

Chapter 5

Gender, Race, Culture and Identity at the Internal Border of Marriage Migration of Vietnamese Women in South Korea



Susan Kneebone

5.1 Introduction

The ‘phenomenon’ of transnational or ‘cross border’ (Lee, 2012) marriage migration to East Asia which followed from the strengthening of economies in the region in the 1980s, and consequent demographic change, including lower birth rates, has driven the demand for ‘foreign brides’ to countries such as South Korea (‘the Republic of Korea’ or ‘Korea’). Korea is one of the destinations for marriage migrants from Southeast Asia amongst the so-called ‘tiger economies’ of East Asia, which include Taiwan (the Republic of China), Japan, and China (People’s Republic of China). Vietnam (the Socialist Republic of Vietnam) is the main Southeast Asian ‘supply’ country of marriage migrants to South Korea. In this chapter I take the example of female marriage migration to Korea from Vietnam for a case study of transnational marriage migration to explain the discriminatory consequences of Korea’s laws and policies on nationality which frame marriage migration as ‘a critical project for the nation-state’ (Toyota, 2008, p. 3). At the macro level, the foreign bride relieves national ‘demographic anxieties’ through her reproductive role; at the level of the extended patriarchal family she performs vital carer roles. ‘[M]arriage migrants’ are vital to the reproduction of the nation’ (Kim & Kilkey, 2018, p. 4).

In this chapter I take a socio-legal approach to emphasise the transnational effect of policies on marriage migration of Vietnamese women to Korea. I differentiate my approach from other studies on marriage migration which focus on the sociological aspects of this gendered migration (Bélanger & Wang, 2012; Hoang & Yeoh, 2012). I demonstrate how notions of gender, race, culture and identity shape the internal border for marriage migrants from Vietnam, through laws and policies on nationality, labour migration and regulation of marriages in South Korea.

S. Kneebone (✉)

Asian Law Centre and Peter McMullin Centre on Statelessness, Melbourne Law School,
University of Melbourne, Melbourne, Australia
e-mail: susan.kneebone@unimelb.edu.au

© The Author(s) 2023

S. Petcharamesree, M. P. Capaldi (eds.), *Migration in Southeast Asia*, IMISCOE
Research Series, https://doi.org/10.1007/978-3-031-25748-3_5

75

Whilst South Korea also has laws on marriage brokerage which attempt to police its external borders, I argue that the construction of the internal border in Korea through nationality laws and policies is more significant in shaping the experiences of Vietnamese marriage migrants in Korea. I contrast the policy responses to marriage migration in Vietnam with the perceptions and motives of Vietnamese marriage migrants.

Marriage migration is often analysed through a migration-development lens (Piper, 2008; Kim, 2012; Piper & Lee, 2016) to argue for the recognition of women's productive *and* reproductive labour in marriage migration. These studies focus on the individual agency of the migrant and the social effects of marriage migration. Other studies have responded to the implication that such migration from a developing to a developed country is inherently exploitative (Constable, 2005), thus requiring protective responses which fit with a narrative on human trafficking. My approach focuses on the role of the state in producing gendered and discriminatory responses through nationality laws at the internal border. I argue that there is 'structural exploitation' arising from state policy and national laws, which foster individual exploitation.

I chose the Vietnam-South Korea example of transnational marriage migration for several reasons. First, in Korea Vietnamese marriage migrants are the largest group of marriage migrants from Southeast Asia, and the second largest after the Korean-Chinese wives or Chosŏnjok (co-ethnic Koreans). The fact that Vietnamese women are perceived to be similar in appearance to Korean people, and to be imbued with similar Confucian values is often noted as the reason for their high numbers in Korea. That is, gender, race and culture are important factors in shaping the presence of Vietnamese marriage migrants in Korea, and responses to them.

Secondly, marriage migration from Vietnam is often framed as a means of strengthening transnational ties between Vietnam and South Korea; from Vietnam's side at an official level there is an interest in this relationship. However, at the individual level, marriage migration is often seen as a cultural and economic opportunity for Vietnamese women, thus setting the scene for potential clashes in expectations between spouses. This leads to the third reason. The high level of divorce amongst Vietnamese-Korean marriages, results in the return of many Vietnamese brides from Korea (often accompanied by their Korean born children) and has created many ambiguous legal situations (Kneebone et al., 2019) which leave the women and their children in precarious situations.

Korean-Vietnamese bi-lateral relationships and cooperation are well-established. In 1992, after the end of the Cold War, diplomatic ties were established between the two nations. Today, there is substantial Korean investment in Vietnam by large companies and industries, such as Samsung Electronics and Hyundai, which creates considerable employment in Vietnam. It has been claimed that 'Korea is Vietnam's number one FDI investor, number two official development assistance provider, and number two trading partner' (Do, 2020).

I begin by explaining the link between South Korea's early experience of marriage migration of the Chosŏnjok (co-ethnic Koreans) and Korea's national identity. I argue that the strong link between Korean nationality laws *as they apply to*

marriage migrants, and national identity, creates a structural vulnerability for ‘foreign’ brides from Southeast Asia. This is exacerbated by the exclusion of marriage migrants from the formal system of labour migration, which coupled with their ability to access nationality increases their precarity. I then contrast Vietnam’s approach to marriage migration, the status of women in Vietnam in the context of nationality and national identity, and I discuss issues around processes for marriage migration from Vietnam. For that section I draw on the findings of research conducted in Vietnam between 2014 and 2019.

Before turning to the substance of this chapter, I briefly situate Vietnamese marriage migration in the chronology of such migration to Korea.

5.2 Marriage Migration and National Identity in South Korea: Creating a Chosŏn Nation

Following the movement of co-ethnic Korean-Chinese (Chosŏn) marriage migrants from China (the Peoples’ Republic of China) in the 1990s, marriage migration from Southeast Asia to Korea increased around 2005. This was due to an increasing number of women from Vietnam, the Philippines and Cambodia entering the ‘market’ for transnational marriages in the region. Whereas in the 1990s, about one per cent of new marriage migrants were Southeast Asian women, by 2005 this increased to over nine per cent with even higher rates in rural areas (Lee & Klein, 2017; Shin & Prins, 2017). In 2014 Vietnamese women constituted the second largest group of foreign wives in Korea after Chosŏn female marriage migrants (Park & Morash, 2016). The picture was much the same in 2017, with Chosŏn wives representing 31% of the total, and Vietnamese female marriage migrants at 25% (Lee-An, 2020).

The Chosŏn (Korean) nation upon which the Korean Constitution is based dates from the fourteenth century and although it has been disrupted by territorial disputes, wars and invasions, it forms an important part of the collective national imagination. This is evidenced by the popular practice of young people who dress in the traditional attire of the Chosŏnjok (Korean people) to visit national heritage sites in South Korea on weekends and national holidays (personal observation, 2016). It is also very evident in policies concerning foreign brides. Lee (2008a) suggests that negative attitudes to foreign brides also stem from the association of marriage migration with invasion and abuse of Korean ‘comfort women’ (during the colonial period 1910–1945); the women and their children were treated as ‘dirty bodies’. Further, it is suggested that the birth of mixed-race children arising from the US military presences (1945–1948) contributes to negative attitudes to the children of marriage migrants and their mothers (Lee, 2008b; Bélanger et al., 2010; Chi, 2019).

Between 1860 and 1870 many Koreans (Chosŏn) emigrated to Jiandao (or Gando - land between the Yanbian in Korea and Helong in Jilin, Northeast China) in search of fresh rice fields. Further, after the Japanese occupation of Korea in 1910, many Koreans moved to Northeast China to escape Japanese rule. In 1930, the total number of Koreans in Northeast China exceeded 600,000 (Han, 2013). In

1945, when Japan surrendered, there were more than 2.16 million Korean (Chosŏn) emigrants living in Northeast China (Chang, 2004).

The ethnic composition of the Korean (Chosŏn) people and their place in the Constitution is an important factor in South Korea's emergence as a modern state in the second half of the twentieth century, following the Japanese occupation (1910–1945) and period of US administration. In 1948 two separate states were established: North and South Korea, reflecting the ideological divide of the Cold War. The first South Korean republic was formally established on 15 August 1945. The 1950–1953 Korean War saw the continuance of US and other foreign military presence. From 1961–1963 South Korea was under military rule following a coup. This briefly is the history of South Korea in the first part of the twentieth Century. It is unsurprising that following such turmoil, that South Korea should turn to its previous history.

Chulwoo Lee (2015), a leading Korean legal scholar, explains that, 'Korea's current citizenry was legally constructed' through the Constitution. The Preamble to the 1948 Constitution refers to the 'resplendent history' of the people of Korea and to their 'traditions dating from time immemorial'. The Constitution provided that 'the sovereignty of the Republic of Korea shall be reside (sic) in the people and all state authority shall emanate from the people' (Article 1(2)). Four months after the Republic of Korea was established, the 1948 Nationality Act, Article 2(1) provided nationality for: 'A person whose father is a national of the Republic of Korea when the person is born'. It is commonly said that this represents a patriarchal and racialised concept of nationality as passing through the male line (*jus sanguinis*).

From the late 1980s (coinciding with Korea's rise as a 'tiger economy'), many Chosŏnjok returned to South Korea. At first, they came mainly under the guise of visiting relatives, and often overstayed their visas. Later, more came to South Korea as 'cheap and mostly illegal labour'. Further the women came to marry South Korean men. In 1992 a treaty between Korea and China established diplomatic and trade relationships between the two countries and opened the door not only to legal migration for work but also for arranging marriages, which were brokered mainly by local government officials and agricultural associations in rural areas (Chung & Kim, 2012).

This movement coincided with a shortage of marriage partners for rural men and so according to one commentator:

[I]n order to appease rural voters, the South Korean government started a match-making program to find [Chosŏnjok] women for rural bachelors with the idea that the [Chosŏnjok] are ethnically Korean and thus most suitable as they would cause little linguistic and cultural disruption in South Korean society (Han, 2013).

From 1990 to 2005, an estimated total of 70,000 Chosŏnjok women married South Korean men (Han, 2013). The ethnicity of the Chosŏnjok women was undoubtedly an important reason for their initial acceptability as marriage migrants (Chung & Kim, 2012, p. 209). Their marriages were seen 'almost as an act of nationalism in order to benefit bachelor farmers' in South Korea (Kim, 2010). But after a 'honeymoon' period there were numerous reports of 'fake marriages' of Chosŏnjok women, which led to a decline in the popularity of Chosŏnjok women as marriage

migrants (Kim, 2010; Chung & Kim, 2012, p. 209). In the early 2000s the number of women from Southeast Asian countries began to increase. This trend coincided with an increasing number of Chosŏnjok women (and men) taking up the opportunity for a work permit which became available from the mid-1990s (as explained below).

From this summary it can be seen that the co-ethnic Chosŏnjok women were initially favoured for marriage migration because of their natural ethnic and cultural affinity, but the genuineness of their motives for marriage came to be doubted. Many Chosŏnjok women were suspected of using marriage migration to bypass restrictions on avenues of regular labour migration. This legacy, a distrust of the motives of marriage migrants, and a preference for assimilable wives was to have a lasting influence on the shaping of nationality policies in Korea. But before turning to those policies, it is necessary to explain another factor in the situation of Southeast Asian and Vietnamese marriage migrants.

5.3 Labour Migration: The Default Position of Marriage Migration

The decline in popularity of Chosŏnjok women as marriage migrants coincided with a turning outward of the Korean government as its economy boomed in the 1990s and its labour needs increased. From the 1990s on Korea changed from an exporter to an importer of labour; from the mid-1990s it began regulating labour migration from further afield. Paradoxically, this had the effect of increasing the vulnerability of Southeast Asian marriage migrants who (mostly) *do* migrate in order to work, largely to enable them to send remittances to their families. However, under Korea's highly structured and regulated system of international labour immigration (Oh et al., 2011), there are few opportunities for unskilled female migrant workers.

By the early 2000s South Korea and China had normalised relations, and Chosŏnjok migrants (male and female) were able to obtain work visas. But female migrants from Southeast Asia were/largely ineligible for labour migration visas, thus marriage migration became the default position for female migrants from Southeast Asia who want to send remittances to their families. As explained below, in 2002 the Korean government created a visa with work rights for marriage migrants. This led to a perception that marriage migrants have 'mostly economic motives, to work in Korea' rather than genuine sentiments for marriage (Lee, 2014). Lee (2010, p. 579) explains:

Some Koreans openly criticize marriage immigrants in newspapers or portal websites, asserting that marriage immigrants only came to Korea to get money from their husbands in order to support their family in their home countries.

This perception has several consequences which highlights their vulnerability. First, they are framed as opportunistic migrants from underdeveloped countries (Chung &

Kim, 2012). As I explain in the next section, this led to the regulation of marriages as commercial transactions, and conflation of female marriage migrants with trafficked women (Choo, 2013). Secondly, as Nicole Constable observed in 2005, new patterns of marriage migration for development reflected ‘broadly gendered patterns’ of hypergamy:

A majority of international marriage migrants are women, and most of these women move from poorer countries to wealthier ones, from the less developed global ‘south’ to the more industrialized ‘north’ ... (Constable, 2005, p. 4)

As Constable explained, the discourse led to common stereotypes and assumptions about the motives of foreign or ‘mail-order brides’ and a connection between poverty, opportunism and presumed lack of agency.

Recent scholarship reframes this discourse as advancing social transformation through reproductive work (Piper & Lee, 2016). Kim (2012, pp. 553–4) explains this in relation to Korea:

The traditional gender roles of Vietnamese brides may be broadly categorized as reproductive labor, which is defined as human reproduction and “maintaining and sustaining human beings throughout their life cycle,” including care work.

I argue that each of these framings, namely opportunism and reproductive labour, highlights the vulnerability of marriage migrants by exposing the contrast with migrant workers. Kim (2012, p. 553) explains:

The fact that Vietnamese brides send remittances back home indeed blurs the distinction between marriage migration and labor migration.

The legacy of these framings is that they lead to discriminatory laws and policies on nationality that perpetuate the image of the marriage migrant as an ‘idealised cultural and biological reproducer’ for the nation. Further, the creation of work rights for marriage migrants in 2002 led to the consequence that she is envied by comparison with temporary labour migrants (Chung & Kim, 2012) who are not eligible for naturalisation. Korea’s immigration policies do not allow low-skilled migrant workers access to citizenship; marriage migrants are the only group of migrants with a path to citizenship (Kim, 2017, p. 6). Female marriage migrants are thus valued for their ability to ‘form family units’ (Chung & Kim, 2012, p. 202) rather than for their economic inputs. As I explain, the basis on which they claim rights and citizenship status is through the marital relationship, as wives and mothers of citizens.

5.4 Regulation of Marriage Migration Through Nationality Laws

The patriarchal control of female marriage migrants makes it possible for non-Korean bodies to reproduce and perpetuate Korean ethnic nationhood. However, the discursive construction of desirability of marriage migrant women is fragile in the event that they do not fulfil the nationalist goals of reproducing the patrilineal Korean nation as demonstrated in the case of older and non-childbearing marriage migrants. (Lee-An, 2020, p. 135)

From 1997 marriage migration was regulated through nationality laws which were a response to claims of false marriages by Chosŏnjok and which were framed around suspicion about their motives. In 1997 two important changes were made to the Nationality Act. The first was to weaken the presumption of patrilineal *jus sanguinis* as an amendment provided that a Korean woman could pass on her nationality to her child (Chung & Kim, 2012, p. 214). This meant that a Korean woman married to a foreign man could pass on her nationality to her child but not a foreign wife married to a Korean man (Kim et al., 2014, p. 120). Although the change was made to ensure gender equality (Kim, 2013, p. 10), it clearly discriminated against non-ethnic wives.¹ The second change was to remove the automatic conferment of Korean nationality or ‘spousal transfer of citizenship’ (Lee, 2017, p. 3) to the foreign wife upon marriage, and to put such wife in the same position as the foreign man married to the Korean woman.

The 1997 Act provided a simplified process of naturalisation for a foreign wife on proof of 2 years of continuing conjugal life in Korea (instead of 5 years in other cases). In practice this led to ‘conditional residence’ (Lee & Wie, 2020, p. 95) as the marriage migrant’s continuing visa was dependent upon the support of her husband and family. The husband was required to guarantee the good character of the wife and the genuineness of the marriage relationship. This could mean that a woman would stay in an abusive situation in order to secure naturalisation. It is claimed that the legislation was introduced to ‘protect Korean men from sham marriages’ (Lee & Wie, 2020, p. 95).

Further the 1997 legislation also required the foreign wife to relinquish her nationality of origin within 6 months of receiving Korean nationality (Article 3(1)), this was a situation which could and was abused and led to hardships. Under the 1997 Nationality Act a divorced woman lost her right to nationality (Article 12(3)), and was deportable, often leaving children behind, or alternatively taking them illegally to her home country as has happened in so many cases of Vietnamese women (Kneebone et al., 2019; Kim et al., 2017). The 1997 Nationality Act also made a foreign wife vulnerable to statelessness in cases where she had relinquished her original nationality and her country of origin had not established a procedure for restoration of nationality (as was the case in Vietnam at this time) (Kneebone, 2017).

The Nationality Act was revised again in 2004, and 2010 in response to rising incidents of domestic violence and divorce (see Table 5.1). The 2004 revision of the Nationality Act, Article 6 attempted to address these issues. It allowed the foreign wife to apply for naturalisation in her own right if she could prove that she was a victim of domestic violence. Research in Vietnam (Kneebone et al., 2019; Kim et al., 2017) shows that many women return to Vietnam without completing the divorce process, which leaves them and their children in precarious legal positions. In particular, such children may be *de facto* stateless. A study of returned children in two (of five) provinces in Can Tho region in southern Vietnam (from which most

¹ The issue of gender discrimination on the basis of class, race, nationality and ethnicity is a theme that I do not have space to explore in this chapter.

Vietnamese marriage migrants originate) showed that whilst most of the children hold their father's Korean nationality, they face difficulties in obtaining household registration (*hukou*) in Vietnam, and thus are at risk of social and economic exclusion (Kneebone et al., 2019).

Major changes were introduced by amendment to the Nationality Act in 2010, to allow foreign wives and some other categories (such as persons described as 'foreign talent' or skilled migrants), to have dual nationality. In the case of foreign wives, this right is dependent on an existing marriage or 'normal marital relationship', although an exception is provided for those who have the care of a minor child born to the marriage (Article 6 (2.4)). That is, only some foreign wives have privileged status via the nationality laws, namely those who are presently married or caring for minor children, thus leaving childless divorcees in difficult situations.

Despite these changes in the law, there is evidence that the naturalization requirements are administered so that they often discriminate against the older or childless female marriage migrant (Lee 2010).

5.5 Commercial Brokerage Is Regulated: The Korean Perspective

Although Korea has become a country of immigration, it is reluctant to accept this description.² This is perhaps because marriage migration, which is the main source of permanent immigration in Korea, is considered to be for the benefit of the nation rather than the individual. Kim and Kilkey (2018, p. 10) suggest:

Marriage migrants, ... represent a rather atypical position in Korea where anti-settlement is the prevailing goal of migration policy.

Between 2007 and 2015, marriage migrants comprised 56–72% of the total number of naturalized immigrants (Lee, 2008a). The siting of marriage migration in the Ministry for Gender Equality and Multicultural Families which was created in 2008 is said to be an indication that it is less regarded than general migration issues, which are dealt with in the Ministry of Justice, as is the regulation of international marriage migration (under the Consumer Affairs Division).³ This separation between the social and regulatory aspects of marriage migration is an indication of its framing as a matter of national 'structural' significance.

Between 1999 to 2008 marriage brokerage was allowed and was unregulated. In 1999 there were no Southeast Asian women marriage migrants. After 2002 such migration increased because of the 'flourishing' of commercialized international marriage agencies. Regulation of international marriages was introduced in 2008 in Korea as a response to rising reports of incidents of domestic violence and divorce rates amongst marriage migrants (see Table 5.1), which were a by-product of

² Interview with Korean government official, Seoul, April 2016.

³ Ibid.

Table 5.1 Status of yearly divorces of marriage immigrants (Unit: % of cases)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 ^a	Total	Difference between last year
Total number of divorces	144.5	166.6	138.6	128.0	124.5	124.1	116.5	124.0	116.9	114.3	114.3	100.0	0.0
Divorce with a foreigner	1.7	2.0	3.3	4.2	6.1	8.3	11.0	11.5	11.1	11.5	10.9	9.5	-5.3
Korean man + foreign woman	0.4	0.5	1.6	2.4	3.9	5.6	7.9	8.2	7.9	8.3	7.9 ^a	6.9	5.6
Korean woman + foreign man	1.4	1.5	1.7	1.8	2.2	2.7	3.1	3.2	3.2	3.1	3.0	2.6	-4.4

Source: Republic of Korea, Bureau of Statistics data (2012), translated by Sarah Mercer

^aNote: In 2014, 7000 divorces from 16,200 marriages between a Korean man and a foreign woman were reported (Kim, 2016, p. 5835)

nationality and naturalization laws and processes created by the Korean government, which led to the wife's dependency upon the husband, as described above. In response to an increase in domestic violence and a high number of divorces in 2014, between a Korean man and a foreign wife, the Ministry for Gender Equality established a 24-h emergency call service and 25 shelters in provinces in Korea (Kim, 2016).

In response to the abuse of marriage migrants, as well as claims by Korean spouses and families of fraud, the Marriage Brokerage law came into force in 2008, with subsequent revisions in 2010 and 2012. According to Lee-An (2020), the legislation arose in part from the activism of feminists and Vietnamese students (who were studying in Korea at that time), who actively and publicly mobilized to criticize the commercialized nature of marriage brokerages which commodified women, and the gendered and racialized stereotyping embedded in the process. As a result, the *Marriage Brokers Business Management Act* was legislated in 2007 to prevent discriminatory practices in international marriage processes (Lee-An, 2020, p. 133).

The legislation required the broker to explain the contract to the clients in their mother language and that all personal information including marriage history, health status, employment, criminal history related to domestic violence, sexual violence and child abuse be provided. International marriage brokers are required to comply with the law of the sending countries where it runs the brokerage business. On the Vietnamese side, the laws of Vietnam require that marriages with foreigners be registered in both Vietnam and Korea, but a 2013 study found that 70% of marriages between Korean men and Vietnamese women were registered only in Korea (Do, 2013, p. 292).

It is widely recognized that the Marriage Brokers Act has limited efficacy. As MacLean (2014, pp. 30–31) explains, the brokers cannot operate without local partners, and it is difficult for the Korean government to police their activities abroad. According to the National Survey on Multicultural Families in 2012, 27.3% of marriage migrants to Korea from all countries and 65.8% of Vietnamese marriage migrants met their spouses through the commercial marriage-brokerage agencies (statistics obtained from the Ministry of Gender Equality and Families). This is interesting as commercial brokerage was banned in Vietnam in 2010, as explained in the next section.

In terms of framings, the Korean laws regulating marriage brokerage are modelled on consumer protection. As commentators agree, this results in marriage migration being commodified, with consequences for how spouses and their families treat the foreign bride. Because Vietnamese marriages with Korean men are often arranged by commercial agencies, the 'foreign brides' are considered as 'commodities' (Park & Morash, 2016, p. 4). Further the correlation of brokerage and vulnerability in the case of Vietnamese marriages is increased by the fact that most brokered brides are destined for conservative rural communities. Yu and Chen (2018, p. 626) explain that those who arrange their marriages with brokers are more likely to experience a patriarchal household structure, in a rural setting, than those who organize marriages without brokers. As Chang (2016) suggests, 'commercial marriages' are typically viewed as behaviour falling somewhere between human

trafficking and arranged marriage. Many Korean husbands consider themselves to be high paying ‘consumers’ which give them a sense of ownership whereby they can make demands on their foreign brides such as bearing children, doing the domestic work, taking care of the husbands’ parents (Chi, 2019, p. 88).

5.6 Marriage Migration from Vietnam: Perspectives and Processes

Since the late 1990s, Vietnamese women have migrated to East Asia through marriage. Until about 2003, Taiwan was the most popular destination for Vietnamese brides, after which it was superseded by South Korea (Bélanger, 2009; Kim, 2012).⁴ Although statistics vary according to sources, by 2015, the total number of Vietnamese women who had married Taiwanese or South Korean men and migrated abroad was quoted to be as high as 170,000 (Nguyen, 2018).

In 2014 and 2015 I conducted a number of interviews in Ho Chi Minh City with officials of the Vietnamese government, a member of the Vietnamese Women’s Union and academics. In 2017 I entered into a consultancy arrangement with Dr. Tran, Thi Phung Ha from Can Tho University to conduct research in the Can Tho region on families and children of returned marriage migrants from Korea which lead to a report (Tran, 2017). Interviews were conducted in Can Tho in 2017 and 2018 by myself and my team (Dr Brandais York and Sayomi Ariyawansa) with the assistance of Dr. Tran and her team of researchers. This led to the publication of ‘Degrees of Statelessness: Children of Returned Marriage Migrants in Can Tho, Vietnam’ (Kneebone et al., 2019). This section draws on that research.

Can Tho is the fourth largest city in Vietnam, situated in the heart of the Mekong Delta. The Can Tho region – which consists of Can Tho City and five surrounding provinces – is largely known for tourism. However, the region is also characterised by large-scale poverty and as a result, has a high rate of emigration, including through marriage migration. Can Tho is the region from which the largest number of Vietnamese women who migrate through marriage originate (approximately 100 per month regionally) (Tran, 2017).⁵

The current Constitution (2018) and the 2008 Nationality Law of Vietnam reflect socialist values (see Articles 2 and 4 of the Constitution), an ‘ethnic understanding of nationality’ (Kneebone, 2016) and emphasise the importance of the diaspora to the Vietnamese national identity (Constitution, Article 18 and 2008 Nationality Law, Article 7). Further Article 26 guarantees equal gender rights and opportunities, and ‘strictly’ prohibits sex discrimination. It states:

⁴This shift reflected both Taiwan’s harsh nationality laws which left thousands of marriage migrants stateless, as well as changes to South Korea’s visa system in 2002 (discussed above) which gave work rights to marriage migrants.

⁵This figure derives from interviews conducted by Dr Tran and her team and reflects their estimations.

The State, society, and family create conditions for the comprehensive development of women and the promotion of their role in society. (Article 26 (2))

The 2008 Nationality Law provides nationality to children of Vietnamese citizens (Article 15), and for a child born to a single Vietnamese mother (Article 16(1)), wherever born.

It has been suggested that Vietnam's flexible approach to nationality offers evidence of the ability to adapt to new challenges, including marriage migration (Kneebone et al., 2019). Further, that marriage migration 'has been written into the narrative of international integration and economic development in Vietnam's emigration policy' (Kneebone 2016, p. 14). At the national policy level, marriage migration is accepted as a valid strategy. The Vietnam Women's Union (VWU) for example which previously regarded marriage migrants as opportunistic and disloyal, now works closely with them on the issue.⁶ By contrast, a common theme in the discussion of women's role in marriage migration in Vietnamese media (noting that mass media in Vietnam is state-controlled) is the link to the nation-building project and national identity (Bélanger et al., 2013, p. 83):

The most salient media content about marriage migration is that involving discussions and criticisms about women's sexuality and roles as wives and mothers, which encapsulate tensions around the search for national identity. According to the media, marriage migrant women's behaviour brings harm and shame to the "nation" and all Vietnamese people.....

Despite popular attitudes to marriage migration, Vietnam's approach at the national level appears to be flexible. This flexibility can be seen through Vietnam's willingness to work with UNHCR in 2008 and 2010 on permitting the restoration of renounced nationality by Vietnamese marriage migrants in Taiwan. In 2008 Article 23(1)(f) was added to the Nationality Law, to enable a person who has renounced Vietnamese nationality but who has failed to acquire foreign nationality, to reacquire foreign nationality. In 2012 UNHCR noted that some 2000 returned marriage migrants had 'successfully reacquired Vietnamese [n]ationality' pursuant to this provision (UNHCR Submission, 2013).

Further, although traditionally, socialist Vietnam grants permission to operate in Vietnam to few non-governmental organisations, it has permitted a Korean organisation, the Korea Centre for United Nations Human Rights Policy (KOCUN) (2016) to work in Vietnam since 2011. KOCUN's work is funded by the Korean government and Hyundai, but since 2017 has been scaled back due to a lack of government funding and other internal issues. In south Vietnam it has offices in the Can Tho region and in Haiphong. Its role is a mixture of cultural, vocational, and legal. It provides Korean language courses for Vietnamese students who intend to study in Korea and hosts Korean students as interns in Vietnam. KOCUN works very closely

⁶This observation reflects a change in response between interviews conducted in 2014 and 2015. Susan Kneebone, Interview with anonymous, consultant with the Vietnam Women's Union (Ho Chi Minh City, Vietnam, 3 October 2014); Susan Kneebone and Brandais York, Interview with anonymous, consultant with the Vietnam Women's Union (Ho Chi Minh City, Vietnam, 24 November 2015).

with the VWU (whose role is described below) on the issue of marriage migration, providing pre-departure and language training to intending brides and legal advice on return. It works with returned marriage migrants and their families, to regularise their legal statuses in cooperation with a legal clinic established at the Can Tho School of Law.

Finally, as I have previously observed, ‘the government takes a broad view about the presence of ‘biracial’ children in the community’ (Kneebone, 2016). Some scholars argue that Vietnam’s relative tolerance of bi-racial children (in contrast to South Korea for example) reflects earlier French colonisation experience and the later fathering of children by foreign soldiers in the Indochina war (Do, 2013). In a Ministry of Foreign Affairs presentation in Hanoi, June 2011, it was said of children of marriage migration that:

Vietnamese language and ... culture preservation in this group of children, how to raise these children so that they can keep two culture [sic] and can actually become a bridge for the promotion of exchanges and friendship and cooperation between the people and Government of Viet Nam with the people and governments concerned.

Although ‘these attitudes may not filter down to the local level’ (Kneebone, 2016) Dr. Tran’s research and interviews conducted by myself and my team in Can Tho in 2017 and 2018 confirmed that there was little anxiety about mixed race children in Vietnam.

Further, on the Vietnamese side there appeared to be a willingness to work with Korea on the issue of marriage migration. One of our 2017 interviewees, an academic from Can Tho University, explained to us the findings of his research trip to Korea in 2014 (funded by the Korean government) on language and culture, and the situation of seven Vietnamese marriage migrants. In his opinion cultural factors are the key to successful marriage migration by Vietnamese women. He opined that in contrast to the women from North Vietnam, who were largely happy in their marriages in Korea, women from the south were less likely to have successful marriages. He attributed this difference to the (alleged) more docile, Confucian-oriented culture and hierarchical family life of North Vietnam, in contrast to the commercialised South Vietnam. In his opinion, women from South Vietnam are sometime naïve and unrealistic in their expectations of a foreign marriage.

From the Korean perspective, an important study by Park and Morash (2016) of advertisements for marriage migrants, found that marriage brokers suggest to potential Korean spouses that Vietnamese wives will be ‘traditional women’ with Confucian values (explained as, respect for elders and husbands, hard-working, and family oriented); that the women are depicted as ‘gifts’ who will meet their husbands’ and his parents’ need for care, and who are willing to partner with men who might depart from the perception of an ideal husband, for example because they are handicapped, poor, or older men.

By contrast, our observation, based on several interviews and discussions with family members in the Can Tho region, is that the majority of women migrate in search of better opportunities (and some for an adventure). In our view the women were strategic migrants. For example, many of the returned mothers from Korea

were determined to retain their child's Korean nationality to enable the child to study in Korea in the secondary and tertiary years.

On the process side of Vietnam's policies there are gaps which lead to this mismatch between expectations on both sides and the vulnerability of Vietnamese marriage migrants at destination. When commercial brokerage was banned in Vietnam in 2010, the VWU stepped in to provide match-making services. However, this service was not very popular and in 2013 the VWU established Centres for Consultancy and Assistance (Decree 24/2013). Their role was widely criticized and subsequently the VWU reverted to a counselling role, which led to use of brokers by many Vietnamese women. Although brokerage is illegal (and thus unregulated) in Vietnam, this inconvenient fact is widely ignored.⁷ Indeed in our interviews in the Can Tho region we found that there was confusion amongst our government employee interviewees as to whether or not brokerage was illegal. There is perhaps a plausible explanation for this uncertainty.

Whilst commercial brokerage is officially banned in Vietnam (and with it the large wedding tours of the past by Korean men), many 'facilitators' have emerged to assist potential marriage migrants to make contact with prospective husbands and to complete the processes. One of our interviewees, for example, equated marriage brokers with migration agents who assist with processes. There is no doubt that commercial marriage brokers do operate illegally in Vietnam (IOM, 2014). On the other hand, it is also clear that many 'services' have emerged which Bélanger (2016) describes as 'local marriage migration industries' and which assist women in rural Vietnam to make connections with Korean men.

The lack of opaque processes creates a vulnerability for Vietnamese women marriage migrants. According to Kim (2016), the vulnerability of marriage migrants stems primarily from lack of information in the marriage process. The VWU attempts to address this situation through education and counselling. It provides information to Vietnamese brides about the risks associated with moving to a different culture and social context and visits South Korea annually to keep in touch with clients. A CEDAW Committee report (2015) noted: 'That women and girls migrating abroad are often victimised by fraudulent recruitment agencies and brokers for international marriage' (para 30(c)). It recommended that the Vietnamese government: 'Ensure the regulation and monitoring of recruitment agencies and marriage brokers' (para 31(e)).

Park and Morash (2016) argue that the marriage broker systems (or lack thereof) in both Vietnam and Korea foster inconsistent expectations in partners to the marriage. The study found first, that Vietnamese women were highly motivated to migrate for marriage to provide financial assistance to their families, and at the same time, to improve their own financial standing. Marriage brokers misled women to expect to be financially well off at destination. Secondly, Korean men and their families had very different expectations than the wives had for their roles in the marriage. Korean men expected women to bring resources in the form of household

⁷ Interview with VWU representative Long Xuyen 15 May 2017.

labor and care for other family members. The Korean families did not expect women to provide support to their Vietnamese relatives. Third, Korean husbands and in-laws used abuse as a tactic to enforce their expectations. They found that Korean family members used a variety of tactics to entrap women in their roles as subservient household laborers, caretakers, and sexual partners.

In these situations, it can be concluded that the Korean state is complicit in promoting abuse through nationality laws and naturalisation processes which place the foreign wives in a position of dependency upon the husband and family. Korea's nationality laws and policies at destination create a structural dependency for Vietnamese marriage migrants by reinforcing the position of the marriage migrant in a 'market' context.

5.7 Conclusion

I chose Korea, and the situation of Vietnamese marriage migrants as a case study for this chapter because of the high number of Vietnamese wives in Korea, evidence of their vulnerability both in Korea and on return, and the existence of strong transnational and economic ties and cooperation between the two countries.

I argue that legal and policy responses of Korea to female marriage migration from Vietnam has created vulnerabilities, through nationality laws, which are reinforced through instrumental policies on labour migration and commercial regulation of marriage. These policies entrench the unequal position of Vietnamese marriage migrants in the transnational marriage migration 'market'. This 'structural vulnerability' is created by and through the power of the state and its structures. There is a strong link between Korean nationality laws as they apply to marriage migrants, and national identity. Ethnic, racist and gender discriminatory policies produce the image of the marriage migrant as an 'idealised cultural and biological reproducer' for the nation (Kim, 2011, p. 10), who has challenged 'the proverbial image of Korea as an ethnically homogeneous society' (Kim, 2009; Shipper, 2010, p. 12). I conclude that the control of nationality through the internal border is the most important feature of this narrative.

The position of the Vietnamese marriage migrant in Korea shows a hierarchy or differentiated understanding of gender and nationality within this narrative. Whereas the foreign wife who has produced a child is in a favoured position, the divorced childless wife and older women are vulnerable to being rejected as putative Korean nationals. As I have shown in this chapter, this does not fit well with the aspirations of most Vietnamese marriage migrants who wish to work in Korea in order to send remittances to their families.

Whilst Vietnam has demonstrated more flexibility and willingness to compromise on nationality issues affecting marriage migrants, even though its concept of nationality is also tied to ethnicity and national identity, it bears shared responsibility with Korea for better regulation of marriage emigration. However, Korea as the 'tiger' nation in this transnational situation should look to the structure of its laws and policy on nationality.

Acknowledgments I thank the following for invaluable assistance in the preparation of this chapter which is an outcome of an Australian Research Council (ARC) funded Discovery Project entitled, ‘Development of a Legal Framework for Regulation of International Marriage Migration’: Hoang, Thi Tue Phuong for her assistance with organising interviews in Ho Chi Minh City in October 2014 and November 2015; Brandais York for assistance with interviews in Vietnam in November 2015, May 2017, August 2018 and April 2019 and in facilitating the consultancy with Dr. Tran, Thi Phung Ha from Can Tho University (2017-19), Sayomi Ariyawansa for assistance with interviews in Can Tho August 2018; Professor Chulwoo Lee and Hyung Young Chae for their assistance in organising interviews in Seoul in April 2016. I thank all interviewees in Korea and Vietnam for generously sharing their time and thoughts with me. I gratefully acknowledge the support of the ARC and the work of Dr. Tran and her research team. Thanks also to excellent researcher assistance from: Hoang, Thi Tue Phuong; Thomas Harré, Brandais York, Sayomi Ariyawansa, Sarah Mercer, Subin Cho, Hannah Gordon and Hansi Lim.

References

- Bélanger, D. (2009). *Contribution of Women Marriage Migrants to Families of Origin in Rural Vietnam*. International Union for the Scientific Study of Population (IUSSP) XXVI International Population Conference.
- Bélanger, D. (2016). Beyond the brokers: Local marriage migration industries of rural Vietnam. *Positions: East Asia Cultures Critique*, 24(1), 71–96.
- Bélanger, D., & Wang, H. Z. (2012). Transnationalism from below: Evidence from Vietnam-Taiwan cross-border marriages. *Asian and Pacific Migration Journal*, 21(3), 291–316.
- Bélanger, D., Lee, H. K., & Wang, H. Z. (2010). Ethnic diversity and statistics in East Asia: ‘Foreign brides’ surveys in Taiwan and South Korea. *Ethnic and Racial Studies*, 33(6), 1108–1130.
- Bélanger, D., Hong, K. T., & Tran, G. L. (2013). Transnational marriages between Vietnamese women and Asian men in Vietnamese online media. *Journal of Vietnamese Studies*, 8(2), 81–84.
- Chang, S. H. (2004). Overseas migration of Koreans in the colonial period and the historicity of repatriation. *Korea Journal*, 44(4), 5–29.
- Chang, H. C. (2016). Marital power dynamics and well-being of marriage migrants. *Journal of Family Issues*, 37(14), 1994–2020.
- Chi, N. (2019). ‘Walking in her shoes’: Prospects and challenges of marriage migrants in South Korea. *Annals, Public Policy Studies*, 13, 83–97.
- Choo, H. Y. (2013). The cost of rights: Migrant women, feminist advocacy, and gendered morality in South Korea. *Gender and Society*, 27(4), 445–468.
- Chung, E. A., & Kim, D. (2012). Citizenship and marriage in a globalising world: Multicultural families and monocultural nationality laws in Korea and Japan’. *Indiana Journal of Global Legal Studies*, 19(1), 195–219.
- Constable, N. (2005). Introduction: Cross-border marriages, gendered mobility, and global hypergamy. In N. Constable (Ed.), *Cross-border marriages: Gender and mobility in transnational Asia*. University of Pennsylvania Press.
- Do, T. M. H. (2013). International marriages in Vietnam: Issues and suggested solutions. In I. Y. Cho, D. B. Im, Y. Yoshida, & G. K. Shu-chin (Eds.), *Legal Systems related to international marriage in Asia: South Korea, Taiwan, Japan, Philippines, Vietnam and Cambodia* (pp. 279–280). IOM Migration Research and Training Centre.
- Do, H. (2020). The forgotten history of South Korean massacres in Vietnam. *The Diplomat*. <https://thediplomat.com/2020/05/the-forgotten-history-of-south-korean-massacres-in-vietnam/>. Accessed 26 October 2021.
- Han, E. (2013). *Contestation and adaptation: The politics of national identity in China*. Oxford University Press.

- Hoang, L. A., & Yeoh, B. S. A. (2012). Sustaining families across transnational spaces: Vietnamese migrant parents and their left-behind children. *Asian Studies Review*, 36(3), 307–325.
- Kim, A. E. (2009). Global migration and South Korea: Foreign workers, foreign brides and the making of a multicultural society. *Ethnic and Racial Studies*, 32(1), 70–92.
- Kim, W. B. (2010). Nostalgia and ethnic identity of Chosŏnjok in China. *Citizenship and Migration*, 83(1), 95–114.
- Kim, Y. J. (2011). *“Daughters-in-law of Korea?”: Policies and discourse on migration in South Korea* (COMPAS Working Paper No. 92). Centre on Migration, Policy and Society.
- Kim, H. K. (2012). Marriage migration between South Korea and Vietnam: A gender perspective. *Asian Perspective*, 36, 531–563.
- Kim, N. H. J. (2013). Flexible yet inflexible: Development of dual citizenship in South Korea. *The Journal of Korean Studies*, 18(1), 7–28.
- Kim, M. H. (2016). Protection and prevention? A paradox of South Korea’s recent reform measures for female marriage migrants and need for follow-up actions. *Information*, 19(12), 5831.
- Kim, D. Y. (2017). Resisting migrant precarity: A critique of human rights advocacy for marriage migrants in South Korea. *Critical Asian Studies*, 49(1), 1–17.
- Kim, G., & Kilkey, M. (2018). Marriage migration policy in South Korea: Social investment beyond the nation state. *International Migration*, 56(1), 23–38.
- Kim, J., Yang, S. M., & Torneo, A. (2014). Marriage immigration and multicultural families: Public policies and their implications for the Philippines and South Korea. *Asian Politics and Policy*, 6(1), 97–119.
- Kim, H. M., Park, S., & Shukhertei, A. (2017). Returning home: Marriage migrants’ legal precarity and the experience of divorce’. *Critical Asian Studies*, 49(1), 38–53.
- Kneebone, S. (2016). *Nationality and identity in regulation of international marriage migration in Southeast and East Asia: Children as pawns of the state?* (University of Melbourne Legal Studies Research Paper No 734). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2816750. Accessed 26 October 2021.
- Kneebone, S. (2017). Transnational marriage migrants and nationality: The cases of South Korea and Taiwan. *International Academic Conference*, Seoul, November 2017.
- Kneebone, S., York, B., & Ariyawansa, S. (2019). Degrees of statelessness: Children of returned marriage migrants in Can Tho, Vietnam. *Statelessness & Citizenship Review*, 1(1), 69–94.
- Lee, H. K. (2008a). International marriage and the state in South Korea: Focusing on government policy. *Citizenship Studies*, 12(1), 107–123.
- Lee, M. (2008b). Mixed race peoples in the Korean national imaginary and family. *Korean Studies*, 32, 56–85.
- Lee, J. (2010). Amendment to the naturalization examination and its social impact on international marriage immigrants in South Korea. *TESOL Quarterly*, 44(3), 575–585.
- Lee, H. (2012). Political economy of cross-border marriage: Economic development and social reproduction in Korea. *Feminist Economics*, 18(2), 177–200.
- Lee, D. (2014). Marriage for immigration in the Republic of Korea: Decoupling controls in immigration law, family law, and criminal law. *Journal of Korean Law*, 14(1), 1–38.
- Lee, C. (2015). The law and politics of citizenship in divided Korea. *Yonsei Law Journal*, 6(1 & 2), 3.
- Lee, C. (2017). *Report on citizenship law: The Republic of Korea* (Country Report 2017/06). EUI RSCAS.
- Lee, B. S., & Klein, J. L. (2017). Changing trends in international marriages between Korean men and Southeast Asian women, 1993–2013. *Asian Population Studies*, 13(3), 226–249.
- Lee, H., & Wie, D. (2020). Legal entitlement and bargaining power of marriage immigrants in Korea. *Feminist Economics*, 26(3), 90–118.
- Lee-An, J. (2020). “Fake” or “Real” marriage? Gender, age, “race” and class in the construction of un/desirability of marriage migrants in South Korea. *Studies in Social Justice*, 14, 125–145.

- MacLean, D. (2014). Marriage migrants and commercial marriage trafficking: Mapping the current legal regime and gaps in addressing exploitation. *KLRI Journal of Law and Legislation*, 4(1), 3–51.
- Nguyen, A. M. (2018). *International marriage migration: Researching on bi-racial children in divorced families: A case study in Vietnamese Mekong Delta* [Draft Paper]. University of Melbourne.
- Park, S., & Morash, M. (2016). An exploratory study of influences on vulnerabilities to family violence among Vietnamese wives who marry South Korean men. *Critical Criminology*, 25(1), 1–19.
- Piper, N. (2008). Feminisation of migration and the social dimensions of development: The Asian case. *Third World Quarterly*, 29(7), 1287–1303.
- Piper, N., & Lee, S. (2016). Marriage migration, migrant precarity, and social reproduction in Asia: An overview. *Critical Asian Studies*, 48(4), 473–493.
- Shin, H. Y., & Prins, E. (2017). A Systematic review of the literature on foreign brides' adaptation experiences in Korea'. *Adult Education Research Conference*. <http://newprairiepress.org/aerc/2017/papers/7>
- Shipper, A. W. (2010). Introduction: Politics of citizenship and transnational gendered migration in East and Southeast Asia. *Pacific Affairs*, 83(1), 11–29.
- Toyota, M. (2008). Editorial introduction: International marriage, rights and the state in East and Southeast Asia. *Citizenship Studies*, 12(1), 1.
- Tran, T. P. H. (2017). *Draft report for the project: Development of a legal framework for International Marriage Migration (IMM)*. Can Tho University.
- Yu, S., & Chen, F. (2018). Life satisfaction of cross-border marriage migrants in South Korea: Exploring the social network effects'. *International Migration Review*, 52(2), 597–634.

Official Documents (Legislation, Reports)

- CEDAW, *Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Viet Nam* UN Doc CEDAW/C/VNM/CO/7–8 (26 July 2015).
- Constitution of the Socialist Republic of Viet Nam adopted on 28 November 2018 by the Thirteenth National Assembly
- Decree 24/2013 ND-CP of 28 March 2013, under the 2000 Law on Marriage and Family (Vietnam)
- IOM (Vietnam) (2014, July 30). *Illegal international marriage brokerage as a means of human trafficking*. Conference report.
- Law No. 24/2008/QH12 on Vietnamese Nationality of 13 November 2008;
- Korea Centre for United Nations Human Rights Policy (KOCUN). (2011, July). *NGO Report on the occasion of the consideration of the 7th periodic report of Government of Republic of Korea*.
- Korea Centre for United Nations Human Rights Policy (KOCUN). (2016). *The Voice of Vietnam, 'Project supporting Vietnamese women married to Republic of Korea men*. <https://english.vov.vn/society/project-supporting-vietnamese-women-married-to-rok-men-335119.vov>. Accessed 28 October 2021.
- Oh, J. E., Kang, D., Shin, J. J., Lee, S. L., Lee, S. B., & Chung, K. (2011). *Migration profile of the Republic of Korea* (IOM MRTC Research Report Series, No. 2011-01). IOM Migration Research and Training Centre.
- UNHCR. (2013). *Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Socialist Republic of Vietnam*. <http://www.refworld.org/pdfid/51c946514.pdf>. Accessed 26 October 2021.

Susan Kneebone is a Professorial Fellow, and Senior Associate, Asian Law Centre, and Affiliate of the McMullin Statelessness Centre, Melbourne Law School, University of Melbourne. Susan supervises a number of PhD students on migration issues in South East Asia and has written widely on issues around forced migration in the region. She is currently working on two funded projects: 'Towards Development of a Legal Framework for Regulation of International Marriage Migration' and 'Indonesia's refugee policies: responsibility, security and regionalism'.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

