to the new environment, to make new friends, and to become comfortable with the language, her new independence and his domination are bound to

25. *Id.* at *5.

26. *Id.*

27. *INS Report to Congress on Mail-Order Brides*, 76 No. 12 INTERREL 495, at 496 (Mar. 29, 1999) [hereinafter *INS Report to Congress*].

28. I.N.S., *supra* note 3, at app. B, *6-7, available at <http://www.ins.usdoj.gov/graphics/aboutins/repstudies/Mobappb.htm> (viewed Oct. 19, 2000) (stating that of forty five non-IMO-based marriages which resulted in immigration, only four of the cases involved significant spousal abuse; yet of the eight marriage cases which were positively identified as IMO-based, 2 included evidence of spousal abuse. While this is an admittedly small sample pool, it does suggest the conclusion that IMO-based marriages have higher incidents of domestic abuse).

conflict. . . . The resulting independence [of the bride] then angers the husband who manifests the anger on [his] wife.²⁹

The studies suggest that men who seek the services of IMOs frequently desire a submissive and dependant wife, and for a short time, she may indeed be his perfect bride. As she becomes “Americanized,” and absorbs some of the attributes of American society, however, her dependence upon him may lessen. If the man perceives, even irrationally, that he may lose his wife, there exists a heightened danger of violence and brutality.³⁰

Arguably, Russian brides are somewhat tolerant of domestic violence in their marriages to U.S. men because they originate from a society in which domestic violence is pervasive and ignored.³¹ The concept of the Russian family originated from the regimes of the Russian Tsars and communist leaders, in which individual rights were subjugated to a totalitarian system of power and control.³² The Tsar’s 1917 Marriage Code was a patriarchal stricture, highlighted by a complete failure to recognize women’s rights in any form.³³ As recently as 1987, Mikhail Gorbechev articulated his theory of “natural destiny,” in which women were urged to return to a purely womanly mission of motherhood and marriage.³⁴ Until the early nineties, domestic violence in Russia appears to have been ignored. In 1997, the Russian Department of Internal Affairs finally conducted its first official study on domestic violence and found that every two seconds a Russian woman was beaten in her home.³⁵

The Russian government’s response to the violence was minimal. Olga Samirina, Russia’s Minister of Labor and Social Protection, told Human Rights Watch that she considers domestic violence to be a social, rather than criminal problem.³⁶ Moreover, a member of Russia’s Duma’s Committee on Women, Family and Youth declared that domestic violence is but a private matter in which the state should not be involved.³⁷ While there are laws against physical assault of women, the Russian police force still fails to arrest and prosecute perpetrators of domestic violence.³⁸ When the men are ar-

29. Scholes, *supra* note 7, at *9.

30. Linda Kelly, *Domestic Violence Survivors: Surviving the Beatings of 1996*, 11 GEO. IMMIGR. L.J. 303, 320 (1997).

31. Sinelnikov, *supra* note 24, at *1.

32. *Id.*

33. *Id.* at *1-2.

34. *Id.* at *4.

35. *Id.* at *7.

36. *Russia: Too Little, Too Late: State Response to Violence Against Women*, 9 HUMAN RIGHTS WATCH 13, ¶ 1 (Dec. 1997), at <http://www.hrw.org/hrw/reports97/russwmn/Russwmn4.htm> [hereinafter HUMAN RIGHTS WATCH].

37. *Id.*

38. *Id.* ¶ 3.

rested, they are simply held overnight and released to often inflict more violent force upon the women who reported the crime.³⁹

In Russia, there is also a startling lack of domestic violence shelters and resources available to Russian women. The first crisis center for battered women was opened in 1993.⁴⁰ As of 1997, there were only two shelters for battered women in the entire country of Russia.⁴¹ While these shelters may provide temporary relief, the critical lack of permanent housing in Russia is forcing these battered women back to their husbands due to a lack of choice.⁴²

In sum, the Russian brides come from a world in which the government does not provide safety from routine domestic violence. The beatings remain unreported and unpunished, and victims have few resources or options. In addition, these women have learned to accept violence as a way of life; they have often been either the victims of spousal or parental abuse or have witnessed their mothers, grandmothers, and sisters harmed by the blows of loved ones. These women have learned to be helpless and therefore fail to cry for help:

Once [the women] believe [they] cannot control what happens to [them], it is difficult to believe [they] can ever influence it, even if later [they] experience a favorable outcome. This concept is important for understanding why battered women do not attempt to free themselves from a battering relationship. Once the women are operating from a belief of helplessness, the perception becomes a reality and they become passive, submissive, 'helpless.'⁴³

In addition to the theory of learned helplessness and a cultural and familial history of domestic violence, there are several significant and often paralyzing reasons why the battered Russian IMO-based bride fails to seek help within the United States. First, many of the Russian women come from abject poverty and struggle. Many have children and truly wish to provide them with a life of promise and prosperity.⁴⁴ This may persuade women to stay in marriages, even if they are violent.⁴⁵ Moreover, many of the Russian women have an established stereotype of their American groom: one of gentle strength and kindness. They cling to that image of a "movie star," certain that that persona will emerge.⁴⁶ Additionally, Russian women originate from a culture that promotes and indeed pressures marriage; to leave the United

39. *Id.* ¶ 11.

40. Sinelnikov, *supra* note 24, at *7.

41. HUMAN RIGHTS WATCH, *supra* note 36, ¶ 22.

42. *Id.* ¶ 24.

43. Lenore E. Walker, *The Psychosocial Theory of Learned Helplessness*, in DOMESTIC VIOLENCE LAW 73, 74 (Nancy K. Lemon, ed., 1996).

44. *See generally* Kelly, *supra* note 30, at 316-17. *See also* Chittenden, *supra* note 4, at *4.

45. Kelly, *supra* note 30, at 316.

46. *Id.* at 308-09; *see also* Scholes, *supra* note 7, at *4.

States and return to her homeland is a personal disgrace and publicly humiliating.⁴⁷

Other factors operate to control the battered brides, they will often distrust the legal system, have severe language and cultural barriers and harbor an intense fear of deportation.⁴⁸ Batterers may be able to manipulate the women's beliefs, coercing the battered woman to drop any charges or dismiss protection orders.⁴⁹ Additionally, the language barrier can be a significant hurdle that hinders prosecution as neither the police departments nor courts can guarantee that information can be provided in the battered bride's native language.⁵⁰ These women may not be able to speak and understand sufficient English to become educated about their rights as domestic violence victims.⁵¹ Overall, there is a significant communication barrier that jeopardizes the safety of the non-English speaking battered immigrant bride because there are an insufficient number of bilingual personnel at all levels, including 911 operators, police and court personnel.⁵²

The threat of deportation is also a very considerable and severe weapon that is leveled against these domestic violence victims. Often unaware of or uneducated about United States immigration laws, the women are mindful of their husbands' threats of deportation or Border Patrol arrests. Their ignorance makes them particularly vulnerable to the abusers' manipulations and fearful to report any incidents of domestic violence.⁵³

Moreover, these women may face extreme isolation in the United States. Isolation is often a characteristic of a violent domestic relationship⁵⁴ and these newly immigrated women are isolated in that they have been transplanted to a new homeland more than five thousand miles from their family and friends. The Russian bride's inability to speak English may naturally impede her opportunities to seek new friends and if she is able to make friends her American husband may eventually tire of his bride's new American friends and forbid her from seeing them. The American husband may be

47. Kelly, *supra* note 30, at 310.

48. Leslye E. Orloff, et al., *With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29 FAM. L.Q. 313, 315-17 (1995) (citing Catherine E. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of the State Statutes and Case Law*, 21 HOFSTRA L. REV. 801, 1020 (1993)).

49. *Id.* at 316-17.

50. *Id.* at 316-17 (citing Testimony of Leslye E. Orloff, Director, Clinical Latina, Ayuda, Inc., Before the Round Table Forum on Hispanics in the Courts, November 2, 1991, found in *Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination*, in I THE MOUNT PLEASANT REPORT, A REPORT OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS 75 (1993)).

51. *Id.* at 316.

52. *Id.* at 317.

53. *Id.* at 316; see also Maurice Goldman, *The Violence Against Women Act: Meeting Its Goal in Protecting Battered Immigrant Women?*, 37 FAM. & CONCILIATION CTS. REV. 375, 377 (1999).

54. Del Martin, *A Letter from a Battered Wife*, in DOMESTIC VIOLENCE LAW 69, 71 (Nancy K.D. Lemon, ed., 1996).

angered by his Russian bride's independence⁵⁵ or her transformation into an "American woman."⁵⁶

These Russian IMO-based brides face severe economic barriers. They most often come from poverty and marry American men in hopes of reaching economic prosperity.⁵⁷ Armed with nothing more than a few pieces of clothing from their Russian homes, these women may enter the United States with little or no monetary savings. If they do not obtain legal authorization to work in the United States, or are forbidden to work by their American husbands, these battered women become wholly financially dependant upon their batterers.⁵⁸ In addition, while welfare is an option, current welfare laws place significant barriers on the application for and acceptance of welfare, creating significant hurdles to financial stability.⁵⁹

Finally, there exists severe and often pervasive cultural biases against these immigrant women. Political groups still highly disfavor legal immigration and perpetuate a viewpoint that immigrants are robbing Americans of their jobs.⁶⁰ Cultural stereotypes may infect the administrative agency charged with the adjudication, thus diminishing the battered woman's credibility.⁶¹ Moreover, public opinion is beginning to characterize "mail-order brides" as trafficked women, grouping international sex rings with immigrant brides.⁶² Consequently, these women may be seen as quasi-prostitutes. Perhaps, this same public perception creates a belief that women who actively seek marriages through IMOs in part deserve any violence they may receive?

It should not be surprising then, that rates of unreported abuse are high in IMO-based marriages between Russian women and American men. In sum, factors such as unrealistic expectations; male perceptions of ownership, power and control, a Russian history of totalitarianism and violence, fear and mistrust of a governmental agents, ignorance of American laws, culture, and language, extreme isolation, fear of deportation, economic dependence, and biases of the American people all perpetuate the violence within the mar-

55. See generally Lauren Gilbert, *Family Violence and the Immigration and Nationality Act*, 98-03 IMMIGR. BRIEFINGS 1, at 2 (Mar. 1998). See also Scholes, *supra* note 7, at *9.

56. *Id.* at *5.

57. See Part II of this Note for a discussion of motivating economic factors.

58. See Goldman, *supra* note 53, at 377-78 (citing Family Violence Prevention Fund, *Immigrant Victims of Domestic Violence: New Rights Under the "Violence Against Women" Act*, App. B, at 14, at <http://www.fvpf.org> (last visited Apr. 10, 1999)).

59. Kelly, *supra* note 30, at 317-18.

60. See, e.g., statements of Republican Lamar Smith, who represents the twenty first District of Texas; his statements and views can be found on his website, located at <http://www.house.gov/lamarsmith/>. See also the views of groups such as ShameH1B, which publishes a website at <http://www.zazona.com/ShameH1B/> (denouncing nonimmigrant visas such as the H-1B as a replacement for American workers).

61. Kelly, *supra* note 30, at 319 (citing Jenny Rivera, *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin and Gender Differentials*, 14 B.C. THIRD WORLD L.J. 231, 240 (1994)).

62. *INS Report to Congress*, *supra* note 27, at 496; see also I.N.S., *supra* note 3, at *3.

riage, and prevent the battered immigrant woman from seeking help. Yet, some battered brides do bravely venture forward into the complicated web of state and federal laws and sadly find a maze of legislation that is often as brutal than their husbands' fists.

III. IMMIGRATION OF THE IMO-BASED BRIDE

The Immigration and Nationality Act (I.N.A.) and title eight of the United States Code strictly regulate immigration to the United States. An immigrant bride has two unique options when immigrating to the United States via her United States citizen (USC) husband: (1) via the K-1 Fiancee visa or (2) the Alien Spouse Visa. In the first method, the immigrant bride-to-be enters the United States on a K-1 fiancee visa, which permits her entrance and legal presence in the United States. Within ninety days of her entry, the bride must be "legally able and actually willing to conclude a valid marriage."⁶³ When the couple marries, the new bride becomes eligible for classification as an "immediate relative" of a USC⁶⁴ and is thus able to file a complex application package at her local Immigration Naturalization Service (I.N.S.) district office. She will obtain, initially, I.N.S. authorization to work in the United States⁶⁵ and eventually her legal permanent residency, or "green card."⁶⁶ If the couple fails to marry within ninety days, her initial K-1 will expire, and she will become unlawfully present in the United States.⁶⁷

Alternatively, the couple may choose to marry outside of the United States. If this occurs, the USC groom must first file and receive approval of an I-130 form (Petition for Immigrant Relative) in the United States.⁶⁸ Based upon the approval of the I-130, the immigrant bride may then request visa processing at her country's United States embassy or consulate and enter the United States as a legal permanent resident.⁶⁹

Sadly, both of the above-mentioned processes are ripe with issues of power and control and place the man squarely within the seat of authority. Both of these processes are fully dependent upon the cooperation and participation of the American groom. The initial applications for the K-1 fiancee visa, as well as the I-130 Petition for Alien Relative, are filed and signed by the USC groom or groom-to-be.⁷⁰ In addition, failure of the couple to marry once in the United States places the K-1 bride-to-be in an unlawful

63. Immigration and Nationality Act (I.N.A.) of 1952, Pub. L. No. 82-414, § 214(d), 66 Stat. 163 (codified as amended at 8 U.S.C. §§ 1101-1537 (Supp. V 1999)).

64. I.N.A. § 204(a)(1)(A)(iii), 8 U.S.C. § 1154(a)(1)(A)(iii).

65. 8 C.F.R. § 274a (2000).

66. I.N.A. § 214(d), 8 U.S.C. § 1884(d).

67. I.N.A. § 214(d).

68. 22 C.F.R. § 40.1(h)(1)(2000).

69. I.N.A. § 245(a), 8 U.S.C. § 1255.

70. I.N.A. § 204(a)(1)(A)(i) (relating to the I-130 petition), I.N.A. § 214(d) (relating to the K-1 visa application).

status, thus making her ineligible for continuing employment eligibility.⁷¹ Moreover, even if the couple does marry but fails to file the requisite applications for legal permanent residency, the new bride will revert to an unlawful status, and thus be, at a minimum, ineligible for employment authorization. Without the express authorization, cooperation, and participation of the USC groom, an immigrant woman may remain unlawful and thus wholly dependent upon her husband, despite her marriage to a United States citizen.⁷²

While issues of male power and control certainly appear in IMO-based marriages in which there is no domestic violence, male dominance becomes particularly difficult and accentuated for the battered immigrant bride. As a result of the requirement of the participation of her husband in her immigration process, she can only achieve legal status in the U.S. with his assistance. In some instances, the groom may actually wish to keep her in an unlawful status, so as to foster her dependence upon him.⁷³

Lawmakers in the U.S. began to recognize this inequity in 1989 when the House Judiciary Committee on Immigration, Refugees, and International law discussed the issue. While a law was passed in 1990 that provided only a brief flicker of hope for a very select group of battered women,⁷⁴ the progress demonstrated a gradual recognition that immigration laws were failing to protect a very vulnerable class of immigrants, namely the battered brides. Something had to be done.

In 1994, President Clinton signed the Violent Crime Control and Law Enforcement Act of 1994;⁷⁵ Title IV of the Act was subtitled the "Violence Against Women Act" (VAWA I).⁷⁶ Although far-reaching in its provisions for many different victims of domestic violence, of special interest to immigration practitioners are amendments to and additions of I.N.A. §§ 204(a)(1)(A) and (B) and 240A(b)(2) (formerly I.N.A. § 244(a)(3)). Relevant to this discussion, these special provisions provide that an abused spouse of a United States citizen (USC) may file a family preference visa on his or her own behalf without the participation of the abuser;⁷⁷ this is termed the self-petitioning method. Requirements of this application process include an affirmative demonstration by the petitioner that she is a person of good moral character; entered into the relationship in good faith; is the victim of

71. I.N.A. § 214(d); *see also* Immigration and Naturalization Operating Instructions 214.2(k)(5), 8 C.F.R. § 274.a 12(a)(6)(2000).

72. *See* I.N.A. § 245(a). Permanent residency may be granted only upon the filing and approval of an affirmative application for such adjustment; it naturally follows that the failure to file the affirmative application results in a continuing unlawful status. *Id.*

73. *See generally* Orloff et al., *supra* note 48, at 324.

74. I.N.A. § 216(c)(4)(C), 8 U.S.C. § 1186a (c)(4)(C) *added by* Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (1991).

75. Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (1994).

76. *Id.* tit. IV.

77. I.N.A. § 204(a)(1)(A) & (B), 8 U.S.C. § 1154(a)(1)(A) & (B).

abuse or extreme cruelty; and would suffer extreme hardship if deported.⁷⁸ If this application is approved, the petitioner receives an immigrant petition for the United States, which serves as a basis for the application for permanent legal residency in the United States.⁷⁹

Alternatively, an individual may file a petition for "Cancellation of Removal" with an administrative Immigration Judge. This quasi-judicial proceeding is conducted before the Immigration Judge, who makes his or her decision to grant legal permanent residency discretionarily, investigating the continuous physical presence of the bride (who has to demonstrate three years of continuous physical presence in the United States); any incidents of domestic violence which occurred within the United States; the good moral character of the bride; and the extreme hardship she would face in the case of deportation.⁸⁰ If the case is favorably adjudicated, the bride is granted legal permanent residency in the United States, restricted only by a cap on the annual number of VAWA I visas given.⁸¹

Thus, this law is a significant step forward. By so amending the I.N.A., and creating a special class of immigrants, namely battered immigrant brides, the government recognized the severe power differential, and placed at least some of the control in the hands of the battered immigrant women. Yet, as will be discussed below, the 1994 VAWA I falls short of its goal of protecting battered immigrant women, both in its application and interpretation, as well as in its interaction with subsequent, severe federal immigration and welfare laws. As in many cases of progress, the law truly takes two steps forward, and one step back.

IV. THE SHORTCOMINGS OF VAWA I AND SUBSEQUENT FEDERAL LAWS AND REGULATIONS

As discussed, the 1994 VAWA I legislation was the manifestation of a federal recognition of the unique problems faced by battered immigrant women. Yet like any legislation, the 1994 VAWA I was the result of legislative compromise and consideration, the final product of competing interests and issue debates. Thus, it should not be surprising that it contained inherent flaws and shortcomings, which would prove difficult to overcome.

Underlying all VAWA I adjudications is the somewhat problematic nature of the way in which the I.N.S. issues its immigration decisions. As an

78. *Id.*

79. I.N.A. § 204(a)(1)(A)(iii)(I) & (II) (providing classification as an immediate relative and approval of an alien relative petition for qualifying battered immigrant spouses). *See generally* I.N.A. § 245(a) (allowing adjustment of status for a person with an approved immigrant visa).

80. I.N.A. § 240A(b)(2), 8 U.S.C. § 1229(b).

81. *Id.* At the time VAWA was enacted, only 4,000 applicants each year could gain legal permanent residency via this VAWA-related Cancellation of removal program; if more than 4,000 were granted in any fiscal year, the applicant would go into a "quota" and be notified when a number became available, usually at the beginning of the next fiscal year. *Id.*

administrative agency, I.N.S. adjudicators and Immigration Judges are given considerable discretion and significant deference in making individual case decisions.⁸² Moreover, the granting of VAWA I applications is discretionary in nature, thus making any form of judicial review extremely limited.⁸³ Finally, denials by either the I.N.S.'s Board of Immigration Appeals (BIA) or Administrative Appeals Unit (AAU) are appealed to the federal court system for judicial review. Federal judges, however, may lack the experience required to make proper and informed decisions regarding VAWA I applications because domestic violence is essentially a state issue and concern.⁸⁴

Moreover, there is a lack of uniformity regarding evidentiary standards that are applied in the administrative proceedings. As administrative agencies, neither the I.N.S. nor the Immigration Judges are required to adhere to either the state or federal rules of evidence.⁸⁵ Furthermore, these battered, non-English-speaking women may not have objective evidence of their victimization; as stated above, these women face great personal, social, and legal hurdles in coming forward to report the violence, and thus very often do not have police reports or protection orders.⁸⁶ Since documentary evidence of either extreme cruelty or physical violence, good moral character, and ex-

82. *Chevron USA, Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).

The power of an administrative agency to administer a congressionally created . . . program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress. . . . If Congress has explicitly left a gap for the agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation. Such legislative regulations are given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute. Sometimes the legislative delegation to an agency on a particular question is implicit rather than explicit. In such a case, a court may not substitute its own construction of a statutory provision for a reasonable interpretation made by the administrator of an agency.

Id. at 843-44. [citations omitted]

83. Illegal Immigration Reform and Responsibility Act of 1996 (IIRIRA)(H.R. 3610), Division C of the Omnibus Appropriations Act of 1996 (H.R. 3610), Pub. L. No. 104-208, 110 Stat. 3009, § 306(a)(2), amended I.N.A. § 242(a)(2)(B)(ii), 8 U.S.C. § 1252(a)(2)(B)(ii) (providing that there is no federal review of "any other decision or action of the Attorney General for which is specified under this title to be in the discretion of the Attorney General.").

84. Susan Girardo Roy, *Restoring Hope or Tolerating Abuse? Responses to Domestic Violence Against Immigrant Women*, 9 GEO. IMMIGR. L.J. 263, 275 (1995).

85. *Matter of Barcenas*, 19 I & N Dec. 609, 611 (1988), 1988 LEXIS 14, *4. "Deportation proceedings are civil in nature and are not bound by the strict rules of evidence. . . . Rather, the tests for the admissibility of documentary evidence in deportation proceedings are that evidence must be probative and that its use must be fundamentally fair." (citing *Tashnizi v. INS.*, 585 F.2d 781 (9th Cir. 1978), *Trias-Hernandez v. INS.*, 528 F.2d 366 (9th Cir. 1975), *Marlowe v. INS.*, 457 F.2d 1314 (9th Cir. 1972), and *Matter of Toro*, 17 I & N Dec. 340 (1980)). *Id.*

86. Gail Pendleton, *Applications For Immigration Status Under The Violence Against Women Act (VAWA)*, in 1999-00 IMMIGRATION & NATIONALITY LAW HANDBOOK 566, 575 (R. Murphy & A. Novick, eds., AILA 1999).

treme hardship is an absolute requirement of a VAWA I application,⁸⁷ those women who have silently endured the violence may find themselves unable to meet the evidentiary standards.⁸⁸

Furthermore, the passage of two additional federal laws, passed by an ideologically conservative legislature, severely undercut the applicability of the 1994 VAWA I laws. The first federal legislation is the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.⁸⁹ Passed in 1996, this legislation severely limits an immigrant's right and access to any form of public monetary assistance. While the law does provide an exception for battered immigrant women, it adds three key requirements to the receipt of public monetary assistance: that a prima-facie VAWA I application be filed, that the woman no longer reside with her batterer, and that her need for welfare is "substantially connected" to her battery and abuse.⁹⁰ Thus, the government assumes an entirely paternalistic role in the woman's life, requiring that she leave her husband, and often her only means of financial support, for the uncertain realm of welfare determination. Additionally, the "substantial connection" requirement makes the provision of welfare highly subjective and indeed tenable, thus forcing her to leave one dominator for another.

Moreover, welfare reform has created significant problems for those women whose husbands have prevented their acquisition of I.N.S. permission to work in the United States. Social Security regulations require that any alien in the United States document his or her legal permission to work as a condition precedent to receiving a social security number.⁹¹ If her abusive husband has prevented her from obtaining I.N.S. permission to work, the battered immigrant bride who truly needs public monetary support can alternatively provide "a letter, on letterhead stationery (no form letters or

87. 8 C.F.R. § 216.5(e)(3)(iv) (2000).

88. The I.N.S. recognized this problem in 1996 and produced a memorandum that provided the first list of extreme hardship factors tailored to the arena of domestic violence. See Aleinikoff, Executive Associate Commissioner, Office of Programs, INS Mem. HQ 204-P (April 16, 1996) (available from National Immigration Project of the National Lawyers Guild). Factors to be considered included the need for United States services that are unavailable in the immigrant's homeland; the need for ongoing access to the U.S. civil and criminal courts; likelihood that the abuser would follow the immigrant to her homeland and the lack of protective laws in that homeland; likelihood that the applicant would suffer ostracism, penalizations, or harm if returned; and the effect of the abuse on any of the applicant's children. Yet, some judges used this list as an inflexible and exhaustive checklist, thus denying cases in which the bride could not "check off" enough of the factors. *Id.*

89. Welfare Reform Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

90. See Kelly, *supra* note 30, at 304 & 318 (discussing generally IIRIRA § 501, which amended §§ 431 & 421, respectively, of the Welfare Act. Specifically, these provisions allow the consideration and inclusion of a household member's income in the requestor's determination for welfare; if the victim is still living with her batterer, his income will be counted against her for welfare determination purposes, thus effectively making her ineligible for financial assistance.)

91. SOCIAL SECURITY ADMINISTRATION, PUB 05-10002, YOUR NUMBER AND CARD: HOW DO I GET A NUMBER AND CARD? (1999), available at <http://www.ssa.gov/pubs/10002.html> (last visited Jan. 10, 2001).

photocopies), from the government agency requiring [her] to get a number. The letter must specifically 'identify [her] as the applicant, cite the law requiring [her] to have a Social Security number, and indicate that [she] meets all the agency's requirements, except having the number.'"⁹² While appearing to be an alternative, it is clear that the requirement of the letter is a significant hurdle for those women who lack English proficiency, confidence in the governmental system, and simple things such as transportation to the various offices. Indeed, the governmental process from which the women may receive much-needed financial assistance can become an uncertain and humiliating experience.

The year 1996 was also marred by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA),⁹³ a legislation bill that was aimed at "detecting, apprehending, and removing those aliens unlawfully present in the United States."⁹⁴ A very complex and far-reaching bill, IIRIRA impacts battered immigrant women in two unique ways. First, the law makes the commission of domestic violence a deportable crime.⁹⁵ Although appearing at first blush to protect the battered immigrant woman, it makes her vulnerable to deportation if she ever defends herself or is mistakenly identified as a mutual batterer in a police report. Moreover, the IIRIRA laws make unlawful entry into or presence in the United States a crime that is punishable by deportation and/or a legal bar from attaining lawful permanent residency.⁹⁶ Waivers to this unlawful entry or presence are available only if the bride can, once again, demonstrate a "substantial connection" between her unlawfulness and the abuse and battery.⁹⁷ Thus, the battered bride again is faced with evidentiary burdens, uncertain administrative proceedings, and governmental suspicion, all weighing against her departure from her brutal, yet more predictable, husband.

Finally, there are miscellaneous sections of VAWA I and IIRIRA that very often prevent the successful application of the VAWA I goals, and perpetuate the male power and control of the battered immigrant bride. First, the VAWA I laws are applicable only to those women who actually marry their abusers; if the USC groom-to-be refuses to marry his immigrant fiancée, she can not reap the benefits of VAWA I, regardless of the brutality and pain. Additionally, the couple has to be married at the time the VAWA I application is filed; in states in which divorces are granted with little or no waiting

92. SOCIAL SECURITY ADMINISTRATION, PUB NO. 05-10096, *LAWFULLY ADMITTED ALIENS—WHEN YOU NEED A NUMBER AND WHEN YOU DON'T* (2000), available at <http://www.ssa.gov/pubs/10096.html> (last visited Jan. 10, 2001).

93. Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 3009, Division C of the Omnibus Appropriations Act of 1996 (H.R. 3610).

94. IIRIRA § 659.

95. IIRIRA § 350.

96. Immigration and Nationality Act (I.N.A.) of 1952, Pub. L. No. 82-414, 66 Stat. 163, § 212(a)(6)(A) & (9) (codified at 8 U.S.C. § 1182 (a)(6)(A) & (9)).

97. I.N.A. § 212(a)(9)(B)(iii)(IV).

period, the batterer can effectively race to the courthouse, and thereby terminate the marriage prior to the VAWA I filing. Moreover, the abuse has to occur within the United States to be considered in a VAWA I application; this effectively eliminates all women who are wives of public or private sector employees who resided overseas.⁹⁸ Finally, brief marriages followed by VAWA I applications instantly raise suspicions of fraud; the “good faith” element of any VAWA I case can be discretionarily denied if the adjudicator believes that the woman is committing fraud and deceit, namely marrying a USC simply for purposes of immigrating. Thus, this practice curiously discourages a battered woman from leaving the relationship too quickly, an ideal that seems contrary to other laws such as the above-mentioned Welfare Reform Act.⁹⁹

The simple numbers relate that while the 1994 VAWA I had good intentions, it has failed in its application. In fiscal year 1996, approximately 1,000 battered women applied for relief through the VAWA I program; a mere 27 received approval.¹⁰⁰ The following year, over 2,500 VAWA I applications were received; only 178 successfully obtained legal permanent residency via the program.¹⁰¹ The numbers have not significantly improved, despite the centralization of VAWA I processing, the education of Immigration Judges and I.N.S. adjudicators, and the increased exposure of the program. Indeed, a bridge is sincerely and urgently needed to fill the gap between the needs of the battered immigrant brides and the solution to their situation.

V. BRIDGING THE GAP?

In October 2000, President Clinton signed the Victims of Trafficking and Violence Protection Act of 2000.¹⁰² Title V of this Act is titled the Battered Immigrant Women Protection Act of 2000,¹⁰³ and is aimed at alleviating some of the major shortcomings in the application and interpretation of the 1994 VAWA I regulations. Coined “VAWA 2000,” this new law included several positive changes.¹⁰⁴ Principally, the absolute requirement of marriage is eliminated; a battered woman can now apply for VAWA if her marriage is deemed invalid (due to bigamy, for example), or if she has a

98. I.N.A. § 204(a)(1)(A) & (B), 8 U.S.C. § 1154(a)(1)(A) & (B); I.N.A. § 240A(b)(2), 8 U.S.C. 1229(b).

99. Pendleton, *supra* note 86, at 577.

100. I.N.S., *supra* note 3, at *2 & 9.

101. *Id.*

102. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1543.

103. Battered Immigrant Women Protection Act of 1999, Division B of Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1543, tit. V, § 1501.

104. This Comment will not exhaustively examine all of the changes made to the 1994 VAWA laws; only those mentioned in Part IV of this Note will be discussed.

good faith intention to marry.¹⁰⁵ Moreover, a woman remains eligible to file a VAWA 2000 application in the event of the death, deportation, or divorce of her husband, so long as she files within two years of the event.¹⁰⁶ Additionally, the U.S. residency requirement has been modified to state that a battered woman is eligible to file for VAWA 2000 relief if she is the spouse or intending spouse of an employee of the U.S. government or a member of the uniformed services, even if she has never been the subject of battery while in the United States.¹⁰⁷

VAWA 2000 also provides some new avenues with regard to the “extreme hardship” and “good moral character” requirements. Principally, the “extreme hardship” requirement is eliminated for all self-petitioning VAWA 2000 applications (i.e. those that are not adjudicated before an Immigration Judge).¹⁰⁸ Furthermore, reported incidents of domestic violence committed by the VAWA 2000 applicant (either in self-defense or police reports which indicate mutual violence) can now be waived in the consideration of “good moral character;” the VAWA 2000 applicant need only show that the offense is connected to her husband’s incidents of domestic violence.¹⁰⁹ Thus, while not eliminating all of the hardships created by IIRIRA, the Welfare Reform Act, and gaps in the 1994 VAWA I program itself, VAWA 2000 is a significant step forward in reducing the amount of power and control that can be levied by both the abuser and the United States government.

Similar to the 1994 VAWA I, the new VAWA 2000 is a product of legislative compromise and is fraught with gaps and potential denials. While there is no doubt that the U.S. government has good intentions with regard to assisting battered immigrant women,¹¹⁰ the developed laws and the application of those laws, fail to consider the cultural and situational nuances of the battered immigrant bride, ultimately risking complete ineffectualness of those hard-fought laws.

First and foremost, the VAWA 2000 continues to rely upon showings of connections between the abuse and any disfavored activity. For example, the sections that permit the filing of VAWA 2000 applications, despite the termination of the marriage, are laden with terms such as a “demonstrated connection between” and “related to an incident of” domestic violence.¹¹¹ Thus,

105. Violence Against Woman Act of 2000 (VAWA 2000), Division B of Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1543, § 1503(b)(1)(A) (to be codified at I.N.A. § 204(a)(1)(A)(iii)(I)(aa) & (bb)).

106. *Id.* § 1503(b)(1)(A) (to be codified at I.N.A. § 204(a)(1)(A)(iii)(II) (aa)(CC)(bbb) & (ccc)).

107. *Id.* § 1503(b)(3) (to be codified at I.N.A. § 204(a)(1)(A)(v)(I)(aa) & (bb)).

108. *Id.* § 1503(b)(1)(A) (to be codified at I.N.A. § 204(a)(1)(A)(iii)(II)(aa)-(dd)) (preserving only the requirements of a good faith marriage (or good faith intent to marry), good moral character, eligibility as an immediate relative, and residence with the spouse or intended spouse).

109. *Id.* § 1503(d)(2) (to be codified at I.N.A. § 204(a)(1)(C)).

110. *Id.* tit. V, § 1502.

111. *Id.* § 1503(b)(1)(A) (to be codified at I.N.A. § 204(a)(1)(A)(iii)(II) (aa)(CC)(bbb) &

the favorable adjudication of the case returns to uncertain evidentiary standards that, as discussed above, many women may find difficult to meet. In addition, divorces are often conducted in “no-fault” states in which the reason for the divorce is never developed.¹¹² Uninformed divorce attorneys may fail to advise their clients to report the domestic violence in connection with the divorce, thus eliminating their ability to demonstrate the requisite connection. Finally, women who remain overseas not with a U.S. government employee or uniformed service man, but with a private sector employee are fully excluded from VAWA 2000 eligibility, leaving a group of battered women for whom the law has no remedy.¹¹³

Furthermore, none of the aforementioned problems associated with the receipt of public financial assistance are discussed or remedied in the new VAWA 2000. A battered immigrant bride may still be ineligible to receive vital monetary assistance if she is unable to obtain a social security number, is still living with her batterer, or cannot affirmatively demonstrate that her need for public assistance bears a substantial connection to the abuse she endured.¹¹⁴ Finally, her receipt of public assistance may, even subconsciously, persuade an immigration judge or I.N.S. adjudicator to deny her VAWA 2000 application based upon a lack of good moral character; indeed, there have been documented cases in which the receipt of public assistance tipped the scale toward denial of her application.¹¹⁵

Finally, there are severe shortcomings in the treatment and handling of battered immigrant brides, and especially those from IMO-based marriages. Principally, the government has assumed a very paternalistic, victim-focused and culturally-ignorant role in the treatment of battered immigrant women. At its heart, the VAWA laws appear to assume that women will come forward from their violent marriages, but do nothing to assist with the process. They are after-the-fact laws. They do not facilitate her preparation or departure, and fail to give her a bridge on which she can rely to make the transition from her brutality. As discussed at length in Part II of this Comment, Russian brides of IMO-based marriages face extreme language barriers, fear and mistrust of the government, a historical repression of identity and a tolerance of domestic violence, a husband who may feel a financial ownership interest in his wife, and a fear of being deported disgracefully back to her homeland. These are significant, and immigrant-unique, barriers to emerging from a violent marriage, none of which are considered or discussed in the VAWA laws.

Affirmative VAWA filings can be very risky. Once these women emerge to file VAWA applications, they have exposed themselves to the

(ccc)).

112. See, e.g., CAL. FAM. CODE §§ 2310 & 2311; see also CAL. FAM. CODE § 2335 (specific acts of misconduct are generally inadmissible in a divorce proceeding).

113. VAWA 2000 § 1503(b)(3).

114. IIRIRA, § 501. See also Kelly, *supra* note 30, at 304, 318.

115. Roy, *supra* note 84, at 287.

I.N.S. authorities. If these women have divorced their abusive mates, their only method of immigration is now the VAWA application.¹¹⁶ The VAWA standards are far from clear or easy to attain and approval rates are still low. The women whose applications are denied are then forced to choose between returning to their brutal husbands (if their marriage is still legally intact), or leaving this country permanently. Thus, the VAWA applications have within them an inherent punishment: if the battered woman fails to meet the burdensome and hazy evidentiary requirements, she usually must return to her homeland. This is indeed a unique aspect of immigration-related domestic violence and one that has, again, never been addressed.

Overall, the VAWA law exemplifies a system-wide indifference to the cultural nuances of domestic violence, and places the bride at the mercy of a new dominator, the government. It forces a battered woman to leave before she may be logistically and emotionally prepared, and places her in a position in which she must be rid of her mate before she can knock at the government's door. Certainly, the act of leaving is a threat to the batterer, one that "reflects his loss of power and control over his spouse," thus making separation assault a very real danger, one that is known and documented.¹¹⁷ With such clear knowledge of the potential risks involved with leaving, should there be a concurrent duty on the government to warn the abused woman of the risks involved in her forced departure?

Ultimately, education will likely play a major role in preventing the violence. Education of the Russian IMO-based brides is an absolute requirement; without the powerful tool of knowledge, these women can be easily manipulated by their battering spouses. Interestingly, a section of the 1996 IIRIRA mandates that the Attorney General study the potential abuses in the IMO-based courtships and marriages.¹¹⁸ Could this potentially clear the way for a legislative requirement that all IMOs educate their clients regarding VAWA and its availability? While certainly positive, it is unlikely that IMOs will voluntarily comply. The IMOs receive their income from the men who seek foreign brides; warnings to the women about domestic abuse are likely to be disfavored by those men, who may overtly or subconsciously delight in the power differential in their relationship. Additionally, the United States legislation could reach only to those IMOs that operate from within the United States; IMOs may avoid any legislation by simply relocating to a foreign locale. Finally, monitoring compliance with any laws would be extremely difficult unless the immigrant women complete questionnaires regarding their legal education.

116. More traditional methods of immigration are, of course, always available (i.e. employment-based, or immigration through another family member, etc.); yet this Note focuses on potential immigration through the marriage to the USC husband, which, of course, is terminated upon divorce.

117. Kelly, *supra* note 30, at 320.

118. IIRIRA § 652.

An option and alternative to mandating IMO-originated education may be to require Consular and I.N.S. officials processing IMO-based fiancée and marriage visas to provide information, in the immigrant's native language, regarding the VAWA provisions. While this approach will likely increase the costs and time associated with the immigration of IMO-based fiancées or brides, it may serve to educate not only the immigrant, but the I.N.S. officials themselves!

Education of the I.N.S. officials and immigration judges who are adjudicating VAWA applications is a vital piece of the puzzle. Those charged with weighing the evidence must be educated about the cultural, societal, economic, and personal issues of the immigrant bride, and must be encouraged to integrate these considerations into their decisions. They must be informed about several things, including Russia's domestic violence epidemic and lack of governmental intervention to explain the battered bride's hesitancy to leave her marriage, the severe barriers she faces to explain her need for welfare, her sheer desperation to leave her native homeland to explain her desire to marry a near stranger, and her country's historical pattern of individual repression to explain her reticence to quickly assert her legal rights. These cultural nuances and patterns must be included in the VAWA adjudication in order to fully understand the motivations, fears, and experiences of the battered bride.

VI. CONCLUSION

While the problem of abuse in IMO-based marriages is clear for those who open their hearts and eyes, stereotypes and ignorance still exist. As one IMO commentator stated:

As far as abuse is concerned . . . it seems logical that since men soliciting the help of the [IMO] are almost exclusively well educated, have middle to upper class lifestyles, and have a higher than average paying job, they are less likely to beat their wives than a lower class, uneducated, lower income American male.¹¹⁹

Such statements show that ignorance is not only rampant but is perpetuated by those who this "mail order bride" industry ultimately serves: the pocketbooks of the IMOs. Sadly, ignorance can be not just insulting, but sometimes deadly.¹²⁰

While the United States fervently declares itself committed to helping battered immigrant brides, its laws fail to consider a vital key element: the cultural experiences and resulting characteristics of the battered bride. Hopefully this Comment will serve as a call for cultural understanding in the ad-

119. I.N.S., *supra* note 3, at *4-5.

120. *See, e.g.,* Janie McCauley, *Husband Held in Death of Mail-Order Bride*, SAN DIEGO UNION-TRIB., Jan 5, 2001, at A6.

judication of current VAWA laws and in the creation of future laws. The voices of the battered immigrant brides must not only be heard, but truly understood.

*Tiffany E. Markee**

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