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Title	'Walking in Her Shoes' : Prospects and Challenges of Marriage Migrants in South Korea
Author(s)	Chi, Naomi
Citation	年報 公共政策学, 13, 83-97
Issue Date	2019
Doc URL	https://hdl.handle.net/2115/74422
Type	departmental bulletin paper
File Information	13-07_Ronbun_NaomiChi.pdf



‘Walking in Her Shoes’: Prospects and Challenges of Marriage Migrants in South Korea

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I. Introduction

Rapid industrialization, economic growth and urbanization have resulted in an influx of international migrants to South Korea (hereinafter Korea) since the 1990s. Since the 2000s, there has been a significant increase in the migration of women, which is an illustration of the global trend of feminization of migration. Moreover, as the number of immigrants increase in South Korea, so do international marriages. In Korea, the number of international marriage started to rise in the 2000s and peaked in 2006 with almost 13% of total marriages being international marriage with 80% of those marriage involving Korean men and foreign brides¹⁾. Since then, the numbers have decreased slightly due to various reasons such as the economic recession resulting from the Lehman shock in 2008 and enforcement of strict criteria for international marriages, however, statistics show that 8% of marriages in 2016 were international marriages and almost 75% of those marriages involving Korean men and foreign brides²⁾. In the 1990s, many women from China (both ethnic Korean Chinese as well as Han Chinese) sought for marriage with affluent Korean men, however, since the 2000s, women from Asian countries including Vietnam, the Philippines, Mongolia and other CIS countries have come to Korea as marriage migrants, which is now the most dynamic form of permanent migration in Korea. It has also become a new and growing avenue for violation of human rights, exploitation, forced marriage and illicit trafficking.

Moreover, even though there is an increase in the population of foreigners and more representation in Korea, Korean self-identity of racial homogeneity dies hard, and the concept of “multiculturalism” or ethnic coexistence has yet to reach the stage where people can discuss

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- 1) National Statistics Office, “Marriage and Divorce Statistics 2006,” <http://kostat.go.kr/portal/eng/pressReleases/8/11/index.board?bmode=read&bSeq=&aSeq=273509&pageNo=2&rowNum=10&navCount=10&currPg=&sTarget=title&sTxt=> (last accessed on September 5, 2017).
- 2) National Statistics Office, “Marriage and Divorce Statistics in 2016,” <http://kostat.go.kr/portal/eng/pressReleases/8/11/index.board?bmode=list&bSeq=&aSeq=273496&pageNo=1&rowNum=10&navCount=10&currPg=&sTarget=title&sTxt=> (last accessed on September 5, 2017).

how to integrate different cultural groups into a harmonious society and benefit from the diversity. Even today, many interracial couples and their family experience discrimination. A very good example of this is the little boy who appeared on the Korean artist Psy's music video of "Gangnam Style". The boy, Min-woo Hwang, was born to Korean and Vietnamese parents, and after he became a sensation from the appearance on the music video, internet users in Korea criticized and discriminated him for his background, referring to him as not being "Korean enough"³⁾.

This article will look at the dynamics of international marriages in Korea through an overview of migration theories and argue the importance of recognizing that the migration processes of marriage migrants have internal dynamics, but at the same time the migrants' agency should not obscure the real constraints that they face. In this sense, even with the vast improvements in transportation technology and increase in legal institutions, mobility has increased for some people but for some it is still very much restricted. This paper will argue that marriage migrants are one of them, whose mobility is highly regulated due to their status. Secondly, the paper will examine the background and various factors that pull marriage migrants to Korea and consider several case studies and narratives of marriage migrants to analyze the complex dynamics of agency and victimization of marriage migrants in Korea. Lastly, the paper will explore the legal institutions pertaining to marriage migrants, pointing out the legal constraints and consider ways to improve the situation for marriage migrants.

II. Theoretical Framework

There is a wealth of literature on theories of migration that have developed from various disciplines, and they differ in terms of assumptions, focus and level of analysis, however, in general the theories can be divided into causes of migration and the impacts of migration in the receiving and sending communities⁴⁾. Moreover, it is also important to look at migration from the perspective of macro and micro structures, where macro structure refers to the larger institutional factors and micro structure refers to the actual practices, ties and beliefs of the migrants⁵⁾. What is important is to link the causes and consequences of migration to understand the dynamic process of migration.

Migration studies is itself interdisciplinary, and various disciplines have different theories,

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- 3) Haesik Park, "Discriminatory Comments on the Internet concerning Little Psy Hwang Min-woo," *Donga Ilbo*, May 2, 2013, <http://news.donga.com/3/all/20130502/54847291/1> (Last accessed on Jan. 5, 2018).
 - 4) See Douglas S. Massey et al., *Worlds in Motion: Understanding International Migration at the End of the Millennium* (Oxford: Clarendon Press, 1998).
 - 5) Stephen Castles et al., *The Age of Migration: International Population Movements in the Modern World* (New York and London : Palgrave Macmillan, 2014) p. 26.

however, it can be said that there are two main paradigms in which migration can be approached which are the functionalist theories such as the push-pull models and neoclassical theories, and historical-structural theories such as globalization and dual market theory⁶⁾. While functionalist approach sees society as a system or organism and focuses on individual actors, historical-structural approach emphasizes how social, economic and political structures constrain and shape the behaviours of individuals⁷⁾. In recent years, there is a general trend to look at migration as part of a broader process of development while acknowledging the human agency of the migrants themselves. This section will resort to a brief overview of the major theories and argue that when it comes to marriage migrants in Korea, it is still questionable and problematic to illustrate their movement as one with agency.

From Ravenstein’s “law of migration”⁸⁾ which assumed that the major factor for migration was economic, many theorists have taken a functionalist approach which is often referred to as push-pull models⁹⁾. The neoclassical or human capital theories see migration as an intrinsic part of modernization and development process. It assumes the geographical differences in the supply and demand of labour. However, critics of such functionalist approach argue that there are unrealistic nature in its central presuppositions that assume people are “rational actors”¹⁰⁾. Moreover, such approach does not leave much room for human agency and trivializes the ability of human beings to make independent choices or change the structural conditions.

The historical-structural theories of migration were introduced in the 1970s and 80s as an alternative explanation to migration which sees migration as a manifestation of capitalism and the unequal terms of developed and developing countries¹¹⁾. This approach differs from the functionalist approach as it argues that human beings have no free choice because they are constrained by structural forces. Dependency theory, globalization theory and the dual labour theory are part of this approach which focus on the capitalist manifestation and structural constraints of migration. Criticisms against the historical-structural approach include the over-emphasis on colonial legacy and how it limits the extent of migrants to make free choices¹²⁾.

6) See Caroline B. Brettell and James F. Hollifield (eds.), *Migration Theory: Talking Across Disciplines* 2nd ed. (New York and London: Routledge, 2007).

7) *Ibid.*, Castles et al., p.44.

8) See Ernst G. Ravenstein, “The Laws of Migration,” *Journal of the Royal Statistical Society* (Vol. 98, 1885) pp. 167-227.

9) See Constantine Passaris, “Immigration and the Evolution of Economic Theory,” *International Migration* (Vol. 27, No.4, 1989) pp. 525-542; Thomas Bauer and Klaus Zimmermann, “Causes of International Migration: A Survey,” in Cees Gorter et al. (eds), *Crossing Borders: Regional and Urban Perspectives on International Migration* (Aldershot: Ashgat, 1998).

10) See Ronald Skeldon, *Population Mobility in Developing Countries: A Reinterpretation* (London: Belhaven Press, 1990).

11) See Massey et al., 1998.

12) See Ronald Skeldon, *Migration and Development: A Global Perspective* (Harlow: Addison Wesley

Lastly, in recent years there is a growing interest on putting “migrants first” focusing on their agency, identity and perpetuation of the migrants themselves¹³⁾. Such theories include the migration network theory which look at the role of social capital, the transnational and diaspora theories look at the role of identity formation and migration systems theory that look at migration as being intrinsically linked to flow of exchanges (such as information, idea and goods)¹⁴⁾. Although these theories are useful in explaining the crucial role of migrant’s agency, these theories have its own set of setbacks. The criticisms against these theories include: 1) these theories are path dependent; 2) not all migrants retain contact with their homeland; and 3) only emphasize why migration is facilitated and fail to explain why migration weakens or stagnates¹⁵⁾.

In terms of the marriage migrants in Korea, the economic disparity, unequal terms of developed (Korea) and developing countries (Vietnam, the Philippines, Mongolia, etc.), and migrant networks are all factors that bring women from developing countries to marry Korean men. However, what obscures the experiences of many marriage migrants is that marriage is considered to be a choice rather than a necessity. The literature on marriage migrants in Korea have polarized into two very different perspectives: one, to focus on the victimization and human rights violation of these women, or two, to put the marriage migrants’ agency first and respect their choice of marriage. Depending on one’s approach, the marriage migrants’ experiences can be interpreted in strikingly different ways which ultimately leads to the stereotypes and misperception. Thus, it is important to conceptualize migration as an intrinsic part of broader processes of development, to realize that the migration processes of marriage migrants have internal dynamics and acknowledge that recognizing these migrants’ agency should not obscure the real constraints they face.

The next section will examine the historical background to international migration in Korea, the “pull factors” for marriage migration, and specific case studies and narratives of marriage migrants to demonstrate the complex dynamics of agency, victimization and vulnerability.

Longman, 1997) and A. de Haan, “Livelihoods and Poverty: The Role of Migration,” *Journal of Development Studies* (Vol. 36, No. 2, 1992).

- 13) See Oded Stark, *Economic-Demographic Interactions in Agricultural Development: The Case of Rural-to-Urban Migration* (Rome: FAO, 1978); Linda Basch et al., *Nations Unbound: Transnational Projects, Post-Colonial Predicaments and Deterritorialized Nation-States* (New York: Gordon and Breach, 1994); Alejandro Portes, “Conclusion: Towards a New World—the Origins and Effects of Transnational Activities,” *Ethnic and Racial Studies* (Vol. 22, No. 2) pp. 463-477; 1999, Steven Vertovec, “Conceiving and Researching Transnationalism,” *Ethnic and Racial Studies* (Vol. 22, No. 2) pp. 445-462. 1999 See also Massey et al., 1998, and Skeldon, 1997.

- 14) Akin L. Mabogunje, “Systems Approach to a Theory of Rural-Urban Migration,” *Geographical Analysis* (Vol. 2, No. 1) pp.1-18.

- 15) See Castles et al., 2014.

III. International Marriage in South Korea

1. Historical Background, Pull Factors and Victimization of Foreign Brides

As mentioned in the introduction, international marriages have increased significantly since the 1990s. To be more specific, in 1990 international marriages accounted for 1.2% of the marriage, where as it was 13% in 2006 and 8% in 2016, respectively. Of these international marriages, 80% of them are women who marry Korean men, and many of them come from developing countries. In the past, most women came from China (both ethnic Koreans and Han Chinese), however, more and more women are coming from countries such as Vietnam, the Philippines, Cambodia, Thailand and Mongolia.

An interesting feature of international marriages is that most Korean men who seek for foreign brides are predominately from poorer rural areas or from lower economic status in the cities¹⁶⁾. Individual men have different reasons to pursue a foreign bride, however, it can be generally summed up in the following four reasons: 1) urbanization and high level of education and career opportunities for women result in few marriage prospects among local women; 2) the cultural pressures to marry as Korean society strongly emphasizes a patrilineal family line and the expectation of wives of sons to take care of the in-laws, thus, fewer Korean women are willing to take on such responsibilities; 3) the aggressive marketing of foreign brides and the promotion of foreign brides as more “traditional therefore desirable”; 4) official encouragement of international marriages¹⁷⁾.

There are various pull factors that attract marriage migrants to Korea. The obvious reason is the economic imbalance between developed and developing countries, where women from developing countries seek to marry affluent men in developed countries. For some women this could be a way out of poverty for herself and her family, therefore, there is also a push factor such as the pressure from the family in source countries.

The other factor is the role of marriage brokers. Commercial marriage brokers are particularly important as they often play an intermediary role in organizing marriage migration.

16) See Sealing Cheng, “Sexual Protection, Citizenship and Nationhood: Prostituted Women and Migrant Wives in South Korea,” *Journal of Ethnic and Migration Studies* (Vol. 37, No. 10, 2011) pp. 1627-1648; and Elisabeth Beck-Gernsheim, “The Marriage Route to Migration: Of Border Artistes Transnational Matchmaking and Imported Spouses,” *Nordic Journal of Migration Research* (Vol. 1, 2011) pp. 60-68.

17) It is interesting to note that the Korean government has encouraged international marriage as one of the ways to counter the low birth rate in the country (the fertility rate was 6.2 children per woman in 1960, 1.6 in 1990, 1.08 in 2005 and 1.3 in 2016, respectively). Some local governments took initiatives to encourage international marriage through projects such as the “Farmers and Fishermen Bachelors’ Marriage Project” which was supported by 60 local governments in 2007 (See Cheng, 2011, as well as Daniele Belanger and Tran Giang Linh, “The Impact of Transnational Migration on Gender and Marriage in Sending Communities of Vietnam,” *Current Sociology* (Vol. 59, No.1, 2011) pp. 59-77.

Commercial marriage brokers in Korea are legal, but have only been regulated since the enforcement of the Marriage Brokerage Law in 2008 with amendments in 2010 and 2012 following many cases of abuse and deaths of foreign brides¹⁸⁾. Many of these cases involved Korean husbands with history of violence and mental instability, yet, it has been reported in the media that such information was not given to the foreign brides by the brokers.

While brokers facilitate international marriage, there are serious problems with marriage brokerage in Korea such as the commodified nature of commercial marriage brokerage, where the economic imbalance between Korea and the source countries dictate that the Korean husband to be the high paying customer. As such, foreign brides are often treated as commodity, thus increasing their vulnerability. In some cases there is even “warranties” in cases where the bride does not meet the expectations of the husband and his family¹⁹⁾. Many Korean husbands consider themselves to be high paying “consumers” which give them a sense of ownership whereby they can make demands to their foreign brides such as bearing children, doing the domestic work, taking care of the husbands’ parents and even fulfilling the husband’s sexual desires.

One of the other challenges that marriage migrants face is their residency status. In the past, marriage migrants were granted the spousal visa (F-6) upon registering their marriage, however, as of 2014, there is a Korean language criteria that must be met before a foreign spouse can obtain the F-6 visa²⁰⁾. A marriage migrant’s status in Korea depends on her marriage until she can obtain permanent residency or naturalization, which requires the migrant to fulfill strict criteria. Due to the heavy dependency on the husband and his family when applying for permanent residency or nationality, often times the husband threatens the

18) See “Matchmaking in Korea: Mentally Ill Grooms Need Not Apply,” *ABC News*, July 16, 2010, <http://abcnews.go.com/International/mentally-ill-korean-grooms-apply/story?id=11177251> (last accessed on June 25, 2017); “Another Vietnamese Bride Murdered in South Korea,” *NamViet News*, May 29, 2011. These are just the tip of the iceberg, and such kind of violent crimes have continued to occur even with legal provisions. See also <https://namvietnews.wordpress.com/2011/05/29/another-vietnamese-bride-murdered-in-south-korea/> (last accessed on June 25, 2017); “Second Vietnamese Bride Murdered in South Korea within 3 Weeks,” *Thanh Nien Daily*, December 18, 2014, <http://www.thanhniennnews.com/society/second-vietnamese-bride-murdered-in-south-korea-within-3-weeks-35461.html> (last accessed on June 25, 2017); “South Korea’s Foreign Bride Problem,” *The Diplomat*, January 29, 2015, <https://thediplomat.com/2015/01/south-koreas-foreign-bride-problem/> (last accessed on June 25, 2017). Most recent case include: Dong-hwan Ko, “Elderly Man Stabs his Vietnamese Daughter-in-Law to Death,” *The Korea Times*, June 27, 2017, http://www.koreatimes.co.kr/www/nation/2017/06/251_231977.html (last accessed on September 15, 2017).

19) *Ibid.*, Cheng, 2011.

20) As of 2014, the Korean Immigration Law stipulates that a foreign spouse married to a Korean national must comply with the Korean language criteria. He/she must have at least Level 1 proficiency at the time of the issuance of the visa, or if this cannot be provided, then the foreign spouse must pass an interview with the immigration officer to prove language proficiency.

foreign bride with divorce and deportation and are able to control her movements so long as she remains on the spousal visa which is granted when the two people register their marriage. The spousal visa itself is a precarious form of residency because it is highly dependent on the Korean spouse. Therefore, even though foreign brides may experience domestic violence or abuse, often times they do not notify the police in fear of divorce or deportation. Moreover, some women seek to remain in the marriage because they are under pressure from their families back home to send remittances.

Lastly, the language and cultural barriers weigh heavy on the marriage migrants, because in many cases a newly arrived wife (unless she is familiar with Korean culture prior to arrival or from a Korean-speaking community abroad) is at the mercy of her new family. Once they arrive in Korea, they are often confined to their homes with little or no contact with the outside world, which make them more vulnerable to abuse. With the increase of marriage migrants, there are more and more information available for foreign brides in their mother language and/or English, however, important legal information as well as services are often available only in Korean, therefore, it is extremely difficult to access such information.

Marriage migrants can and do face these kinds of challenges in Korea. On the one hand it is important to address such issues of victimization of foreign brides, however, it is also just as important to respect their individual agency. The next section will explore specific case studies and narratives collected through the extensive field work by the author and consider the complex dynamics of international marriage migrants in Korea.

2. Case Studies and Narratives

This section will consider some of the most sensational cases that brought the violence and victimization of marriage migrants to the attention of the Korean society, which in turn became the driving force for implementation and revision to legal statutes as well as establish various support system for marriage migrants in Korea.

(1) Case #1: In June 2007, a Vietnamese marriage migrant, aged 19 at the time, was viciously murdered by her Korean husband. She was found dead with eighteen broken ribs in the basement of their house. The husband claimed that he was frustrated with his wife, whom he had paid a large amount of money to marry, kept insisting they get a divorce and she return home²¹).

2) Case #2: In January 2007, a 22 year old Vietnamese woman married to a 34 year old Korean man was found dead close to the apartment they lived in. The Vietnamese wife and

21) Eun Ji Kim, “To Kill or To Be Killed: The Cruel Reality of Migrant Women,” (in Korean language) in *Sisain*, February 28, 2009. <http://www.sisain.co.kr/news/articleView.html?idxno=3907> (last accessed on September 15, 2017).

Korean husband had been married only for one month, however, she had basically lived in confinement during the time, so she had decided to escape when no one was at home. Since she was locked in a room, the only way out was the window from the 9th floor apartment. She tied the curtain on the balcony railing and used to escape, however, the curtain came undone and she fell to the ground floor²²⁾.

3) Case #3: In January 2008, a 22 year old Vietnamese woman married to a Korean man decided to divorce her husband one week after coming to Korea because she could no longer tolerate her husband's verbal and physical abuse. She was found dead just outside the apartment the day after she purchased her ticket back to Vietnam. The police investigation stated that there was no foul play and that the Vietnamese women had committed suicide²³⁾.

4) Case #4: In May 2008, a 19 year old Vietnamese woman married to a Korean man delivered their first child. When she left the hospital the husband had told her the baby was being taken care by someone else to ease her burden. She later on delivered their second baby, and after a week from the delivery the husband demanded a divorce. Previous to their marriage, the Korean man had divorced his former wife because "she could not bear children". He had told his Vietnamese wife that his ex-wife threatened to take all his properties and they would have no place to live and persuaded her to agree to the divorce in turn for annual visits to Vietnam with the two children. The Vietnamese women had no choice but to agree to the divorce. Fifteen days after the divorce, the Korean man remarried his former wife. This case is referred to as the "modern version of a surrogate mother."²⁴⁾ However, in this case the Vietnamese woman fought for compensation and custody of her children. A team of public lawyers supported her in filing the two cases²⁵⁾. The court ordered the Korean man to pay 25,000,000 Korean won (approx. 22,000 US dollars) for compensation²⁶⁾, however, custody was not granted to the biological mother²⁷⁾. At the end, the Supreme Court gave visitation rights to the biological mother²⁸⁾.

The cases mentioned above are only fraction of the cases involving marriage migrants that have occurred in Korea. Clearly, all of these cases demonstrate the vulnerability and

22) *Ibid.*

23) Ji Young Yim, "Being Beaten to Death or Dying While Running for Life: Tragedies of Marriage Migrants," (in Korean language) in *Sisain*, August 3, 2010, <http://www.sisain.co.kr/?mod=news&act=articleView&idxno=8003> (last accessed on September 15, 2017).

24) Rami So, "Modern Version of a Surrogate Mother," (in Korean language) in *Pressian*, May 22, 2008, <http://www.pressian.com/news/article.html?no=88846> (last accessed on September 15, 2017).

25) *Ibid.*

26) Kyung Hwa Song, "The Modern Surrogate Mother Wins the Appeal," (in Korean language) *Hankyoreh*, July 2, 2010, http://www.hani.co.kr/arti/society/society_general/428552.html (last accessed on September 15, 2017).

27) Seoul Family Court, 2009 bu16, April 10, 2009.

28) Supreme Court of South Korea, 2009su56, June 29, 2009.

victimization of these women. One of the reasons why such kind of violence is tolerated is because many women fear they may be deported if the marriage is terminated.

On the other hand, there are also many cases of marriage between Korean man and foreign woman that are not through marriage brokers but by their own will. Some of the women interviewed during the author’s field work were frustrated with the prejudice and stereotype of Asian women as “mail-order brides” who marry Korean. The misconception arises from marriages between Korean men and younger Asian women who come from impoverished families that marry a Korean man they barely know in exchange for a better life in Korea. One of the women interviewed, Ms. C²⁹⁾, had the following narrative to share:

“What some Koreans fail to recognize is that there are many foreign wives in Korea who weren’t picked by marriage brokers, women who married their husbands because of love and the desire to have their own family, women with no hidden agenda when they decided to leave their home countries to be in Korea with their husbands. One of my husband’s relatives said to me, ‘You are very lucky to come to Korea. Many Filipinas want to go but they cannot.’ Some Koreans think that when a Filipina marries a Korean, she is after financial gain. Not all Filipinas marry for money. Not all Filipinas are dying to step foot on Korean soil. Not all Filipinas are after the visa.”

She also added that:

“Marriages of convenience are sought for by not only Filipinos, but by people from various countries. People can be hypocrites, judging others because of their choices in life. I have much respect for women who marry for convenience, and yet turn out to have a more successful life and dedicate their time to becoming good wives and mothers. These women DO exist, but are overshadowed by the wrong perception of bigoted people.”

Another woman interviewed, Ms. J³⁰⁾, mentions the difficulties she has faced with her in-laws:

“My husband and I have lived with his parents since the beginning of our marriage and the first five years were extremely difficult. My parents-in-law are not bad people, but seniority and respecting the elderly are very important values in Korea,

29) Ms. C is a Filipina woman married to a Korean man. They had met 10 years ago, dated and was in a long distance relationship until they got married in 2010. Interviews with Ms. C have been conducted twice, once in February 2015 and second time in March 2016. Ms. C has given the author consent to share her narrative in this paper.

30) Ms. J is a Filipina woman married to a Korean man. She married her Korean husband in 2000, and has already obtained her permanent residency in Korea. Interviews with Ms. J have been conducted twice, once in February 2015 and the second time in March 2016. Ms. J has given the author consent to share her narrative in this paper.

which makes it hard for me to speak my mind. Back in the Philippines we would all make our own decision regardless of what our parents think, but this is not the case in Korea. However, with time I have become much more patient than before and my husband has made great efforts to become the intermediary between his parents and me. It is still challenging at times but we are managing as a family.”

She mentions the following about her difficulty as a marriage migrant married to a Korean man:

“For me, it is more the difference in cultural backgrounds than the language barrier. In the beginning of our marriage, we would argue about how we do things differently in our country, but again with time, we have learned to agree to disagree and accept our differences. It is important to make compromise. In any marriage, it is the willingness of the two people to make the relationship work.”

The important lesson to be learnt here is that it is crucial to consider the complex dynamics of agency and at the same time the vulnerability of marriage migrants in Korea. It is not enough to simply consider all marriage migrants as victims of the commodification of foreign brides, but to provide legal institutions and support to minimize the violence against these women and deter violation of human rights. The next question that needs to be asked is then what kind of legal institutions are available, and what are some of the gaps and challenges that cannot be addressed by the existing laws?

The next section will examine the legal institutions for migrants in Korea with an emphasis on laws that affect marriage migrants.

IV. Legal Institutions

1. Nationality Law

The Nationality Law in Korea which was implemented in December 1948 stipulated that the main form of acquisition of nationality is through filial lineage or *jus sanguinis a patre*. Since implementation, the law has been amended several times, but the 1997 revision (and its implementation in 1998) was one of the greatest reforms to the nationality law. This is often referred to as the 1998 amendment, and interestingly was executed when the number of international marriages increased significantly in Korea.

The amendments were mainly to promote gender equality, to protect the right of the child in line with the international human rights conventions to which Korea had acceded as well as preventing fake marriages. With the revision, a child born to a Korean woman and a foreign man could acquire Korean nationality. The other amendment which directly affected marriage migrants was the revision concerning naturalization. Previous to the 1998 amendment, a foreign wife of a Korean man could automatically obtain Korean nationality upon registering

their marriage, while a foreign husband of a Korean woman could obtain nationality only after residing in Korea for more than three years³¹⁾. Also, the Article 6, Paragraph 2 of the current law stipulates the following requirements for foreign spouse to obtain Korean nationality: 1) a person who has sustained a domicile in the Republic of Korea (hereinafter ROK) for at least two consecutive years, being married to the said spouse; 2) a person for whom three years have lapsed, since he/she got married to the said spouse, sustaining a domicile in the ROK for at least one year consecutively; 3) a person who was unable to sustain marriage due to the death or disappearance of his/her spouse or other causes not imputable to them while sustaining a domicile in the ROK and being married to the said spouse, who failed to fulfill the requirements of the above 1 or 2 but has fulfilled the requirements for the remaining period of the above 1 or 2 and is considered reasonable by the Minister of Justice; 4) a person who failed to satisfy the requirements under the above 1 or 2, but who is taking care of or shall take care of a minor born within the marriage with the said spouse, and has met the domicile period requirements under the above 1 or 2 and is considered reasonable by the Minister of Justice³²⁾.

Moreover, according to the Korean Immigration Service, in order to submit the documents for the permission of change of visa status to permanent residency or to apply for naturalization, the applicant must not only fulfill the residency criteria but also must prove that he/she has assets of 30 million won (approx.. \$28000 US dollars) or more, which may include the husband’s/wife’s assets³³⁾.

Due to the aforementioned requirements and criteria, a foreign spouse’s status in Korea is dependent on his/her spouse, because it is the Korean spouse who guarantees the spouse’s identity, residence and often times the proof of assets when the spouse renews his/her spousal visa (F-6) every year and when submitting the documents for naturalization³⁴⁾.

This institutional design inevitably leads to the significant dependency of the foreign spouse on their Korean husband/wife, unequal spousal relationship on various levels and heightens the vulnerability of the marriage migrants.

31) Korean Nationality Act, No. 2906, December 22, 1976, Art. 3.

32) Nationality Act, No. 5431, December 13, 1997, Art 6(2), later amended by No. 8892, March 14, 2008 concerning statutory ground for nullification of naturalization or nationality determination on account of deceit or other illegitimate means.

33) Korean Immigration Service, Immigration Guide, “Guide and Required Documents by the Subject for Permission for Change of Visa Status,” http://www.hikorea.go.kr/pt/en/info/popup/icis/3-4-2_pop.html (last accessed on August 30, 2017)

34) According to the Korean Immigration Office, for those in addition to the criteria concerning residency and proof of assets, the applicant must also have “basic knowledge befitting a Korean national, such as understanding the Korean language, customs and culture, as well as prove that the normal marriage status is maintained. Proofs include photographs, statements by those in the applicant’s community or letters or messages exchanged between the spouses before marriage.”

2. Marriage Brokerage Law

Commercial marriage brokers have been legal in Korea and regulated by the government only recently. The increase in international marriage and the media reportage of various violence and abuse cases have led to the enactment of the Marriage Brokerage Law (also referred to as Marriage Broker Management Act in English) in 2008 and subsequent revisions to the law in 2010 and 2012.

There are both domestic and international marriage brokers in Korea, however, one significant difference is that individuals and businesses conducting international marriage brokerage are required to register their business as well as professional and ethical training³⁵⁾. Both domestic and international marriage brokers are required to obtain liability insurance³⁶⁾.

The law provides several categories of people and businesses who may not engage in international marriage brokerage. For example, a person who has served prison time cannot register until two years after the sentence is completed. Moreover, people who have been convicted of specific crimes pertaining to human trafficking or arranging fraudulent visas for foreigners may not register until three years after the sentence is completed. Those people who have lost their registration for violating the marriage brokerage law may not re-register for three years. Businesses may not register should they have employed individuals on the blacklist for the aforementioned reasons. Lastly, businesses such as those that provide labour brokerage, temporary employment agencies and immigration services to Korean moving abroad may not engage in marriage brokerage³⁷⁾.

In addition, individuals and businesses conducting brokerage in source countries are also required to abide by the local laws of that country, protecting clients' and potential brides' personal information and prohibited to conduct false and discriminatory advertising³⁸⁾. Moreover, Korean brokers are prohibited to working with local business partners who would be otherwise prohibited in working in marriage brokering under Korean law³⁹⁾.

In short, the Marriage Brokerage Law enacted in 2008 which was revised in the 2010 and 2012 was intended to prevent fraudulent procedures of brokerage. First, revision of the law clearly states the broker's duty to explain the contract to the clients in their mother language and required that all personal information including marriage history, health status,

35) Marriage Broker Management Act, No. 10301, May 17, 2010, amended on March 22, 2013, Arts. 1, 3-4, and 24.

36) *Ibid.*

37) Information regarding the regulations on categories of people and businesses who may not engaging in international marriage brokerage can be found in the Marriage Broker Management Act, No. 10301, May 17, 2010, amended on March 22, 2013, Arts. 6 (1-7) and 7.

38) Marriage Broker Management Act, No. 10301, May 17, 2010, amended on March 22, 2013, Art. 11.

39) Marriage Broker Management Act, No. 10301, May 17, 2010, amended on March 22, 2013, Art. 14-2 (3).

employment, criminal history related to domestic violence, sexual violence and child abuse and any other information required by the laws of the sending countries be provided to the clients. Second, the revision also required international marriage brokers to comply with the law of the sending countries where it runs the brokerage business.

This new set of laws were intended to change the social practice of marriage brokerage, however, it is limited in capacity to intervene in real practice. While mandatory registration of the business does provide potential for identifying bad practices that could potentially lead to exploitation or even trafficking, critics are skeptical of how government polices brokers’ activities abroad. Moreover, while administrative and criminal penalties are enforced by law, most of the provisions have neither minimum prison terms nor set fines. Finally, there are issues with enforcement of the law at the local level as it is the local governments’ responsibility to ensure that businesses are registered. However, municipalities often times do not place this responsibility as their top priority⁴⁰.

V. Tentative Observation and Conclusion

The economic growth in Korea has brought about the influx of migrants, especially marriage migrants from countries in Asia such as China, Vietnam, the Philippines, Mongolia and Thailand. While many Asian women seek to marry affluent Korean men in the hopes of a better life not only for themselves but their family, it would be misleading and inaccurate to think that women from these countries marry only out of convenience. There is a delicate balance between marriage migrants’ agency and their vulnerability, therefore, it is crucial that there are strict legal provisions to minimize or to deter the violation of human rights and to provide support for those who are experiencing abuse and/or violence from their spouse.

Nevertheless, significant progress has been made in the establishment of grassroots organizations and NGOS in Korea that support and aid marriage migrants. The Korea Women’s Hotline (KWHL) is an organization founded in 1983 which aims to protect women’s rights from domestic abuse, sexual violence, human trafficking, and supporting migrant women in Korea. The KWHL conducts consultation with victims and operates shelters for abused women in various cities in Korea. There is also the Emergency Support Centers with a 24 hour in person emergency telephone counseling service at 1577-1366 which is available in 11 different languages including Korean, Vietnamese, Chinese, English, Tagalog, Russian, Thai, Mongolian, Cambodian, Uzbek, and Japanese. There is also legal support available through the public lawyers group Gonggam Human Rights Foundation that is supported by the

40) Gonggam Human Rights Foundation, “Problems with International Marriage Brokers,” <http://www.kpil.org/opboard/viewbody.php?code=woman&page=1&id=73&number=73&keyfield=subject&keyword=결혼&category=&BoardType=&admin=> (last accessed on September 30, 2017).

Korean Public Interest Lawyers Group in Korea. The Women Migrants Human Rights Center also provides information in 6 languages including Korean Vietnamese, Chinese, Tagalog, Russian, Mongolian and Thai.

As a tentative observation, the following are policy suggestions that could improve the challenges marriage migrants face in Korea today. First, at present the registering of international marriage in Korea is far more relaxed compared to countries such as Japan or Taiwan, whereby the husband can register the marriage in Korea without the physical presence of the foreign wife. It may be advisable to have both parties undergo an interview together at the local Korean embassy or consulate in the source country whereby it may be possible to uncover false marriage or commercial marriage trafficking. Second, while commercial marriage brokerage is legal in Korea it has created avenues for various human rights violation. As such, legal revisions have enforced tighter regulation on commercial marriage brokers, the law should provide provisions to provide contracts for the two parties involved. Since the husband is considered to be the “high paying” customer, in most cases the husband’s interests are prioritized than that of the potential bride. It is important and worthy of consideration to correct the imbalance created by a profit-oriented marriage broker and to balance the interests of the two people involved. Third, while there are many support groups and centers provided by grassroots organizations and NGOs, it would be in the best interest of the marriage migrants to increase support from government organizations and agencies to cater to the needs of marriage migrants, to train staff specifically for that purpose and to provide outreach programmes. Fourth and lastly, while legal institutions and policies are panacea for the challenges experienced by marriage migrants, it is crucial to cover the shortcomings and to mitigate the vulnerabilities of marriage migrants.

This paper is part of an ongoing research on gender and migration with an emphasis on foreign brides in East Asia. This paper considered the case of Korea, however, there is still much work to do. While there are reports of forced marriage and illicit trafficking in this region, field work and research is difficult to conduct due to various constraints, however, these issues will be dealt with in more detail in future works.

‘Walking in Her Shoes’: Prospects and Challenges of Marriage Migrants in South Korea

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Abstract

Rapid industrialization, economic growth and urbanization have resulted in an influx of international migrants to South Korea since the 1990s. Since the 2000s, there has been a significant increase in the migration of women, which is an illustration of the global trend of feminization of migration. In Korea, the number of international marriage peaked in 2006 with almost 13% of total marriages being international marriage with 80% of those marriage involving Korean men and foreign brides. International marriage is now the most dynamic form of permanent migration in Korea. It has also become a new and growing avenue for violation of human rights, exploitation, forced marriage and illicit trafficking. However, the Korean self-identity of racial homogeneity dies hard, and the concept of “multiculturalism” or ethnic coexistence has yet to reach the stage where people can discuss how to integrate different cultural groups into a harmonious society and benefit from the diversity.

This article will look at the dynamics of international marriages in Korea through an overview of migration theories and argue the importance of recognizing that the migration processes of marriage migrants have internal dynamics, but at the same time the migrants’ agency should not obscure the real constraints that they face. Secondly, the paper will examine the background and various factors that pull marriage migrants to Korea and consider several case studies and narratives of marriage migrants to analyze the complex dynamics of agency and victimization of marriage migrants in Korea. Agency and victimization Lastly, the paper will explore the legal institutions pertaining to marriage migrants, point out the legal constraints and consider ways to improve the situation for marriage migrants.

Keywords

Marriage Migrants, feminization of migration, victimization