



UNIVERSITY of
SAN FRANCISCO

A publication of the
**University of
San Francisco
Center for the
Pacific Rim**
Copyright 2006

Editors

Joaquin Gonzalez
John Nelson

**Graduate Student
Editor**

Patricia Moras

Editorial Consultants

Barbara K. Bundy
Hartmut Fischer
Patrick L. Hatcher
Richard J. Kozicki
Stephen Uhalley, Jr.
Xiaoxin Wu

Editorial Board

Yoko Arisaka
Bih-hsya Hsieh
Uldis Kruze
Man-lui Lau
Mark Mir
Noriko Nagata
Stephen Roddy
Kyoko Suda
Bruce Wydick

Asia Pacific: Perspectives
Center for the Pacific Rim
2130 Fulton St, LM202
San Francisco, CA
94117-1080

Tel: (415) 422-6357
Fax: (415) 422-5933
perspectives@usfca.edu

Asia Pacific:

PERSPECTIVES

an electronic journal

Volume VI · Number 1

15 May · 2006

Special Issue: **PHILIPPINE STUDIES AND THE CENTENNIAL OF THE DIASPORA**

Philippine Studies and the Centennial of the Diaspora: An Introduction	>>.....Joaquin L. Gonzalez III and Evelyn I. Rodriguez	1
<i>Primerang Bituin: Philippines-Mexico Relations at the Dawn of the Pacific Rim Century</i>	>>.....Evelyn I. Rodriguez	4
Mail-Order Brides: A Closer Look at U.S. & Philippine Relations	>>.....Marie Lorraine Mallare	13
Apathy to Activism through Filipino American Churches	>>...Claudine del Rosario and Joaquin L. Gonzalez III	21
The Quest for Power: The Military in Philippine Politics, 1965-2002	>>.....Erwin S. Fernandez	38
Corporate-Community Engagement in Upland Cebu City, Philippines	>>.....Francisco A. Magno	48
Worlds in Collision	>>.....Carlos Villa and Andrew Venell	56
Poems from Diaspora	>>.....Rofel G. Brion	57
Reflections on Philip Vera Cruz and the Filipino Diaspora	>>.....Joaquin L. Gonzalez III	59
An Interview with Philip Vera Cruz, Spring 1971	>>.....Sid Valledor	61
Yuchengco Media Fellowship Announcement, Spring 2007	>>.....	64
<i>Asia-Pacific Social Science Review</i> Call for Papers	>>.....	65
USF Centennial Conference Announcement	>>.....	66

Asia Pacific: Perspectives is a peer-reviewed journal published at least once a year, usually in April/May. It welcomes submissions from all fields of the social sciences and the humanities with relevance to the Asia Pacific region.* In keeping with the Jesuit traditions of the University of San Francisco, *Asia Pacific: Perspectives* commits itself to the highest standards of learning and scholarship.

Our task is to inform public opinion by a broad hospitality to divergent views and ideas that promote cross-cultural understanding, tolerance, and the dissemination of knowledge unreservedly. Papers adopting a comparative, interdisciplinary approach will be especially welcome. Graduate students are strongly encouraged to submit their work for consideration.

* 'Asia Pacific region' as used here includes East Asia, Southeast Asia, South Asia, Oceania, and the Russian Far East.

Mail-Order Brides: A Closer Look at U.S. & Philippine Relations

by Marie Lorraine Mallare, J.D.

Abstract

This legal commentary explores the issues of the mail order bride and sex trafficking industry. It is an attempt to look at the relationship between the United States of America and the Philippines and whether these allies have laws that protect women who are caught in the mail order bride system. It also explains the harm of stereotyping Filipinas or women of Asian descent as sex workers, and the need to protect women from possible abuse by their white male perpetrators. Lastly, the article provides analysis of the laws that are currently in place and whether these laws are effective or outdated.

Through this legal commentary, I seek to change the perspectives and perceptions of how men, particularly “white men,” perceive Filipina women (or *Pinays*). At the age of nine, I was sent to the Philippines to attend elementary school. My mother believed that the best way for me to learn the Philippine language and culture was to immerse me. I studied at an exclusive school for girls located in Quezon City, which was directly controlled and managed by the Maryknoll Sisters. On my first day in school, as we were making our introductions in class, I was asked by my teacher: “What are your parents’ occupations?” I proudly responded: “My father works for the U.S. Navy and is currently on the aircraft carrier *USS Enterprise*, and formerly, my mother was an aide to then President Ramon Magsaysay.” The class burst out in laughter. I did not understand why. A girl seated close to me asked, “Are you a G.I. baby?” I did not understand what she meant by saying this? After class my teacher called me and asked me if I was alright. I said, “I was fine”. That afternoon, on the school bus going home, I heard the other girls talking about me. Still I did not know why. When I arrived home I immediately told my mother and *Tita*¹ about the incident in school. They explained to me that any mention of the “U.S. military” connotes that my mother is either a bar girl or a prostitute. Further, it also meant that my mother probably married a white man to get to the U.S. It was surprising to hear this. After that I made sure that I did not talk about my parents as much. I refused to even mention the word “U.S. Navy”. Then, I believed that there was something strange about my father’s occupation. I want to explain to the world that Filipina women are not all stereotypically in the sex industry. The United States military installations in the Philippines, particularly Clark Air Base and Subic Naval Base, have brought this horrible image since the local economies around these bases became dependent on “rest and recreation” dollars. The Philippines history of foreign occupation, in addition to the resulting military sexual colonialism that persisted even after the country gained inde-

pendence from the United States on July 4th, 1946, contributes to Filipinas’ acceptance of marriage to foreigners: in particular the belief that white foreigners are more desirable husbands.² As for my parents, they are both of Filipino descent.

The label “mail-order bride” often brings to mind historical images from times long gone. However, this form of trafficking women internationally thrives in the modern global economic system. Operating virtually without regulation, the modern mail-order bride industry prospers by exploiting the power disparities between men and women, rich and poor, those from developed economies and those from developing economies. Young women from poor families in economically struggling nations are transported from their homes, like products, to male citizens of economically advantaged nations under the supervision of for-profit companies known as “mail-order bride agencies.” Throughout the world, the industry is responsible only to its consumers and its own budget. The United States, a destination (or “import”) nation for this industry and the Philippines, one of the most prominent origin, or “export” nations, exemplify the modern state players in the mail-order bride industry.

The mail-order bride industry has been criticized by social and legal commentators for its exploitation of women, creation of immigration problems, perpetuation of stereotypes, and tendency to create situations in which domestic violence thrives. A few laws have been enacted in the United States and the Philippines which attempt to regulate these problems. However, the legislation that does exist has proven largely ineffective to curb the problems associated with this practice of trafficking women. While the number of mail-order bride companies are on the rise and the industry thrives, the harms to the women trafficked have not begun to subside. Recommendation of future attempts to regulate the industry should include international cooperation and concerted multinational effort to control the supply and demand forces in the industry on a global level, rather than attempt to exert control from the national level.

In this legal commentary, I will examine the state of the mail-order bride industry in the United States and the Philippines, legal regulations, and the potential alternatives to current regulations schemes. I assert that the business trade of Filipina or Asian women mail-order brides is premised on the male consumer’s racialized expectations of sexual and domestic labor services to be provided within the privacy of the home. Women are commodities, whether one comes from a privileged background or not. The bottom line is that Filipina women are preyed on as if there is a “For Sale” sign on their foreheads. I argue that international sex trafficking, including mail order brides is a form of prostitution. Although, one can argue that there are some successful relationships from the business of mail-order brides. Overall, the business connotes that women from the Philippines are prostitutes. This commentary ends with a call for more effective transnational regulation that addresses these problems, and suggests possible content for these international legal instruments.

Background

When the U.S. bases leave, we will still be prostitutes servicing not only the Americans but also the multinationals.

-A former Olongapo bar girl

This statement accurately describes the direction in which the former American military bases in the Philippines are going, transformed in pursuit of the *Medium Term Philippine Development Plan* (MTPDP or Philippines 2000)³ from exclusive “rest and relaxation: preserves of the U.S. military into a big brothel for multinationals.

The MTPDP was former President Fidel Ramos’ economic blueprint for attaining the status of a newly industrialized country (NIC) by the year 2000, following the footsteps of Asian tigers and cubs like Japan, Taiwan, Hong Kong, South Korea, Singapore, and Malaysia. This plan envisions the establishment of regional agro industrial estates with export processing and tourism as the main economic activities. The plan conforms to the set of conditions laid out by the current Structural Adjustment Program (SAP) of the International Monetary Fund (IMF) and the World Bank (WB). Foreign investments and foreign loans have so far come in trickles. Revenue from the garment and electronics industries (of which more than 80 percent of the work force are women) and remittances sent home by overseas contract workers and migrants (of which more than 50 percent are women) currently prop up the economy and fuel Ramos’s MTPDP. Women are proving to be the very backbone on which the government is relying to subsidize the ambitions Philippines 2000 plan. With Business comes pleasure. The MTPDP integrates sex tourism into the overall scheme to attract foreign investors, using women as lures. In Cebu, the number of female prostitutes has doubled since the city launched a campaign to attract investment. From March 1992 to June 1993, the number registered commercial sex workers increased from 1,557 to 2,189.⁴ In Laoag City, where direct international flights from Taiwan bring in Taiwanese businessmen, prostitution also increased, and in another town in Central Luzon, there was an observable increase in the number of prostitutes working in beer houses and clubs along the highway.

The Philippines, a predominantly Catholic nation, women’s source of income are a contradiction to the beliefs of the church. The average daily wage in the Philippines is P118 pesos (about \$4.20 U.S.). The average daily cost of living for a family of six (the size of the average family) is P286 pesos (about U.S. \$10.20). Children, as well as both parents, may have to work in order to earn enough to maintain the family.

For an increasing number of women, the only option other than prostitution is to migrate to other countries as brides, contract workers, or sex workers. In a country where 70 percent of the population lives below the poverty line, where 20 percent of the population⁵ (landlords, big businessmen, and bureaucrats) controls 52 percent of the national income, and where women continue to be marginalized in a development process that favors the rich, women will contin-

ue to migrate in large numbers to foreign countries to seek the proverbial greener pastures.

Scattered throughout 132 countries, most of the Filipinas that have migrated abroad in the last ten years have found work as domestic helpers, chambermaids, entertainers, nurses or prostitutes. Marginalized in low-status jobs as migrants who do not enjoy the rights of citizens in the receiving countries, they are particularly vulnerable working in the private sphere of the home, where they live and render services beyond the reach and foreknowledge of entities that could provide them with needed assistance and protection.

When the floodgates of labor export were opened, trafficking of Filipina women abroad for prostitution became a systematized, large-scale operation. Migration for work, the mail-order bride system, and direct recruitment for the global entertainment industry were the channels. Filipino women in these situations frequently experience violence or other forms of abuse. In Japan, where about 90 percent of Filipinas work as entertainers, the women become easy prey to the Yakuza underworld of drugs and prostitution.⁶ In Australia, fifteen Filipinas have been murdered by their husband since 1980.

Filipina migrants contribute greatly to propping up the Philippine economy through their tax remittances to the Philippine government, which if one includes those paid by Filipino male migrants total an average of \$3 billion. Interestingly, after centuries of “development,” women are still playing the centuries-old role of *pambayad utang*: payment for loans incurred. During the Spanish colonial period, the *encomienda* was an administrative unit set up to facilitate and systemize the exacting of tributes and taxes from the Filipino people. Included in the “payments” was forced and unpaid labor for the Spanish conquistadores, and women were included to meet production quotas, do unpaid labor as farm workers, and render free menial services in the convents. In many instances, women were forced to render sexual favors to the Spanish friars and officials. Filipino peasant families were often forced to surrender their daughters to *hacienda* owners and landlords to work at jobs as payment for unpaid loans. The country lives off the exploitation of Filipino women’s labor and their sexual commodification, both in the Philippines and abroad.

Poverty and gender roles in the Philippines are the typical forces that turn Filipinas to the mail-order bride industry. Unemployment rates, particularly for women, have soared in recent years.⁷ Social and economic programs aimed at stimulating employment growth and entrepreneurship are generally considered insufficient to meet the needs of Filipinas especially in a world with permeable borders.⁸ The culmination of these effects is that “women must seek their own survival outside the formal wage economy.”⁹ For many women, this means the choice between work as a migrant laborer or as a prostitute.¹⁰ The mail-order bride industry has provided them with an additional option.

Defining Prostitution: Language and Discourse

Prostitution in the Philippines affects large and still growing numbers of women and children.¹¹ Sex businesses

in many forms are becoming a part of the economic life of most cities and towns.¹² Local clients of all ages and social classes constitute the major maintaining factor, but a foreign clientele of tourists, traveling businessmen and military personnel are particularly visible. There is trafficking in women and girls both for an internal and international sex market.¹³

Because of the magnitude of the phenomenon and its integration into economic structures and activities, intervention efforts are particularly difficult. More than ever, therefore, there is a need for collective thinking on the fundamental issues and for a review of programs and services being carried out towards their greater effectiveness. Further, the advocacy from some quarters for the recognition and acceptance of prostitution as work, and for its legalization, also needs to be analyzed. A clear analytical framework is necessary to underpin both immediate responses and longer-term, strategic interventions.

Language is always reflection of the beliefs and attitudes of a culture. The language used to refer to issues of sexuality is loaded with both clear and hidden messages that express very different attitudes towards women and men, often mirroring the lower or disadvantaged position of women in the culture.

In referring to sexual intercourse, women very often say: "*Ginamit ako ng asawa ko*" ("my spouse used me")¹⁴ although there are other terms used which are not so descriptive. Men may also say something like, "*Hindi ko ginagamit ang asawa ko pag fertile siya* (I do not have sex with my wife when she is fertile)"¹⁵ referring to a family planning method. What this language use reveals is that sexual activity is often expressed and experienced as a man's activity that women submit to or allow to happen to their bodies. This very prevalent idiom seems to exclude an understanding of mutuality, equal participation and benefit in sexual relations.

Many cultures unquestionably value women's virginity or chastity but not that of men. Women are expected to have one sexual partner, preferably for life. What this tells us is that "good" women are considered sexual territory that men can lay claim to or have property rights over. If a woman is raped or has sex with a man not her husband, she is considered damaged because a man has entered her body and "soiled" her: "*Nadumihan, may nawala sa kanya*" (She's dirty, she's not the same and lacks her original state of being).¹⁶

In the language of sexualized advertising or sexualized entertainment, women and girls are often described as having qualities that are sexually desired by men. "*Batang-bata, sariwang-sariwa*" (She's very young and fresh)¹⁷ promised the promotional material for a film. The youth and freshness of girls are to be put at the disposal of men for their use and enjoyment.

Probably the most common expletive in the language is "*Putang ina mo!*" (Your mother is a whore!)¹⁸ Constantly used as the most forceful verbal abuse, expression of irritation, or anger. The contradictions inherent in the system of prostitution are expressed in these three words. On the one hand, prostitution is a system that caters to the sexual demands of men from all social classes, far more numerous than the num-

ber of women in prostitution. Signs on Quezon City establishments saying: *Wanted Sexy Dancer, Wanted GRO (Guest Relations Officer), Wanted attractive girls with pleasing personality*,¹⁹ show that here is a large and unfilled demand for female services for men that establishments try to cash in on. The unspoken "service" is usually prostitution.

On the other hand, however, the worst scorn and contempt is directed at women in prostitution, they are considered the lowest of the low, although they are precisely *doing what men want*. The culture directs no scorn whatsoever at the men who use prostitution. The word *prostitute* is therefore loaded with that contempt, but no word at all exists for the men users of prostitution although they constitute by far the larger population and the more important factor in the existence and maintenance of the system of prostitution. It is different from the case of rape, where there is a word for *rapist*. In both situations, it is the man carrying out physical and other acts on the body of the woman for his gratification and sense of power.

The explanation is not valid that would say that women's "consent" is the determining reason for the language difference because millions of women and girls historically, and in the world today, are held in sexual slavery in brothels and other establishments, and are tricked and trafficked precisely to be put into such establishments. Even in such cases, the women are "prostitutes" with all the contempt the word connotes, and the male users of these sexual slaves are merely "men", with all their social standing intact. In fact, in feminist analysis, there may not be a contradiction at all. Contempt for women is part and parcel of prostitution sex, for looking down on women allows men to do whatever they want with women's bodies, including the most degrading and abusive acts that they would not be able to do with non-prostitute women, as women in prostitution have frequently recounted.

The term *sex worker* most likely had its source in and certainly was given wide currency by international health and funding organizations, especially in connection with the HIV/AIDS issue.²⁰ When it first started to be heard in place of *prostitute*, the term appeared at first glance to offer relief for the population of women in prostitution from the historically oppressive and woman-hostile weight of the word *prostitute*. As such, it was readily accepted and used by official agencies, the media and a part of the non-governmental organizations (NGO) community. A closer examination of this language use, however, reveals a two-edged sword that many feminists believe work against women's better interests and the struggle for the upliftment of women's status and for gender equality.

The term is premised on the idea that catering to men sexually is indeed an area of labor. It poses no critique whatsoever of prostitution as a gender-based institution, and in fact normalizes it by creating the category of *sex worker* to stand alongside such mainstream occupations as social worker, community health worker, overseas contract worker and so on. It therefore accepts that women should render sexual "services" to the general population of men as a response to

a legitimate social demand and thereby renders invisible the gender-biased social construction of sexuality.

The term also implies that it is men's right to buy sex through the bodies of women and girls. The use of the term therefore legitimizes patriarchal culture, male sexual privilege over women and systems of double standards. Accepting these premises negates women's long struggle against being defined as and reduced to sex in such phenomena as sexualized advertising and entertainment, pornography, even beauty norms and contests.

It would seem the result of an incredible lack of discernment and sensitivity that allows the use of the term *child sex worker* even as the phenomenon of the sexual exploitation of children in prostitution and pornography elicits general outrage and condemnation.²¹

It must be clear that these are *abused* children often suffering severe disorientation and trauma, and not workers whose terms and conditions of labor must be improved. The language used must make clear that this is a completely intolerable phenomenon. The language of work merely muddies and confuses the issues.

Women have historically been a subordinated group, excluded, for example, from political and economic power or from equal status with men in the world's religions. Men have created social and political institutions, defined women's roles and place within them, and laid down the language that reflects those power-based structures. It is telling that in many languages, there are many more terms of abuse and contempt for women than for men.

Language must be created that shows that prostitution is not an institution of women or even fundamentally about women, but rather that it is a system of male appropriation of women's bodies and sexuality. The language must not shy away from or neutralize what is a harsh and cruel reality for women.

In the Philippines, non-governmental organizations (NGO's) use the term *women in prostitution* to express the reality of women and girls being absorbed, enticed into and kept in prostitution systems.²² Others use *prostituted women* or *PW* for short, to show that social, economic and political factors combine to draw and keep women in prostitution. Still other's use the terms referring to the legal work sites or designations: *bar women*, *entertainers*, *hospitality women*, for example, to identify themselves as women working in these areas and as understood to be in prostitution.²³ These women believe they are "*telling it like it is.*" Perhaps the time will come when women will develop a new term that captures the whole reality.

Perhaps it is also time to make visible the millions of men who are the reason why prostitution exists in the first place. It is also high time to find new terms for these men who think nothing but make sexual merchandise of past, present and likely future generations of women and girls.

The Social Construction of Sexuality

The desire for sexual gratification is, of course, part of the biological make-up of both women and men. However,

what is generally not taken into account are the ways by which patriarchal ideology and cultural conditions determine the concepts and practices of sexuality of both women and men.

Differential gender definitions operate: men as the active, aggressive, highly-sexed human being, and women as the passive recipients of male sexual attention or on the other hand, as having to be available for sex. This often justifies and excuses violent or discriminatory male behavior as "natural." In fact, sexuality has more to do with culture than with nature, for example, concepts of female beauty or of what is considered sexually arousing are not "natural" or inborn but have varied widely in different historical periods and cultural contexts.

What is not taken into account in discussions of sexuality is the present-day reality of the heightened sexualization of many aspects of life. This is most readily seen in entertainment and advertising, but also in such forms of commerce as the fashion industry or tourism. Finally, entire industries have arisen around the sale of sex such as print, video, and internet pornography, "adult" bookstores, massage parlors, men's clubs and any number of establishments that offer women, girls and sometimes men and boys for sex.²⁴ This phenomenon is sometimes understood as a mere reflection of and response to the "natural" male inclination, and therefore the male market, for sex. It is less often understood, except of course by the successful capitalists of sex who rake in profits, as in fact, creating or stimulating a growing demand.²⁵ The existence of this visible and increasingly mainstream economic sector works by reinforcing and legitimizing pre-existing patriarchal notions of men's right to sex. It therefore has the added effect of misinforming new generations of boys and men into sexual consumerist attitudes and behaviors.

Because of the economic significance of sex businesses on national levels and on an international scale, some government and international agencies have proposed the recognition of prostitution as a legitimate labor sector.²⁶ Such recognition will only serve to legitimize men's status as buyers and women's status as use-objects or providers of sex.

International Trafficking of Women and The Mail-Order Bride Industry

The international traffic in women includes any "situation where women or girls cannot change the immediate conditions of their existence, where regardless of how they got into those conditions, they cannot get out; and where they are subject to sexual violence and exploitation."²⁷ Women particularly those living in poverty in economically disadvantaged nations, are forced into prostitution or pornography, bought and sold as sex slaves, and lured into the "sex-tourism" industry.²⁸

According to Michael Platzer, head of operations in Vienna, Austria for the U.N.'s Center for International Crime Prevention:

Two hundred million people are victims of contemporary forms of slavery...During four centuries; 12 million people were believed to be involved in the slave

trade between Africa and the New World. The 200 million, and many of course are women who are trafficked for sex, is a current figure. It's happening now. Today.²⁹

Historically, the international community addressed the "white slave trade," which was understood to be the trafficking of white women as prostitutes.³⁰ Afterward, the international community acknowledged that sex trafficking affects not only white adult females, but all people regardless of race, gender, ethnicity, or age. In 1950, the United Nations officially condemned international trafficking of women for sexual services with the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.³¹ Now, women are currently trafficked into powerful, developed nations including the United States, Australia, England, and Japan on a regular basis as sex commodities.³² There is no evidence that this traffic has slowed down despite the fact that international trafficking of women related to sex has been recognized as criminal throughout this century.³³

Trafficking in persons – the illegal and highly profitable transport and sale of human beings for the purpose of exploiting their labor – is a slavery-like practice that must be eliminated... Trafficking in persons is a profound human rights abuse, and women are particularly vulnerable to this practice due to the persistent inequalities they face in status and opportunity.³⁴

Mail-Order Bride Industry in the Philippines and the United States

The mail-order bride is one of the most open forms of trafficking women into developed nations. With a click of a key on your keyboard, one can order a mail-order bride. The Internet in particular, makes it easier than ever before for men to shop for wives from exotic places. The largest supplier of brides is the Philippines, which exports an estimated 20,000 women to foreign husbands.³⁵ Though there are no official tallies, an estimated minimum of 4,000 men find brides through the mail-order bride industry each year.³⁶ It is estimated that mail-order bride companies make as much as \$6,000 to \$10,000 per client, with some agencies claiming to serve as many as 15,000 clients per year.³⁷ In the last thirty years over 131,000 Filipinos have left their country to follow their partners, which nearly half of that number going to the United States.³⁸

While estimates on the numbers of companies that engage in the mail-order bride industry vary, one source claims that since 1995 up to 500 mail-order bride companies may have been operating in the United States.³⁹ In 1997 alone, the United States issued 1,782 visas to individuals from the Philippines intending to marry U.S. citizens.⁴⁰ The Fiancée petition is believed to be a common avenue for the entry of mail-order brides.⁴¹ Ordinarily, the grooms obtain 90 day Fiancée Visas that permit their brides to enter the U.S. on a temporary basis so the couple can decide whether they in fact want to be married.

Many companies like Life Mates and Asian Flower, are

operated in the United States by sole proprietors out of their homes, sometimes with the assistance of their "mail-ordered" wives.⁴² Mail-order bride agencies claim that they are not in the business of trafficking women across national boundaries. However, catalogue descriptions of the women the companies market do not differ much from a department store's listing of merchandise.⁴³

The mail-order bride industry is virtually unregulated throughout most of the world. The international law-making community has paid little attention to the open trafficking of women in this form, instead concentrating on forced prostitution and trafficking of children.⁴⁴ Acting individually, several countries have attempted to regulate particular elements of the industry. However, these efforts have had no effect on the trafficking of brides.

Law and Legislation on Prostitution in the Philippines

Philippine law on prostitution is not only outdated and ineffective; it is misogynist in its perspective and harsh in its application. It is a reflection of widely-held societal attitudes imbued with a conservative Roman Catholicism that views prostitution as a phenomenon to do with problematic and culpable women while at the same time rendering men almost totally invisible in the prostitution system. Particularly on issues pertaining to sexual mores, Philippine law remains fundamentally informed with a patriarchal sexual ideology that privileges a socially-constructed male sexuality and that colonizes and misappropriates women's sexuality and identities. Furthermore, by defining and penalizing the prostitution exchange as women's sexual behavior, the law contributes to the creation of a class of prostituted women who are criminalized.

Over the past twenty years, the Philippines has experienced the steady growth of the phenomenon of women and girls and to a much smaller extent, of boys, being absorbed into prostitution all over the country, in the "sexual entertainment" sector both for local men and for foreign tourist clients.⁴⁵ Similarly, the incidence of women trafficked for purposes of prostitution within and out of the country is increasingly being reported.

Many factors are contributing to the accelerated growth of prostitution. Poverty has worsened particularly in rural areas as the result of decades of government neglect of the agricultural sector and of continuing feudal structures of land ownership.⁴⁶ This has put increased pressure on women who are frequently the main supports of families. In particular, the government strategy for an economic "quick fix" is for tourism to continue to be aggressively and indiscriminately promoted.⁴⁷ Higher numbers of predominantly male tourist entries than have ever before been achieved, penetrate into vulnerable areas and populations armed with such information and tips from Internet sources like the World Sex Guide.⁴⁸ To cash in on this increased demand, local and foreign-owned sex businesses flourish in many parts of the country. The other major economic "quick fix" and pillar of government economic policy is the labor export policy that

includes the government – sanctioned export of women entertainers particularly to Japan and other parts of Asia. Sex traffickers are able to ride on the labor migration movements and the channels and mechanisms in place.⁴⁹

It has been noted that the economic resources that women and girls have come to represent as well as the considerable financial gains that result from their sexual exploitation in prostitution are bringing about marked changes in attitudes within families, communities, the business sector and the government toward growing tolerance for and the normalization of prostitution. One sign of this shift is the call that is being heard today from some quarters for the legalization of prostitution albeit in the midst of continuing professions of moral abhorrence by government officials and the general public. At the same time that the sheer numbers of affected women and girls increase, the law continues to bear down heavily and exclusively on them. In recent years, the AIDS scare and government attempts to control its spread have led to increased police action targeting women in prostitution. Therefore, law reform on prostitution is an even more urgent concern in the Philippines today than it was in 1992 when women's groups affiliated with the Coalition Against Trafficking in Women first pressed for changes in the law towards the decriminalization of women in prostitution.

Article 202 of the Revised Penal Code criminalizes vagrants and prostitutes.⁵⁰ Vagrants are defined as persons found loitering in public place that are unable to present evidence of livelihood or other legal means of support. Prostitutes are “women who for money or profit habitually engage in sexual intercourse or lascivious conduct.” It is the vagrancy law that is used to apprehend women on the streets, whether obviously soliciting clients or not, the prostitution transaction itself being more difficult to prove.

A more recent law for the Special Protection of Children Against Child Abuse, Exploitation and Discrimination criminalizes the sexual exploitation, including the prostitution of children, defined as girls and boys under the age of 18 years. In contrast to the Revised Penal Code provisions, the users of prostituted children, the owners or managers of establishments and other profiteers are rendered legally liable and subject to heavy penalties. Moreover, with laws on extra-territoriality having been passed in more countries, especially after the 1996 World Congress on the Commercial Sexual Exploitation of Children, bilateral cooperation in the prosecution of child sexual abuse offenders is possible and in fact, has been operationalized in the recent past to secure convictions in two cases against foreign pedophiles.

Apart from these main pieces of legislation, there are city ordinances on prostitution and sexual health that are implemental in most urban and semi-urban areas the intentions of which are clearly to promote and protect the tourism and sex entertainment industries that might be hampered by risks to clients' health. These ordinances require the female employees of a wide range of establishments to undergo sexual health examinations at government-run social hygiene clinics including in some cases, for HIV/AIDS. Health care are

issued for these women to be eligible for employment. In some towns, mayor's permits are issued to the women to attend to their employability based on a clean bill of sexual health. The existence and operation of this system of sexual health checks for women constitutes tacit recognition and regulation of prostitution by the State.

Still other laws and ordinances address prostitution indirectly by prohibiting lewd shows generally defined as featuring nudity or sexually explicit acts, or other acts such as the non-observance of building regulations intended to prevent prostitution in massage parlors.⁵¹

It is also noteworthy that Article 341 of the revised *Philippine Penal Code* that addresses pimping and profiting from prostitution is virtually never invoked.⁵² It has moreover been police practice to send in “operatives” as clients into massage parlors or other prostitution front establishments and then to arrest the women while having sex with these police decoys.

Clearly, the formulation and implementation of the law are discriminatory against women and designed to distance men from legal liability. They are also aimed at protecting the continued activities of the sex business sector often owned by politically prominent personalities who may, moreover, be significant contributors to local government coffers or to the pockets of individual police agents.

U.S. and Philippine Laws: Are they working?

The United States Congress mandated the U.S. Immigration and Naturalization Service (INS) to do a study and issue a report, under Section 652 of the *1996 Illegal Immigration Reform and Immigrant Responsibility Act*, to confirm that the mail-order bride industry exploited women and promoted fraudulent marriages. The Report was authored by Professor Robert Scholes of the University of Florida. His findings within the report confirms many issues that have surfaced from the mail-order bride industry. Issues of concern were fraud, domestic violence, and sex slavery. The *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* recognizes the existence of the industry and its potential problems, and therefore, requires mail-order bride companies to disclose U.S. immigration information to the brides.⁵³ The implementation and enforcement of this law is questionable. Other immigration regulations place foreign spouses in a conditional status, which requires continued sponsorship of the bride by the citizen spouse over a period of years.⁵⁴

Import nations such as the U.S. have tended to focus on the immigration consequences of the mail-order bride traffic. Instead of protecting the safety of women entering their new nation, regulations seek to prevent or uncover fraudulent marriages and threaten brides with deportation.⁵⁵

The Philippines is alone in trying to curb the international trafficking of their female citizens. Enacted so far are the *1989 Ban on Advertising for “Recruits”*⁵⁶ and the *1996 Anti-Mail-Order Bride Law or Republic Act 6955*,⁵⁷ which also restricts agencies' recruitment methods. Despite the governmental attempt to control the supply of Filipinas as mail-order brides, economic realities have allowed the industry to

prevail. Informal recruiting practices have replaced formal advertising.⁵⁸

The only mail-order bride specific statute in the United States, 8 U.S.C.A. 1186 (c)(4)(c) affords the mail-order brides little if any protection. If fact, by requiring agencies to disclose the unregulated nature of the industry, Congress legitimizes the current industry structure. This scheme disregards the will and regulations of developing countries, like the Philippines, whose laws can have no force when not backed by the consumer countries. In addition, the law does not address the serious problems mail-order brides face under the current immigration system. The law does not change the conditional status of mail-order brides or shift the power from the consumer-husbands to the brides.⁵⁹

Recommendation and Conclusion: Call for International Regulation of the Mail-Order Bride Industry

The minimal regulations of the industry, which do exist in individual import and export countries, continue to operate in a vacuum. The laws of import countries do not complement or support the laws of export countries. For example, despite the ban on advertising for mail-order brides in the Philippines, the United States does not regulate the activities of U.S.-based mail-order bride companies that advertise Filipinas, does not scrutinize the actions of mail-order bride companies relating to foreign nations, and does not regulate how companies treat the women they commodify. Further, United States laws which are relevant to the lives of women in the mail-order bride industry target them as perpetrators of immigration fraud, and seek to criminalize their attempts to improve their lives through immigration.⁶⁰

International regulation is necessary because the forces of supply and demand exist beyond any one's country's national borders. Because market forces are transnational, they are more difficult to control than domestic market forces. For example, if brides and consumer husbands lived in the same country, as with traditional matchmaking companies, as enforcement mechanisms that help regulate negative externalities are either lacking or ineffective across national borders. "If the tolerance [for negative externalities] of the supplying country is matched by the indifference of the buying country to the behavior of its nationals overseas, then there are not market restrictions and a free market [for the commodity] will exist."⁶¹

This accurately describes the mail-order bride traffic between the United States and the Philippines. Essentially, neither nation has expressed willingness to effectively assume the responsibility for protecting these women from harm. The women therefore becomes nationless and caught in the web of the market for them. While the Philippines has outlawed activities related to the mail-order bride industry in an attempt to protect its female citizens, the practice is largely tolerated. In part, this may result from the difficulty of distinguishing between foreign nationals who have formed legitimate relationships with Filipina women from those who have purchased contacts and courtship rights in the absence of

greater regulation of agency activities.

This legal commentary concludes that regulation of the mail-order bride industry is necessary. In addition, cooperation between both the Philippines and the U.S. is important and the mail-order bride agencies should be required to engage in practices that would help balance the power disparities between the market participants. Until realized that there is no difference between mail-order brides and prostitutes or sex slaves, with respect to the degree of coercion, sexual exploitation, and abuse they suffer, the law will continue to protect mail-order grooms and agencies from their actions unfavorable to these women.

ENDNOTES

Special thanks to my parents, Mariano Mallare and Salud Feria Mallare, my husband, Dr. Tony Jimenez, Jr. and sons, Kyle & Keane Jimenez. I sincerely appreciate the guidance and motivation from Professor Maria Grahn-Farley, Golden Gate University Law School towards completing this legal commentary. I also thank my former professor, Daniel Phil Gonzales, EOP Academic Advisor, Bobby Farlice, and the late Tony Guiuan, Ex-offender advocate, for your everlasting support. Lastly, thanks to my law school mentor, Jeff Adachi for his encouragement and inspiration.

1. "Tita" means Aunt in Filipino, the national language of the Philippines.
2. Donna R. Lee, "Mail Fantasy: Global Sexual Exploitation in the Mail-Order Bride Industry and Proposed Legal Solutions," *Asian Law Journal* 143: 16 (1998).
3. *Medium Term Philippine Development Plan 1993-1998* (or Philippines 2000) (1993). Manila: National Economic and Development Authority (NEDA). This was a plan created and implemented by President Fidel Ramos for economic development.
4. *Id.*
5. See Joaquin L. Gonzalez III "Philippines: Continuing People Power" In J. Funston (Editor), *Government and Politics in Southeast Asia* Singapore: Institute of Southeast Asian Studies, 2001.
6. *Philippine National Labor Report* (1997). Philippine Department of Labor and Employment.
7. Donna Strawson, "Letter: Philippine Debt Lies Heavily on the Women", *Toronto Star*, December 9, 1991, A16 (Donna Strawson was the Secretary of the Philippine Solidarity Group).
8. *Id.*
9. Elizabeth Eviota, *The Political Economy of Gender and the Sexual Division of Labor in the Philippines* 27 (1997) London and New Jersey: Zed Books, Ltd. Also, note that the magnitude of prostitution in the Philippines is strongly indicative of the lack of employment options Filipinas have. Delia D. Aguilar, *The Feminist Challenge: Initial Working Principles Toward Reconceptualizing the Feminist Movement in the Philippines* 4-8 (1988) Manila: Asian Social Institute.
10. Strawson, supra note 16.
11. Miralao, Virginia A., Celia O. Carlos and Aida Fulleros Santos. *Women Entertainers in Angeles and Olongapo: A Survey Report*. (1990) Manila: Women's Education, Development, Productivity and Research Organization and Katipunan ng Kababaihan para sa Kalayaan. For more on both issues of human trafficking see: Rhacel Parrenas, *Servants of Globalization: Women, Migration, and Domestic Work*, Stanford: Stanford University Press, 2001, and *Children of Global Migration: Transnational Families and Gendered Woes*, Stanford: Stanford University Press, 2005.
12. *Id.*

13. *Id.*
14. This statement is referenced by Filipina women.
15. This statement is referenced by Filipino men.
16. *Id.*
17. *Id.*
18. Another direct translation would be, "Your mother is a bitch"
19. Miralao, *supra*, at 10.
20. *Id.* at 13.
21. *Id.* at 17
22. *Id.* at 19
23. *Id.*
24. *Id.*
25. *Id.*
26. Chris Ryan and C. Michael Hall, *Sex Tourism* 117 (2001) Routledge, an imprint of Taylor and Francis Books Ltd.
27. Kathleen Barry, *Female Sexual Slavery* 40 (1979). New York: New York University Press
28. See Susan Jeanne Toepfer and Bryan Stuart Wells, "The Worldwide Market for Sex: A Review of International and Regional Legal Prohibitions Regarding Trafficking in Women," *Gender & Law* 83, 86 (1994). Hereinafter referred to as Toepfer and Wells' evaluation of whether available international treaty law is a useful weapon in the battle against the global sex trade.
29. Michael Specter, "Slave Traders Lure Slavic Women; Dreams of Riches End in Brothels, New Orleans Times-Picayune," *New York Times News Service*, January 11, 1998, A1.
30. *International Convention of the Suppression of White Slave Traffic*, May 4, 1910, III L.N.T.S. 278. [hereinafter *International Convention*]. See also Stephanie Fariior, "The International Law of Trafficking in Women and Children for Prostitution: Making it Live Up to its Potential", 10 *Harvard Human Rights Journal* 213, 216-223 (Spring 1997), for a discussion of the progression of international law regarding human trafficking.
31. *Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others*, 96 U.N.T.S. 272 (1950).
32. See Laurie Hauber, *The Trafficking of Women for Prostitution: A Growing Problem within the European Union*, 21 *B.C. International and Comparative Law Review* 183, 193 (1998).
33. See United Nations Resolution A/RES/52/98, *Traffic in Women and Girls*, 6 Feb. 1998 (recognizing the "increasing number of women and girl children from developing countries and from some countries with economies in transition who are being victimized by traffickers"); Fariior, *supra* note 8, at 213 (noting that while there is a wealth of word on paper prohibiting trafficking, enforcement is lacking).
34. Opening and closing remarks by Regan E. Ralph, Executive Director, Women's Rights Division, Human Rights Division, Human Rights Watch, *International Trafficking of Women and Children*, in her testimony before the United States Senate Committee on Foreign Relations Subcommittee On Near Eastern and South Asian Affairs, (2000)
35. Trixia Carungcog, "Such Women May be Easy Prey for Abusive Men," *Straits Times* (Singapore), June 28, 1998.
36. *Id.*
37. Olivia H. Tripon, "Weekender: Network Reviews Efforts Against Trafficking in Women," *Business World*, Sept. 12, 1997.
38. "Filipinos looking for foreign spouses prefer U.S., Japanese," *Agence France-Presse*, Dec. 16, 1997.
39. Lisa Belkin, "The Mail-Order Bride Business Booming," *New York Times*, May 11, 1996,, p. 73.
40. Lena H. Sun, "The Search For Miss Right Takes a turn Toward Russia; Mail-Order Brides of the '90s Are Met Via Internet and on Romance Tours," *Washington Post*, March 8, 1998, A01
41. *International Matchmaking Organizations: A Report to Congress* (1999) US INS: AILA InfoNet Doc. No. 990309999.
42. For personal narratives of the history of specific mail-order bride companies, see, e.g. Life Mates (visited June 14, 2002) <http://www.life-mates.com>; Cherry Blossoms (visited June 14, 2002) <http://www.cherry-blossoms.com>.
43. Eddy Meng, "Note: Mail-Order Brides: Gilded Prostitution and the Legal Response," 28 *University of Michigan Journal of Legal Reform* 197, 216-233 (1994) (discussing the mail-order bride industry in the United States and Asia and the United States laws which affect the industry).
44. See generally Christina S.Y. Chun, "The Mail-Order Bride Industry: The Perpetration of Transnational Economic Inequalities and Stereotypes," 17 *University of Pennsylvania Journal of International Economic Law* 1155 (1996).
45. Raquel Ignacio, *Gimik! Sa Quezon City at Cubao* (1999), Quezon City: Bukal Press.
46. *Id.*
47. Liza Largoza-Maza, *The Medium Term Philippine Development Plan Toward the Year 2000: Filipino Women's Issues and Perspectives*
48. *Id.*
49. Miralao, *supra*, at 14-15.
50. *Republic of the Philippines Penal Code*.
51. *Quezon City Ordinance Against Prostitution*
52. *Republic of the Philippines Penal Code*.
53. 8 U.S.C.A. United States Code Annotated 1186 (a) (West 1999).
54. Unfortunately, these regulations are often seen as causing more harm than good. Laws restricting the immigration status of women makes women even more dependent on their husbands. This continues despite recent changes in immigration law. See Michelle J. Anderson, *supra* note 52, at 1415; Deanna Hodgkin, "'Mail-Order' Brides Marry Pain to Get Green Cards," *Washington Times*, Apr. 16, 1991, E1.
55. Fraudulent marriages are generally considered those designed strictly to bypass immigration requirements. See Michelle J. Anderson, "A License to Abuse: The Impact of Conditional Status on Female Immigrants," 102 *Yale Law Journal* 1401, 1411-13.
56. Chun, *supra*, note 3, at 1189.
57. *Philippine 1996 Anti-Mail-Order Bride Law*, Republic Act 6955
58. Tripon, *supra* note 37.
59. Michelle J. Anderson, 8 U.S.C.A. 1186 (a) (West 1999)
60. *Id.* 1411-13
61. Alex Y. Seita, "The Role of Market Forces in Transnational Violence," 60 *Alberta Law Review* 635, 640 (1997).

Marie Lorraine Feria Mallare obtained her J.D. at Golden Gate University School of Law. She began her career in broadcast journalism (for KMTP TV32 in San Francisco), worked as a Public Information Officer with the San Francisco Municipal Railway, and has taught Public Relations 101 at San Francisco State University's College of Business. She currently teaches courses in Philippine Studies and Asian American for the University of San Francisco's Maria Elena Yuchengco Philippine Studies Program. Professor Mallare is also an adjunct professor with the Ageno School of Business at Golden Gate University, Executive Master's of Public Administration Program (EMPA) teaching Public Service and the Law.