

Women as Migrants Members in National

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L'auteure explore l'impact de la loi internationale sur la pratique légale au Canada, avec une attention spéciale sur la politique et la loi sur l'immigration, et la façon dont elles affectent la vie des femmes qui veulent entrer au Canada.

The right to restrict the entry of non-citizens to one's territory is considered the *sine qua non* of sovereignty.¹ When it comes to immigration, international law accepts more or less uncritically the characterization of states as private clubs and migrants as membership applicants. The major exception to that principle is the *UN Convention Relating to the Status of Refugees*, but it should not escape notice that virtually all major countries of asylum, including Canada, expend considerable energy on “non-entrée” mechanisms to prevent asylum seekers from getting to the clubhouse door.²

Women migrants often embody—literally—the absence, the breakdown, or the inequities of the international legal regime. War, global economic restructuring, human rights abuses, the persistence of gender oppression all over the world each play a role—alone, in combination, or alongside other factor—in propelling many women to depart their countries of nationality and seek new lives in Canada. International law directly impacts Canadian immigration law and policy; and in this sense, women migrants (and migrants generally) *are* the impact of international law on Canada.

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Canadian immigration law is what the state does to either deflect, minimize, or harness that impact in the service of domestic interests. It does this through creating categories into which it classifies those for whom the accident of birth did not confer Canadian citizenship: legal or illegal; immigrant or refugee; citizen, permanent resident, or visitor; independent or family class. Canada does not directly control the conditions of women's lives leading up to their departure, but the category into which it sorts a woman will become another force affecting that woman's life and her experience of migration. Her migration status may have a liberating effect, it may

compound existing constraints, it may do some of each. In this sense, Canada may be held directly accountable for the impact domestic immigration law has on the migrant.³

Trafficking in gender roles

The exploitation of migrants as cheap labour is a gender-inclusive phenomenon. Both male and female migrant job ghettos exist in the Canadian marketplace—one need look no further than to the identity of the women cleaning our rooms in this hotel, or the men driving the cabs in this city to find evidence of this. It is not uncommon to refer to this phenomenon as using immigrants to do our “dirty work”—the work Canadians are unwilling to do. What is distinctive, in my view, is the extent to which certain women are deliberately “imported” to occupy a certain gender-specific status. The location of these women in female-specific roles is not a by-product of their immigration, it is the very reason for it. Being a traditional female is a job desired by fewer Canadian women these days, so women with fewer options in their lives are imported to do the women's work.

What are those traditional female gender roles? Stripped down to the crudest form, they are sex, child rearing, and domestic labour. When one speaks of the global trafficking in women, one refers to sex-trade workers, domestic workers, and mail-order brides. The first provide sex, the second perform child care and housework,⁴ and the third are meant to furnish all three.

To its credit, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) candidly acknowledges the conceptual links between the global traffic in women as sex-trade workers, domestic workers, and mail-order brides, underscoring the fact that the “push” factors propelling women into the global market, and the “pull” factors creating the demand for them, are similar across categories.

Another important characteristic of this trafficking in gender roles is the sexualization of the “race,” ethnicity, or culture of the woman. By this I mean that the cultural, racial, or ethnic origins of the women are used to construct a “super-feminine” version of a woman who is sexually insatiable, docile, a natural housekeeper, obedient, undemanding, loves children, and is otherwise more “feminine” than her Canadian counterpart. As bell hooks writes:

and Global Communities

When race and ethnicity become commodified as resources for pleasure, the culture of specific groups, as well as the bodies of individuals, can be seen as constituting an alternative playground where members of dominating races, genders, sexual practices affirm their power—over intimate relations with the Other. (qtd in Chun 1208)

Of course, most sex trade workers are born in Canada, most child care is still performed by Canadian women, and most women who enter into marriage in Canada are citizens. For present purposes, the questions I wish to consider in relation to these activities are as follows: what difference does the fact of migration across international frontiers make? Further, what difference does the immigration status of a minority of women who occupy these fields make? Finally, what does international law have to say about any of this?

Sex Trade Workers

By sex-trade workers I include women who strip, lap/table dance, or exchange sex for money. A growing number of women doing this work in Canada and abroad are migrants from poorer regions of the world, especially Southeast Asia and, increasingly, Eastern Europe. Some women are explicitly recruited as strippers. To the extent that they imagine this work to be the least worst option in their lives, one might speak of them “choosing” to engage in this type of sex work, though I think that stretches the concept of voluntariness about as far as it can go.

Many women, however, do not know what they are getting into, either because they have been misled, or because they have been abducted or sold into prostitution. Though the evidence is largely anecdotal, it appears that relatively few of the women knowingly and deliberately set out to work as prostitutes. By the time they find out the truth, it is too late. The “luckiest” of these women work as strippers. Others are intimidated, coerced, beaten and violated into prostitution.

For these women, migration is not a door opening to a better life. Migration simply signifies another mechanism of subordination and control. Whether it involves exchanging Canadian girls between Halifax and Toronto or transporting Ukrainian females from Kiev to Tel Aviv, pimps everywhere know that isolating a young woman

from her home, her family, and her support network will render her frightened, helpless, and less able to escape. Crossing international frontiers makes the strategy all the more potent. Many of the women do not speak the language, do not understand the culture, have no idea where to turn for help, and have no money to return home. Indeed, their families may have “borrowed” money from smugglers to pay the cost of passage, and the women are effectively indentured to repay that money through sex work. Their families depend on them to send remittances home to support those left behind. The woman’s “foreignness” only adds to her vulnerability, which in turn is packaged and sold as a sexual enticement to the clients who consume her.

Trafficking in women and children has long attracted the attention of the international community. It is directly prohibited by various international treaties and ILO Conventions.⁵ As early as 1904, the *International Agreement for the Suppression of the White Slave Traffic*⁶ expressed the international communities’ concern about the sale of women into prostitution in Europe. Of course, the title of the treaty betrayed the racist focus of reformers concerns,⁷ though by 1921 the terminology shifted to “trafficking in women and children.” In 1949, the fledgling United Nations consolidated four earlier treaties on the subject into the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*.

The 1949 *Convention* is the only instrument that explicitly addresses the migration implications of trafficking in women across national frontiers. According to Article 19(2), states undertake to “repatriate [alien prostitutes] who desire to be repatriated or ... whose expulsion is ordered in conformity with the law.”⁸

The international condemnation of trafficking in women and the “permission” given to repatriate prostituted women—willingly or otherwise—converges nicely with the objectives of domestic immigration policy. In 1997, it came to media attention that for several years, so called “brokers” had been taking advantage of a 1978 loophole in Cana-

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dian immigration law exempting "exotic dancers" from the employment validation process required to issue a temporary work visa to a non-citizen or permanent resident. This meant that women with valid job offers from strip club owners could appear at the border and obtain a temporary work visa as "exotic dancers." Ordinarily, one must apply for a work visa at a Canadian mission abroad, where visa officers can assess the validity of the employment contract and query whether the employer could locate Canadians who were, or could easily become, qualified to do the work.

Apparently, the employment validation exemption for strippers spawned a burgeoning and highly profitable racket of importing foreign women. Predictably, transborder traffic in women brings organized crime in its wake, with its attendant abuse, extortion, and/or forcible prostitution of the women involved. For those who actually work as "exotic dancers," the ever-present threat of deportation operates as a powerful tool of exploitation. For those forced into prostitution, the threat of deportation is a double-edged sword. One might suppose that a woman who has been tricked, beaten, and raped into prostitution might prefer to be "caught" by authorities and repatriated rather than endure continuing sexual slavery. Unfortunately, the woman may also legitimately fear reprisals against herself or her family at home if she seeks assistance from Canadian authorities. Also, the stigma of returning home as a prostitute may mean that the life she left behind is no longer available to her.

The legal entry of foreign "exotic dancers" was effectively terminated as of 1 July 1998. From the governmental perspective, closing the "employment validation" loophole for exotic dancers ostensibly serves the objectives of crime control and protection of vulnerable women. Indeed, Canada's stated commitment to international efforts to combat the global trafficking in women figured prominently in the Department's justification for closing the loophole. Thus, international law provided a dis-

course of sexual enslavement and exploitation to counter the rhetoric of "employment opportunity" and "economic benefit" which normally shapes the discussion of temporary workers in Canada.

However, closing the door to legal entry of women who work in the sex trade does not necessarily reduce the number of women working in the sex trade (even in Canada), or diminish their vulnerability to exploitation by brokers. Like virtually all other countries in the world today, Canada simply cannot seal its borders against the inflow of people anymore than it can seal its borders against the out-

flow of capital. Closing off a legal channel may divert the flow of trafficked women to other countries, but it will probably also divert many of those women into the category of illegal migrants. And if there is one group of people who are even more vulnerable to abuse and exploitation than temporary workers, it is illegal migrants.

Foreign domestic workers

Many migrants work as live-in child care providers. The dynamics giving rise to this phenomenon are complex (see Macklin 1992). First, the demand emanates from Canada's politically powerful middle class; second, the supply is claimed as a necessary incident to Canadian women's access to the professions, thus allowing some proponents to stake their claim on feminist terrain; third, the government needs a safety valve to diffuse public protest over its persistent refusal to invest in universal, affordable child care. The resistance to change in the organization of the professional workplace, the identity of child care and domestic labour as "women's work," and the neo-liberal divestment of government from sustaining a social safety net are thus sustained in part on the backs of foreign domestic workers.

The Live-In Caregiver Program (LCP) is the most recent incarnation of Canadian government-sponsored programs to provide middle-class families with cheap child care and domestic labour. Women from poor countries have been migrating to Canada to work as "domestics," "nannies," or "servants" since before Canada had immigration legislation. By the 1950s, the national origin of many of these women had shifted from Europe to the Caribbean, and along with this shift came restrictive immigration rules designed to confine them to domestic labour and expel them when they were deemed no longer useful.

Up until the late 1970s, most of the women entering Canada as domestic workers originated from the Caribbean; today, most are Filipina, though I have heard anecdotally that East European women are also entering the market. Racialized stereotypes have accompanied each successive wave, rationalizing the role of women of colour as domestic workers, be it as the black "Mammy" figure, or the submissive, nurturing Filipina girl/woman. It will be interesting to discover what stereotypes crystallize around East European women should their numbers increase.

In the 1970s, women were only admitted as domestic workers on temporary work visas, much like the system described above with respect to sex trade workers. Effective political organizing by domestic workers led to the 1981 program known as the Foreign Domestic Movement (FDM). After two years as a live-in domestic worker, the worker could apply from within Canada for permanent resident status, which then put her on the road to formal citizenship. If the woman did not complete two years of live-in service, she would be treated like a migrant

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worker, meaning that she had no protection against removal. The successor Live-In Caregiver Program preserves this two-year live-in requirement, but alters the criteria for selection and ultimate landing. At the risk of oversimplification, the LCP has made it more difficult to be selected, but easier to get landed. Thanks to litigation, the government has finally been forced to make the anomalous status of domestic workers explicit in legislation.

Compared to the horror stories emanating from Singapore or the Middle East, the plight of domestic workers in Canada may not seem so bad. Nevertheless, overwork, underpay, physical and sexual abuse are features of domestic work in Canada too.

It cannot escape notice that the profound inequality of power along the axes of wealth, citizenship, race, and knowledge between employers and employees gives employers a significant advantage over workers. The point is not that all domestic workers are exploited, but rather that domestic work, occurring in the unregulated environment of the home, performed under the perpetual spectre—real or not—of deportation, potentiates exploitation. Should employers choose to take advantage of their employees' vulnerability, there is good reason to think they can "get away with it." As activist and former domestic worker Pura Velasco puts it, the combination of "temporary immigration status and compulsory living-in make the employers believe that they own the workers" (161).

From an immigration perspective, the centrepiece of the Live-In Caregiver Program is the mandatory two-year live-in requirement, in exchange for which foreign domestic workers stand a very good chance of being granted permanent resident status. Normally, persons with skills in short supply in the Canadian labour force are permitted to immigrate as permanent residents without being put on "probation" for two years. Why is that not so for domestic workers? The short answer is that permanent residents are legally entitled to do whatever work they choose once they enter Canada. Parents and policy makers feared that if given the same liberty as other permanent residents to choose their employment, women would get out of live-in domestic work as soon as possible. Holding the stick of deportation (or, if you will, the carrot of future permanent residence) in front of domestic workers to confine them to live-in work is the only way to keep them in the job. If the trafficking in women for sex is a contemporary form of enslavement, then the LCP is a form of government-sponsored indentured labour.

The United Nations, addresses the issue of exploitation and abuse of female migrant workers worldwide. The Commission on the Status of Women, the Commission on Human Rights, the Commission on Crime Prevention and Criminal Justice, the ILO, the Secretary-General, and the Special Rapporteur on Violence Against Women have all undertaken initiatives in relation to female migrant workers. Among the products have been a report of the

Secretary-General on violence against women migrant workers,⁹ examination by the Special Rapporteur on Violence Against Women, and an expert group meeting convened by the Division for the Advancement of Women on Violence Against Women Migrant Workers.

Two recent General Assembly resolutions¹⁰ condemn violence against women migrant workers and call on Member States to take various measures to promote the rights and welfare of women migrant workers. Both resolutions encourage Member states to consider signing and ratifying the 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*¹¹ as well as the 1926 *Slavery Convention*. In his report to the General Assembly on the Traffic in Women and Girls, the Secretary-General also indicated that the concept of trafficking articulated in the 1949 *Convention* "has been expanded to include trafficking for the purpose of other forms of exploitation of women" including forced labour and forced marriage.¹² The Secretary-General also quotes approvingly comments by CEDAW to the effect that importing foreign domestic labour is another form of sex exploitation.

To date, no source country for migrant workers has been able to wrest from host countries adequate and effective protection of their nationals abroad. The former all depend on the foreign remittances sent back by migrant workers, and lack either the political will or political clout to jeopardize that income by potentially antagonizing employer states.

The *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*¹³ represents the most direct attempt to elevate the plight of migrant workers from a matter of foreign relations between individual states to the domain of the international community. Not surprisingly, several of the eleven countries that have signed or ratified the *Convention on Migrant Workers* are major source countries of migrant workers.¹⁴ None are major employer states. Canada has neither signed nor ratified the instrument.

Roughly speaking, the *Convention on Migrant Workers* confirms migrant workers' entitlement to the same employment, civil, and political rights and responsibilities accorded to nationals, except those related to permanent residence and voting. It expressly forbids "torture or cruel, inhuman or degrading treatment or punishment" (Article 10), guarantees that no migrant worker shall be held "in slavery or servitude" (Article 11 (1)), or be required to perform "forced or compulsory labour" (Article 11 (2)). It entitles migrant workers to state protection

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from *inter alia*, “violence, physical injury, threats and intimidation, whether by public officials or private individuals” (Article 16 (2)), extends to migrant workers the same protections owed to nationals respecting employment and labour standards (Article 25), and expressly forbids confiscation of passports (Article 21).

The *Convention on Migrant Workers* does not explicitly address the particular vulnerabilities or concerns of women migrant workers, such as the danger of sexual abuse and sexual exploitation, however these omissions can be overcome by a gender-sensitive interpretation of existing provisions.

Though not a signatory to the *Convention on Migrant Workers*, Canada has an interest in appearing to conform with its provisions. After all, the *Convention* is meant to embody minimum standards of decent and fair treatment. Thus, Canada indicated in a report to the UN General Assembly that, consistent with Articles 25 and 40 of the *Convention on Migrant Workers*, “no distinction was drawn between national and foreign workers insofar as the pro-

tection afforded by labour laws was concerned.”¹⁵ Of course, this is technically true: no employment or labour statute explicitly excludes foreign workers from its ambit; rather, several just happen to exclude domestic work—the very sector dominated by foreign women—from some or all protection.¹⁶ In practice, the *Convention’s* guarantee of equality of treatment with nationals amounts to an empty promise when the occupation has historically been excluded from employment and labour protection (Hune), an exclusion which derives largely from its denigrated status as “women’s work” belonging to the unregulated “private sphere.” Canada’s claim to fulfilling the anti-discrimination provision in the *Convention* is a rather cynical attempt at obfuscation.

There are other provisions of the *Convention on Migrant Workers* that Canada could not claim to fulfil with respect to foreign domestic workers. For instance, Article 38 requires that States of employment find methods to authorize temporary absences by migrant workers without jeopardizing their visa, yet I understand (anecdotally) that there is no formal mechanism whereby foreign domestic workers can leave Canada and return during their two-year employment period. In addition, Article 39 guarantees to migrant workers “liberty of movement” and the “freedom to choose their residence” in the employer State. Clearly, domestic workers admitted to Canada under the Live-In Caregiver Program do not enjoy this freedom insofar as they are obliged to live in the employer’s home in order to retain their immigration status.

In my view, the real reason that the *Convention on Migrant Workers* has so little impact on Canadian law is that its fundamental premises—that migrant workers should not be exploited, and that exploitation can be prevented by entitling migrant workers to the same legal protection as nationals—misses the whole point of migrant labour. Countries import migrant labour for two reasons: either their own labour force genuinely lacks the technical or professional skills required to do the job, or else the local labour force is unwilling to do the work for the price and under the working conditions employers wish to offer. I believe that foreign domestic workers fall into the latter category. The very purpose of institutional, long-term migrant labour arrangements of this sort is to enable employers to subject workers to wages



Joyce Lowe (from Guyana). *Women, Food and Storytelling Eco-Art Exhibit*.
Photo: Anuja Mendiratta © 1998

and working conditions that citizens and permanent residents consider unacceptable. We deny this by insisting that the appropriate comparators are the wages and working conditions available in the State of origin rather than those guaranteed to Canadian workers; we rationalize it by pointing to the dearth of adequate, affordable, universal daycare in Canada, and the various time and financial stresses on Canadian working parents (read: mothers);¹⁷ and we excuse it by offering permanent residence as the reward for two years of indentured service. Whichever of these explanations we find compelling, any international instrument which fails to grasp this essential nature of migrant labour arrangements is doomed to irrelevance.

Mail-order brides

If you have not heard about the thriving international mail-order bride industry, you need look no further than the personal ads of any Canadian newspaper, or one of the hundreds of websites on the internet. Once again, the Philippines is a major supplier country.¹⁸ As is well known, the historical presence of American military bases in that country was accompanied by the sexual colonization of the local women. The bases may have closed, but American men took away with them a certain nostalgia for the benefits they reaped from the racial, sexual, and economic exploitation of the women they left behind. Both sex tourism and the mail-order bride industry deliver these benefits to men through other means. Just as the pressures wrought by economic collapse has put East European women's bodies on the international market as sex-trade workers and domestic workers, so too has it propelled them into the international marriage market.

What are male customers looking abroad for marriage partners? Christine Chun summarizes the consumer-husband's motivation:

Marriage brokers rely upon the consumer-husbands' dissatisfaction with American women and the Women's Movement. According to most of the men who seek mail-order brides "American women are too aggressive, too demanding [and] too devoted to their own careers." Marriage brokers recognize that "[t]he mail order bride business has been stoked by a backlash against women's liberation and the feeling of the "subscribers [that] American women are aggressive and selfish." (1176)

Agencies that traffic in mail-order brides accommodate consumer preferences by selling a "gender role fantasy" of Filipina and East European women "to men who blame their failed relationships on American women" (Chun 1176). Thus, the Asian woman is constructed as docile, subservient, sexually available, and devoted to domesticity. As Renee Tajima puts it:

Images of Asian women ... have remained consistently simplistic and inaccurate.... There are two basic types: the Lotus Blossom Baby (aka China Doll, Geisha Girl, shy Polynesian beauty) and the Dragon Lady (Fu Manchu's various female relations, prostitutes, devious madames).... This view of Asian women has spawned an entire marriage industry. (qtd. in Chun 1208)

The stereotypes of Russian women emerging from the communist era may seem, at first glance, less attractive to male consumers disgruntled with "strong" women. Nevertheless, marriage brokers such as Eugene Kantor assert that while an Asian woman allegedly subscribes to a role that is "not servitude, necessarily, but a certain position in the family structure" a Russian woman is not as "drastic" in her views, but nonetheless insists that she "should cook, do the laundry, etc., even if she works the same amount of hours (outside the home) as the man." Kantor then zeroes in on the real "advantage" of Russian women over Asian women from a marketing perspective:

Russian women, are—how shall I put this?—racially they are of difference stock [than Asians]. The reality of life, again, is such that not every white man is looking for an Oriental woman, necessarily, a white woman would probably be a better candidate for them. (qtd in Weir 40-42)

What are women looking for in the consumer-husband? A way out of grinding poverty, a future in a country of opportunity, and possibly a means of providing financial support to family members at home.

The marriage transaction is mediated through the mail-order bride agencies, who charge a fee to the prospective husbands and provide them with catalogues from which they can select one or more women with whom they begin a correspondence. The next step is often a trip to the country of origin where they will meet the woman or women in whom they are interested, culminating in a possible marriage offer. If the offer is accepted, then the man will sponsor the woman's immigration to Canada under the category of family class.

If the couple marry abroad, the husband can sponsor his wife as a spouse, in which case she will arrive in Canada as a permanent resident. If the wedding is scheduled to take place in Canada, he can seek a "fiancée visa," which makes permanent residence conditional on marrying the sponsor within 90 days. Alternatively, the prospective bride may be able to enter Canada on a visitor's visa, get married, and then the couple will begin the spousal sponsorship process from within Canada.

As with foreign domestic workers, the immigration status of the bride may exacerbate her vulnerability to abuse. Reports of physical, emotional, and sexual abuse of mail-order brides are not uncommon. A few women have

been killed. Given the attitude and expectations that many consumer-husbands bring to the marriage, it is hardly surprising that some would exploit the obvious inequalities of power between themselves and their wives. How does Canadian immigration law figure into this equation? In essence, the man can hold over his wife the threat that if the woman objects to his treatment of her, he can have her deported, either by refusing to marry her within three months (if she has arrived as a fiancée), delaying completion of the application for permanent residence (if they have married in Canada), or simply withdrawing his sponsorship at anytime prior to landing. If required to explain his actions to authorities, he can always insist that the woman deceived him about her motives, and was only using him as a mechanism to immigrate to Canada, rather than marrying with the intention of residing with him permanently, contrary to s. 4(3) of the *Immigration Regulations*. In other words, he can claim it was a marriage of convenience.

Of course, it is not necessarily the case that the husband accurately represents the immigration consequences. For instance, once a woman is a permanent resident, she is relatively secure unless she proves unable to support herself for an extended period of time. If the landing process is nearly finalized, the immigration officer can let it proceed to completion even if the marriage has broken down. If the landing process has not progressed to that stage, the immigration officer has discretion to continue with the landing process on "humanitarian and compassionate" grounds. Factors such as the incidence of domestic violence, the presence of children, and the woman's capacity for self-sufficiency will all be relevant to the officer's exercise of discretion. At the same time, the decision may come down to assessments of credibility, and many women will have a difficult time establishing economic self-sufficiency given their circumstances. Moreover, women who must depend on a favourable exercise of discretion on humanitarian and compassionate grounds have little opportunity to appeal for the exercise of discretion in their favour.

International law has virtually nothing explicit to say about the mail-order bride industry. No international instrument directly addresses the phenomenon, and to my knowledge, it has not yet been the focus of scrutiny by any UN body. Of course, one could address it within the context of the anti-discrimination provisions of the CEDAW, the UN Declaration on All Forms of Violence Against Women, and the comments by the Committee in respect of organized marriages indicates a receptiveness to that.

Insofar as immigration law is concerned, however, there is no political will as yet to protect mail-order brides from potential abuse by conducting background criminal checks on the sponsor-husband (instead of only on the applicant-wife), regulating the "brokers," or providing the applicant-wife directly with information about

her rights, her entitlements, and sources of assistance should she require it.

Conclusion

There is an international traffic in women to meet the demands of western men for sex, for child care, and for housework. This suggests that the decline in the number of western women willing to serve traditional roles has not altered the demand for those services, only the identity of those who are sought to perform them. There is no shortage of poverty-stricken men in countries like the Philippines and Russia, yet there is no market for "mail order grooms," male prostitutes for women,¹⁹ or male domestic workers.

Trafficking in women is big business. Whether one speaks of pimps, marriage brokers or nanny agencies, the fact is that someone else is making a lot of money off the fact that poor, young, foreign women are a bargain for certain Canadian Johns, parents, and single men. The extent of international law's concern for the plight of these women seems to vary in accordance with the perceived legitimacy of the demand for their services in wealthier countries. The impact of international law on domestic immigration law thus seems more rhetorical than real: invoking international law's condemnation of trafficking in women for sexual exploitation is useful for buttressing a decision to exclude sex trade workers. Concerns about exploitation and trafficking do not figure in the discourse about Canada's legislated scheme of indentured labour in relation to live-in domestic workers. Finally, to the extent that international legal institutions have only begun to attend to the issue of mail-order brides as a form of trafficking, it is hardly surprising that the women who come to Canada on this basis remain invisible in Canadian immigration law and policy. It seems that the more the female migrant's role moves from the "public sphere" of commercial sex, to the netherworld of paid domestic labour, to the "private sphere" of marriage, the more reluctant law becomes to speak about her.

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¹For a recent assertion of this principle, see *Chiarelli v. Canada (MEI)*, [1992] 2 SCR 711.

²For a discussion of women as refugees, see Macklin (1995).

³It is arguable, of course, that Canada is also indirectly

accountable for migration from other countries by virtue of its role in creating or sustaining the global inequities that often propel people to leave their countries of origin.

⁴Domestic workers may also be subject to sexual harassment and violence, indicating that some employers believe sex to also comprise part of the domestic worker's informal job description.

⁵The description of international law in relation to the sex trade contained in this section draws heavily on the information contained in Farrior.

⁶May 18, 1904, 35 Stat. 426, 1 LNTS 83.

⁷See Demleitner. In a recent newspaper article, a journalist reports on the number of Nigerian, Polish, and Albanian women working as prostitutes in Italy. While explicit attention is given to how many European women are abducted and violently forced into prostitution, there was no discussion of how the "statuesque young African women dressed in little more than lingerie" ended up being prostituted in Italy. See Hooper.

⁸If the woman is indigent, the host country and country of origin are to share the cost of repatriation.

⁹E/CN.4/1998/75.

¹⁰GA Res A/RES/51/65 28 January 1997; GA Res A/RES/52/97 6 February 1998.

¹¹GA Res45/158, annex, 45 UN GAOR Supp. (No. 49A) at 262, UN Doc. A/45/49 (1990).

¹²A/51/309 27 August 1996.

¹³GA Res 45/158, annex, 45 UN GAOR Supp. (No. 49A) at 262, UN Doc. A/45/49 (1990).

¹⁴As of 31 March 1998: Bosnia and Herzegovina, Cape Verde, Colombia, Egypt, Morocco, Philippines, Seychelles, Sri Lanka and Uganda (ratified); Chile and Mexico (signed).

¹⁵UN GA A/52/356, 17 September 1997.

¹⁶I suggest that the rationale behind the exclusion of domestic work from employment protection is inextricably linked to the fact that it has been conceptualized as the "private sphere" of "women's work"; as a sub-category, live-in domestic labour has shifted into the realm of "foreign" women's work. For a discussion about the efforts of Ontario domestic workers to acquire collective bargaining rights, see Judy Fudge, "Little Victories and Big Defeats: The Rise and Fall of Collective Bargaining Rights for Domestic Workers in Ontario." Bakan and Stasiulis, eds., *Not One of the Family* (Toronto: University of Toronto Press, 1997) at 119-145.

¹⁷Hong Kong city councillor Jennifer Chow recently advocated a 20 per cent cut in salaries of domestic workers in that city on the grounds that the economic crisis in Asia meant that middle-class Hong Kong couples could no longer afford to pay domestic workers as much money. The alternative to slashing domestic workers' salaries would be doing without them, leaving middle class couples with the "appalling prospect of having to do their own housework." (Source: website *Aviva* at www.aviva.org, original article appearing in *The Guardian*

(European Edition).

¹⁸In 1993, almost 30 per cent of Filipino emigrants (19,000 out of 64,000) did so on the strength of fiancée or spousal sponsorship. See Chun. I believe it is safe to assume that most were women.

¹⁹There are, of course, thousands of boys from poor countries who are prostituted to men from Europe, North America, and Australia.

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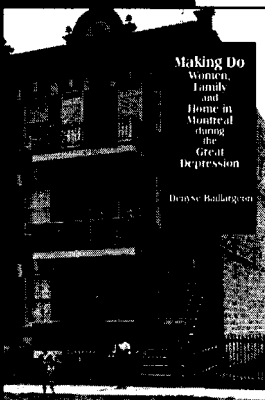
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