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CROSS-BORDER MARRIAGES IN THE MEKONG DELTA REGION OF VIETNAM: CURRENT LEGAL PROBLEMS AND PROPOSED SOLUTIONS

THUY LE TRAN

A thesis submitted to the University of Huddersfield in partial fulfilment the requirements for the degree of Doctor of Philosophy

University of Huddersfield
The Law School

November 2020

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Finally, I would like to express my sincere thanks to the University of Huddersfield for offering me the opportunity of a lifetime by awarding me the Vice Chancellor's Scholarship for my doctoral research.

Declaration

I, **Thuy Le Tran**, confirm that the material contained in this thesis has not been used in any other submission for an academic award and that there is full attribution of the work of any other authors.

The word count to the nearest 500 words for this thesis is 79,869 (excluding footnote references, bibliography, tables and appendices).

Signed:

Date: 06 November 2020

Abstract

This thesis examines the nature of cross-border marriages between Vietnamese brides in the Mekong Delta region of Vietnam and men from China, Taiwan and South Korea, and legal framework which regulates such marriages. The thesis's aim to evaluate the effectiveness of Vietnamese law on cross-border marriages by identifying gaps of the law, especially on matters relating to the involvement of commercial match-making agencies and the exploitation of brides (mostly lowly educated and vulnerable young women) by marriage brokers. Based on the research findings, more effective solutions to tackling the problem are recommended.

The thesis adopts a socio-legal approach supported by doctrinal and comparative study to respond to the questions on how different jurisdictions such as China, Taiwan, South Korea and the Philippines, regulate matters related to cross-border marriages, especially commercial matchmaking practices, compared to Vietnamese law. While commercially transnational match-making activities were legalised in South Korea and Taiwan, they were banned in the Philippines in 1990 and in China in 1994 and have never been legally recognised in Vietnam. Instead, only the *Centres for Consultancy and Support in Marriage and Family Involving Foreign Elements* are granted legal status as non-profit marriage brokerage providers. The operation of these *Centres*, however, has not met the increasing needs of Vietnamese women in such marriages, while the current marriage law and regulations have not been effective enough to stop commercial matchmaking agencies from illegally operating in Vietnam.

Based on the results from primary data and comparative analyses, the thesis suggests law reform in Vietnam with a view to introducing practical and legal solutions to the problems associated with cross-border marriages. The practical solutions include a support model in the form of a state-run website that provides brides with pre-marriage assistance and information, and online *Centres* to provide pre-departure orientation programmes Legal solutions consist of legalising commercial match-making agencies in Vietnam, additional legal requirements on language proficiency for the parties in cross-border marriages, and compulsory pre-marital interviews. One of the key recommendations is that Vietnam should proactively engage in international cooperation on the harmonisation of policies on cross-border marriages, particular with countries such as China, South Korea and Taiwan.

Keywords: cross-border marriages, migrant Vietnamese brides, Mekong Delta region, commercial marriage brokerage, marriage law, sexual exploitation.

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Glossary of Abbreviations

A&O	Aim and Objective
ACWF	All China Women's Federation
ASEAN	The Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSC	Civil Service Commission
HCMC	Ho Chi Minh City
KOCUN	The Korea Centre for United Nations Human Rights Policy
LCS	Law on Civil Status
LMF	Law on Marriage and Family
MAF	Ministry of Agriculture & Forestry
MCT	Ministry of Culture & Tourism
MEHRD	Ministry of Education & Human Resource Development
MFAT	Ministry of Foreign Affairs & Trade
MFSC	Multicultural Family Support Centre
MGAHA	Ministry of Government Administration & Home Affairs
MGEF	Ministry of Gender Equality and Family
MIC	Ministry of Information & Communication
MJ	Ministry of Justice
ML	Ministry of Labour
MLA	Mutual Legal Assistance
MSWH	Ministry of Social Welfare and Health
NIA	National Immigration Agency
NPA	National Police Agency
RA	Republic Act
RQ	Research Question
VCP	Vietnamese Communist Party
VKJC	Vietnam-Korea Joint Care
VWCC	Vietnamese Women's Cultural Centre
VWU	Vietnam Women's Union
WIDF	Women's International Democratic Federation

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CHAPTER 1
INTRODUCTION AND SCOPE OF THE STUDY

1.1 Historical, Social and Legal Background to Cross-Border Marriages in Vietnam

The family unit is often considered as the core element of a society providing the first and most important environment and foundation for the building of the nation state. Good and happy families constitute a good and happy society and vice versa. The interaction and impact between "family" and "society" may be most evident in marriages. This is because the strong foundation to build a stable and sustainable society mainly stems from good marital and family relationships. Thus, to promote social development, it is requisite for a society to examine its marital relationships so that the right policies can be adopted in future to promote societal well-being. The marital context has drawn therefore attention of many people including government and non-government organisations, researchers, legal experts and lawmakers at national and international levels and even local communities. The ancient institution of marriage in every society is governed by cultural values and traditions, which in turn are embedded in law and legal norms governing both the formal validity (formalities and rituals) and essential validity of marriage (capacity to marry). The latter includes laws which range from prescriptive rules (for example, on who to marry) and prohibitions (who not to marry). It is therefore the case that when two people from different cultures or legal jurisdictions marry (cross-border marriage), there is always the potential for some of these rules to come into conflict (marital conflict of laws).

Being a country with a long-standing history based on several cherished traditional values throughout thousands of years, the Vietnamese government always takes marital relationships into consideration when making policies and regulations on social and cultural development. One of the most important issues in Vietnam in recent decades is family and marriage relationships in general and cross-national marital relationships in particular.

To understand more about the concept of cross-border marriage context in Vietnam, it is important to undertake a review of general information of the country. The Socialist Republic of Vietnam (Vietnam) is situated in Southeast Asia with the Gulf of Tonkin and the South China Sea to the East, the Gulf of Thailand to the South, Laos and Cambodia to the West, and

China to the North.[1] The population of the nation was more than 94.6 million in 2018.[2] Vietnam has 54 ethnic groups among which the Kinh (Vietnamese) people make up the majority of the total population (86 per cent).[3] Vietnamese is the most commonly-spoken language in Vietnam besides other unofficial languages such as Chinese, Khmer, English, French and the languages of some of the smaller ethnic groups. This multicultural heritage gives Vietnam ethnic and cultural diversity. The country is divided into 63 administrative units, comprising of 5 centrally-run cities and 58 provinces.

After the tragic experience of decades of war which divided the country, Vietnam obtained its freedom, independence and unity in 1975. However, the serious devastation caused during the war time subsequently resulted in several inevitable difficulties. One of most serious consequences of the war came in the form of Vietnam's social and economic turmoil in the post-war years. To cope with this serious problem, in 1986, the Vietnamese government adopted renovation policies known as *doi moi* associated with market-oriented economic reforms. The break-through in the reforms, which enabled the transition from a centrally planned economy to a multi-sector economy, has had a profound effect on socio-economic development in the country. Together with significantly changing socio-economic aspects, the *doi moi* policies impacted many social issues of which cross-boundary marriages can be identified as a typical example. Since the advent of phenomenon, questions regarding the international marriages in Vietnam and the socio-legal issues surrounding them have become topics of constant debates.

There have been several studies conducted to find out the reasons behind the high increase in numbers of international marriages in Vietnam after the Vietnam War. It could be argued that there are two main reasons on the phenomenon. Firstly, the negative demographic fallout from the war led to the increasing trend in terms of having foreign partners. In fact, during the 1970s and 1980s, Vietnam was faced with the problem regarding the gender imbalance between males and females at a marriageable age. An explanation for this gender imbalance is that there was a high rate of male mortality during the Vietnam War coupled with male-dominated emigration during and after the war of reunification in the late 1970s when Vietnam faced severe economic

[1] *See* MOFA, "Geography" <http://www.mofa.gov.vn /en/ttvietnam/geo/> accessed 01 November 2019.
[2] The statistical data can be found at section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 01 November 2019.
[3] MOFA, "Ethnic Groups" <http://www.mofa.gov.vn/en/ttvietnam/nr040810154926/> accessed 01 November 2019.

crisis.[4] In the decade and a half since reunification, well over a million and a half Vietnamese left the country, with greater mobility of males, and by the end of the 20th century some two million Vietnamese live abroad.[5] The demographic term for this gender imbalance is commonly known as a *marriage squeeze*[6] which is particularly problematic for Vietnamese women due to its strong Confucian heritage.[7] As a result of gender imbalance, seeking foreign partners was considered as an alternative path for Vietnamese females. However, it is very important to note that before the 1980s, marrying with partners of non-ethno-Vietnamese origin was not really common in the country. This is because historically, Vietnamese families wanted to maintain traditional values including their ethnic heritage and thus they were extremely strict in terms of allowing their offspring to enter into a relationship with foreign partners. But by the 1990s, more and more cross-border or transnational marriages were becoming acceptable. At first, Vietnamese females tended to prefer to get married with overseas Vietnamese men (known as *Viet Kieu*) in America, Australia and Canada where there was an even greater shortage of Vietnamese women.[8] Subsequently, the more popular relationships involving 'foreign factors' became, the more acceptable international marriages have been.

The second reason behind the rapid rise in transnational marriages in Vietnam after the Vietnam War is as a result of globalisation. As previously stated, after adopting *doi moi* policies, Vietnam's socio-economic aspects have been impacted dramatically by the ensuing reforms and increasing openness to the outside world. The reform created more opportunities for foreigners to invest and to do business in the country as well as promoted cultural exchanges. Correspondingly, the economic and social renovation also brought Vietnamese people more chances to move out of their villages, and they can easily access diverse cultures. This enables Vietnamese people to become more open about integration into the global culture. In the last decades, with the expansion of integration and internationalisation trends together with corresponding economic growth, matrimonial relationships have also been established,

[4] James M. Freeman, *Hearts of Sorrow: Vietnamese-American Lives* (Stanford University Press 1989) 7-8; David W. Haines (ed), *Refugees as Immigrants: Cambodians, Laotians and Vietnamese in America* (Rowman and Littlefield Publishers 1989) 40.
[5] Daniel Goodkind, "The Vietnamese Double Marriage Squeeze" (1997) 31 The International Migration Review 108, 111.
[6] Ibid 109.
[7] Charles F. Keyes, *The Golden Peninsula: Culture and Adaptation in Mainland Southeast Asia* (Macmillan Publishers Limited 1977) 181-194.
[8] Goodkind (n 5) 110; Hong-Zen Wang and Shu-Ming Chang, "The Commodification of International Marriages: Cross-border Marriage Business in Taiwan and Viet Nam" (2002) 40 International Migration 93, 98.

based on fundamental principles of the marriage and family regime.[9] Over the years, the foundation for building a marital relationship has extended far beyond the national territory and has become considerably influenced by 'foreign elements.' Getting married with foreigners has gradually become acceptable in Vietnam since the 1990s and the trend has kept increasing in last two decades.

After the 1990s, more and more Vietnamese women got married to foreign nationals, partly because of the trend towards globalisation but mainly because of the gender imbalance caused by the aftermath of the Vietnam War. Due to their complexity and nature, these relationships are recognised, protected and regulated under Vietnamese law. Vietnam first adopted its Law on Marriage and Family in 1959.[10] However, due to the war and context of the country at that time, there was no legal provision on cross-border marriages included in the law. The second version entitled Law on Marriage and Family of 1986[11] adopted regulations on the matter as a result of *doi moi* policies, subsequently followed by the Ordinance on Marriage and Family between Vietnamese Citizens and Foreigners of 1993,[12] Marriage and Family Law of 2000,[13] Marriage and Family Law of 2014[14] and other legal enactments. Besides that, Vietnam signed several mutual legal assistance (MLA) treaties with many countries regarding cross-national family and marriage relationships. Apparently, these statutory provisions taken together are meant to provide a solid legal framework which both facilitates parties in cross-border marital relationships to maximize their rights by getting married freely, thus contributing to social cohesion and order. But is this really the case? This is a question which this research intends to explore further, together with the potential for conflict of laws arising from the interactions between Vietnamese laws and the laws of foreign jurisdictions in the regulation of cross-border marriages.

[9] Vietnamese Marriage and Family Law 2000, Article 2; Vietnamese Marriage and Family Law 2014, Article 2.
[10] The Law was approved by the 1st National Assembly of the Democratic Republic of Vietnam at its 11th session on 29 December 1959 and was promulgated on 13 January 1960.
[11] The Law was approved by the 7th National Assembly of the Socialist Republic of Vietnam at its 12th session on December 29, 1986 and was promulgated on 03 January 1987.
[12] The Ordinance was enacted by the Standing Committee of the National Assembly of the Socialist Republic of Vietnam on December 02, 1993 and took its effect on 01 March 1994.
[13] The Law No. 22/2000/QH10 was approved by the 10th National Assembly of the Socialist Republic of Vietnam at its 7th session on 09 June 2000.
[14] The Law No. 52/2014/QH13 was approved by the 13rd National Assembly of the Socialist Republic of Vietnam at its 7th session on 19 June 2014 and has taken its effect since 01 January 2015.

The research has been conducted over a period of four years, from January 2016 to December 2019. The empirical work (primary data collection and analysis) was conducted in the second year. Primary data collection took place in Vietnam under the form of semi-structured interviews. Apart from empirical data analysis, the research also relies on doctrinal (normative) analysis as well as thematic analysis of both primary and secondary data.

1.2 Research Context and Research Problem

In Vietnam, there are several types of marital relationships such as marriages between ethnic Vietnamese of other nationalities or religions, between people with religious beliefs and people without religious beliefs and between Vietnamese citizens and foreigners. All of these marriage relationships are equally respected and protected under the law based on the principle of "voluntary, progressive and monogamous marriage in which husband and wife are equal."[15] Through the early development of a legal framework on marriage and family aspects, the Vietnamese government has created enabling conditions for Vietnamese citizens who are lawfully competent for marriage so that they can exercise their rights to freely get married with their partners. This aims to build a prosperous, progressive and stable society. Undoubtedly, the concern of Vietnam's government regarding the issue was obviously shown in the number of amendments and supplementations of the law made over time to meet the changing nature of marital and family relationships in society.

Without doubt, global integration policies have significantly improved living standards in Vietnam by promoting a diverse range of activities in terms of cooperation, economic development and cultural exchanges. Together with the significant benefits of the international integration process, more complex social relationships have arisen, bringing many benefits as well as drawbacks to the society. One of most important social issues is cross-border marital relationships, especially given the unusually rapid rise in the number of transnational marriages between Vietnamese women and foreigners in the last two decades. However, cross-border marriages are not equally distributed throughout Vietnam and differ from province to province. This phenomenon is concentrated in Mekong Delta area, in the South of Vietnam, where most people live in the poorest rural communities. In South Korea and Taiwan from 1990 to 2007, Vietnamese brides constituted the second largest group of migrant brides, just after women

[15] Marriage and Family Law of 2014, Art 2 (1).

from Mainland China.[16] In 2015, a report published by the Bureau for Justice Affairs in Southern Provinces and Cities, under the auspices of the Vietnamese Ministry of Justice, stated that there were over 50,000 cases of Vietnamese citizens getting married with foreigners and overseas Vietnamese people from 2011 to 2014. Accordingly, Southern provinces and cities accounted for 77 per cent of such marriages, around 38,500 cases.[17] Furthermore, from the marriage registration statistics of the Ministry of Justice, it is shown that within the period 2009-2014, the average number of cross-border marriages in Vietnam was 17,015 of which the Mekong Delta region accounted for 5,204 cases.[18] Notably, there were 80 per cent of cross-boundary marriages related to Vietnamese women and just three groups of male partners: Chinese, South Korean and Taiwanese.[19] Others tended to marry with Malaysians, Singaporeans and overseas Vietnamese people.

While Vietnam has been on the way to becoming more internationally integrated, especially through cultural globalisation, marital relationships in the country has given rise to a more complex social phenomenon. Due to its nature and complexity, legal provisions on the issue, to some extent, do not seem to be adequately adapted to cope effectively with the resulting problems caused by transnational marriages. This is so despite the long legislative history of regulations on cross-border marriages in Vietnam. Cross-boundary marriages have their own positive effects in terms of the globalisation of cultural exchanges which can enrich each partner's experience through exposure to distinct cultures and traditions of each other's country. It brings together not just people but also leads to greater awareness and understanding of different traditional values, therefore bridging cultural gaps and differences amongst nations. Economically, it can also bridge the gap in living standards when people from richer countries get married to partners from poorer countries.

As stated above, cross-border marriages have many benefits but also some drawbacks. Among the problems are that more and more Vietnamese women are becoming victims of domestic violence and sexual slavery in their partners' countries. Furthermore, many Vietnamese females have been victims of women trafficking resulting from forcedly cross-border

[16] Danièle Bélanger, Hye-Kyung Lee and Hong-Zen Wang, "Ethnic Diversity and Statistics in East Asia: 'Foreign Brides' Surveys in Taiwan and South Korea" (2010) 33 Ethnic and Racial Studies 1108, 1112.
[17] Reported at the Seminar about "Marriages Involving Foreign Elements, Causes and Current Situation" held in Ba Ria -Vung Tau province on 11 June 2015.
[18] MOJ, 'Marriage Statistics', <http://moj.gov.vn/Pages/so-lieu-thong-ke.aspx > accessed 18 March 2016.
[19] Thanh-Dam Truong, Des Gasper, Jeff Handmaker, Sylvia I. Bergh (eds), *Migration, Gender and Social Justice: Perspectives on Human Insecurity* (Springer Berlin Heidelberg 2014) 94.

marriages.[20] The researcher has professional experience (from when she worked as an official in a local government), of rescuing a Vietnamese woman from the Mekong Delta region who was trafficked to China through forced cross-border marriage. That experience left many questions in her mind about how many Vietnamese women there are who are suffering from a similar fate as the rescued woman, after becoming victims of the negative-side effects of the phenomenon of cross-border marriages. How can such women's human rights be better protected? Is the current legal framework in Vietnam effective in protecting their rights or are there deficiencies that need the attention of lawmakers in order for such women to be better protected? These questions led to the inspiration for her choosing this area as a research topic.

There are many foreseen difficulties that Vietnamese women may face if they are not well-equipped with knowledge and preparation before becoming involved in cross-border marriages. Empirical evidences suggest that the difference in language, culture, custom and other factors may prevent people from adapting to a new living environment.[21] In this sense, these factors diminish the possibility of building a happy family life, but increase the possibility of social problems. Cross-border marital relationships in Vietnam are of great concern when the social issues arising from them become more serious. For instance, are such cross-border marriages love-based marriages or commercially-arranged? How well prepared are Vietnamese women before marriage? Are the women's rights protected properly in such marriages? Is the current legal framework effective enough? Or why is it that the Vietnamese government taken so many actions such as reforming the law, changing policies or launching many projects, and yet social problems related to cross-border marriages such as women trafficking, women's rights, domestic violence, or divorce are still not eradicated?

These questions demand not only government action but more importantly they provide the basis for conducting academic research on the root causes of these problems. From the foregoing discussion, it can be seen that part of the research problem revolves around the unwanted negative side-effects of the modern phenomenon of cross-border marriages. As seen above, these negative side-effects can be said to include mainly women trafficking, forced marriages, sexual slavery and a lot of other social problems associated with commercially-

[20] Tu Ngoc Chau, 'Trafficking of Women in Vietnam: An Analysis of Vulnerability, Health and Well-being Factors' (Master of Public Health thesis, KIT (Royal Tropical Institute), Vrije Universiteit Amsterdam 2008) 11.
[21] John W Berry and others (eds), *Immigrant Youth in Cultural Transition: Acculturation, Identity, and Adaptation Across National Contexts* (Lawrence Erlbaum Associates Publishers, New Jersey 2006) 73-84; Ewa Johnsson, Krystyna Zolkowska and Thomas F McNeil, "Prediction of Adaptation Difficulties by Country of Origin, Cumulate Psychosocial Stressors and Attitude Toward Integrating: A Swedish Study of First-Generation Immigrants from Somalia, Vietnam and China" (2015) 61(2) International Journal of Social Psychiatry 174-182.

arranged cross-border marriages. It is therefore very important and necessary to conduct a proper and comprehensive study on the subject so that legal and practical solutions can be found to address the problems arising from this social phenomenon.

1.3 Aim and Objectives

The main ***aim*** of this research is to evaluate the effectiveness of the current legal framework in Vietnam on the matter of cross-border marriages and the extent to which Vietnamese brides are protected in such marriages. From this, researcher will seek to identify and propose suitable legal solutions (in the form of either law reform or new legislation) aimed at minimising the social issues related to the negative influences of cross-border marriages as well as providing proper protection to Vietnamese women in such marriages. The research aim will be further developed by the following objectives:

For the primary objective as mentioned above, the first research line will focus on critically analysing the nature, history and the causes of a recently rapid rise in the number of cross-border marriages in Mekong Delta region of Vietnam in the last two decades. This will be investigated based on analysing the data sources collected in the region and other research published by international organisations. It is impossible for the researcher to conduct comprehensive research covering all types of cross-border marriages in Mekong Delta area because of time constraints. For this reason, this research will mainly focus on marriages between Vietnamese women and foreign men from China, South Korea and Taiwan which are the most common form of cross-border marriages in the region.

The next research objective explains impacts of cross-border marriages together with the social problems they give rise to. Particularly, this part aims to examine legal issues related to women trafficking, the violation of women's rights, sexual abuse, domestic violence, etc. The research methodology used for undertaking this task will involve data collection in the Mekong Delta region while also making use of other reliable sources to undertake an evaluation of the influences and impact of cross-border marriages on the local society. Most important of all, the general legal framework which governs such cross-border marriages will be scrutinised with the aim of identifying any weaknesses or loopholes in the law.

After cross-border marriages became a common phenomenon in the Mekong Delta region, the local community itself started questioning the effectiveness of the Vietnamese legal framework

on the matter. In fact, Vietnam has adopted several legal tools including statutory provisions and other legal documents addressing the matter; however, the operation of these legal tools is always of great concern. To clarify and provide an overall view about the current legal framework and its role on cross-boundary marital relationships in Vietnam, the next research objective will critically examine specific legal provisions of Vietnamese law on the matter of cross-border marriages and their development and evolution over time. Through this exercise, gaps in current legal framework will be identified so that recommendations for a further legal reform can be provided in the final part of the thesis.

The subsequent research line will account for examining legal perspectives on cross-border marriages internationally. Accordingly, international conventions regarding marital relationships and relevant legal provisions in selected foreign jurisdictions will be discussed. The main purpose of this part is to make a comparison between different legal approaches among countries in terms of adopting solutions on similar legal problems relating to cross border marriages. Actually, it is important to undertake a review of the law internationally before carrying out any process of law reform in Vietnam because this will help to ensure proper consideration of any suggestions or proposals for reform. The ultimate aim of this comparative exercise is not to propose whole scale legal transplantation of foreign law or concepts into the Vietnamese legal system, but more a question of identifying lessons that can be learnt from other more successful jurisdictions as a point of good reference and international good practice which we may identify from other legal approaches.

The final part of the thesis will present its main research findings, after analysing the legal challenges related to cross-border marriages. Therefore, the main proposition of this thesis is based on the urgent necessity for legal and policy reforms regarding cross-border marriages in Vietnam. It is important to note that the proposed solutions will focus on law reform in the pre-marriage period aimed at minimising the negative consequences of cross-border marriages to society rather than focusing on how to solve the consequences post-marriage. Additionally, the possibility of applying those solutions to other Southeast Asia countries which share similar situation with Vietnam will be examined herein so that the research contributions will have a broader scope, thus increasing their feasibility and effectiveness if put into practice.

As the write-up progresses, each chapter of this thesis will subsequently be linked to one or more of these aims and objectives. Conversely, each research aim and objective may be addressed in one or several chapters. There is an interconnection between the various research

objectives and the aim is to achieve a logically progressive structure to the thesis; a connection will be maintained throughout between the various research aims and objectives, together with the research questions in order to inform and shape the thesis properly.

1.4 Research Questions (RQ)

The thesis will be designed to answer the following research lines of inquiry with the objective of contributing towards a better understanding and in-depth knowledge on cross-border marriages in Vietnam.

RQ1: Why are cross-border marriages more common in the Mekong Delta of Vietnam?

RQ2: What are the challenges and problems experienced by Vietnamese brides in such cross-border marriages?

RQ3: How effective is the domestic legal framework of Vietnam in regulating the transnational aspects of such marriages? Are there any gaps in the current legal framework on cross-border marital relationships? How have other jurisdictions addressed the similar phenomenon?

RQ4: What can be done to make the legal framework on cross-border marriages more effective in Vietnam in order to provide better support and protection to Vietnamese women?

1.5 Research Design

The research design of the thesis is indicated in a research diagram (see **Figure 1.1**, below) to provide an overall view about the connection of the research's aim and objectives, research questions, methodologies and its contributions. The four categories of the research (aim and objectives, research questions, methodology, and contributions) are then mapped in one or various chapters, linking the thesis's chapters logically. The conceptual framework which has been developed by the researcher as a solution to the research problems is presented in **Chapter 7**.

Aim/Objectives

O1: To critically examine the situation of cross-border marriages in the Mekong Delta region of Vietnam and identify the causes behind the rapid rise of this phenomenon in this region.
O2: To explain the impacts and legal problems of cross-border marriages including women trafficking, the violation of women's rights, sexual abuse and the high rate of divorce.
O3: To evaluate the effectiveness of Vietnamese legal provisions on cross-border marriages and identify the gaps in the legal framework so that suggestion and recommendations for law and policy reforms can be proposed.
O4: To discuss the international perspectives on cross-border marriages, including the appraisal of international conventions and relevant laws of other legal systems.
O5: Finally, to generate applicable solutions as a proposal for law reform based on the research findings.

Research Questions

RQ1: Why are cross-border marriages more common in the Mekong Delta of Vietnam?

RQ2: What are the challenges and problems experienced by Vietnamese brides in such cross-border marriages?

RQ3: How effective the domestic legal framework of Vietnam is to regulate the transnational aspects of such marriages? Are there any gaps in the current legal framework on cross-border marital relationships? How have other jurisdictions addressed the similar phenomenon?

RQ4: What can be done to make the legal framework on cross-border marriages more effective in Vietnam in order to provide better support and protection to Vietnamese women?

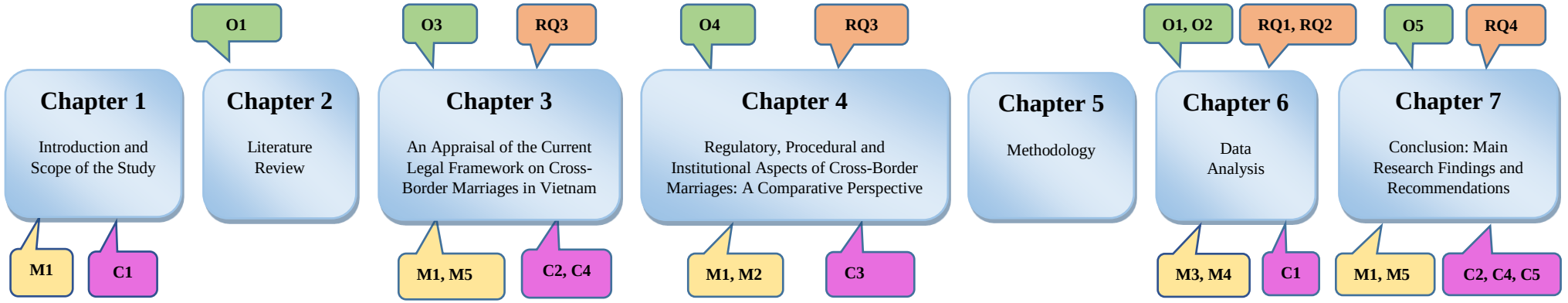
Methodology

M1. Doctrinal approach
M2. Comparative study
M3. Semi-structured Interview
M4. Secondary data analysis
M5. Socio-Legal approach

Topic: CROSS-BORDER MARRIAGES IN THE MEKONG DELTA REGION OF VIETNAM: CURRENT LEGAL PROBLEMS AND PROPOSED SOLUTIONS

Contributions

C1. Link the phenomenon with the domestic history and provide reasons behind the phenomenon and examine the benefits and drawbacks of the trend and its impacts on society.
C2. Recommendation for higher level of legal protection to women's rights in order to minimize the risk of abuse.
C3. Draw and link the phenomenon in Vietnam and other countries.
C4. Recommendations for pre-marriage support to Vietnamese brides.
C5. Recommendations for law reform based on research findings.



O: Objective M: Method RQ: Research Question C: Contribution *(Source: The Researcher)*

Figure 1.1 Research design

1.6 Expected Research Contribution

The research outputs are expected to contribute to the growth of academic literature on the subject and equally lay the requisite foundation for further research in this area of socio-legal studies in future. Additionally, by attempting to find out feasible solutions to legal challenges related to cross-border marriages, the thesis seeks to make a practical contribution by identifying and outlining proposals for law reform in Vietnam. It is expected that the practical contribution will apply not only to Vietnam, but also to other Southeast Asian countries which share similar problems and therefore stand to draw lessons from the study. To achieve this, it is planned that during and after the research process, the researcher has presented and will present more papers on the topic in conferences, aimed at disseminating the research findings and bringing its recommendations to the attention of policy makers. Simultaneously, the researcher will also aim to publish some of the findings of the research in academic journals.

A table mapping various aspects of original contribution of the research is included in **Chapter 7** of this thesis.

1.7 Conclusion

The cross-border marriage phenomenon has been examined under several aspects, especially the sociological angle, social issues, gender, migration and legal matters. However, examining the issues under the legal perspective, there are still several questions that need to be addressed, including the validity of commercially-arranged cross-border marriages, the question regarding the effective intervention of the Vietnamese government in such marriages and other legal solutions to the phenomenon. The most important concern could be the violation of women rights, a disturbing problem which demands the urgent attention of host societies. To some extent, some governments have initiated feasible solutions in the effort which is aimed at reducing the drawbacks of cross-border marriages and improving the living quality of foreign bride migrants and multicultural families' members simultaneously, especially the South Korea government. But more remains to be done, especially by the Vietnamese government, both in terms of law reform and new policy measures. For example, what legal provisions of policy responses can the government put in place to equip their citizens with necessary knowledge and pre-marriage skills prior to migration? How well are Vietnamese brides prepared and supported before marriage including socio-cultural integration, knowledge of marriages and immigration laws, and social skills? Even though there has been coordination between the

Vietnamese government and other host countries in addressing some of the negative side-effects of cross-border marriages, there is still scope for much more to done, not least through reform of the legal framework governing marriage migration.

Having provided a general background to the research problem in this chapter, the main aim of the next chapter will be to provide comprehensive literature review on the subject of cross-border marriages in Vietnam.

CHAPTER 2
LITERATURE REVIEW

2.1 Introduction

In recent decades, cross-border marriages have become a topical issue, attracting the attention of many experts from researchers, sociologists, and politicians to law makers due not only to the complexity of the phenomenon, but also due to its social, cultural, legal and political implications. As a basis of the research, literature review will examine and summarise the main points of view and findings of previous research which will in turn lay the requisite foundation for this thesis on the subject. The literature review will be divided into separate themes (i.e. thematic analysis of secondary sources) from writings on the definition of the term ***cross-border marriages*** to studies on cross-border marriages in general, and those related to Vietnamese nationals in particular.

2.2 What Is A Cross-Border Marriage?

Duong Bach Le, Thanh-Dam Truong, and Thu Hong Khuat in "Transnational Marriage Migration and the East Asian Family-Based Welfare Model: Social Reproduction in Vietnam, Taiwan, and South Korea" agreed that marriages between people who hold different nationalities is often defined as *international marriages*.[22] Accordingly, the nation state is emphasised as the key actor in formalising such unions. However, in terms of pre-marital residence and domicile of the couples involved, there are two other alternative terms which are also frequently applied to international marriages. These are *cross-border marriages* and *transnational marriages* which are the preferred terms of academic literature on marriage migration within and between different countries or regions.[23] Both these terms are used interchangeably to refer to cross-ethnic, cross-cultural or same-cultural marriages. To explain the distinctness of the two terms, **Melody Chia-Wen Lu** in "Transnational Marriage in Asia" clarified that the "term ***cross-border marriage*** emphasises geographical, national, racial, class and gender and cultural borders constructed in the hosting societies. These borders are mainly mediated by the states as well as other social actors in order to differentiate the 'we' and 'the

[22] Truong and others (n 19) 89.
[23] Melody Chia-Wen Lu, "Transnational Marriage in Asia" (2007) 45 International Institute of Asian Studies Newsletter 3; Nicole Constable, *Cross-Border Marriages: Gender and Mobility in Transitional Asia* (University of Pennsylvania Press 2004) 3.

others'".[24] On the other hand, the term *transnational marriage* refers to "a transnational network and space created by the actors themselves - as well as the transactions of economic resources, symbols and political and cultural practices between the sending and receiving communities".[25] The term also relates to the influence of such transactions on local development, social practices and cultural customs in sending and receiving countries.

In this thesis, the researcher employs the term ***cross-border marriages*** to refer to marriages between Vietnamese citizens and foreigners or marriages between Vietnamese people, but where one of them resides in Vietnam and one is overseas Vietnamese (for example, a marriage between a Vietnamese resident bride and an overseas resident Vietnamese groom, also known as the *Viet Kieu*).

2.3 International Literature on Cross-Border Marriages

Before examining key literature sources on the subject of cross-border marriages in Vietnam and the problems involved, it is important to have a general review on marriage migration provide a clearer picture about the regional and global trends on cross-border marriages.

The book entitled *Asian Cross-Border Marriage Migration: Demographic Patterns and Social Issues* edited by **Wen-Shan Yang and Melody Chia-Wen Lu**[26], examines the history of cross-border marriages in Southeast and East Asia. In the first section of the book, **Melody Chia-Wen Lu** and **Wen-Shan Yang** indicated that the late second half of the 20th century witnessed a speedy rise in the phenomenon of cross-border marriages between Southeast Asian and East Asian nationals. The first country discussed by the authors is Japan which witnessed a steady increase (since the 1970s) in cross-border marriages between Japanese men with foreign brides, mostly from China and the Philippines.[27] The authors stated that the number of transnational marriages constituted 0.43% of all marriages in Japan in 1965, while in 1980 this figure was 0.93%, before rising sharply to 5.77% in 2005.[28] Similarly, from the mid-1980s, Taiwan experienced a significant number of international marriages between Taiwanese bachelors and

[24] Ibid 3.
[25] Panitee Suksomboon, 'Remittances and 'Social Remittances': Their Impact on Cross-Cultural Marriage and Social Transformation', (Conference on International Migration, Multi-Local Livelihoods and Human Security, The Hague, the Netherlands, 30-31 August 2007).
[26] Wen-Shan Yang and Melody Chia-Wen Lu (eds), *Asian Cross-border Marriage Migration: Demographic Patterns and Social Issues* (Amsterdam University Press 2010).
[27] Ibid 15; Wang and Chang (n 8) 109.
[28] Yang and Lu (n 26) 15.

female spouses, especially from Indonesia, Vietnam and China.[29] In 2002, international marriages accounted for 27.4% of all marriages in Taiwan.[30] During the 10-year period starting from 1995, Hong Kong also encountered a ten-fold increase in marriages involving Hong Kong residents and Mainland Chinese. In 2005, these marriages made up over one-third of all marriages related to Hong Kong residents.[31] In the early 1990s, South Korea also witnessed a significant increase in cross-border marriages involving Korean nationals, between 1990 and 2005.[32] Cross-border marriages accounted for 13.6% of all marriages in South Korea in 2005.[33] However, the "mixed marriages" trend in cross-border marriages in South Korea was different from the trend in Japan, Taiwan or Hong Kong. Accordingly, the number of cross-border marriages involving South Korean men overshadowed the figure of female South Korean cross-border marriages.[34] South Korean men tended to marry foreign brides from the Southeast Asia region (China, Vietnam and Japan) while Korean women's husbands came mainly from outside the region from countries such as the US, UK, Canada, Australia, and Germany - with a smaller number from China and Japan.[35]

Melody Chia-Wen Lu and **Wen-Shan Yang** also emphasised two common characteristics of such cross-border marriages in Southeast Asia and East Asia. The first one is that due to the gender imbalance, men from richer countries chose to marry foreign women from less wealthy nations. The second point is that couples in such marriages were matched or introduced through marriage brokerage under various forms.[36] The authors also argue that cross-border marriages in the intra-Asia flow, from the end of the 1990s to early 2000s, were considered as a *new* phenomenon which formed part of the trend of 'feminization of migration' in the course of globalisation.[37]

On the subject of cross-border marriages in Western countries, there is a diversity in cross-border marriages related to Western nationals such as marriages between Western men and Asian women from China, the Philippines, Thailand, etc, and marriages between East European

[29] Ibid.
[30] Ibid.
[31] Ibid.
[32] Ibid.
[33] Ibid.
[34] Ibid 137.
[35] Ibid.
[36] Ibid 15.
[37] Graeme J. Hugo, "Immigration Responses to Global Change in Asia: A Review" (2006) 44(2) Geographical Research 155-172; Nicola Piper, "Feminisation of Migration and the Social Dimensions of Development: The Asian Case" (2008) 29(7) Third World Quarterly 1287-1303.

women and US-born men. In a study on "International Marriages between Eastern European-Born Women and U.S-Born Men", **Levchenko and Solheim** stated that Eastern Europe accounts for the third region in the world having the highest proportion of origin for marriage migrants with 8% (just after Asia with 47%, and Latin America with 27%).[38]

One of the most concerning phenomenon related to cross-border marriages globally is the practice of Mail Order Brides (MOB) which refers to international matchmaking agencies which operates through the internet to match Western men with mostly women from three areas of the world – Asia, Eastern Europe, and Latin America.[39] Researchers have found that the outcome of the MOB trade is a "flourishing and lucrative industry"[40] related to the trafficking of women from poor developing countries for husbands in rich developed nations.[41]

The issues discussed in the Western sources that have been examined have do not impact directly on the specific research problems which have been identified for this thesis, which focus mainly on domestic abuse, women trafficking and sexual exploitation. Moreover, due to word count restriction of this thesis, it is not possible for the researcher to review more sources in other countries. Therefore, the focus of the literature review will be on cross-border marriages between Vietnamese brides and foreign men from China, South Korea and Taiwan.

2.4 Cross-Border Marriages between Vietnamese Brides and Taiwanese Men

In studying Vietnamese-Taiwanese marriages, **Hong-Zen Wang** and **Shu-Ming Chang** in "The Commodification of International Marriages: Cross-border Marriage Business in Taiwan and Viet Nam"[42] concluded that young women from rural areas in Vietnam are more likely to marry Taiwanese men for economic reasons. Simultaneously, after 1995,[43] more Taiwanese men, who are comparatively in the lower ranks of Taiwanese society in terms of socio-economic status, educational qualifications, occupational prestige and place of residence, have

[38] Polina Levchenko and Catherine Solheim, "International Marriages between Eastern European-Born Women and U.S-Born Men" (2013) 62(1) Family Relations 30, 32.
[39] Nicole Constable, *Romance on a Global Stage: Pen Pals, Virtual Ethnography, and Mail Order Marriages* (University of California Press 2003) 63-90; Suprateek Sarker and others, "The "Mail-Order Bride" (MOB) Phenomenon in The Cyberworld: An Interpretive Investigation" (2013) 4(3) ACM Transactions on Management Information Systems 10.
[40] Marie-Claire Belleau, "Mail-Order Brides in a Global World" (2003) 67(2) Albany Law Review 595, 596; Teddy Wayne, "Mail-Order Bride Trade Is Flourishing" (*Today*, 11 January 2011) <https://www.today.com/health/mail-order-bride-trade-flourishing-1C8535034> accessed 03 July 2020.
[41] Oksana Yakushko and Indhushree Rajan, "Global Love for Sale: Divergence and Convergence of Human Trafficking with "Mail Order Brides" and International Arranged Marriage Phenomena" (2017) 40 Women & Therapy 190.
[42] Wang and Chang (n 8) 116.
[43] The authors informed that before 1995, most female migrant partners in Taiwan were from Indonesia.

driven the demand for Vietnamese female migrant partners. This is because with a disadvantaged social background, these men found it very difficult to seek domestic partners. More noticeably, the authors analysed the impacts of intermediary agencies in Taiwan and Vietnam in arranging cross-border marriages regardless the fact that the matching agencies are banned under Vietnamese law. By analysing the profit-oriented intermediaries, **Hong-Zen Wang** and **Shu-Ming Chang** were able to explain the mechanism of "commodified" international marriages.[44] This phenomenon places both governments in a position in which they have to pay higher attention to the illegal activity of people trafficking. The authors concluded that if migration through cross-border marriages is still dominated by matchmaking agencies and resembles a commodity transaction process, it is unavoidably subject to market factors such as demand and supply.[45] More importantly, they emphasised that whereas intermediaries still make money from matchmaking, known as "commodified matchmaking", the human rights of Vietnamese women, however, are being disregarded by both the government and society.

By examining the issue from a sociological perspective, **Xoan Nguyen** and **Xuyen Tran** were the first authors to conduct a very informative research project entitled "Vietnamese-Taiwanese Marriages"[46] covering six provinces in the Mekong Delta region, in Southern Vietnam in 2004. The authors emphasised the point that even though international marriages are not a new social phenomenon in Vietnam, the recently abnormal rise in the number of Vietnamese-Taiwanese marriages has attracted a high level of concern from the affected communities. More noticeably, the majority of Vietnamese-Taiwanese marriages took place in the Mekong Delta region while in other areas of the country the growth rate of such marriages was insignificant. In addition to this, the authors were able to identify some characteristics and key features of marriages between Vietnamese women and their Taiwanese partners. Firstly, the Vietnamese brides normally belong to a very young age group, with most of them coming from rural areas. They are often equipped with a very low level of education on account of having left school too early. With low educational attainment and poor premarital preparation, Vietnamese brides encountered unexpected (but fairly predictable) challenges after migrating to Taiwan. For example, many of them often face the prejudice of local people in Taiwan. Some Vietnamese

[44] Wang and Chang (n 8) 109.
[45] Ibid 109.
[46] Xoan Nguyen and Xuyen Tran, "Vietnamese-Taiwanese Marriages", in: Wen-Shan Yang and Melody Chia-Wen Lu (eds), *Asian Cross-border Marriage Migration: Demographic Patterns and Social Issues* (Amsterdam University Press 2010) 157-178.

brides became victims of domestic violence or were treated almost like domestic servants or slaves by their husbands' family. Moreover, some of these Vietnamese 'brides' end up in Taiwan as victims of a human trafficking trade that has grown out of the phenomenon of cross-border marriages.

To try and explain the causes of regional differences in the number of Vietnamese females getting married with Taiwanese males, the authors examined the determinants of those marriages at two levels, the macro level and the micro level (family influences and personal reasons). At the macro level, the authors asserted that although "marriage squeeze" has a significant influence on family-forming migration, it has 'little if no impact'[47] on the female marriage migration. For this point, the authors further explained that the sex ratio of people aged 20 - 35 during the 1970s was very low whereas the sex ratio of young people aged 20 - 34 (in 2003) is quite high (nearly 99.0).[48] This means that there was no deficit of females of marriageable ages in Vietnam at that time (the 2000s). Therefore, 'marriage migration' theory cannot be referred to as a valid reason for explaining the high numbers of Vietnamese-Taiwanese marriages. However, the authors suggested some other factors instead. Firstly, the poverty rate in the Mekong Delta region is commonly high as a result of population growth, natural disasters, and low educational attainment. This leads to a trend of migration from local communities to prosperous regions in or out of the country.[49] Secondly, the visible multicultural characteristics of the Mekong Delta and the popularity of inter-ethnic marriages in this area enable local people to integrate well into new environments.[50] More importantly, Vietnam and Taiwan share a common influence, *Confucianism*, of which the power and position of men are dominant over women's in the family structure. Finally, Taiwan is a major overseas investor in Vietnam.[51] This facilitates the increase in Vietnamese-Taiwanese marriages, especially after the improvement in economic relations between the two countries.

Investigating the causes of the phenomenon at the micro level, the authors assumed that there are two main factors, the low economic status of Vietnamese brides and their low educational attainment - and even that of their parents'. The latter is often accompanied by the lack of vital occupational and social skills. For them, the best way to improve their economic situation is

[47] Ibid 163.
[48] Ibid 163-164.
[49] Ibid 164.
[50] Ibid 165.
[51] Ibid.

by getting married with Taiwanese men who are expected to support the wives' families financially. In other words, poverty and the desire of Vietnamese women for a better life are the main determinants which encourage Vietnamese women to enter into cross-border marriages with Taiwanese husbands. More noticeably, the perceived success of some previous cases of Vietnamese-Taiwanese marriages (of which the wives have sent money to their families in Vietnam) stimulates a desire of other Vietnamese women who are of marriageable age in the area for such cross-border Taiwanese marriages.

Xoan Nguyen and **Xuyen Tran** also provided some important information when they equally discussed the benefits and the drawbacks of this phenomenon in terms of economic and social impacts and different attitudes towards the trend in the affected communities. The authors concluded that this kind of marriages has not given rise to negative-side effects only as there are many economic, cultural and social advantages. However, their most valuable point should be the two suggestions for policymakers mentioned in conclusion. Firstly, their proposal that what Vietnamese and Taiwanese authorities need to do now is not to try to stop those international marriages, but make efforts to minimise the negative-side effects of this trend on society. For this reason, the law on cross-border marriages has to be strengthened. Secondly, Vietnamese women have to be equipped with better preparations before marriage through better coordination between the Vietnamese and Taiwanese governments. One of the main contributions of this thesis will be to examine ways in which such premarital preparations can be improved.

In the same regard, in a journal entitled "Transnationalism from Below: Evidence from Vietnam-Taiwan Cross-Border Marriages", **Danièle Bélanger** and **Hong-Zen Wang**[52] provided an interesting explanation about the transnational marriage trend involving Vietnamese brides and Taiwanese grooms. Accordingly, the authors explained that this transnational phenomenon stems from a marriage squeeze relating to marital hypergamy whereby women "marry up" (i.e. to a man with status, or from a superior caste or class) - rather than results from a marriage squeeze caused by the gender imbalance in the population resulting from a high male to female sex ratios at birth.[53] More importantly, both parties involved in such marriages are looked down on. Taiwanese men marrying Vietnamese women are considered poor men who are unable to marry locally whereas Vietnamese females are

[52] Danièle Bélanger and Hong-Zen Wang, "Transnationalism from Below: Evidence from Vietnam-Taiwan Cross-Border Marriages" (2012) 21 Asian and Pacific Migration Journal 291.
[53] Ibid 296.

viewed as lower class and less educated. The authors elaborated that transnational marriages often lead to "*transnational activities* defined as those that take place on a recurrent basis across national borders and that require a regular and significant commitment of time by participants"[54] economically and socially. They argued that one of motivations for Vietnamese women to get married with their Taiwanese partners is the opportunity which such marriage gives them to make significant economic contribution by remitting to their natal families. For Taiwanese men who favour marrying Vietnamese brides, such marriages open new opportunities to them and they can expand their opportunities in Vietnam if they face problems in Taiwan. The authors analysed benefits which both sending and receiving communities gain from cross-border marriages. More importantly, they concluded that with the limited economic and cultural capital, these people (Vietnamese women and Taiwanese men), especially Vietnamese women, create a new transnational community connecting Taiwan and Vietnam that we often overlook. In this sense, the nature of those marriages is again emphasised as good.

2.5 Sino-Vietnamese Marriages

Caro Grillot in "Cross-border Marriages between Vietnamese Women and Chinese Men: The Integration of Otherness and the Impact of Popular Representations"[55] emphasised the many reasons behind the frequency of such unions. From the perspective of Chinese men, the author provided two main points to explain why the Chinese took Vietnamese women as wives and continued to do so over long periods of time. Firstly, this is because of the expectations of the Chinese men, the fantasy of the model wife. Historically, Chinese women's position has been changed dramatically after years of Maoism and a post-reform era. This social change leads some Chinese men to seek conventional family values and the related model of femininity such as the traditional, subservient housewife. Additionally, the limited number of women in China due to gender imbalance in the Chinese population leaves Chinese men with no choice but to look for wives from other countries to increase their prospects of marriage. In view of these factors, neighbouring, Vietnamese women appear as the ideal alternatives that are generally perceived as being more traditional, less emancipated, less demanding compared to their Chinese counterparts. On the side of Vietnamese women, the author alleged that economic advancement, money and wealth are often emphasised as the reasons why Vietnamese women

[54] Alejandro Portes, "Conclusion: Towards a New World - The Origins Effects of Transnational Activities" (1999) 22 Ethnic and Racial Studies 463, 464.
[55] David Haines, Keiko Yamanaka, and Shinji Yamashita (eds), *Wind over Water: Migration in an East Asian Context* (Berghahn Books 2012) 125.

want to get married with Chinese men. More interestingly, Vietnamese women foster their hopes for perfect Chinese husbands who are seen as culturally similar but more open-minded compared to Vietnamese men due to the influence of social modernisation in China.

In the same regard in Vietnamese-Chinese marriages, **Guihua** stated that such marriages tend to be widely linked to women trafficking as an extension of internationally forced marriages. The author emphasised that many Vietnamese brides were trafficked to China through forced cross-border marriages and the trafficking trade in Vietnamese women has provided a boon for the Chinese.[56] Some Vietnamese women were even sold three times over in China and many Vietnamese victims chose to stay in China illegally after being trafficked rather than return to Vietnam.[57]

A recent study of **Heidi Stöckl and others** describe the experience of 51 Vietnamese women and girls, some as young as 14 years, who have been trafficked to China for marriage.[58] The main remarkable factors believed to have an impact on the trafficking of women for marriage in China include patriarchal structures and China's one-child policies.[59] In China men are expected to marry and produce male offspring to continue the family line. The one child policy, coupled with the cultural preference for males resulted in demographic imbalances, especially a skewed sex ratio in rural China.[60] On the other hand, the number of marriageable women in rural areas in China has further dropped due to the large number of women who have migrated to more developed areas for work or better marriage prospects.[61] This social phenomenon pressured men in China who are unable to find local wives into seeking to "purchase" wives abroad (especially in neighbour countries). The surplus of Vietnamese women in rural areas who are expected to marry at a relatively early age seem to fuel the trade in women for marriage in China. These Vietnamese women commonly come from poor families, unemployed and having low educational attainment. Besides that, cross-border activities between Vietnam and China make it easier for migration to take place. The common recruitment tactic is through deception by friends, relatives, someone they know or even strangers by offering a job, travel,

[56] Ma Guihua, "Trade in Vietnamese Brides a Boon for Chinese" *Asia Times Online* (14 November 2002) <http://www.atimes.com/atimes/China/DK14Ad03.html> accessed 20 March 2016.
[57] Ibid.
[58] Heidi Stöckl and others, "Trafficking of Vietnamese Women and Girls for Marriage in China" (2017) 2(1) Global Health Research and Policy 1.
[59] Ibid 2.
[60] Ibid.
[61] Liang Maochun and Chen Wen, "Transnational Undocumented Marriages in the Sino-Vietnamese Border Areas of China" (2014) 23(1) Asian and Pacific Migration Journal 113.

outing or simply a lift to a destination.[62] The trafficking of Vietnamese women and young females for marriage in China takes place as soon as they cross-the Sino-Vietnamese border because of their vulnerability. It is found that women in the study experienced highly sexual exploitation and/or physical violence while they were trafficked.[63]

2.6 Vietnamese Brides and Korean Husbands

Examining marriage migration between South Korea and Vietnam under a gender perspective, **Hee-Kang Kim** conducted an illuminating research, revealing several legal issues involved.[64] The author agreed with **Onishi**[65] that female marriage migration is not only a 'social phenomenon', but also comprises one of the notable migratory patterns and trends in Asia.[66] Then he analysed marriage migration in Asia from a gender perspective to explore the causes and consequences of marriage migration. The author emphasised that marriage migration is the outcome of globalisation, which has widened the economic gap between developed and developing countries. This gap makes women from poorer countries voluntarily enter into commercially arranged marriages with men from wealthier countries to seek a better life.[67] However, it is a notable fact that Vietnamese brides constitute the highest ratio in cross-border marriages involving Korean rural men who are fairly poor, old and lowly educated. The international marriage trend in South Korea has even expanded to urban low-class, widowed, divorced, and disabled men.[68] More importantly, there has been an increase in marriages via marriage brokers which are considered as fake marriages or bride trafficking because these marriages involve women who have migrated involuntarily by being trafficked across the border.

Looking at the issue from the perspective of Vietnamese women, **Hee-Kang Kim** clarified the reasons why Vietnamese women in the Mekong Delta area are motivated to marry South Korean men. This is because there is a wide gap between Vietnamese males and females in terms of educational attainment, economic participation, and labour force and employment opportunities. Therefore, cross-border marriages offer young women in rural areas the best

[62] Stöckl and others (n 58) 3.
[63] Ibid 7.
[64] Hee-Kang Kim, "Marriage Migration between South Korea and Vietnam: A Gender Perspective" (2012) 36 Asian Perspective 531.
[65] Norimitsu Onishi, "Wed to Strangers, Vietnamese Wives Build Korean Lives" *New York Times* (30 March 2008) <https://www.nytimes.com/2008/03/30/world/asia/30brides.html> accessed 20 March 2016.
[66] Kim (n 64) 532.
[67] Ibid 535.
[68] Ibid 540.

opportunity to escape from poverty and improve their family's economic status. Agreeing with other authors, **Hee-Kang Kim** concluded that cross-marriage migrants cause many social problems in both sending and receiving countries. These problems include discrimination and difficulties with integrating into the receiving countries, cultural and language challenges, domestic violence and even human trafficking.

The most interesting point in the article is when the author mentioned the role of the local government in South Korea regarding Korean demand for foreign brides. **Hee-Kang Kim** stated that local governments enacted the International Marriage Subsidy Ordinance for Farmers and Fishermen[69] with the aim of providing financial subsidies for cross-border marriages of unmarried farmers and fishermen who are over thirty-five years old and considered as unfavourable men by local women (because of their poor economic status).[70] The purpose of this ordinance is to solve the social problems caused by the "decrease in population caused by the low birth rate and thus entering an ageing society".[71] Accordingly, local governments are required to support a subsidy a significant amount of the marriage brokerage fees payable to an international marriage introduction agency which offers marriage arrangement services to rural Korean men. The ordinance plays an important role in promoting cross-border marriages for men living in rural areas of South Korea. The role of international marriage introduction agencies is encouraged in the ordinance which is an extremely important factor in Vietnamese-Korean marriages. The author pointed out that the usage rate of marriage agencies by Vietnamese brides is particularly high compared to other foreign brides in South Korea.[72]

The author also argued that what accounts for the Korean demand for Vietnamese brides is not based on the individual choices of Korean rural men only, but the combination of three factors; these are: the enduring desire of "Korean rural men for marriage, the government's encouragement of cross-border marriage for Korean rural men, and the marriage agencies' interest in making a profit."[73] The most valuable point which the author found out herein is the

[69] The exact name of the title of the ordinance differs depending on locality.
[70] Choi Sun-Young, 'The Status of International Marriage Subsidy Programs for Farmers and Fishermen'. Seminar Proceedings, 'What Is Wrong with International Marriage Subsidy Programs?' (Migrant Women Policy Network and the Office of Sun-Young Choi, National Assembly Member, 7 June 2007) 7–23; So Rami, 'The Condition of Migrant Women in International Marriage in Korea: Issues on the Legislative System'. Conference proceedings on 'Migrant Women in International Marriage: Issues and Prospects' (Institute for Gender Research, Seoul National University, International Conference, 30 November 2007) 96-122.
[71] Kim (n 64) 544.
[72] Ibid 545.
[73] Ibid.

governmental intervention in cross-border marriages. In addition to this, the South Korea government enacted the Support for Multicultural Families Act 2008[74] to support and improve the quality of life of the members of multi-cultural families and help them to be integrated into Korean society through many programmes including language, vocational training or social integration so that they can enjoy a stable family living.[75] The government's effort to endorse a democratic society and equal relationship among family members has been focused on promoting the social integration of culturally different groups which further eliminates social bias and discrimination against marriage migrants.

Providing a different perspective on Korean-Vietnamese marriages, **Hyunok Lee** in one article linked "commercially arranged cross-border marriages to the discussion of the commodification of intimacy, and examined how a transnational phenomenon is contextualized in national politics".[76] The author emphasised that, by observing the increase of the "care, sex and marriage-brokerage industries on a global scale, commodification of life, love and sex have generated fierce moral debates over the incommensurability of intimate relations, which are often associated with shared social norms."[77] The author stated that marriages between Vietnamese brides and men from South Korea began in the late 1990s with the growth of commercial matchmaking agencies. In the mid-2000s, there was a significant increase in such marriages. The National Survey on Multicultural Families in 2009 showed that 66.6% of Vietnamese brides got to know their South Korean husbands through commercial matchmaking agencies.[78] Arranged marriage activities normally take place under the form of 5-6-day trip or "the marriage tour" to Vietnam, the purpose of which is to arrange meetings between Korean men and a group of single Vietnamese women. These women take part in a beauty show during which one or a few Korean bachelors can choose a Vietnamese wife from the group. The Vietnam Women's Union alleged that poor and young Vietnamese women from

[74] Act No. 8937 was adopted on March 21, 2008 which was subsequently amended by the Act No. 9932 on January 18, 2010.
[75] The Support for Multicultural Families Act 2008 will be examined in detail in Chapter 4, Section 4.2.6 of this thesis.
[76] Hyunok Lee, "Trafficking in Women? Or Multicultural Family? The Contextual Difference of Commodification of Intimacy" (2014) 21(10) Gender, Place and Culture 1249.
[77] Ibid 1249.
[78] Ibid 1252; Seung-Kwon Kim, Yoo-Kyung Kim, Ae-Jeo Cho, Hye-Ryeon Kim, Hye-Kyung Lee, Dong-Hoon Seol, Ki-Sun Jeong, and In-Sun Shim, '2009 National Survey on Multicultural Families' (Seoul: Korea Institute for Health and Social Affairs 2010).

rural areas, who are faced with a lack of job opportunities and poverty, are often involved in this process.[79]

Hyunok Lee found that public discussions on commercially arranged transnational marriages often consider them as a matter of violence against migrant brides or the constraint of exercising the individual woman's free will such marriages, but barely examine the social meaning and the conditions of these marriages.[80] With respect to cross-border marriages, the author found that the Vietnamese government does not recognise commercially arranged cross-border marriages as legal and thus public discussion on cross-border marriages, which is often associated with trafficking in women, has been portrayed negatively.[81] By contrast, the main discourse "on cross-border marriages in South Korea has focused on supporting multicultural families" which has been greatly supported by the government's intervention.[82] The Support for Multicultural Families Act 2008 establishes the law on the duties of the government in South Korea towards foreign brides and their families. It also aims to promote a multicultural living environment for marriage immigrants, and to tackle any social prejudice or discrimination against them.[83]

Examining cross-border marriages from the perspective in Vietnam, **Hyunok Lee** refers to a letter from the Vietnam Women's Union (VWU) to Korea on 27 April 2006 as follows[84]:

> In Vietnam, a marriage between a Vietnamese woman and a foreign man occurs based on voluntary love under legal protection. The Vietnam Women's Union sees a Vietnamese woman who is subject to any form of trade as a victim who needs protection, regardless of her residence. Any activity related to illegal marriage brokerage, which violates morals and laws, should be punished by law.

This statement clearly shows that only voluntary love is legitimate and commercially arranged marriages are not legally recognised in Vietnam. Any form of trade renders women victims, and in this case, "being subject to trade is regarded as incompatible with exercising free will"[85]

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[79] Lee (n 76) 1259.
[80] Ibid 1250.
[81] Ibid 1257; Danièle Bélanger, Khuat-Thu Hong and Hong-Zen Wang, "Threatening Nationalism, Patriarchy and Masculinity: Constructions of Transnational Marriages between Vietnamese Women and East Asian Men in Vietnamese Media", (Conference on International Marriage Migration in Asia, Seoul, 13-14 September 2007).
[82] Lee (n 76) 1257.
[83] Support for Multicultural Families Act 2008, Article 1.
[84] The letter dated 27th April 2006 by the VWU was sent to Ministry of Gender Equality and Family of Korea after an article of *The Chosun Ilbo* (Korea) about Vietnamese brides in Korea, which was criticised by Vietnamese people because it derogated the honour and dignity of Vietnamese women.
[85] Lee (n 76) 1256.

and once an individual consent fails to be exercised, it is reasonable that the person needs to be protected from the state. It is evident that commercially arranged marriages are not legally recognised by the restrictive approach of the Vietnamese government which can be seen as a part of its socialist legacy.[86] By contrast, in South Korea commercially arranged cross-border marriages are incorporated under the national policies on supporting multicultural families promulgated by the Korean government.[87] The explanation for this support is the need for the reproduction of its population as a result of the decline in marriage and fertility rates which faced the country for many decades.[88] Thus, during the 2000s policies on family restoration both ideologically and physically was considered as a priority in policy agenda.[89]

Another noticeable point in **Hyunok Lee's** research is the discussion about the connection between commercially arranged marriages and women trafficking which is highlighted in a particularly important analysis in her paper. She restated that **"**commercially arranged cross-border marriages tend to be widely associated with trafficking in women as an extension of mail-order brides or forced marriages in the literature"[90] and the "marriage-brokerage industry is often depicted as a subset of international sex industry or traffickers."[91] However, the author pointed out that in the discourse on trafficking, it is important to admit that not all commercially arranged cross-border marriages resulted from trafficking, and not all migrant brides in commercially arranged marriages have been victims. The general logic follows that women are forced to be subjected to the trade, and, therefore, these marriages are not valid. [92] The fact ignored herein is that the monetary transaction in marriage is not new to cross-border marriage because under several cultures, money is considered as an element of marriage under various forms such as dowry or bride price.[93] However, what needs to be examined in this bride trade is the fact that Vietnamese women, who are characterised as 'traditional wife', ironically became 'a scarce commodity', thus resourcing the overseas market for good wives.[94] To prove

[86] Ibid 1257.
[87]'Multicultural family' is an official term used to refer to the union between a Korean national and a person of foreign origin. This term was initially used by NGOs but appropriated by the government later.
[88] Lee (n 76) 1259.
[89] For example, the Framework Act on Healthy Families 2004; Act to Support International Marriages for Local Bachelors (2005-2006); The Support for Multicultural Families Act 2008; Act on the Treatment of Foreigners in Korea.
[90] Nicole Constable (ed), *Cross-Border Marriages: Gender and Mobility in Transnational Asia* (Philadelphia: Pennsylvania University Press 2005); Kathryn Robinson, "Marriage Migration, Gender Transformations, and Family Values in the 'Global Ecumene'" (2007) 14 Gender, Place & Culture 483.
[91] Lee (n 76) 1251.
[92] Ibid 1252.
[93] Rajni Palriwala and Patricia Uberoi (eds), *Marriage, Migration and Gender* (New Delhi: Sage 2008) 235-260.
[94] Lee (n 76) 1254.

this, the author referred to the banners reading 'Marry a Vietnamese Girl' hung on almost every street in South Korea since the early 2000s. These banners were worded with statements objectifying Vietnamese brides such as "*Pay later"*, or "*100% guaranteed refund"*. It is evident that Vietnamese women in the bride trade were treated as 'a commodity' and their cross-border marriages tended to be commercialised, meaning that their human rights were violated, at least in principle.[95]

The research of **Hyunok Lee** contributes to addressing many important matters related to (i) commodification and cross-border marriages; (ii) different legal and discursive responses on Vietnamese-Korean marriages from the two nations; (iii) commercially arranged marriages are perceived in Vietnam (the brides' country of origin) differently from South Korea (the host country). Commercially arranged cross-border marriages under the perspectives in Vietnam were depicted negatively and tend to relate to human trafficking, while in South Korea the discourse on the same phenomenon has targeted on supporting multicultural families. However, the author has not provided any recommendations on whether the Vietnamese perspective on commercially arranged marriages should be changed in future. Should the commercial marriage brokerage agencies be encouraged by the government as a more effective solution to monitor their operation? Or is there any other way the Vietnamese government can protect Vietnamese brides better in future rather than not legalising the operation of such commercial agencies? All of these questions will be answered in this thesis with the aim of contributing to the academic discourse on the subject.

2.7 Vietnamese Brides Recruitment Process and International Marriage Brokerage Practice

Under Vietnamese law, commercially arranged marriages and commercial match-making providers are banned.[96] However, studies reveal that many cross-border marriages between Vietnamese women and Chinese, South Korean and Taiwanese men were made through commercial match-making agencies. By reviewing previous literature on the subject, the researcher can gain an insight into how commercial match-making agencies actually operated in Vietnam.

[95] Ibid.
[96] This matter will be examined in details in Chapter 3, Section 3.4.2 of this thesis.

Hong-Zen Wang and **Shu-Ming Chang** in an article titled "The Commodification of International Marriages: Cross-Border Marriage Business in Taiwan and Vietnam" published in 2002[97] described the role and the organisation of commercial matchmaking agencies with specific reference to Vietnamese-Taiwanese marriages. The authors stated that mediating or match-making agencies in cross-border marriages play a "significant role" in recruiting Vietnamese female migrants to Taiwan.[98] Moreover, they argued that the process of international marriage has been gradually transformed with the view to enhancing profits to the intermediaries involved in the process of commodification. The authors also highlighted two general forms of international marriages: arranged marriage and marriage brokered through ethnic ties. However, the authors pointed out that Vietnamese migrant brides do not belong to the ethnic marriage category, but commercially-arranged ones through friends, relatives or matchmaking agencies. [99]

The authors described three layers of matchmaking agencies in Vietnam which are specialised in the recruitment of Vietnamese wives for Taiwanese bachelors.[100] The first layer consists of Taiwanese brokerage firms in Vietnam which are granted legal status in Taiwan. There are two types of brokers for this layer including Taiwanese agencies with branches established in Vietnam, and Taiwanese individuals who are married to a Vietnamese spouse and are living in Vietnam who perform the role of individual brokers. These individual brokers have normal jobs and their role in relation to marriage brokerage is to assist Taiwanese agencies to recruit Vietnamese wives in return for a certain percentage of profits obtained from a successful brokerage activity. Both types of agents (established braches and individual brokers) are often involved in a close relationship with their local Vietnamese partners – the second layer of the industry.

The second layer identified by **Wang and Chan**, known as "big matchmakers" [101] are local Vietnamese agencies which in turn have established business partnerships with Korean and Taiwanese agencies. They play a strategic role[102] in the Vietnamese bride recruitment process. Because of their local advantages, including knowing the language and the social environment, these "big matchmakers" provide supporting services, such as interpreting, to facilitate smooth

[97] Wang and Chang (n 8).
[98] Ibid 95.
[99] Ibid 109.
[100] Ibid, 102.
[101] Ibid, 104.
[102] Ibid.

communication between Taiwanese male suitors and Vietnamese brides to be. Additionally, they assist with arranging many miscellaneous details such as organising meetings, accomodation or wedding parties.[103]

According to **Wang and Chan**, the third layer, known as "small matchmakers" [104] are village-based recruiters who play a key role in recruiting local brides. "Small matchmakers" can be considered as the local network of "big matchmakers" and they normally have direct contact with local young women. Prospective brides selected by "small matchmakers", then would be taken to Ho Chi Minh City (HCMC) to meet their husband-to-be.

In discussing the recruitment process itself, **Wang and Chan** also note that typically, Taiwanese matchmaking agencies in collaboration with "big matchmakers" in Vietnam (mainly in HCMC) would arrange a so-called "marriage tour" in which Taiwanese male clients can identify and select Vietnamese wives within a few days following a trip to Vietnam. Taiwanese agencies are in charge of arranging the trip and infomring "big matchmakers" in HCMC about the expected arrival of Taiwanese clients in Vietnam. The "big matchmakers" subsequently notify "small matchmakers" about the arrival of potential grooms so that groups of Vietnamese brides can be brought to the meetings arranged by "big matchmakers" in HCMC. Dirrenet times and different venues for the meetings would be arranged for each client, and the details are kept confidential to avoid the attention of local authorities because such actitives have not been legalised in Vietnam. During the arranged meeting, a Taiwanese bachelor would choose a bride from a group of Vietnamese women. According to the authors, Korean commercial matchmaking agencies which operate in Vietnam follow a similar process.

Melody Chia-Wen Lu in a journal article titled "Commercially Arranged Marriage Migration: Case Studies of Cross-Border Marriages in Taiwan"[105] stated that by commercialising marriage migration, both brides and the marriage process are treated as commodities, and are exposed to vulnerable and exploitable circumstances.[106] After examining the operation of matchmaking agencies, the author argued that the matchmaking industry plays a "key role" in encouraging transnational marriages and marriage migration related to "complex and localised social

[103] Ibid.
[104] Ibid.
[105] Melody Chia-Wen Lu, "Commercially Arranged Marriage Migration: Case Studies of Cross-Border Marriages in Taiwan" (2005) 12 (2&3) Indian Journal of Gender Studies 275 – 303.
[106] Ibid 276.

networks" where female marriage migrants are the main subjects of commercial matchmaking transactions.[107]

Concerning the motivating elements in cross-border marriages in Taiwan, the author stated that a commonly held view is that poverty seems to be a key factor behind such marriages. But the author argues that this is not always the case because many of brides from South-East Asian countries or from China can earn a middle-level income and become financially independent in their home country. On the basis of this argument, the author emphasised that the desire for "betterment" of life (with better job opportunities, for example) plays an equally important role.[108] Therefore, such cross-border marriages are not entirely motivated by economic factors.[109] Additionally, the increase in cross-border marriages in Taiwan stemmed from various causes (from the grooms' side). For example, before the mid-1990s, Taiwanese bachelors, especially those who are older and have low educational attainment, found it very difficult to marry local women due to the unbalanced sex ratio.[110] The author points out that there has been a noticeable increase of activities in the operations of a well-organised marriage brokerage industry aimed at facilitating cross-border marriages involving not only rural Taiwanese men, but also extending to middle-class bachelors, since the mid-1990s.[111]

The author also reaffirmed that although not every cross-border marriage is commercially arranged in Taiwan, the majority of such marriages are facilitated by a third party. For instance, the author's survey in Baihe, a district in Taiwan, indicated that 55% of Vietnamese women were introduced to their Taiwanese spouses through marriage brokers, 37% through friends and relatives and 7% did not use an intermediary. The author also stated that there is a difference in the practice of marriage brokerage in Taiwan compared to the Mail-Order Bride (MOB) phenomenon in the West. Accordingly, Taiwanese bachelors prefer meeting their potential wives physically rather than through video portfolios or photos provided by a marriage broker as is the case with MOB. Therefore, the matchmaking industry in Taiwan was initiated to offer inclusive matchmaking services which consist of arrangements for matchmaking tour, meetings between the two parties, wedding parties, and settlements for bride price and dowry.[112]

[107] Ibid.
[108] Ibid 279.
[109] Ibid 280.
[110] Ibid.
[111] Ibid.
[112] Ibid 282.

Marriage brokerage was also categorised into three types by the author. These include: institutionalised matchmaking agencies, individual entrepreneur matchmakers and individual brokers, mainly oversees brides from South-East Asian countries or Mainland Chinese (whose spouses are Taiwanese) acting as marriage brokers for their relatives back in their home countries.[113]

In the author's view, the operation of institutionalised matchmaking agencies was increasingly developed from the mid-1990s onwards.[114] By describing the matchmaking practice in detail, the author stated that Taiwanese bachelors would contact matchmaking agencies which will then provide photos or video portfolios of prospective wives mainly in South-East Asian countries or in China. The agencies then organise for their Taiwanese clients a marriage tour within five to seven days during which targeted brides are invited to meet these clients. The meetings normally took place in a hotel where a group of women are taken to meet the men and one of them would be selected as a wife. Some agencies arrange for the client and the bride to be to spend some time together for a couple of days before they decide on marriage. The decision is normally made within a few days before the end of the tour. [115] For a successful brokerage, the groom would then visit his potential family-in-law to perform the 'proposal ritual'[116] before the wedding ceremony and marriage registration. After wedding, the husbands then return to Taiwan. The brides would join them in Taiwan within the next two months after obtaining a spouse visa.[117]

Wen Lu provides further details in the article, explaining that the instutionalised agencies would normally charge fixed or standardised fees for both the marriage tour and the bride's trip to Taiwan including all paperwork, wedding ceremonies, bride price, etc. The fees were around US$ 10,000 – 13,500 in the early 1990s and dropped to US$ 6,000 in the late 1990s because of high competition among agencies.[118] More than half of this amount is shared by all matchmakers involved. Therefore, the bride price (that the family of the bride receives) is even much lower than the profits obtained from matchmaking sevices. For instance, the bride price for a vietnamese bride was US$ 2,000, while the amount was US$ 1,200 for a bride in Fujian province in China.[119] The author also found that starting from the mid-1990s marriage

[113] Ibid.
[114] Ibid 284.
[115] Ibid.
[116] Ibid 285.
[117] Ibid.
[118] Ibid.
[119] Ibid.

brokerage agencies transferred their operations from Indonesia and China to Vietnam and Cambodia due to a number of factors such as the significant decrease of Indonesian and Chinese women, the cheaper price of Vietnamese and Cambodian brides, and higher matchmaking profits to be made in these countries.[120]

The second type of matchmaking identified in **Wen Lu**'s article is individual brokers who adopt a similar operation as matchmaking agencies such as marriage tour arrangments. In the author's view, this type of matchmaking does not focus on commercial interests only, but also pays more attention to bride's adjustment in Taiwan. This approach seems to satisfy the needs of brides and grooms more than what matchmaking agencies in the first category iodentified by the author can do.[121]

The third type of matchmaking identified by **Wen Lu** takes the form of female marriage migrants in Taiwan. These marriage migrants would have experienced marriage life in Taiwan and they act as marriage brokers to match their sisters or relatives with Taiwanese men. Unlike the two other types of matchmaking previously discussed, those engaged in this activity may not charge a formal fee, but the brokers can receive benefits in the form of money from the couple's families.[122] Moreover, the two families would discuss the bride price and arrange the wedding ceremonies by themselves rather than through the brokers.[123]

In an article of **Hyunok Lee** published in 2014 named "Trafficking in Women? Or Multicultural Family? The Contextual Difference of Commodification of Intimacy"[124], the author mentioned the so-called a "marriage tour"[125] where a Vietnamese bride was matched with a foreigner through commercial matchmaking agencies. The author also referred to the 2009 National Survey on Multicultural Families in South Korea which indicated that 66.6 percent of Vietnamese brides got to know their Korean husbands through a matchmaking agency. Such agencies would carefully schedule a "marriage tour" which was a 5-6-day packed trip for Korean clients to Vietnam and to guarantee those clients return home having secured a wife. The process took place with the bride selection in the form of a beauty show during which a Korean man would be arranged to meet prospective brides and a wife would be chosen from

[120] Ibid 286.
[121] Ibid.
[122] Ibid.
[123] Ibid.
[124] Lee (n 76) 1249.
[125] Ibid, 1255.

the group. This resulted in a controversial debate between South Korea's perspective and Vietnam's perspective as Vietnamese women were portrayed as "commodities."[126]

Brenda Saw Ai Yeoh and others in their article published in 2017 titled "*Managing Risk, Making A Match: Brokers and The Management of Mobility in International Marriage*"[127] described the process of Vietnamese bride recruitment for Singaporean men. The authors state that match-making agencies which are legally based in Singapore or South Korea would normally approach their Vietnam-based counterparts, mainly in Ho Chi Minh City (HCMC). These *illegal* agencies in HCMC would connect with local recruiters to recruit Vietnamese brides from rural southern Vietnam, especially in the Mekong Delta region. Then the agencies would arrange a so-called "matchmaking tour"[128] in HCMC which normally took from 4 to 6 days and cost about $10,000.[129] The authors also described what really happened during "a matchmaking tour", during which a male client would be guaranteed to return home only after having secured a Vietnamese wife within only a few days' trip to Vietnam. Firstly, a meeting would be arranged where the client would meet a group of Vietnamese women and some of the most prospective brides would then shortlisted for dating and interviews. On the second day, the selected bride would have a medical examination and virginity test. After that, the couple would go to choose wedding outfits and jewellery before they would have an engagement dinner together. On the third day, a marriage ceremony would be held with the presence of the bride's family. The newly-wed couple then would be left on their own time to consummate their marriage. On the following day, the husband would leave Vietnam while the wife would wait for her paperwork and visa process which normally took from 10 to 60 days. Once the Vietnamese bride reunites with her husband in Singapore, their marriage would then be formally celebrated.

In the authors' view, the marriage brokerage industry involving "Vietnamese brides" reached its peak in the mid-2000s.[130] As commercial match-making services had been prohibited in Vietnam since 2003, these agencies side-stepped the law by changing the method of their operations. Instead of arranging matchmaking tours for Singaporean men to come to Vietnam and chose a wife from among a group of prospective women as previously, arrangements are

[126] Ibid, 1256.
[127] Brenda Saw Ai Yeoh, Heng Leng Chee and Grace Baey, "Managing Risk, Making A Match: Brokers and The Management of Mobility in International Marriage" (2017) 12 (2) Mobilities 227.
[128] Ibid, 232.
[129] Ibid, 233.
[130] Ibid, 233.

now made for Vietnamese brides to go to Singapore as tourists to meet male clients. The authors also point out that this "walk-in brides" format of doing business costs the Singaporean male clients less, namely about $8,000.[131]

2.8 The Impact of Cross-Border Marriages in Vietnam

By looking at the impact of transnational marriage in 'sending communities' of Vietnam, **Danièle Bélanger** and **Tran Giang Linh** provide a different perspective.[132] They stated that there has been increasing numbers of young Vietnamese women getting married with their foreign spouses (especially in South Korea and Taiwan) since the mid-1990s. Elements contributing to these marriages are the growth of networks established "after two decades of transnational business ties with Southeast Asian countries, the strength of an international marriage industry that works transnationally, a high rate of female singlehood and the omnipresent social pressure on East Asian men to marry at any cost."[133] To elucidate more the reasons why Vietnamese women prefer foreign husbands, the authors argued that this is because Vietnamese men are seen as undesirable marriage partners who were frequently categorised as being 'men of pleasure', 'drunken men', 'irresponsible men', or even 'violent men'.[134] Looking at demographic patterns, whereas more Vietnamese females engage in international marriages, Vietnamese men are experiencing the phenomenon known as the *'marriage squeeze'*, just as the Taiwanese and South Korean men who are 'importing' foreign brides. The authors found that the possibility for Vietnamese men to seek a spouse has become less and less, especially in the transnational marriage market. Instead, they have to find their partners in other nearby regions within the country, usually in poorer communities. On the other hand, Vietnamese women involved in marriage migration are viewed negatively as being the "products" of "trafficking" or "women's commodification".

2.9 Legal Issues Related to Cross-Border Marriages

Tu Ngoc Chau, a Vietnamese author on 'Trafficking of Women in Vietnam: An Analysis of Vulnerability, Health and Well-being Factors'[135] discussed some legal aspects regarding

[131] Ibid.
[132] Danièle Bélanger and Tran Giang Linh, "The Impact of Transnational Migration on Gender and Marriage in Sending Communities of Vietnam" (2011) 59 Current Sociology 59.
[133] Ibid 60.
[134] Ibid 71.
[135] Chau (n 20).

women trafficking in Vietnam. In the introductory section of her paper, she observed that cross-border trafficking is a global phenomenon and commonly occurs in the nations of the Mekong Delta including Thailand, Burma, Laos, Cambodia, Vietnam and the Southern Yunnan province of China. This phenomenon has led to Vietnamese women being trafficked to China and Cambodia which geographically share land borders with Vietnam.[136] Trafficking of women in Vietnam is believed to be an increasing, widespread and complicated trend. Moreover, the author made a very good point when she pointed out the link between women trafficking and cross-border marriages. She argued that Vietnamese women are recruited through several tactics and strategies which are used by traffickers, especially via forced marriages or brokered marriages with wealthy foreigners (usually Chinese, Taiwanese, or Korean men) through brokers or matchmakers. These international marriages place Vietnamese women under a high risk of being exploited and trafficked. Regardless of the fact that in Vietnam, forced marriages are against the law and illegal marriage brokerage activities are punished and even banned.[137] Women in forced marriages are recruited by brokers and trafficked to China for sexual exploitation or to be a wife of Chinese or Taiwanese men in rural and remote areas.[138] Obviously, this is a serious violation of women's rights. The author explained that economic factors are one of the reasons behind the phenomenon. Young women in Vietnam are trafficked because of high demand for cheap labour in other countries. Such demand, combined with their family's expectation for their financial assistance, encouraged Vietnamese brides to take the risk of entering into marriage relationships with foreigners, putting them at risk of being trafficked and abused. On the other hand, she explained that more and more people are involved in the sex industry and trafficking networks because the income they receive is much higher and far more attractive than what they get from conventional employment. From the author's research, the connection between women trafficking and forced marriages is clearly shown. By linking what the author has discussed to the legal framework in Vietnam, it is shown that the legal framework employed in Vietnam ineffective in addressing the problems of cross-border marriages. The government refused to grant a legal status to commercial match-making agencies because of human trafficking, but at the same time it does not monitor illegal agencies which mean that human trafficking still goes on under the cover of cross-border marriages.

[136] Ibid 11.
[137] This matter will be examined more details in Chapter 3 of this thesis.
[138] Chau (n 20).

Sharing similar concerns about bride trafficking in cross-border marriages, **Danièle Bélanger** discussed the key role of matching agencies in the rapid increase in the number of international marriages. The author states that go-betweens in both sending and receiving countries have contributed considerably to the rapid increase in mixed marriages and marriage migration. An issue of concern is the fact that international brokerages can even arrange a cross-border marriage in only seven to ten days.[139] Definitely, they will get a very high payment from both parties for the services they offer. However, the law in Taiwan has banned commercial match-making practice in 2008. This made the author to ask questions about the nature of such a marriage, in particular if it is bride trafficking or voluntary migration. Examining the issue further, the author found that this type of migration is frowned upon by Vietnamese government.[140] In this case, women are perceived as being either victims of human trafficking or opportunists who are trying to take advantage of the system for the purpose of settlement abroad. To address this controversial debate, Taiwan and South Korea have reformed their law. Accordingly, in Taiwan, only non-profit agencies are authorized to operate whereas in South Korean to be competent, the agencies are required to hold a certificate.[141] Besides that, the author distinguished the difference in nature between cross-border marriages organised by a match-making agency and those arranged by family networks.

Also examining the intervention of marriage brokerage agencies to Vietnamese-Korean cross-border marriages, **Young-Hee Shim** pointed out that the main reason for the significant increase in the number of marriage brokerage agencies in South Korea is because international marriage brokerages are a highly profitable business from the arrangement.[142] International marriage brokerages even flourished as free enterprises (without regulations on registration system) in South Korea before 1999 due to support from government to cope with the high rate of 'unmarriageable rural bachelors' and 'low fertility crises' in the country. At that time, even some local government departments directly arranged international marriages though there were limitations.[143] Taking advantage of these circumstances, many marriage brokerage agencies used illegal means for making profits. For example, they provided false personal information about the potential brides or grooms involved (such as the past marriage record, health status, occupation, or criminal record such as sexual violence and domestic violence),

[139] Chau (n 20) 3.
[140] Ibid 4.
[141] *See* Article 3 and 4 of Act on Regulation of Marriage Brokerage Agency 2007 (Act No. 8688).
[142] Young-Hee Shim, "Globalisation and Change of Migration-Related Laws in Korea: Focusing on the Change of Marriage Migration-Related Laws" (2010) 9 Journal of Korean Law 201.
[143] Ibid 210.

forged documents or bribed officials so that a South Korean man can select a bride within a week followed by a simple wedding ceremony.[144] Brokerage advertisements are shown at every corner in South Korea from street placards, brochures to newspapers. However, many exaggerated advertisements resulted in many problems in introduction meetings for arranged marriages. In some cases, the advertisements amounted to the human rights violations such as "*Vietnamese women never run away"*.[145] The South Korean government issued the International Marriage Brokerage Act 2007 to regulate the operation of marriage matchmakings,[146] with the aim of protecting migrant women from false information and to prevent breakdowns in marriages. However, it is necessary to pose the question herein as to whether human rights' protection should be provided by both sides, i.e. from the sending and the receiving countries of Vietnamese brides? What is the Vietnamese government's policy in this regard to protect its citizens' human rights?

2.10 Gaps Identified in the Literature

Cross-border marriages have emerged as a visible social phenomenon in East and Southeast Asia, particularly in Vietnam, one of the main bride-supplying countries.[147] Undeniably, the previous studies about cross-border marriages in Vietnam though under different perspectives or different research approaches, have a significant contribution to this subject. However, from the literature review, there are some important points which need to be underlined as follows:

(a) Most authors concluded that the main reason behind a rapid rise in number of cross-border marriages in Vietnam involves economic factors and many of those marriages are commercially-arranged. This would seem to imply that most cross-border marriages are not love-based unions founded on a consensual relationship. However, none of researchers examined the validity and legal nature of such commercially-arranged cross-border marriages. If a marriage results from economic motivation and a profit-related arrangement by a third party rather than true love and the consent of the married, is it a legitimate marriage or not? Should the apparent lack of a love-based relationship or consent be used as a legal ground to disapprove of such marriages?

[144] Ibid 210-211.
[145] Ibid 211.
[146] Accordingly, brokerage agencies should report (art.3), register (art.4) and abide by local laws (art 5 – 14).
[147] Gavin Jones and Hsiu-Hua Shen, "International Marriage in East and Southeast Asia: Trends and Research Emphases" (2008) 12 Citizenship Studies 9.

(b) Concerning marriage brokerages, there is an important legal issue related to private international law question which needs to be addressed. The matter herein is the law of South Korea allows commercial brokerage[148] while the law in Vietnam does not. Thus, questions may be raised in a court regarding the validity of a marriage between a South Korean and Vietnamese which was arranged through a marriage brokerage agency. In other words, there is a matter of conflict of laws. Which country's law will be the applicable law to determine the validity or otherwise of the marriage? Or what would be the "proper law" of the marriage, South Korean law or Vietnamese law? And is the legal question regarding brokerage of the marriage one relating to the formal validity of marriage or essential validity of marriage? None of the authors mentioned or critically analysed these aspects, leaving many questions hanging over important issues regarding the conflict of laws aspect of such transnational or cross-jurisdictional marriages.

(c) Most authors agreed that one of the serious consequences of cross-border marriages (both legal and illegal marriages) is women trafficking and the violation of women's rights. More importantly, the women's rights have suffered more as cross-border marriages have become commodified. With the high risk associated with marrying complete strangers, why are more and more Vietnamese women still deciding to enter into such risky marriages with foreigners? Why it is that cross-border marriage phenomenon has persisted in the Mekong Delta region of Vietnam for such a long time but the government still cannot prevent its negative impacts? From this perspective, the writers have not discussed the effectiveness of the current legal framework in Vietnam on the matter?

(d) Some authors made a very good point when providing recommendations to solving problem, including suggestions for law reform. However, even so, specific details about how to reform the law are not provided. In other words, there is no detailed recommendation about how the government of Vietnam can make changes to the law and what should be the proposed legal procedure regarding cross-border marriages. Thus, the researcher will address this matter in the final chapter.

[148] Act on Regulation of Marriage Brokerage Agency 2007 (Act No. 8688).

2.11 Conclusion

The main aim of this chapter has been to conduct a review of secondary literature sources on the matter of cross-border marriages in Southeast Asia, and in Vietnam in particular, and to highlight some of the main issues identified by previous authors reviewed in relation to the phenomenon of cross-border marriages. Previous researchers seem to focus more of their attention on the issue of marriage migration from the sending and receiving countries, and on the operations of commercial matchmaking agencies in particular. From the 'brides sending' country's perspective, this researcher believes that greater attention should be given to domestic policies and regulations aimed at providing better protection for vulnerable Vietnamese brides in cross-border marriages. For this reason, gaps identified from literature review have been highlighted in Section **2.10** (above), and these gaps will then be addressed in subsequent chapters of this thesis. The next chapter will address the current legal provisions in Vietnam on cross-border marriages, while assessing the effectiveness of the Vietnamese legal framework which governs such marriages.

CHAPTER 3
AN APPRAISAL OF THE CURRENT LEGAL FRAMEWORK ON CROSS-BORDER MARRIAGES IN VIETNAM

3.1 Introduction

This chapter aims to evaluate the Vietnamese legal provisions on cross-border marriages, especially on the matter of commercial marriage brokerage services, by using doctrinal method and the socio-legal approach. In this chapter, one of most important research questions will be addressed, which relates to the effectiveness of the current legal framework on cross-border marriages in Vietnam. Analysing this question has enabled the researcher to highlight the gaps in the current legal provisions on such marriages. This is essential to lay an academic foundation for recommendations to improve the legal framework, which will be outlined in the final Chapter of this thesis.

3.2 An Overview on the Legal Framework on Marriages in Vietnam

Before examining the legal framework, it is important to understand first of all to identify the historical influences which have shaped the current legal framework of Vietnam.

3.2.1 A Brief Synopsis of the History of Vietnam

The nature of the legal system differs from one country to another, based on differences in historical, cultural, socio-political and economic conditions. For this reason, Vietnam has its own specific legal system based mainly on its own history and traditions, but also with some foreign influences. This historical overview is necessary because laws adopted in Vietnam heavily reflect these historical influences, especially marriage and family laws.[149]

Historically, Vietnamese society has had the unfortunate experience of being the crucible of many wars, external interference, and the struggle for its independence and self-government during a period of over two thousand years. The royal regime in Vietnam had ruled the kingdom autonomously for approximately 2,500 years before the country was occupied by China in 207 B.C.E.[150] After that, the country was under Chinese control for more than a thousand years before it won its independence in 939 C.E by "defeat[ing] the Chinese and driv[ing] them out

[149] Steven K. Wisensale, "Marriage and Family Law in a Changing Vietnam" (1999) 20(5) Journal of Family Issues 602, 602.
[150] Joseph Buttinger, *Vietnam: A Political History* (International Thomson Publishing 1968) 19-20.

of the country".[151] From the tenth century, Vietnam determined its own fortune and governed the country through the person of a hereditary monarch for the next nineteen centuries.[152] However, the arrival of European colonists in Southeast Asia in the 17th century once again changed the fate of Vietnam. During the 1600s, many European countries founded permanent settlements in Vietnam after the brief visit by ancient Roman traders' centuries before.[153]

Historical records show that the Portuguese were the first Europeans to establish a trading centre in Vietnam on the site of what is now present day Da Nang. Then, the Dutch came to build their first trading post in Hanoi in 1637, followed by the British with a trading office in 1672. Subsequently, the first trading centre by the French was established in 1680. The arrival of a French trading post in 1680 was regarded as the most fateful event for the Vietnamese[154] because it marked the beginning of the French presence in Indochina. In 1857, a military expedition was sent from France to Vietnam with an effort of subjugating the people. After its subjugation of Vietnam between the mid and late 1880s, France maintained control over the country until the Second World War. On the 2nd of September 1945, the Vietnamese leader Ho Chi Minh declared the independence of the country in a new name of Democratic Republic of Vietnam. In 1954, following the terms of the Geneva Accords, Vietnam was divided into North Vietnam and South Vietnam pursuant to.[155] The significant French involvement and its attempts to colonise Vietnam was to end tragically at the battle of Dien Bien Phu in 1954, which led to the overthrow of the French.[156] Nevertheless, foreign armies were present on Vietnamese territory until 1975[157], the year that marked the end of the Vietnam War against America which had sustained and supported the regime in southern Vietnam.[158] This is also the year in which modern Vietnam gained its independence, making the country reunified.

[151] Ibid 21-22.
[152] Ibid 38-39.
[153] Joseph Buttinger, *A Dragon Defiant: A Short History of Vietnam* (David & Charles: Newton Abbot 1973) 49 -51.
[154] Thomas J. Walsh, "The Law of The Family in Vietnam: Assessing the Marriages and Family Law of Vietnam" (2011) 42 California Western International Law Journal 61, 63-64.
[155] Spencer Weber Waller and Lan Cao, "Law Reform in Vietnam: The Uneven Legacy of Doi Moi", (1997) 29 International Law and Politics 555, 564.
[156] The battle of Dien Bien Phu has been compared to "Waterloo, Gettysburg and Stalingrad as one of the decisive battles of history." *See* Stanley Karnow, *Vietnam: A History* (2nd edn, Penguin Books 1997) 207.
[157] After the French, Japan occupied Vietnam following the French defeat to Nazi Germany. The French reasserted control over Vietnam after the war. United States military forces were present in Vietnam until April 1975. *See* Buttinger (n xxx) 183.
[158] The Vietnam War is also known as the Second Indochina War, known in Vietnam as Resistance War against America or simply the American War.

Since obtaining independence in 1975, the country has been regenerated and has been developing rapidly.

From the viewpoint of this research, it is important to note that all of the historical events discussed above have left their marks on the economic, political and legal system of Vietnam. Some of the main historical influences on the Vietnamese legal system are examined in the next sub-section.

3.2.2 Factors Having Significant Influences on Vietnam's Legal System

With its long history of interaction with nations, people and cultures, Vietnamese current legal system is very much influenced by the combination of different legal traditions.[159] The main historical events can be summarised as follows:

- The conquest of Vietnam by China followed by Chinese rule for more than one thousand years;
- A long civil conflict involving foreign powers (France and the United States) that split the country in half for 30 years, a difficult reunification process that began in 1975 after the Vietnam War. As will be seen later in section **3.2.2.2** of this thesis, the French presence in Vietnam, although relatively short, had the effect of bringing to the country some features of the civil law system.
- A *doi moi* (renovation) policy began in 1986 which transformed from state-sponsored or centralised economy to market-oriented economy.
- And most recently, rapid modernization and industrialisation as Vietnam aims to become an emerging economy.

These events have had their influences on Vietnam's legal system in general and on marriage and family laws in particular.

3.2.2.1 The Influence of Chinese Culture and Legal Traditions

(i) Confucianism

As related above, Vietnam came under Chinese control for more than ten centuries starting from 207 B.C.E. to 939 C.E. During this period, the principles of Confucianism were

[159] Dao Tri Uc, "Vietnam: Basic Information for Legal Research – A Case Study of Vietnam" (2003) 23 Doing Legal Research in Asian Countries China, India, Malaysia, Philippines, Thailand, Vietnam 195, 200.

introduced and penetrated into Vietnamese culture. Although Confucianism is normally regarded as a religion, it actually is very much "a system of values, ethics, and precepts for moral behaviour."[160] Being regarded as "a set of social norms, Confucianism not only substitutes for the law in many aspects of life, but also contributes heavily to the conception of law in Vietnam".[161] In spite of originating from China, Confucianism in Vietnam has its own features and was heavily influenced by Vietnamese agricultural lifestyle.[162] Some specific of features of the agricultural lifestyle are collectivism, rule of causality, endurance in life, harmony and consensus, (not conflict), face saving and maintaining relationship, respect for elders, *Nhan-Nghia* (the term *Nhan* can roughly be translated as 'benevolence', and the term *Nghia* refers to a concept of 'righteousness' and noble obligations towards family as well as community).[163]

The Vietnamese society created its own brand of "Vietnamese Confucianism" due to the country's historical and social experience.[164] In fact, Confucianism contains a system of rituals and rules which help to govern relationships among people. Individuals, thus, have to learn and practice those rituals and rules appropriately through good behaviours so that they can enhance the order of society.[165] In this way, Confucianism became an unwritten form of law in the country. The social norms of Confucianism have ruled Vietnamese society over different generations, alongside the written law. Over time, the unwritten Confucianist code prevailed over formal written law.[166] However, the Confucian principles have their own drawbacks due to the absence of clear, systematic and transparent rules which legalism requires. To address this issue, instead of making a choice between legalism and Confucianism, Vietnamese rulers chose to "confucianise" the law, transforming Confucian values into enforceable norms.[167] For example, Article 17 of the Law on Marriage and Family of 1959 stipulates that in a family the children have the duty to love, to respect, to take care of their parents and to provide for their

[160] Susan Orr, "ABCs of Religion: C is for Confucianism" (Evansville Courier & Press, 18 July 2009) < http://archive.courierpress.com/features/abcs-of-religion-c-is-for-confucianism-ep-447395354-325572171.html > accessed 10 November 2016.
[161] Ibid.
[162] Pham Duy Nghia, "Confucianism and The Conception of The Law in Vietnam", in: John Gillespie and Pip Nicholson (eds) *Asian Socialism and Legal Change: The Dynamics of Vietnamese and Chinese Reform* (ANU Press 2005) 76.
[163] Ibid 80-81.
[164] It is related that in Vietnam the collectivism associated with the family and village "helped promote the convergence of Confucianism with the indigenous beliefs and traditions". *See* Nghia (162) 80.
[165] Ibid 82.
[166] Ibid 82.
[167] Ibid 82-83.

needs.[168] The ideology of Confucius was therefore embedded in this legal provision. This obviously indicates that the three fundamental values of Confucianism (filial piety, gratitude and merit)[169] were given legal recognition under Article 17.

(ii) The Influence of Confucianism on Family Life and Women in Vietnam

There are some striking features of Confucianism that have significant influences on Vietnamese society, especially on the law-making process. First, the important role of families in society was enhanced in the Confucian notion. Under Confucianism, the notion of the family-centred state is very clearly emphasized and families play the most vital role in a nation. Confucius stated that: [170]

> To put the world in order, we must first put the nation in order; to put the nation in order, we must put the family in order; to put the family in order, we must cultivate our personal life; and to cultivate our personal life, we must first set our hearts right.

Thus, examining the structure of Vietnamese families will provide a better understanding and reflection of Vietnamese society at that time. Differently from Western culture where the interests of each individual have always been placed first, under the Confucianist philosophy in Vietnam the collective interests of the family unit were placed above all else.[171] Families in Vietnam were and are still structured under the extended form where many generations of the same family members lived together, from grandparents to parents to grandchildren, who were bound by obligations among family members temporally and spiritually[172]- rather than the nuclear form of family unit which prevails in western cultures. Accordingly, Confucianists used the "duties and obligations of [the] family" as a guide for establishing societal norms.[173] The filial piety, that is, respect for your parents is underlined in *the Analects of Confucius*[174] which opined that "parents should be served in the proper spirit while living, buried with the proper rites after death, and worshipped thereafter with the proper sacrifices".[175] Hence it has

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[168] Chin Kim, "The Marriage and Family Law of North Vietnam" (1973) 7(2) International Lawyer 440, 443.
[169] Mark W. McLeod and Nguyen Thi Dieu, *Culture and Custom of Vietnam* (Greenwood Press 2001) 136.
[170] Dennis Merritt Jones, "Set Yourself Free: The Weight of Hate Is Too Big A Burden" *The Huffington Post* (22 August 2011) <http://www.huffingtonpost.com/dennis-merritt-jones/fear-into-hate_b_930965.html> accessed 03 December 2016.
[171] Robert J. Cima (ed), *Vietnam: A Country Study* (Department of the Army 1989) 112; McLeod and Dieu (n 169) 136-137.
[172] Ibid 113. Family members who remained together and venerated their ancestors together found comfort in the fact that their ancestors were being spiritually nourished and they were insuring their own spiritual immortality.
[173] Cima (n 171) 119.
[174] Lionel Giles (tr), *The Analects of Confucius* (The Easton Press 1976).
[175] Ibid 20; Children [were] taught that they must be thankful to their parents for the debt of birth, their upbringing and education. *See* Peter Dean, Focus Study: Family Life in Vietnam, NSW HSC Online.

been customary for Vietnamese people to have a great deal of attachment to traditional values such as loyalty, respect, and gratitude toward parents and ancestors.[176] Furthermore, children must respect and obey the instructions and directives of their parents. Children should focus on the good of the family rather than their own individual interests. Each individual in a family was and is obligated to dedicate his/her life as a contribution to the family. This makes the ritual of filial piety become the most important and the most cherished virtue under Vietnamese culture.[177]

Regarding the status of marriages under the Confucian notion, a marriage was often referred to a social contract not only between the two marrying parties, but even their families.[178] The involvement of the two families (or parents) in a marriage is understandable because the marriages of children were often arranged by their parents.[179] Moreover, under the Confucian concept of marriage, *polyandry* (a marriage arrangement in which a woman has two or more husbands) was not allowed while *polygamy* was recognized. In this case, however, the first wife had to give her consent to the husband prior to the arrival of other wives in the same family.[180] Thus, households meant more than just an extended family, but included several wives and their whole children.

Second, as Vietnamese families were patrilineal, the position of men in both the family and society was one of dominance over women.[181] Under a patriarchal society, women at all levels were to occupy a position lower than men. They were not as equally revered as men in society and they were granted little or no power.[182] It can therefore be argued that under the Confucian concept of marriage, Vietnamese women could be vulnerable to coercive control, neglect, or even outright abuse.[183] The practice of polygamy or keeping of concubines which was widely accepted in society placed Vietnamese women "in the degrading role of being a wife among several others."[184] Regardless of the fact that women played a significant role in and contributed to the traditional family's success[185] (such as working hard in farming fields,

[176] McLeod and Dieu (n 169) 137.
[177] Children [were] taught that they must be thankful to their parents for the debt of birth, their upbringing and education. *See* Dean (n 175).
[178] Cima (n 171) 114.
[179] Ibid 114.
[180] Ibid.
[181] Cima (n 171) 112-114.
[182] Walsh (n 154) 66.
[183] Ibid 67.
[184] Cima (n 171) 112-114.
[185] Ibid 114.

improving economic status to the family, taking care of children, helping insure continuation of the family),[186] what the patriarchal society taught them is "to be subservient to men and to obey three men in their life: firstly their father, secondly their husband and finally their eldest son".[187] Obviously, the Confucian notion of a male-centred society placed Vietnamese women in a situation of inconsistency in the traditional Vietnamese family; whereas the women contributed to Vietnamese families not less than their opposite gender, they were not as equally recognized and rewarded in society as men were.

Confucian values together with its commitment to family values has been ingrained into the Vietnamese psyche for many centuries and still impacts Vietnamese society in modern times.[188] Examining Confucian values partly helps to reflect on the nature of family and women in Vietnamese society. More importantly, the legal system of Vietnam owes a great deal to the Confucianist thought and its tenets. Particularly, marriage and family laws in Vietnam have been significantly influenced by this philosophy. For example, in the modern Marriage and Family Law in Vietnam - the 2014 Law (which will be examined subsequently) it is stipulated that children in a family have obligations "to love, respect, show gratitude and dutifulness to and support their parents, [and] to preserve the honour and good traditions of their family."[189] It is also important to note that Confucian values have two-side influences on the law either positively supplement and strengthen the law or occasionally challenge and compete with it. It is for this reason that the law makers in Vietnam have sometimes had to redefine Confucian values so that it may continue to appropriately establish social order, discipline and trust in a changing Vietnamese society.

Regarding the connection between the Confucian notion and cross-border marriages, it seems to be a two-way interaction. Firstly, Confucian principles such as filial piety *(hiếu)* and moral debt or gratitude *(ơn)* have their influence on children (daughters) in a Vietnamese family whose decision to get married abroad heavily depends on their parents' opinion. They also consider getting married to a foreigner based on their parents' will as a way to pay for the moral debt to their parents for bringing them up by making remittances to their family. On the other hand, cross-border marriages also have a negative impact on the extended family structure in

[186] Ibid.
[187] Dean (n 175).
[188] James A. Crites, "Confucianism and Its Spread to Vietnam" (2005). It is stated that "In present times we have seen different political ideologies come and go through China and Vietnam. However, the foundation of Confucianism remains".
[189] The Vietnamese Law on Marriage and Family of 2014, Article 70 (2).

which different generations are expected to live together under the same roof. Cross-border marriages, however, appear to take the children (especially daughters) away from traditional family structure.

3.2.2.2 The Impact of Communism

The Western presence in Vietnam before and after the Second World War through the French colonial administration left a minimal effect on Vietnamese culture or family structure. However, it had some influence on the lifestyles of the ruling political elites and the educated middle class who adopted a more open and Western approach to life, as well as some influences on the legal system through the introduction of civil law features such as enacted legislation on certain aspects of life. This notwithstanding, the next significant influence on family life, the legal system and Vietnamese society in general after Confucianism was to come during the era of Communism, as discussed in the sections below.

(i) The Impact of Communism on the Family

The arrival of the communist movement in Vietnam brought several changes in the society due to its new and more progressive perspectives. Formed in China in 1941, the Viet Minh movement gained power in the north and their arrival introduced the Vietnamese people to a communist world view.[190] Despite accepting that families are the foundation of Vietnamese society, the communists' philosophy of the concept of the family was much different from the Confucianists' view. Accordingly, the communists criticised the loyalty of individuals on the family because it is viewed as an outdated feudal conception.[191] According to the communists' perspective, individuals in a society should show their loyalty to the state instead of family unit.[192] Therefore, the traditional notions of Vietnamese families were challenged by the communists, especially the traditional role of Vietnamese women in society.

(ii) Women

Concerning the conflicting roles of women in society who played a vital role but still ranked the second role in a traditional family in Vietnam. The wars for Vietnamese independence are believed to have actually changed the awareness of Vietnamese society regarding the introduction of new practical roles of Vietnamese women. To encourage and empower

[190] Buttinger (n 150) 183.
[191] Cima (n 171) 116.
[192] Ibid.

Vietnamese women (as opposed to the previous policy of the colonialist powers), the communists appreciated and emphasised the important role that Vietnamese women played in society. The Communist Party,[193] as part of this attempt, affirmed that the colonialists "fostered patriarchal families that guaranteed female oppression".[194] Being very much aware in his early life of the oppression practiced against women during the feudal and colonial periods, the Viet Minh revolutionary leader Ho Chi Minh emphasised that "women are half of society, and half of society will not be liberated until women are. If women are not emancipated, socialism is only half established".[195] This view affirmed that the liberation of women was to be given priority as a precondition for the success of Vietnamese socialism.[196] Ho Chi Minh also advocated a programme of communism in which he called for the party to dedicate itself, *inter alia*, "to implement equality between man and woman".[197] The first constitution of Vietnam which was adopted in 1946 stated that: "Women enjoy equal rights with men in all spheres …. The State guarantees to women workers and functionaries the right to be paid maternity leave before and after childbirth".[198] This transform from colonial oppression to communist governance brought to women the prospect that the newly independent country under communist governing would brighten their future, empowering them with a new practical and better role in Vietnamese society through gender equality.[199]

Recognising the reproductive function of women in defense efforts, the state made available support to women so as to enable them to continue their vital role of reproduction. For example, child care and creches became available at all localities and all levels of production such as factories and agricultural sites.[200] More importantly, the formation of the (Vietnamese) Women's Union facilitated the mobilisation of women in all fields and levels of society. The

[193] The Party was founded by Ho Chi Minh and other exiles living in China as the Vietnamese Communist Party (Việt Nam Cộng Sản Đảng) at a conference held in Hong Kong in February 1930. *See* Liang Fook Lye and Wilhelm Hofmeister (eds), *Political Parties, Party Systems and Democratization in East Asia* (World Scientific Publishing Company 2011) 49-76.
[194] Steven K. Wisensale, "Family Policy in a Changing Vietnam" (2000) 31 Journal of Comparative Family Studies 79, 83.
[195] K. Himmelstrand, *Women in Vietnam* (Stockholm: SIDA 1981)
[196] Wisensale (n 194) 83.
[197] Ho Chi Minh, "Founding of the Communist Party of Indochina" (1930) in 2 selected works (1961) 145, reprinted in Marvin E. Gettleman, *Vietnam and America: A Documented History* (Grove Press 1985) 22.
[198] The Vietnamese Constitution of 1946, Article 2. *See* also Wisensale (n 194) 83.
[199] Christine M. Pothier, "Propagandist Representation of Vietnamese Women: A Comparative Study" (2003) 3(1) Review of Vietnamese Studies 15, 16.
[200] Wisensale (n 194) 84.

Women's Union, a mass organisation which coalesced in the 1930s and 1940s, encouraged women's support for party policy and otherwise advocated women's interests.[201]

With the arrival of the communists, there was an immediate assertion that gender equality was an important policy concern. This was clearly a departure from Vietnam's Confucianist past and this departure could well be partially responsible for the social ills women currently face in Vietnam. It could be argued that the communists ran a risk of alienating a large segment of society with their all-inclusive approach aimed at mobilising both men and women for the war effort because many people, especially tradition-bound Vietnamese people would find it difficult to embrace such a radical shift in the position of women.[202] Viewed from the perspective of women's position in current Vietnamese society, the success of the communist approach is also debatable. On the one hand, there has been in principle a significant improvement in position of women through the introduction of legal provisions for equal opportunity. On the other hand, the practical results achieved through these laws do not always seem to match their expectations, as will be illustrated in coming section of this thesis.

In the area of cross-border marriages, one of the main impacts of Communist ideology and its anti-capitalism stance has been the banning of commercial match-making agencies in Vietnam.[203]

3.2.2.3 The Influence of "Doi Moi" Policy

In 1986, the Vietnamese government adopted *doi moi* (renovation) to reform the nation's economy, moving from a socialist to a market-based economy, and from a centrally planned to a multi-sector economy.[204] For the implementation of *doi moi*, there was a series of new policies introduced. They comprised of developing a multisector, market-oriented economy, reforming economic structures, promoting and developing science and technology along with the expansion of the nation's foreign relations.[205]

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[201] Traced back to the 1930s, the Women's Union has played, and continues to play a crucial role in the development and implementation of policies that affect women, children and families. It was the Women's Union that assisted in the implementation of the Marriage and Family Laws of 1959 and 1986 and the nation's family planning policy since the 1970s. It is also regularly consulted on various legislative proposals. *See* Daniel Goodkind, "Rising Gender Inequality in Vietnam Since Reunification" (1995) 68(3) Pacific Affairs 342, 345.
[202] Walsh (n 154) 70.
[203] *See* Chapter 3, Section 3.4.2 of this thesis.
[204] Tran Nhuan Kien and Yoon Heo, "Doi Moi Policy and Socio-Economic Development in Vietnam, 1986-2005" (2008) 11(1) International Area Review 205, 208.
[205] Le Hong Hiep, "Vietnam's Domestic-Foreign Policy Nexus: *Doi Moi*, Foreign Policy Reform, and Sino-Vietnamese Normalization" (2013) 5(3) Asian Politics and Policy 387, 388.

The *doi moi* policy had its influence on the socio-economic aspects of national life including the rise of cross-border marriages because the reform created opportunities for more foreigners to come to Vietnam for investment. In the early 1990s, Taiwan injected massive amounts of capital investment in Vietnam,[206] creating a foundation for cross-border marriages between Vietnamese women and Taiwanese men to emerge. Sharing similar Confucian values, Vietnamese-Taiwanese marriages became increasingly popular from 1995 to 2003, reaching their peak between 2000 and 2002 with more than 12,000 marriages per year.[207] Next came cross-border marriages between Vietnamese citizens with foreign nationals such as the neighbour Chinese, Korean, etc. It can be argued that the *doi moi* policy brought pressure to bear on the Vietnamese family structure due to the opening of Vietnam to outside influences, including the phenomenon of cross-border marriages.[208]

3.2.2.4 Rapid Modernization and Industrialization in the Modern Era, and Its Influence on Confucian and Communist Approaches to the Concept of Family

Rapid industrialization, modernization and increasing urbanization in Vietnam at the start of the new millennium has affected many aspects of the country's economic and social life. One of the main impacts of these events has been on the extended family concept, with family members moving away from their ancestral homes and villages in rural areas to find work in the cities, hence leading to a breakdown in the extended family structure. Increasing modernization has also led to increasing commercialization and technological advancement in communications, which has facilitated distance dating and the growth of commercial matching-making agencies.

A combination of all these factors had in turn led to increasing economic and financial pressures on women who are being forced to leave their traditional roles in the family (as required under the Confucian concept of family), to work to support the family. As being discussed in Chapter 6 of this thesis, this has been one of the main factors behind marriage migration to countries such as China, South Korea and Taiwan.

To sum up, the combined impact of industrialization, modernization and rapid urbanization has contributed to undermine the Confucian and Communist conceptions of the family and its role

[206] Wang and Chang (n 8) 95.
[207] Danièle Bélanger, Tran Giang Linh and Le Bach Duong, "Marriage Migrants as Emigrants: Remittances of Marriage Migrant Women from Vietnam to Their Natal Families" (2011) 7(2) Asian Population Studies 89, 91.
[208] Walsh (n 154) 73.

in society. However, it could be argued that some of the remnants of Confucian beliefs, such as sacrificing individual interest for the good of the family, still retain their place in modern Vietnamese society. This explains the reason why Vietnamese brides involved in cross-border marriages are willing to take such risks and to make so much personal sacrifice in order to be able to provide financial support for their families back home in Vietnam.

3.2.3 Overview of Current Legal System in Vietnam

The legal system of Vietnam is predominantly based on socialism legal theory, with some features and influences from inherited from the French civil law system. The National Assembly – the highest representative organ of the people and also the highest organ of state power of the Socialist Republic of Vietnam, is responsible for the law-making activities.[209] The Legal Committee and various subordinate offices play important legislative roles in assisting the National Assembly with law-making. Meanwhile, competent agencies take responsibility for drafting laws. Depending on the level of legalisation required for drafted proposals (as stipulated by constitution), they are submitted to the appropriate levels of the legislative hierarchy for consideration, revision and approval.

As is the case in most countries, the supreme law of Vietnam is the Constitution.[210] Given its status as the fundamental law of the Socialist Republic of Vietnam, it has the highest legal effect. All other laws, legislation and legal documents must conform to the Constitution. All actions violating the Constitution shall be deemed to be null and void.[211]

Under the Constitution, there are two types of legislation: (a) primary legislation: laws or statutes; and (b) secondary legislation: ordinances, decrees, and other affiliate legal documents dealing with different aspects of social life. **Table 3.1** below includes some legal terminologies in the Vietnamese legal system stipulated under Vietnamese Law on Promulgation of Legislative Documents of 2015.[212]

[209] The Vietnamese Constitution of 2013, Article 69.
[210] The latest Constitution adopted by the National Assembly on 28th November 2013 known as the Constitution of 2013. According to Article 119 of the Constitution of 2013.
[211] The Vietnamese Constitution of 2013, Article 119.
[212] The Law on Promulgation of Legislative Documents (Law No. 80/2015/QH13) was enacted on 22 June 2015. Its full content can be found at <https://vanbanphapluat.co/law-no-80-2015-qh13-promulgation-of-legislative-documents> accessed 10 July 2017.

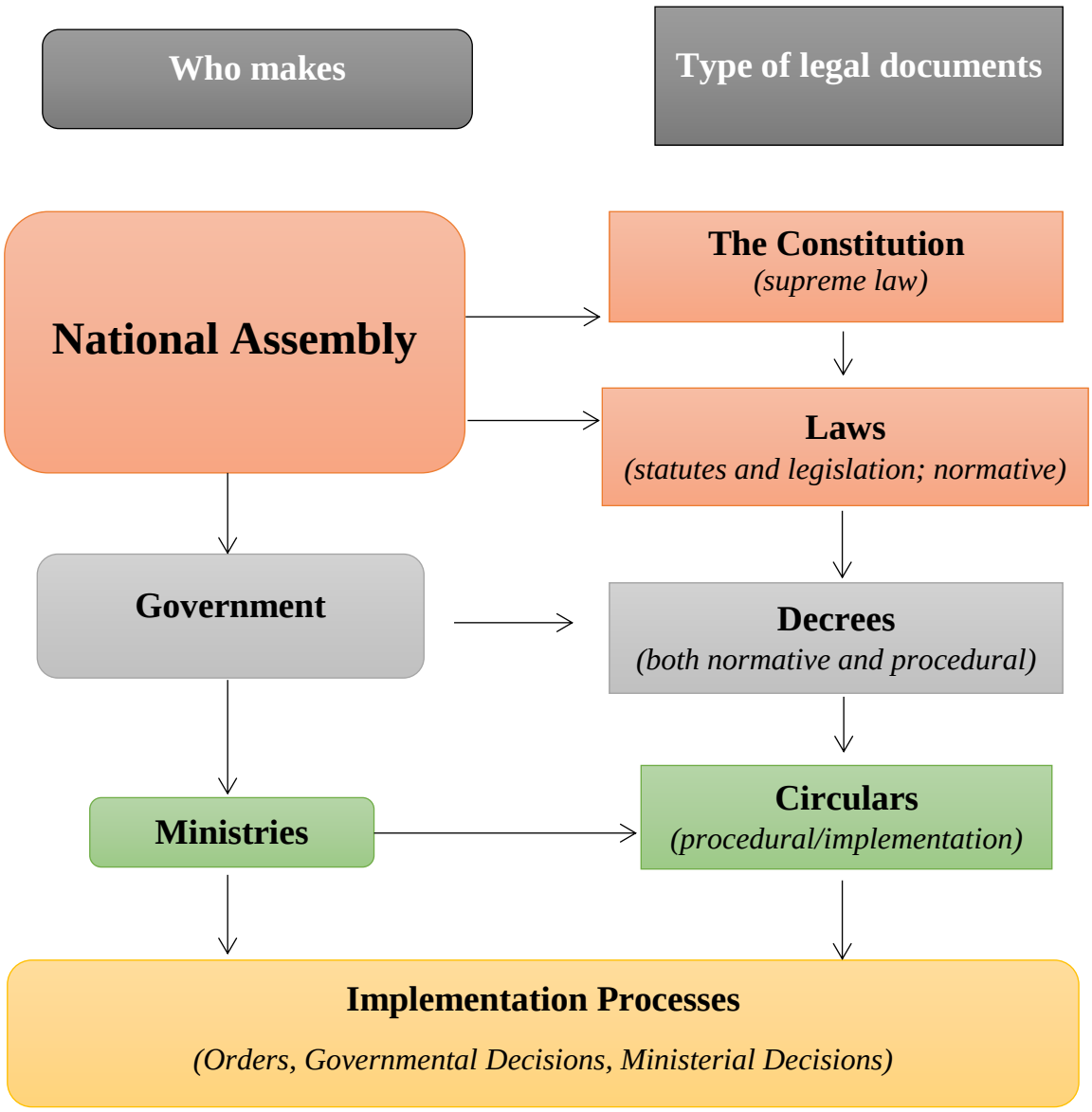
Table 3.1 Legal terminologies used under Vietnamese laws

Legal Terminologies under Vietnamese laws	Comments
Laws or primary legislation	are passed by the National Assembly and are Vietnam's highest form of legal directives with a normative function.
Ordinances	are passed by the Standing Committee of the National Assembly when the Assembly is not in session.
Decrees	are passed by the government and generally implement Laws and Ordinances. Decrees are often supplemented by more detailed regulations.
Orders	are issued by the State President regarding the promulgation of Laws and Ordinances.
Governmental Decisions	are issued by the Prime Minister regarding the implementation of regulations of different issues.
Circulars	are issued by individual ministries and usually provide guidance as to how a particular ministry will administer a law, ordinance or Government's Decree.
Ministerial decisions	are issued by a Minister (or Vice Minister on behalf of a Minister) promoting the implementation of regulations on certain issues in areas administered by the relevant Ministry.

(Source: The Researcher - adapted and summarised from Vietnamese Law on Promulgation of Legislative Documents of 2015)

From the **Table 3.1** (above), it can be deduced that when a legal instrument is enacted in Vietnam, even it comes into effect by law, from a procedural point of view it is still not implemented yet until a Governmental Decree is issued to provide detailed guidance on its manner of implementation. Furthermore, where any regulations contained in a Decree are unclear, a Ministerial Circular will need to be issued providing more details and clarifying the unsettled provisions or regulations contained in the Decree. A Law (i.e. Statute or Legislation) can be further supplemented by one Decree or even more, and a Decree itself can be further supplemented by one or more Circulars. Viewed critically from a process point of view, this makes the way a Law actually works in Vietnam very complicated and time consuming because in reality, a Law is not actually implemented until at least a Decree is issued to guide its implementation. This complex and bureaucratic procedure means that it may take a long time for a law to have its intended or *real* effect (*see* **Figure 3.1**, below).

Figure 3.1 Diagrammatic representation of the legislative system in Vietnam



(Source: The Researcher - adapted and summarised from Vietnamese Law on Promulgation of Legislative Documents of 2015)

The legal system of Vietnam has developed and evolved gradually under the leadership of the Communist Party, and on the political foundation of *democratic centralism principle*. The legal system is inspired by the principle of socialist legality *(phap che xa hoi chu nghia),* as well as democratic centralism *(tap trung dan chu).*

These principles shape the nature of legislation in Vietnam. Although the National Assembly is constitutionally vested with legislative power, executive organs have nonetheless played an important role in promulgating legislation. Hence, Vietnamese sources of law and the judicial approach to their interpretation are to some extent different from the legal system found in a typical rule of law state. As stated by one author, "The legal ideologies that provide the foundation for the establishment and operation of Vietnamese legal institutions significantly differ from those of rule-of-law systems."[213] For instance, under the democratic centralism principle, there is no separation of powers. This is because all three branches of government are involved in enacting legislation. Hence, the concept of "Law" in Vietnam refers to various types of legislation promulgated by competent agencies (executive, legislative or judiciary) in a written form.

In addition, Communist Party has played leading role in all aspects of the legislative process, therefore the legal system is significantly under the influence and direction of Communist Party policies. An unwritten but generally accepted rule is that law cannot conflict with the party's policies and ideology. The combined effect of the lack of separation of powers and the Communist Party's dominance is that the legislative process in Vietnam is very heavily politicized. It is for this reason that the party's ideology and policies have had a significant influence on family law and marriage laws in Vietnam, and will undoubtedly continue to play an important role in shaping future policies and legislation in the area of cross-border marriages.

3.2.4 Relationship Between Treaties and Domestic Laws in Vietnam

The relationship between national and international laws in Vietnam is regulated in the Law on Promulgation of Legislative Documents of 2015[214] and the Law on Treaties of 2016.[215] The Law on Treaties provides for governing principles, levels and the application of international treaties. Accordingly, if a legal document (except the Constitution) and an international treaty to which Vietnam is a member have different regulations on the same issue, the provisions of the treaty shall prevail (*Article 6*). This means that provisions of international treaties that

[213] Bui Thi Bich Lien, "Legal Interpretation and the Vietnamese Version of the Rule of Law," (2009) 6 National Taiwan University Law Review 323 <http://www.law.ntu.edu.tw/ntulawreview/articles/6-1/11-Article-Bui%20Thi%20Bich% 20Lien_p321-337.pdf > accessed 03 November 2016.

[214] The Law No. 80/2015/QH13 has been passed on 22nd June 2015 by National Assembly of the Socialist Republic of Vietnam, effective from 01st July 2016.

[215] The Law on Treaties No. 108/2016/QH13 has been passed on 9th April 2016 by National Assembly of the Socialist Republic of Vietnam, which took effect from 01st July 2016.

Vietnam has ratified or acceded to will have primacy or supremacy over any conflicting or inconsistent national legislation. As a result of this provision, the position of international treaties is one level below the Constitution, but international treaties ranked above all other domestic laws in Vietnam. Although the Law on Promulgation of Legislative Documents of 2015 mainly regulates the enactment of domestic legislative documents, it also stipulates that when drafting of domestic legal normative documents legislators must ensure that domestic law does not in any way obstruct the implementation of international treaties to which Vietnam is a signatory (*Article 5*). Thus, it is evident that international treaties that Vietnam has ratified or to which it has acceded have higher legal priority or primacy over domestic laws, even if they contain different or contradictory provisions.

3.3 Overview of The Development and Evolution of Vietnamese Marriage and Family Law

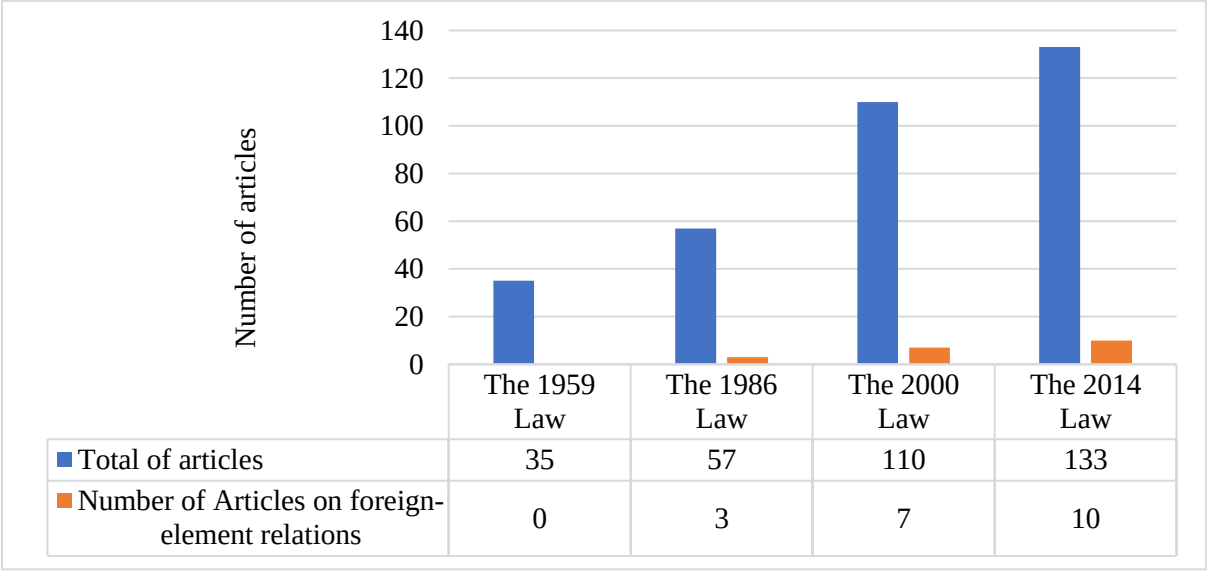
Marriage and family relations have been regulated by various legal instruments in Vietnam, but are mainly based on five main legislations which can be considered to have laid the foundations for the current legal framework on this matter. On account of their historical importance and current relevance to the development and evolution of Vietnamese law on cross-border marriages, the following five statutes will be examined in this chapter:

- the Marriage and Family Law of 1959: this law laid the normative foundations for marriage and family relations in Vietnam, and has inspired all subsequent laws on these matters;
- the Marriage and Family Law of 1986 built on the foundation established by the 1959 Law while seeking to consolidate socialist concepts and philosophies within the legal framework for marriage and family relations in Vietnam while regulating for the first time the concept of cross-border marriages;
- the Marriage and Family Law of 2000 replaced the 1986 Law as Vietnam entered into a new era of *doi moi* (renovation) policies embracing globalisation and opening up to the rest of the world; and
- the Marriage and Family Law of 2014 replaced the 2000 Law by introducing detail regulations on cross-border marriages, in particular the procedures for the registration of such marriages.
- The Civil Status Law of 2014 has further amended the procedures contained in the Marriage and Family Law of 2014 for the registration of cross-border marriages in Vietnam.

Each of these laws deals with different aspects of marriage and family relations. It is also important to point out that although some of the earlier laws are no longer in force, having either been amended or superseded and replaced by subsequent laws (including Marriage and Family Law versions of 1959, 1968 and 2000), they do nonetheless representation important milestones of the legal framework, hence the justification for a brief examination of each of them as part of the discussion in this chapter. It is by studying that we can fully understand the historical development of marriage laws in Vietnam, as well as the factors which inspired and prompted the lawmakers of Vietnam to adopt particular aspects of these laws. More importantly, the two statutes which are current in force, Marriage and Family Law of 2014 and the Civil Status Law of 2014, will be specifically examined in detail in order to provide a better understanding about current legal provisions on cross-border marriages in Vietnam and to assess their effectiveness.

In reviewing these laws, it can be argued that the lawmakers in Vietnam seem to be paying more and more attention to marriage and family relations having foreign elements including cross-border marriages. This increasing interests by Vietnamese legislators regarding cross-border marriages is illustrated by **Figure 3.2** (below) where number of articles relating such marriages in successive laws are always more than in the previous versions. The provisions on marriage and family relations involving foreign elements have changed by the time.

Figure 3.2 The evolution of the Vietnamese law on marriage and family relations



	The 1959 Law	The 1986 Law	The 2000 Law	The 2014 Law
Total of articles	35	57	110	133
Number of Articles on foreign-element relations	0	3	7	10

(Source: The Researcher - adapted and summarised from versions of Vietnamese laws on marriage and family)

3.4 A Review of Law on Marriage and Family of 1959, 1986 and 2000

Despite three earlier versions of Law on Marriage and Family in Vietnam of 1959, 1986 and 2000 having been superseded by new versions, they have prepared the foundation on which to develop the modern legal framework in Vietnam on marriage and family relations in general, and on cross-border marriages in particularly. Therefore, their historical importance is unquestionable, and it is necessary to review each statute as well as their importance and contribution to the legal framework on cross-border marriages in Vietnam.

3.4.1 Law on Marriage and Family of 1959 (LMF1959)

3.4.1.1 Legislative Background and Overview

The first major piece of legislation on marriage and family relations was passed in 1959 by the National Assembly.[216] Due to the on-going war, the country was split into two parts – the North and the South of Vietnam. Law on Marriage and Family of 1959 (hereafter LMF1959) was passed in North Vietnam only and implemented in 1960. Therefore, LMF1959 was also known as the Marriage and Family Law of North Vietnam.[217] However, after the reunification of the two parts of the country in 1975, it became the law in South Vietnam as well.[218]

There are four featured provisions in LMF1959. First, for the first time in the history of Vietnamese, the practice of arranged marriages, which was the remnants of a feudalistic matrimonial system, was abolished by law. As previously discussed, parents traditionally arranged for their children's marriages.[219] It was much accepted that under Vietnamese culture and also part of the Confucian notion, children should respect and follow directives and wishes of their parents. When LMF1959 was passed, both men and women were for the first time granted the freedom to make their own decisions in marriage (*Article 4*).[220]

Additionally, the remnants of the feudalistic matrimonial system such as arbitrariness, the superiority of man over woman and the defiance of the children's interests are abolished *(Article 2).* Precocious marriages, forced marriages, acts impeding the freedom of marriage,

[216] The Law was approved by the 1st National Assembly of the Democratic Republic of Vietnam at its 11th session on December 29, 1959 and was put into effect on 13th January 1960. The Law has 35 articles divided into 6 chapters. For the full content of the 1959 Law in English version, *see* Kim (n 168) 444-450.
[217] Kim (n 168) 444.
[218] Cima (n 171) 119 (noting that Hanoi made a "decision in 1977 to apply its own 1959 family law to the South").
[219] Cima (n 171) 114.
[220] Kim (n 168) 446-447.

delivery of properties as the condition of marriage are prohibited (*Article 3*). This again shows the progression in legislation in Vietnam at that time which remarked that a new, free and progressive marriage system established in Vietnam regardless the historical circumstance of the country.

Secondly, polygamy was declared illegal and monogamy was adopted as the only legal form.[221] This again clearly shows the state's determination in abolishing the previous matrimonial system under the feudalistic regime. The impact of LMF1959 on Vietnamese society has been evident. Between 1958 and 1965, there was a significant drop in the proportion of arranged marriages in North Vietnam from more than 60% to less than 20% of all marriages.[222] A similar pattern emerged regarding polygamy.[223] These new provisions can be argued to be a breakthrough in legislation, by removing polygamy and replacing it with a progressive marriage regime, monogamy and also promoting gender equality in the society.

The third and fourth major provisions concern the matter of gender equity and the protection of the basic rights of women and children in a family.[224] It is clearly stated in Article 1 that the State is to guarantee and ensure a free and progressive marriage system by protecting monogamy, equality of sexes and the interest of women and children. However, it has been suggested that the two provisions have been the most difficult provisions to implement and these legislative commitments have presented real challenges for Vietnamese policy makers.[225]

Despite some of its successes, there could also be a negative side to the 1959 Law which becomes apparent from asking two main questions: (a) has the abolition of traditional family arranged marriages indirectly contributed to the subsequent phenomenon of modern cross-border marriages in Vietnam in general, and in the Mekong Delta region in particular?; and (b) have commercial match-making agencies been able to exploit the void left by the banning of traditional match-making (in the form of family arranged marriages), hence leading to the subsequent commodification and commercialisation of cross-border marriages? It can be argued that the answer to both questions is yes.

[221] The Vietnamese Law on Marriage and Family of 1959, Article 1, Article 3 and Article 5.
[222] Wisensale (n 149) 604.
[223] Ibid.
[224] The Vietnamese Law on Marriage and Family of 1959, Article 1 and Article 12.
[225] Thanh-Dam Truong, "Uncertain Horizons: The Women's Question in Vietnam Revisited" (Woking paper series No. 212) The Hague, the Netherlands: Institute of Social Studies, p.3.

3.4.1.2 Provisions on Cross-Border Marriages in LMF1959

In view of the country's circumstances at the time, marriage and family relations beyond the country border were almost impossible because the South of Vietnam still suffered the war time under the control of the French. Therefore, there were no legal provisions adopted in LMF1959 to regulate the marriages between Vietnamese citizens and foreigners. It is possible that due to the wartime circumstances, the phenomenon of marriage with foreigners was not that high. Besides that, as previously discussed, the main focus of LMF1959 was on gender equity and women's liberation. Thus, cross-border marriages seem not to be a matter of priority at that period in time. Finally, the 1959 Law was the very first piece of marriage and family law legislation passed in Vietnam; thus, it is inevitable that the Law might not cover all of aspects of marriage and family comprehensively, let alone contemplate the regulation of the concept of a transnational marriage.

It is undeniable that the existence of LMF1959 brought several advantages to Vietnamese women. For example, arranged marriages, polygamy and prostitution were outlawed.[226] Moreover, LMF1959 facilitated female employment in job roles previously reserves for males. These progressive policies under LMF1959 enabled women to achieve major improvements regarding literacy, educational attainment, career opportunities or acquiring an equally important role as males in the family that had never occurred in the patriarchal society before.[227] However, there were a number of family-related issues that remained unresolved. For example, whilst LMF1959 primarily focused on the issues related to gender equity, regulations on civil partnerships, the rights and the obligations of married couples, parental responsibilities, cross-border marriages or divorce procedures were absent. In the changing society of that time, there was an increasing demand for these issues to be addressed. Therefore, they were subsequently addressed in the revised Law on Marriage and Family of 1986.

[226] It alleged that the war with France brought some unfortunate consequences for women. Many women were "compelled to work as prostitutes because of poverty and lack of other employment opportunities" after the war. *See* Bureau of Democracy, *Human Rights & Labour, Vietnam,* U.S. State Department (11th March 2008).
[227] Mai Thi Tu and Le Thi Nham Tuyet, *Women in Vietnam* (Ha Noi, Vietnam: Foreign Languages Publishing House 1978); David G. Marr, *Vietnamese Tradition on Trial*: *1920-1945* (Berkeley: University of California Press 1981).

3.4.2 Law on Marriage and Family of 1986 (LMF1986)

3.4.2.1 Synopsis

After Vietnam became independent since 1975, the country introduced various policies regarding socio-economic development. Since *doi moi* policy (renovation) adopted in 1986 which was an economic transition programme from a fully socialist state-sponsored economy to a market-oriented economy, the country has been developing quickly and foreign relations were opened and developed widely. Thus cross-border marriages are an inevitable consequence of this development. Additionally, after the devastation caused by the Vietnam War which ended in 1975, by 1986 the population in Vietnam was young, growing and reproducing rapidly. Industrialisation enabled younger people from rural areas to move out of their extended families to cities. Other elements including the increasing divorce rates in other developing countries in Asia or the tendency of gaining greater independence among young people became a cause for concern among Vietnamese policy makers. There was a demand for a significant reform of marriage and family laws in the mid-1980s,[228] especially on foreign-related relations, to keep up with the socio-economic challenges. It was noted that the reformed version enacted in 1986 (known hereafter as LMF1986)[229] was "a direct response to Vietnam's transition to a free-market economy".[230]

LMF1986 inherited progressive regulations on marriage and family issues that its 1959 predecessor had pioneered such as the promotion of gender equality/ equity but gave more emphasis to gender "equity" in the narrow sense (i.e. fair treatment), rather than gender "equality" in the truest sense of the word (i.e *Article 11*), the removal of arranged marriages and polygamy. It is argued that communist thought and terminology had a defining impact on the LMF1986[231] For example, it is quite apparent in the first chapter entitled "General Provisions", the 1986 Law sought to retain the traditional Vietnamese commitment to the family but defines the commitment using terminologies typically seen in communist party

[228] Wisensale (n 149) 606.
[229] The Law was approved by the 7th National Assembly of the Socialist Republic of Vietnam at its 12th session on 29th December 1986 and was promulgated on 03rd January1987. The 1986 Law contained 10 chapters comprising of 57 articles which were far more detailed than its 1959 predecessor. For the full content of the 1986 Law (in English version), see "Socialist Republic of Vietnam: Law on Marriage and Family, 1986" (1989) 15(1) Review of Socialist Law 295-310.
[230] "The 1986 Law on Marriage, Parental Responsibility, And Divorce" <https://family.jrank.org/pages/1742/Vietnam-1986-Law-on-Marriage-Parental-Responsibility-Divorce.html> accessed 21 August 2019.
[231] Walsh (n 154) 98.

documents that emphasised the important role of the state.[232] On women's issues, it was recognised that within the institution of marriage, the husband and the wife are to be treated as being equal *(Article 10).* Moreover, one of the main objectives of LMF1986 was to respond to and address some of the gaps in LMF1959. The key provisions of the LMF1986 can be summarized in three separate sections as follows:

- clarifying the obligations and responsibilities of married partners;
- identifying specific responsibilities of parenthood; and
- reforming divorce procedures contained in LMF1959.

In view of its many progressive elements it has been suggested that despite coming late, LMF1986 granted many rights to the wife that did not exist under LMF1959.[233] The explanation for this could be that the victorious ending of a devastating military conflict freed up the country's resources to address important social issues, and the shift to free-market capitalism has opened up the nation to the modern global economy. Old marriage customs could no longer be tolerated in the increasing drive for modernisation, nor could one expect parenting to be immune to newly emerging pressures. Therefore, new laws were adopted to keep pace with expected societal changes.

Concerning parenting, provisions reflecting very much a product of Vietnamese tradition and cultural commitment were the intergenerational responsibilities within extended families (i.e *Article 19* and *Article 27*). The law also placed a heavy responsibility upon grandparents in a country like Vietnam where war-time orphans were common. On the whole, it can be argued that these particular provisions on the care of orphans and the elderly were aimed at preserving the traditional system for adoption and elderly care (inspired by Confucian principles) which has existed in Vietnam for centuries. It can further be argued that with the increasing number of cross-border marriages being recorded in Vietnam as a whole and in the Mekong delta region in particular, the long-term effect of such marriages could be the destruction of such traditional social care systems in the country. On the other hand, the analysis of primary data collected as part of this research indicates that Vietnamese brides in cross-border marriages are often

[232] Article 1, Article 3. *See more*: Socialist Republic of Vietnam: Law on Marriage and Family, 1986, (1989) 15 Review of Socialist Law 295, 297-298.

[233] For example, when selecting the matrimonial domicile, the 1986 Law provides that the couple shall not be forced to follow customary rules on the extended family under which the wife usually moved in with her husband's parents if the husband is the eldest son (Article 13); or regarding marital property, both the husband and the wife "were granted equal rights and duties in preserving and managing common property" (Article 15); Wisensale (n 149) 608.

subjected to the burden of caring for their elderly parents-in-law in their adopted countries, but that this is often done in an abusive manner.

The third broad category addressed by LMF1986 was the question of divorce. Couples may indeed seek and be granted divorces, but the process was not designed for their own convenience. First, when either or both parties applied to the People's Court for a divorce, they must first provide evidence to support the fact that they have made a genuine attempt to reconcile their differences. In other words, no-fault divorce is not possible under Vietnamese marriage law (*Article 40).* However, LMF1986 provided no guidance on how to define these grounds. On the other hand, the divorce law prohibited the husband from filing a petition for divorce if his wife was pregnant *(Article 41)*[234] while a pregnant wife could file for divorce without any such impediment. This seemingly unequal treatment can possibly be explained by the need to protect the interest of wives in a situation of vulnerability, but also to ensure that if they are subject to abuse by the husband they can petition for a divorce without being subject to any legal restrictions. This is an important legal protection which Vietnamese brides in cross-border marriages can no longer benefit from when they emigrate for a cross-border marriage in foreign country.

3.4.2.2 Provisions on Cross-Border Marriages in LMF1986

Besides the three key provisions examined above, for the first time in Vietnam, LMF1986 contained concise provisions on marriage and family relations between Vietnamese and foreign nationals under three short articles.[235] Examining the provisions under private international law aspect, the connecting factor employed is the nationality (or *lex patriae*) of the parties in line with civil law jurisdictions, as opposed to the *lex domicilii* which is the predominant connecting factor under common law systems for ascertain the personal law of parties to a marriage with foreign elements.[236] Each party would need to satisfy the legal requirements of the state where he or she is granted nationality *(Article 52).* Regardless of the potential risk of a conflict of laws, as long as each party to a marriage satisfies legal requirements of his or her country, he or she can be legally married. A foreigner who does not hold Vietnamese nationality, needs to

[234] Such prohibition was applied to the husband until one year after the birth of the child.
[235] Law on Marriage and Family of 1986, Chapter IX entitled "Matrimonial and Family Relationship between Vietnamese Citizens and Foreigners".
[236] For the application of the *lex domicilii* in a cross-border marriage cases before English courts, see for example, Qureshi v Qureshi, [1971] 1 W.L.R. 518; see also Abate v Abate [1961] P. 29; and Alhaji Mohamed v Knott [1969] 1 Q.B. 1.

satisfy the legal requirements on marriage under Vietnamese law only if the marriage is celebrated in Vietnam *(Article 52).*

Regarding legal requirements for marriage under LMF1986, the age requirements remained unchanged compared to the LMF1959[237] in which men aged twenty years and above and women aged eighteen years or over shall be eligible to marry *(Article 5).* In terms of essential or material validity, the free consent of the two parties to a marriage is required as the most decisive factor that makes a marriage valid and legally binding *(Article 6).* In other words, the involvement of any third person or party by using force or any other form of pressure coercive behaviour which may have an impact on a marriage, is prohibited *(Article 4).* If this happens, the marriage should be regarded as invalid because it is not satisfied the basic requirement regarding to consents. Forced marriages are therefore outlawed, being replaced by progressive marriages where free will of the parties is recognised and upheld by the law. Article 4 also referred to another aspect which may impact on marriage decision-making. This is in relation to "requiring goods by reason of marriage and betrothal". This could be interpreted a ban on property-related marriages or marriages conducted for a commercial purpose. This can be said to be a progressive measure in that it devalues property-related marriage.

Applying Article 6 to the matter of consent in cross-border marriages, it can be argued that if a cross-border marriage is as a result of a commercially arranged marriage, it should be regarded as null and void due to the failure or the absence of the party's consent. Without free will and consent of the parties, the marriage is not valid. In other words, this provision has potential effect on marriages conducted through commercial match-making practice and it can be used as a legal tool to annul a non-consensual marriage.

3.4.2.3 Provisions on Cross-Border Marriages in Complementary Legal Documents

Concerning cross-border marriage provisions, LMF1986 was subsequently supplemented by complementary legal documents and regulations such as Decrees. Accordingly, two Decrees were promulgated to regulate matters pertaining to marriages between Vietnamese citizens and foreigners.[238] The first decree was the *Decree No. 12-HDBT* issued on the 1st of February 1989

[237] The marriageable age is also established at 20 for men, and 18 for women in later versions of Vietnamese marriage and family laws.
[238] Foreigners under Vietnamese law are defined as those who are not granted a Vietnamese nationality or who have no nationality, even if they are of Vietnamese descent.

by the Council of Ministers which defined the procedures for marriages between Vietnamese citizens and foreigners conducted by the authorized office of Vietnam.[239] It is worth pointing out that in accordance with the rules of private international law, such authorized offices would be classified as the place of marriage celebration, and Vietnamese law as the '*lex loci celebrationis*' (law of the place of marriage celebration). It is this law that would govern all aspects relating to the formal validity of a cross-border marriage in any dispute involving a marriage conducted in Vietnam in accordance with the procedures outline in *Decree No. 12-HDBT.*

In 1993, the Standing Committee of the National Assembly issued the Ordinance on Marriage and Family between Vietnamese Citizens and Foreigners of 1993 introducing further detail regulations to complement LMF1986.[240] The Ordinance provided specific instructions for marriage relations (such as the legal definition of a marriage, rights and obligations of the married spouses, grounds for annulment of a marriage and grounds for divorce). It also includes provisions on family relations (such as rights and obligations of parents and children, child adoption, and tutorship). The 1993 Ordinance also mentioned the responsibility of the Government and the Ministry of Justice in exercising state functions and other official responsibilities in relation to marriage and family relations among Vietnamese citizens and foreigners.[241]

In 1994, as part of the '*International Year of the Family-1994'* launched by the United Nations, the Vietnamese Prime Minister called for a review of the 1986 legislation, stating that it had not met some of its expectations. The Prime Minister issued an instruction to the relevant ministries to examine how to amend the policy guiding the marriage law by ensuring that Vietnamese families to enjoy a happy, progressive and equitable life. [242] In response to this, the Government issued the *Decree No.184/CP* dated 30th November 1994 to address some of issues outlined by the Prime Minister, [243] especially by providing the procedures for cross-border

[239] Decree consists of 10 articles in three chapters.
[240] The Ordinance was enacted by the Standing Committee of the National Assembly of the Socialist Republic of Vietnam on 2nd December 1993 and came into forces as from March 01, 1994 and ceased to be effective from 01st January 2001 when the 2000 Law took its effect. The Ordinance contains 24 articles arranged in 4 chapters.
[241] The 1993 Ordinance, Article 2.
[242] Instruction No. 482-TTg on the 8th of September, 1994 of the Prime Minister of Government on The Review of Eight Years of Implementing the Law on Marriage and the Family <http://moj.gov.vn/vbpq/en/lists/vn%20bn%20php%20 lut/viewdetail.aspx?itemid=2763> accessed 29 November 2016.
[243]Decree No. 184/CP of 1994 defining the procedures for registration and recognition of marriage, recognition of the adoption of illegitimate children by parents, registration and recognition of adoption of children, and recognition of tutorship of children between Vietnamese citizens and foreigners. Decree contains 41 articles

registration and recognition of such marriages. This Decree clearly showed the increasing concern of Vietnamese policy-makers in civil relations related to foreign elements. In particular, cross-border marriages were acknowledged to be just as important as domestic marriages which were previously the main focus of attention under the marriage law.

Overall, there was a significant improvement in LMF1986 as compared to LMF1959. The former addressed a wider range of issues, and despite still seriously lacking in detail, gave better guidance for courts and citizens.[244] LMF1986 also pioneered the first legal regulations on cross-border marriages in Vietnam which were missed in the 1959 version. However, with the policy changes brought about by the policy of *doi moi,* the years following the enactment of LMF1986 witnessed rapid modernisation[245] and the change in Vietnamese society.[246] Thus the government of Vietnam expressed need to review LMF1986 which was regarded lacking the elements necessary for it to keep pace with the rapid changes of society. The introduction of supplementary regulations after 1994 is a clear indication of the fact that by 1994, there were deficiencies in LMF1986, which even the two Decrees issued to complement it could not satisfactorily address. Therefore, there was an urgent need for a more extensive review of the marriage and family code through which additional provisions could be introduced to address the unresolved issues. The review resulted in the next version of Law on Marriage and Family of 2000 which was to set agenda for marriage and family law in Vietnam for the 21st century.

3.4.3 Law on Marriage and Family of 2000 (LMF2000)

3.4.3.1 Background and Main Aspirations

With the introduction of the capitalist, legal reform in Vietnam entered a new phase at the beginning of the new millennium. There had been increasing demands for changes to domestic laws to keep up with social changes and to be consistent with international agreements or conventions to which Vietnam is a member state. As a consequence of this, the law on marriage and family was enacted in 2000 (LMF2000) to replace the 1986 version.[247]

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divided into seven chapters. The Decree No.184/CP of 1994 also replaced the 1989 Decree. For the full content of the Decree, *see* <http://www.refworld.org/docid/3ae6b50a4.html> accessed 29 November 2016.

[244] Walsh (n 154) 101-102.

[245] Waller and Cao (n 155) 555.

[246] Dean (n 175).

[247] The Law No. 22/2000/QH10 was approved by the 10th National Assembly of the Socialist Republic of Vietnam at its 7th session on 9th June 2000 and took its effect on 1st January 2001. The Law consists of thirteen chapters and 110 articles, addressing all aspects of marriage and family relations.

LMF2000 has many innovative provisions compared to the 1986 version. Firstly, the 2000 Law includes a provision on the interpretation of terms *(Article 8)* and there are 14 terms interpreted in this article. Secondly, same sex marriages are banned under Article 10(5) of the LMF2000 since a marriage is interpreted as a relationship between one man and one woman. Thirdly, an institutional framework under the form of *Centre for Consultancy and Support in Marriage and Family Involving Foreign Element* was legalised for the first time as a non-profit matchmaking unit which had a statutory function to provide advisory and assistance services to support couples in a cross-border marriage.[248]

3.4.3.2 Provisions on Cross-Border Marriages in the LMF2000

In the process in which Vietnam integrates into the global economy through multilateralism and the diversification of the country's international relations, marriage and family relations related to foreign elements, have not only increased but have also become more diverse and complex. Therefore, LMF2000 was issued to address emerging issues, especially in cross-border marriage relations, by having not only inherited LMF1986 but having also comprehensively developed and supplemented legal provisions on the concepts of marriage and family relations regarding foreign elements. Besides the domestic law on cross-border marriages, Vietnam signed a number of mutual legal assistance agreements (MLA) with the other nations in the region. These agreements have become the legal bases for cross-border marriages between Vietnamese nationals and foreigners.[249]

Cross-border marriage relations constitute a part of a broader term called "marriage and family relations involving foreign elements" under *Article 8* of LMF2000. LMF2000 also provides more detailed provisions on the matter of private international law. The parties to a cross-border marriage must satisfy legal requirements of the state where they are awarded nationality (i.e. *lex patriae* requirements) before they can get married *(Article 103).* If a cross-border marriage is held in Vietnam, the competent state agency in Vietnam is authorised to conduct the marriage registration.

[248] Provisions on the role and operation of Centre for Consultancy and Support in Marriage and Family Involving Foreign Element will be addressed in detail in Sub-heading **3.6.1** of this chapter.

[249] For example, Agreement on legal assistance in civil, family and criminal matters between the People's Republic of Bulgaria and the Socialist Republic of Vietnam, signed in Sofia on 3rd October 1986; Agreement between the Republic of Poland and the Socialist Republic of Vietnam on legal aid and legal relationships in civil, family and criminal matters between Vietnam and Poland signed at Warsaw on March 22, 1993 and became effective on 18th January 1995.

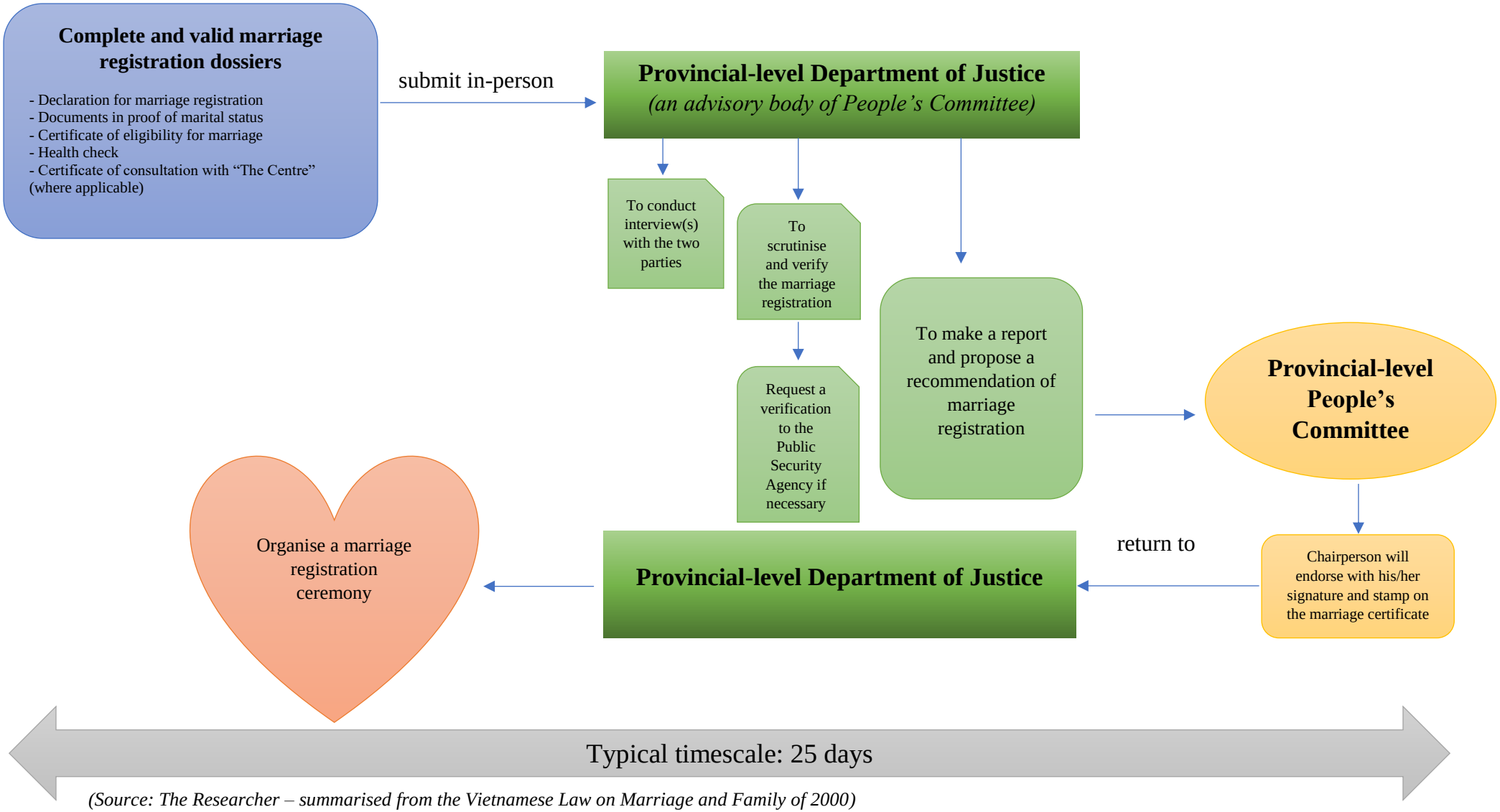
Legal requirements relating to age and consent of the parties to a marriage are similar to the provisions under LMF1986 in which the man must reach the age of 20 and the woman must reach the age of 18 *(Article 9)* and any attempt to enter into a marriage without free consents from the two parties can be considered as a ground for refusal of marriage registration.[250] Needless to say, free consents of the two parties are one of most important pre-conditions for marriage registration under the 2000 Law. Although LMF2000 is not clear on the matter, in the event that these conditions are breached and the marriage is still registered, such a marriage will be deemed to be void from the beginning (*ab initio*), and one of the parties to the marriage could subsequently apply to a family court for a decree of nullity declaring the marriage to be null and void.

LMF2000 also stipulates procedures for cross-border marriage registration in Vietnam, including requirements for marriage registration dossiers,[251] compulsory interviewing of the marrying parties to verify if a cross-border marriage is genuine or not[252] and a formal ceremony for a cross-border marriage registration in Vietnam.[253] Among these procedural requirements, pre-marital interviews can be regarded as one of most important stages of the cross-border marriage process. The marrying couple are required to undertake interview(s) at the head office of Department of Justice to verify the authenticity of their marriage. This procedure helps to prevent sham cross-border marriages This constitute the most important stage to decide if the marriage registration application should be approved or rejected. Article 12 of *Decree No. 24/2013/ND-CP* states that "the marriage registration shall also be refused if the interview, inspection and verification results show that the marriage is conducted through illegal brokerage or is a sham marriage, not for the purpose of building a prosperous, equitable, progressive, happy and sustainable family; or aims at human trafficking, labour exploitation, sexually abusing women or other self-seeking purposes." The provincial People's Committee is authorised to conduct cross-border marriage registration in Vietnam[254] with the assistance of provincial Department of Justice Provincial Department of Justice – a local government agency which plays a role as an advisory body of the provincial People's Committee. The whole

[250] Article 12 of Decree No. 24/2013/ND-CP dated 28th March 2013 of the Government promulgating the implementation of some Articles of the Law on Marriage and Family 2000 on relations of marriage and family related to foreign factors. For the full English version of the Decree, *see* <https://luatminhkhue.vn/en/decree/decree-no-24-2013-nd-cp.aspx> accessed 16 December 2016.
[251] Decree No. 24/2013/ND-CP, Article 7.
[252] Ibid Article 13.
[253] Ibid.
[254] Law on Marriage and Family of 2000, Article 102(1).

procedures for a cross-border marriage to be registered in Vietnam would take place within typical timescale of 25 days and can be summarised in **Figure 3.3** below.

Figure 3.3 Procedures for a cross-border marriage registered in Vietnam under the LMF2000



(Source: The Researcher – summarised from the Vietnamese Law on Marriage and Family of 2000)

3.5 Current Legal Framework on Cross-Border Marriages in Vietnam

The current legal provisions on cross-border marriages in Vietnam are stipulated under two main statutes, Law of Marriage and Family of 2014 (LMF2014) and Law on Civil Status of 2014 (LCS2014)[255] which has further amended the procedures contained in the Marriage and Family Law of 2014 for the registration of cross-border marriages in Vietnam. This means that at present the main rules on cross-border marriages, including the legal requirements relating to capacity to marry (age, consent, civil capacity, etc.) are regulated under LMF2014, while the procedures for cross-border marriage registration (formal requirements) are currently prescribed by LCS2014 which came into effect on 01 January 2016. Therefore, in this section, the researcher will examine the current legal provisions on cross-border marriages in Vietnam under LMF2014 and LCS2014.

3.5.1 Overview on Law on Marriage and Family of 2014 (LMF2014)

The Law on Marriage and Family of 2014 (LMF2014) which is still in effect today, was passed on 19th June 2014 to replace the LMF2000. [256] There are many significant changes, especially the adjustment on the marriageable age and the newly introduced regulation on altruistic surrogacy. With regard to the marriageable age, following a controversial debate over suggestions for reducing the marriageable age, LMF2014 has confirmed the prevailing minimum age for marriage entitlement which are at least "full 20 years old" for men and "full 18 years old" for women *(Article 8).* As compared to the previous regulations, the provision on the minimum age for getting married is therefore more clearly stated in the new legislation. Another new change is the issue of surrogacy. Compared to the previous regulations which prohibited all kinds of surrogacy, LMF2014 has for the first time ever legalised "surrogacy for humanitarian purpose" as long as it meets the statutory conditions *(Article 95).*

MF2014 repealed the ban on same-sex marriages in order to avoid discrimination. Although homosexuality used to be seen as social-evil, currently it is not banned under the revised Law in 2014. However, it is not legally recognised in Vietnam either *(Article 8(2)).* This ambivalent

[255] The Law on Civil Status No. 60/2014/QH13 was adopted by the National Assembly of the Socialist Republic of Vietnam on 20th November 2014, just some months after the Law on Marriage and Family of 2014 had been passed. The Law on Civil Status prescribes matters relating to civil status including the rights, obligations, principles, competence and procedures for civil status registration, etc. Since this Law came into effect on 01 January 2016, procedures for civil status registration (including registering cross-border marriages) must comply with its provisions rather than the Law on Marriage and Family of 2014.

[256] The Law No. 52/2014/QH13 was approved by the 13rd National Assembly of the Socialist Republic of Vietnam at its 7th session on 19th June 2014 and has taken its effect since 01st January 2015.

approach is regarded as a setback not just for the Vietnam but also for other groups in the Southeast Asian region who had hoped to use the legalisation in Vietnam to open the door to the legalisation of same-sex marriages in other countries.[257] This means that the parties in a same-sex marriage are obviously ineligible to be a party to a cross-border marriage registered in Vietnam as they do not meet one of the essential requirements (capacity to marry) under Vietnamese law, which states that one of the parties must be a male and the other must be a female. One of the unforeseen consequences of this discriminatory treatment has been that it is increasingly becoming common for Vietnamese asylum claimants abroad to base their claim on the fact that they suffer discrimination, prejudice and oppression in Vietnam because of membership of the gay and lesbian community.

3.5.2 Provisions on Cross-Border Marriages

3.5.2.1 Age, Consent and Choice of Law Rules

As previously discussed, the marriageable age under LMF2014 is confirmed as at least 20 years-old for males and at least 18 years-old for females. In terms of consent, it is again emphasised that a marriage must be voluntary agreement of the two parties *(Article 8(1))*. This means that *only* the parties themselves rather than anyone else can make this decision. Therefore, if the parties' parents or match makers become involved in the decision-making stage for a marriage, it should be deemed as a violation of the consent requirements. However, it is common knowledge that parents in Vietnamese families tend to intervene or at least influence (in some extent) their children's marriages. This is one of the continuing relics of the Confucian notions of marriage and family which has significantly impacted Vietnamese society for ages. Nowadays, although Vietnamese laws have abolished arranged marriages since LMF1959, the vestiges of Confucism still lingers in Vietnamese society.

In cross-marriages between Vietnamese nationals and foreigners, LMF2014 also refers to *lex patriae* requirements as previously adopted in LMF2000 in which each party must abide by the law on marriage conditions of the country of which he or she is a national *(Article 126).* In

[257] Same-sex marriages are still not legally recognised under Vietnamese Law. Thus, the parties involved in such relationships remain socially marginalised and are not legally protected. This means that they are ineligible for the benefits that married couples enjoy such as child custody and adoption rights, inheritance and other rights relating to matrimonial property.

cases where the Vietnamese cross-border marriage is registered with a Vietnamese authority, the foreign spouse shall also comply with the provisions of LMF2014 *(Article 126).*

3.5.2.2 Provisions on Match-Making Practice

LMF2014 repealed the ban on relationships which seek to "take advantage of the marriages involving foreign elements to traffic in, [or to] sexually abuse … women or for other self-seeking purposes" because this action is governed under criminal law instead.[258] In view of the increasing concerns surrounding possible criminal conduct arising from cross-border relations, and in order to provide more severe punishments for offences such as women trafficking or sexual abuse on women, the Vietnam's lawmakers decided to transfer these matters from marriage and family law to the criminal law jurisdiction.

Following the enactment of LMF2014, the legal status of commercial match-making agencies has still not been recognised in Vietnam. The Vietnamese law makers still maintained the view that only Centres for Consultancy and Support in Marriage and Family Involving Foreign Element (The Centres) are authorised provide non-profit match-making services and other related forms of support.[259] On closer examination, the provisions on organisation and operation of The Centre are not different from the previous provisions of LMF2000.[260] One of setbacks of LMF2014 criticised by experts is that while The Centres are the only official units who have the functions of providing match-making and other support services to cross-border marriages,[261] using these Centres is completely optional for the parties.

3.5.2.3 Procedures for Cross-Border Marriage Registration in Vietnam

Before 01 January 2016, LMF2014 governed procedures for cross-border marriage registration in Vietnam.[262] However, after LCS2014 came into effect on 01 January 2016, these procedures changed significantly and are currently regulated under the LCS2014. The differences under

[258] Vietnamese Criminal Code 1999, Article 199, subsequently amended by the 2015 Criminal Code, Article 150.
[259] This is clearly stated under Section 7 of the Government's Decree No. 126/2014/ND-CP dated 31st December 2014 detailing a number of articles and measures for the implementation of the 2014 Law on Marriage and Family. The Decree took effect on 15th February 2015.
[260] The role and operation of *Centres for Consultancy and Support in Marriage and Family Involving Foreign Element* will be examined in detail in Sub-heading **3.6.1** of this chapter.
[261] Decree No. 126/2014/ND-CP, Articles 55.
[262] The Law on Civil Status of 2014 came into effect on 01 January 2016, replacing the procedures for cross-border marriage registration adopted under the Law on Marriage and Family 2014.

the two statutes regulating procedures for a cross-border marriage registration are summarised in **Table 3.2** below.

Table 3.2 Procedures for cross-border marriage registration under LMF2014 and LCS2014

Content		**Law on Marriage and Family of 2014** *(applied prior 01/01/2016)*	**Law on Civil Status of 2014** *(applied since 01/01/2016)*
Competent authority to conduct cross-border marriage registration in Vietnam	*Advisory body*	Provincal Department of Justice	Committee Division of Justice (District level)
	Approval body	People's Committee at provincial level	People's Committee at district level
Pre-marital Interviews		compulsory	repealed
Time limit for finalising marriage registrtion in Vietnam		within typicaly time scale of 25 days	time shortened (precise number of days not stated in the law)
(Source: The Researcher - summerised from the LMF2014 and LCS2014)			

3.5.2.3.1 Preparation of Marriage Registration Dossiers

As the vast majority of cross-border marriages in the Mekong Delta region occurred within Vietnam, the discussion in this section will be restricted to marriage registration procedures in Vietnam. The parties who are seeking to enter into a cross-border marriage need to prepare and submit a dossier for marriage registration if they wish to register their marriage in Vietnam. The marriage registration dossier or file shall be submitted before a competent authority in the district where the Vietnamese party resides. In general, the marriage registration dossiers comprise of the following:[263]

- declaration for marriage registration of both spouses (made according to a set form);
- proof of current marital status[264];
- a copy of personal identity document of the foreign party (passport, travel document or a Vietnamese residence card).

[263] Article 30 Decree No. 123/2015/ND-CP dated 15th November 2015 on guidelines for Law on Civil Status. The Decree came into effect on 01 January 2016.

[264] In case a foreign law does not prescribe the grant of the marital status certificate, this certificate shall be replaced with a certification of oath taken by that person that he/she is currently unmarried in accordance with the law of that country.

3.5.2.3.2 Competence and Procedures for Cross-Border Marriage Registration

As shown on **Table 3.2** above, since 01 January 2016, district-level People's Committees have assumed responsibility for the registration of cross-border marriages (regulated under Law on Civil Status 2014) - as opposed to provincial level registration under LMF2014. The aim of this decentralization is to make use of the full capacity of local authorities in order to strengthen the role of state management district-level of the People's Committees. The ultimate aim is to achieve the long-term objective of delegating power to local authorities for the registration of civil status.

Within 10 working days from the date a complete marriage dossier is received, the Committee Division of Justice will review, scrutinise and assess it.[265] The Head of the Committee Division is responsible for determining the result of the assessment. In the event of any doubt, or a complaint or denunciation (for example, that the marriage is arranged through a commercial brokerage service for a profit-seeking purpose or the marriage does not meet the marriage conditions under LMF2014), or there are any issues that require clarification, the Committee Division of Justice with the coordination of relevant agencies shall conduct a verification process.[266] If the application meets all legal requirements and both parties meet the marriage conditions under LMF2014, the Committee Division of Justice shall submit a proposal to the chairperson of the People's Committee at District level who will make a final decision (**Figure 3.5**, below).

The chairperson of People's Committee at District level retains the power and authority to make a final decision on whether a cross-border marriage registration application is granted or not. The Committee Division of Justice shall grant the marriage certificates to the couple in person within 3 working days from the date on which the chairperson of People's Committee endorses the marriage certificate with his or her signature and a stamp.[267] The marriage certificates become valid from the date on which it is recorded and delivered to the parties in person. In case of a rejection of the application, the Committee Division of Justice shall provide a written response stating the reason for the rejection to the couple.[268]

[265] Decree No. 123/2015/ND-CP, Article 31.
[266] Decree No. 123/2015/ND-CP, Article 31; Article 11 of Circular No. 04/2020/TT-BTP dated 28th May 2020 elaborating on a number of articles of Law on Civil Status and the government's Decree No. 123/2015/ND-CP on guidelines for Law on Civil Status.
[267] Decree No. 123/2015/ND-CP, Article 32.
[268] Ibid Article 33.

3.5.2.3.3 Pre-Marriage Interviews (No Longer Compulsory Since 01 January 2016)

Under LMF2014 pre-marriage interviews constitute a compulsory element of the procedures for a cross-border marriage registration in Vietnam.[269] This is a feature was retained from the previous version of the law (of 2000). Accordingly, the parties involved in a cross-border marriage are required by law to attend in-person interviews which take place at the provincial Department of Justice. The purpose of the pre-marriage interview is to examine and confirm the parties' personal identities, to ensure that the marriage is voluntary, to clarify the purpose of marriage and the level of mutual understanding of the two parties involved in a cross-border marriage. This constitute the most important stage in deciding whether a marriage registration application should be approved or refused. The law does not mention which officials should attend the interview, leaving it to the decision of the provincial Department of Justice in each province or city.

LCS2014 has further amended the procedures contained in LMF2014 for the registration of cross-border marriages in Vietnam. In order to shorten the procedures for cross-marriage registration as part of administrative reforms, the law-makers in Vietnam have made all pre-marital interviews discretionary (*see* **Table 3.2** above).

There are some justifications for the reason why pre-marriage interview(s) is deregulated. Firstly, it is believed that deregulating interview(s) before marriage registration will save half of time for those couples who register their marriages in Vietnam. Under LMF2014, it took couples a maximum of 25 days to register their cross-border marriages in Vietnam (see **Figure 3.4**, below), whereas now it takes just half of that time under the Law on Civil Status of 2014 (*see* **Figure 3.5**, below). This can be regarded as a breakthrough in administrative reform concerning marriage registration.

Secondly, it had been argued by some officials that pre-marital interview is found as an *ineffective* measure in the management of cross-border marriages. Mr Nguyen Cong Khanh - Head of Department of Civil Status, Nationality and Authentication of Ministry of Justice, said that "in practice, the implementation of this regulation shows that it has not brought about any positive practical effects, it is still mainly about formalities."[270] He also pointed out that the

[269] Decree No. 126/2014/ND-CP, Article 23.
[270] Quang Minh, "Gỡ 'Rào Cản' Trong Thủ Tục Đăng Ký Kết Hôn Có Yếu Tố Nước Ngoài" *(Removing the 'Barriers' in Marriage Registration Procedures Involving Foreign Elements)* (*Báo Pháp Luật,* 30 July 2015)

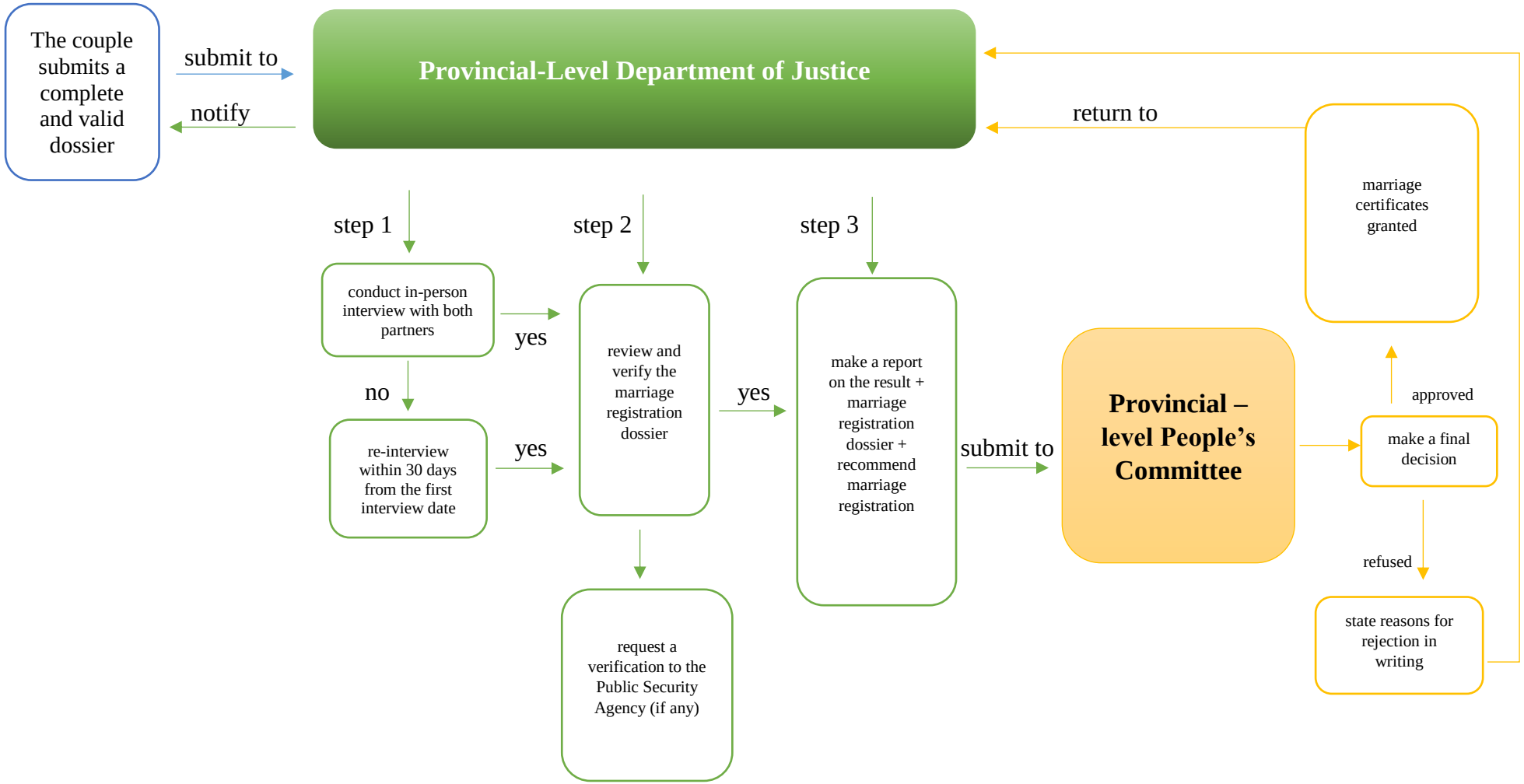
qualifications of civil servants who conduct interviews have not met the essential requirements, and that there had been evidence of corrupt practices amongst some officials in relation to conduct the interviews.[271] Additionally, despite there is no evidence available in academic publications regarding the corruption in marriage interview process, many Vietnamese brides in the Mekong Delta region of Vietnam who participate in this research revealed that the marriage brokers already know the interview questions in advance and normally draft for these brides the answers in advance so that they can respond at marriage interviews.[272] The abolition of pre-marital interviews by LCS2014 has been welcomed for these reasons.

<https://baophapluat.vn/tu-phap/go-rao-can-trong-thu-tuc-dang-ky-ket-hon-co-yeu-to-nuoc-ngoai-226106.html> accessed 05th August 2020.

[271] Ibid.

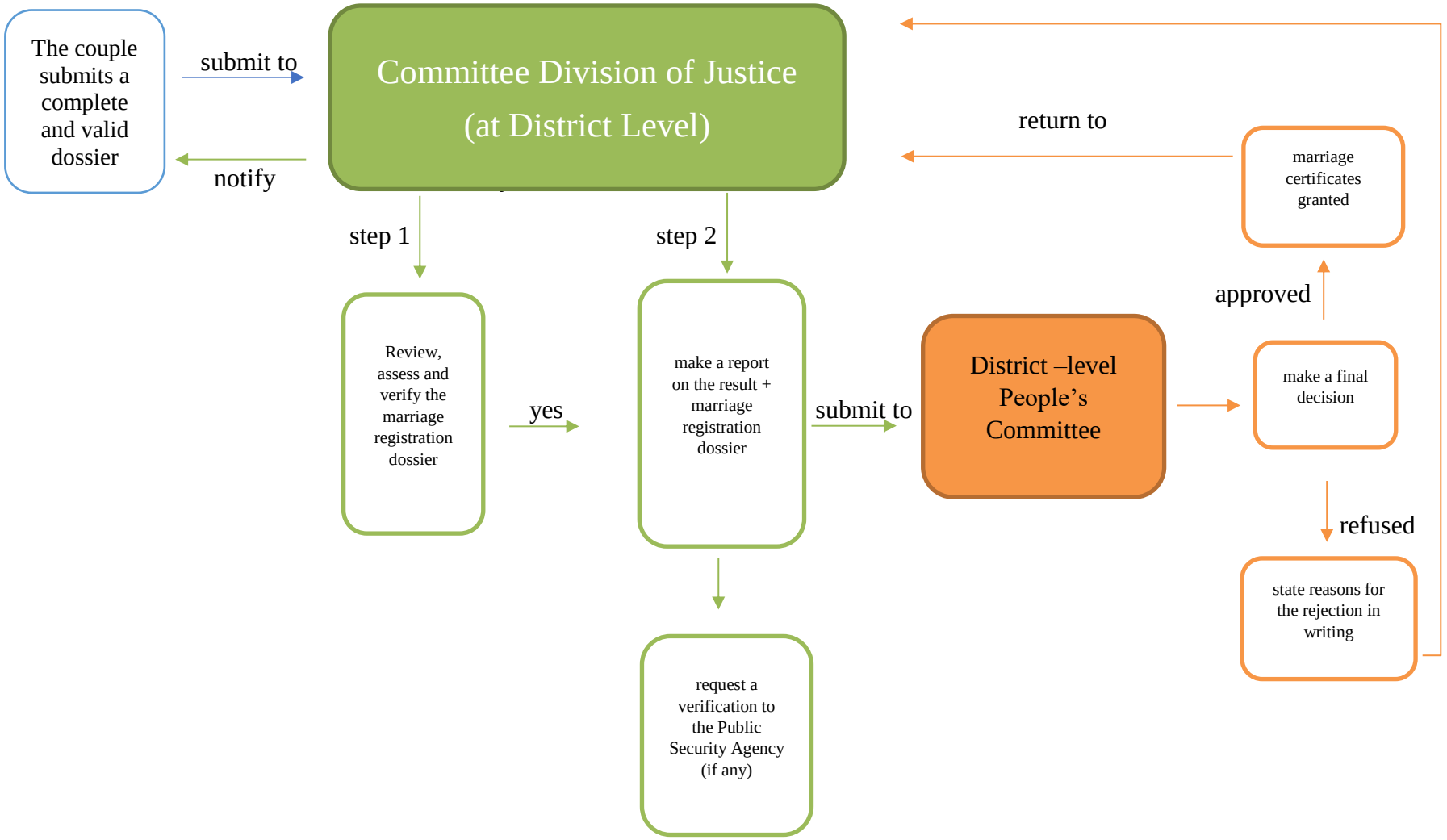
[272] Please see Chapter 6, Section 6.3.6 of this Thesis.

Figure 3.4 Flow chart of cross-border marriage registration process under the Law on Marriage and Family of 2014



(Source: The Researcher - summarised from the Vietnamese Law on Marriage and Family of 2014)

Figure 3.5 Cross-border marriage registration process under the Law on Civil Status of 2014



(Source: The Researcher - summarised from the Law on Civil Status of 2014)

3.6. Regulations on Officially Recognised Marriage Brokerage Services in Vietnam

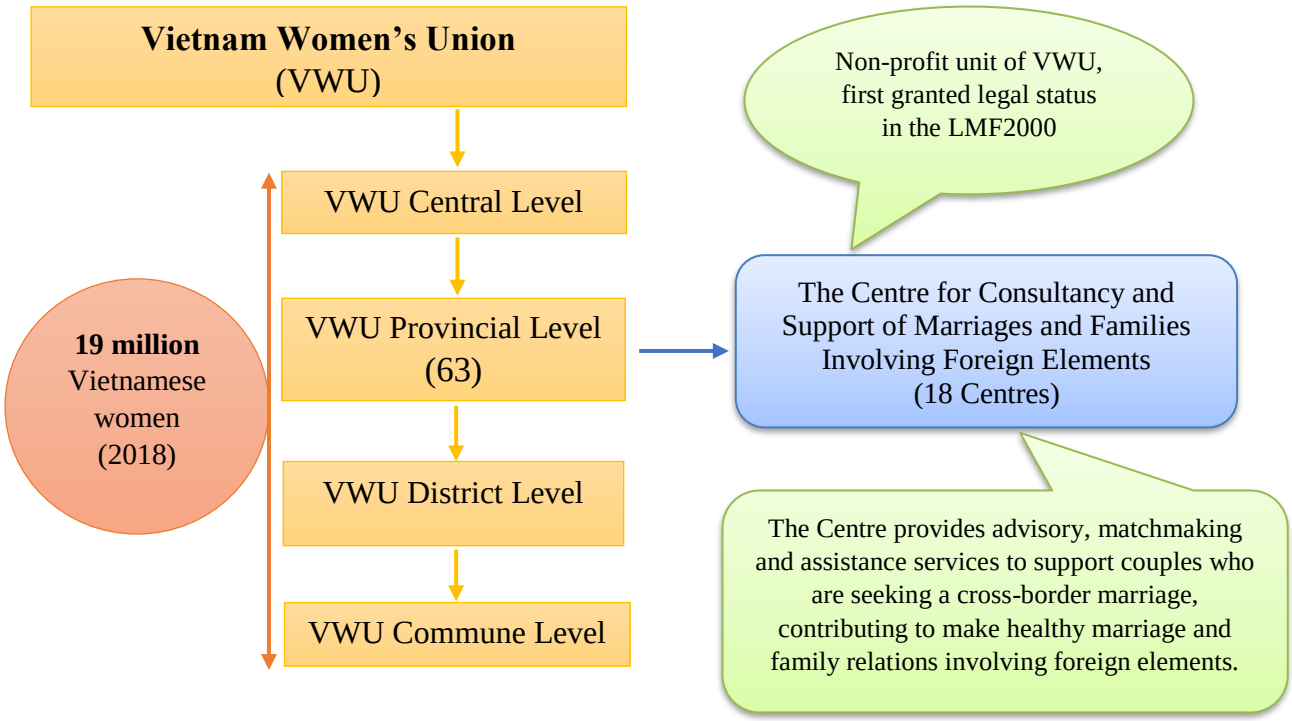
3.6.1 Legal Framework for Centres for Consultancy and Support in Marriage and Family Involving Foreign Elements (The Centres)

The Vietnam Women's Union (VWU), was established in 1930 as a socio-political organisation. Its main mission is to represent the rights of Vietnamese women and to promote their interests and their development in terms of gender equality.[273] The network of VWU has operated throughout the whole country at different levels. It has millions of registered female members. The Centre for Consultancy and Support of Marriage and Family Involving Foreign Elements (referred hereafter to as the Centres) are non-profit units which operate under the control of the VWU at central or provincial levels. The Centres were granted legal status for the first time under the LMF2000, making the Centres' activities officially legalised, especially advisory and match-making services to support brides who are seeking to enter into a cross-border marriage.

According to official statistics published by the Vietnam Women's Union in 2018, the whole country had only 18 Centres for Consultancy and Support of Marriage and Family Involving Foreign Elements (**Figure 3.6** below). 11 of these are located in southern provinces. The Centre in Ho Chi Minh City which was founded in 2003 was one of the first to be established. The Centre in Can Tho City was established much later in 2011 while Centres in many provinces and districts of the Mekong Delta region were formed after 2015.

[273]Sees Vietnam Women's Union website at <http://vwu.vn/introduction> accessed 03rd October 2020.

Figure 3.6 An organogram of The Centre



(Source: The Researcher)

The key mandate of The Centres is obviously to provide consultation and support to couples regarding the laws on cross-border marriage and family relationships, to help Vietnamese citizens and foreigners to achieve a successful cross-border marriage based on mutual trust and equality.[274] It is worth emphasising here that the consultancy role of The Centres concerns mainly the provision of match-making services. In order to operate more effectively, the Centres are lawfully allowed to cooperate with foreign marriage counselling and support organizations set up under the foreign country's law to address matters regarding to cross-border marriages between Vietnamese citizens and foreign nationals.[275] For example, the subject matter of the cooperation can be about checking and confirming the personal identity, family circumstances and social background of the marriage parties.[276] In practice, however, the approach taken by Vietnamese law makers regarding the legal status of match-making agencies in Vietnam has been very restrictive. Accordingly, that granting legal status for the

[274] The Government's Decree No. 126/2014/ND-CP dated 31st December 2014 on detailing a number of Articles and measures for implementation of the law on marriage and family, Section 7.
[275] Ibid.
[276] Ibid Article 33(2).

Centres has rendered illegal the activities of commercial matchmaking agencies in Vietnam. In fact, it could even be argued that one of the main motives behind the creation of The Centres was the legislators' desire to discourage the setting up of commercial match-making agencies in the country with a view to preventing the commercialisation or commodification of cross-border marriages. Vietnamese legislators take the view that cross-border marriages are complicated marital relationships, and that in order to build sustainable cross-border marriages which are respect and maintain the traditional values of the nation, it is necessary to enhance the oversight role and supervisory function of the state.

The viewpoint of the Vietnamese law-makers is that marriage brokerage services should be provided as a non-profit service for the purpose of building an affluent, equal, progressive, healthy, happy and sustainable family. The Centres are non-business units affiliated to the Women's Union. The Centres are established to provide support and to contribute to successful cross-border marriage and family relations. Therefore, any activities which seek to take advantage of cross-border marriages by providing counselling and support for the purpose of human trafficking, labour exploitation, sexual abuse or other profit-seeking purposes (i.e. commercial brokerage) is prohibited.[277]

Under LMF2000, the parties to a cross-border marriage are required to go to the Centre for consultation and support compulsorily under following circumstances:[278]

- The parties have the age difference of 20 years or more;
- The foreign party getting married for the third time or who was previously married and is divorced with a Vietnamese wife or a Vietnamese husband;
- Both parties do not have complete information regarding each other's family or individual status or do not understand languages, customs, traditions, culture, laws on marriage and family of each other's country.

[277] Decree No. 126/2014/ND-CP, Article 52.

[278] Article 6 of Circular No. 22/2013/TT-BTP dated 31st December 2013 of the Ministry of Justice detailing and guiding the implementation of some articles of the Decree No. 24/2013/ND-CP dated 28th March 2013 of the Government promulgating the implementation of some Articles of the Law on Marriage and Family on relations of marriage and family related to foreign factors. For the full English version of the Circular, *see* <https://luatminhkhue.vn/en/circular/circular-no-22-2013-tt-btp-guiding-the-implementation-of-some-articles-of-the-decree-no-24-2013-nd-cp-promulgating-the-implementation-of-some-articles-of-the-law-on-marriage-and-family-on-relations-of -marriage-and-family-with-foreign-factors.aspx> accessed 16 December 2016.

The first two sections of this provisions are very clearly stated and easy to implement. However, the final section of this provision seems to be more difficult to implement in practice. How do you determine if the parties understand or not understand each other's circumstances well? How do you measure the level of understanding and what standards of measurement do you apply? To provide answers to these questions, Vietnamese law makers have adopted the approach that the parties in cross-border marriages must be interviewed at the Department of Justice as one of requirements of the marriage registration procedures. However, it is important to emphasise that the interview in this case is conducted by a Department of Justice official and not by the Centre itself. The official who conducts the in-person interview(s) will reach their own conclusions on these questions. If the official is satisfied that the parties have met the required standards, then the parties do not also have to submit the consultation certificate from the Centre.[279] However, it can be argued that the assessment process is largely subjective and relies a great deal on what the parties have to say. For example, parties who are eager to be married can easily claim that they have a full understanding of each other's status and circumstances as required by the law, when in fact they do not.

Under LMF2014, the use of the Centre by couples in a cross-border marriage is optional. Couples, especially Vietnamese brides, are now guided by their own interests rather than by law, and can decide by their own free will whether or not to use the consultancy and support services provided by The Centres.[280] This can lead the brides, especially those with low education attainment, to making the wrong choice (i.e. not to use The Centre's services). This create even more opportunities for commercial match-making agencies to flourish. Moreover, although the Centres are officially recognised under Vietnamese law as the only units with the exclusive function of providing brokerage services in cross-border marriages, their presence is still not known to many potential brides who may find their services useful.[281] This is especially the case in the Mekong Delta region where the actual demand for match-making services has been very high in recent years following the increase in the phenomenon of cross-border marriages.

[279] Ibid.
[280] In Section 7 (Articles 51-57) of the Decree No. 126/2014/ND-CP dated 31st December 2014 did not mention any compulsory cases.
[281] As is evident from interview data analysis in Chapter 6 of this thesis, almost every interviewee when asked, had no knowledge or awareness of the matchmaking or consultancy and support services provided by The Centres.

There are some reasons to explain why The Centres have not been effective enough or why Vietnamese brides in cross-border marriages prefer to contact illegal brokerage agencies or individuals for help instead of accessing the free consultant and support services offered by The Centres. First, the Centre network does not cover all areas in the country. At present, there have been 18 centres in the whole country while the country had 63 administrative units (provinces and cities). This means that in many provinces, there is no such a Centre. Consequently, Vietnamese women who need such support and help have to look for a Centre in other areas which may cause them some inconvenience. Second, The Centre is a non-profit unit. The organisation has to cope with difficult financial circumstances, having no sponsors. This makes it impossible for The Centre to employ highly-qualified staff who are professional and experienced, except as volunteers. Thus, the insufficiency of qualified staff makes it impossible for The Centres to work effectively. Third, to protect Vietnamese women in cross-border marriages, The Centre has to follow a legal procedure which may take a much longer time than the shorter procedures employed by a commercial marriage brokerage agency. For example, in order to check the foreign husbands' basic background (such as health, occupation, marital status/marital history, etc. The Centres may need to collaborate with their counterparts in other countries. This is time-consuming because there are many steps or stages to comply with. For this reason, Vietnamese brides prefer the illegal services provided by commercial match-making agencies because the process is simpler and time-saving, while the service is more easily available and accessible in their areas through local bride recruitment programmes run by commercial agents.

The insufficient supply of marriage guidance services through The Centres has created a very good opportunity for illegal commercial marriage brokerages (both domestic and international agencies) to flourish. It is regrettable that such a good concept has not been successful in its operations. The Centres were designed to play an extremely important role in providing counselling and support cross-border marriages, especially to vulnerable Vietnamese women who could easily become the victims of trafficking and sexual exploitation. But these institutions have so far failed to meet the needs of Vietnamese women who require pre-marital support in order to better prepare them for their cross-border marriages.

3.6.2 The Illegal Status of Commercial Match-Making Agencies in Vietnam

The operations of commercial match-making agencies in Vietnam remains a controversial subject. Commercial match-making agencies, are regulated under various statutes such as laws

on Marriage and Family, Law on Enterprises, and Law on Administrative Violations which can be summarised in **Table 3.3**, below. The position of the law is still that such agencies are illegal in Vietnam, with The Centres having the exclusive right and competence to engage in functions such as match-making function and providing pre-marital support.

Under current provisions in Vietnam, the highest punishment stipulated for illegal marriage brokerages is the fine of 30 million VND (in the region of £1,000)[282]. Compared with the profits earned from a successful marriage brokerage, this financial penalty cannot be considered a strong enough deterrent to combat the phenomenon. The sporadic enforcement and general ineffectiveness of laws regulating commercial match-making agencies show that tougher penalties and stronger legislative responses are required, especially in cases where crimes such as human trafficking and sexual exploitation have been committed.

[282] Government's Decree No. 110/2013/ND-CP dated 24th September 2013 on regulating sanctions of administrative violation in the field of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy, Article 28(5).

Table 3.3 Different legal provisions on commercial marriage brokerages in Vietnam

Law	Detailed Regulations	Main Contents
Law on Marriage and Family 2000 **Status: amended by Law of 2014**	Government's Decree No. 68/2002/ND-CP dated 10th July 2002 detailing the implementation of a number of articles of the marriage and family law on the marriage and family relations involving foreign elements.	Under Article 2(2) any for brokerage of marriages, human trafficking and sexual exploitation of women are all prohibited.
	Government's Decree No. 24/2013/ND-CP dated 28th March 2013 detailing the implementation of a number of articles of the Marriage and Family Law regarding the marriage and family relations involving foreign elements.	Article 29 of Decree No. 24/2013/ND-CP recognised and established for the first time the Centre for Consultancy and Support of Marriages and Families Involving Foreign Elements as non-business units of the Women's Union. Article 30 of the Decree provides that "It is strictly prohibited to take advantage of advisory and assistance on marriage and family with foreign factors to engage in human trafficking, sexually abuse of women or for other self-seeking purposes." Under Article 32 of the Decree, The Centre must register its operation at the provincial justice department where the head office is located.
Law on Marriage and Family 2014 **Status (amended by Law on Civil Status of 2014)**	Government's Decree No. 126/2014/ND-CP dated 31st December 2014 detailing a number of articles and measures for the implementation of the 2014 Law on Marriage and Family.	Under Article 29 (4) of Decree No. 126/2014/ND-CP, the use of commercial profit-seeking match-making agencies for marriage brokerage is prohibited and provides one of the grounds for refusal or rejection of the application for marriage registration.
Law on Enterprises of 2004	Government's Decree No. 125/2004/ND-CP dated 19th May 2004 amending and supplementing a number of articles of Decree No. 03/2000/ND-CP dated 3rd February 2000 which guides the implementation of a number of articles of the Enterprise Law.	The provision of any form service of brokerage for marriage involving foreign elements is added the list of banned businesses - Article 1(2) of the Decree No. 125/2004/ND-CP.
	Government's Decree No. 139/2007/ND-CP dated 5th September 2007 providing detailed guidelines for implementation of a number of articles of the law on enterprises.	The commercial brokerage of marriage involving a foreign element is included in the list of prohibited lines of business - Article 4 (1) of Decree No. 1392007/ND-CP.
	Government's Decree No. 102/2010/ND-CP dated 1st October 2010 detailing a number of articles of the law on enterprises.	Article 7(1) of the Decree of 2010 reaffirms the previous ban on providing brokerage services for marriages involving foreign elements.

Law	Detailed Regulations	Main Contents
Law on Administrative Violations	Government's Decree No. 150/2005/ND-CP dated 12th December 2005 providing the sanctioning of administrative violations in the domain of security and social order and safety.	Under Article 7(3) of the Decree No. 150/2005/ND-CP, a fine of between VND 1,000,000 and 2,000,000 (approximately £35 – £70) shall be imposed for acts such as brokering, facilitating, organizing, or creating favourable conditions for other people to marry foreigners in contravention of the law.
	Government's Decree No. 60/2009/ND-CP dated 23rd July 2009 on sanctioning of administrative violations in the judicial domain.	**Article 11 (4) of the Decree No. 60/2009/ND-CP** **4**. A fine of between VND 10,000,000 and 20,000,000 shall be imposed for either of the following acts: (a) Providing illegal marriage brokerage; (b) Abusing the marriage registration process for personal financial advantage, sexual exploitation or labour exploitation purposes.
	Government's Decree No. 73/2010/ND-CP dated 12th July 2010 regulating sanctions against administrative violations in the domain of security, order and social safety.	**Article 7 (3) (o) of the Decree No. 73/2010/ND-CP** **3.** A fine of from 1,000,000 to 2,000,000 VND for one of the following behaviour: (o) Organization or facilitating marriage with a foreigner contrary to the provisions of the law, affect the security and social order.
	Government's Decree No. 110/2013/ND-CP dated 24th September 2013 on regulating sanctions of administrative violation in the field of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy.	Under Article 28 (5) of the Decree No. 110/2013/ND-CP provides a fine between VND 20,000,000 and 30,000,000 ((approximately £700–£1000) for the acts of illegal marriage brokerage. Article 29(4)(d) of the Decree of 2013 states that a maximum fine up to VND 500,000 – 1,000,000 shall be imposed on The Centres if they require their clients to pay any other fees or other material benefits in addition to the remuneration as prescribed upon the law.

(Source: The Researcher - adapted and summarised from various regulations on commercial marriage brokerage activities in Vietnam)

3.7 Discussion on the Current Legal Framework on Cross-Border Marriages in Vietnam

Having discussed the legal framework governing cross-border marriages in Vietnam in the preceding sections, the main aim of this section is to round up the discussion by identifying the main legislative gaps in the current legal framework on cross-border marriages.

3.7.1 Stricter Punishment or Legalisation of Commercial Match-Making Agencies?

As previously discussed, the operation of commercial match-making agencies has not been legally recognised under Vietnamese law although other countries in the Southeast Asia region have approached the question from a different perspective. In its attempt to criminalise the operations of commercial match-making agencies, Vietnamese law prescribes a fine of 30 million VND[283] (approximately £1,000). However, it could be argued that this punishment is not strict enough to deal with the issue given the continuing popularity of commercial match-making in Vietnam. Compared with the profits obtained from illegal match-making services, the fine is insignificant.

The current legal approach to commercial match-making services is not effective enough because more and more illegal commercial match-making agencies are establishing themselves in Vietnam due to the huge profits to be gained. Furthermore, the main focus of the law, and the fine, is on acts of illegal marriage brokerage rather than punishing specific acts such as, for example, proving false or incorrect information about the husbands/wife. Should specific acts such as providing false information or incorrect documents be criminalised and fined separately because they might cause serious consequences to brides afterward? The researcher believes that they should. This will lead to a compound fine much higher than the current highest fine under the law of 30 million VND, which could provide a more effect deterrent. On the other hand, an alternative (and perhaps a more practical) solution could be considered at the other end of the spectrum – i.e. to legalise commercial match-making agencies altogether.

Provisions mutual legal assistance agreements on civil and criminal matters (including on matters relating to cross-border marriages between Vietnamese citizens and foreign nationals) form the legal basis for resolving any transnational problems arising from such marriages. However, the precise legal status of marriage brokerage services (whether commercial or not-

[283] Article 28(5), Government's Decree No. 110/2013/ND-CP dated 24th September 2013 on regulating sanctions of administrative violation in the field of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy.

for-profit), and their role in marriage registration procedures, is not stated in these MLA agreements and treaties. This in the international cooperation between Vietnam and the other countries in that in leaves many unanswered questions concerning the legality of marriages facilitated by or conducted using the services provided by match-making agencies.

3.7.2 Marriage Interviews Discretionary under Vietnamese Law

The Law on Marriage and Family 2000[284] and the Law on Marriage and Family 2014[285] stated that the pre-marital interview was a compulsory procedure for the registration of a cross-border marriage in Vietnam. However, the Law on Civil Status 2014 (which currently applies to cross-border marriages) abolished this requirement as part of administrative reforms. The two possible reasons behind the abandonment of the interview are to save time in terms of administrative procedures, and due to the fact that the interview process was seen to be ineffective in regulating the problems associated with cross-border marriages.[286] However, the researcher still believes that in taking this approach law-makers have underestimated the importance and necessity of pre-marital interview(s).

Why is the pre-marital interview necessary? Firstly, it is undeniable that interview(s) before marriage registration constitutes a very important part of the whole procedure for a cross-border marriage. It can clarify a lot of issues and shed light on some important questions (such as the parties' criminal record, their hopes and aspirations, language skills, and the issue of consent), which if left undiscussed can be the source of future problems in the relationship. Therefore, interviewing in the marriage registration process is considered as a necessary legal requirement which can help to prevent non-disclosure of important information about the parties.[287]

Secondly, pre-marital interview(s) helps to eliminate sham marriages organised under the cover of a cross-border marriage for trafficking or sexual exploitation purposes. As previously stated, the interviews will also aim to establish how much the couple know each other, and how they

[284] Article 10 of the Decree No. 24/2013/ND-CP dated March 28, 2013 of the Government promulgating the implementation of some Articles of the Law on Marriage and Family 2000 on relations of marriage and family related to foreign factors. For the full English version of the Decree, see <https://luatminhkhue.vn/en/decree/decree-no-24-2013-nd-cp.aspx> accessed 16 December 2016.

[285] Article 23 of the Decree No. 126/2014/ND-CP, dated December 31, 2014 of the Government detailing a number of articles and measures for implementation of the law on marriage and family.

[286] This issue was previously discussed in Chapter 3 at 3.5.2.3.3.

[287] Quang Minh, "Sẽ Gỡ Bỏ "Rào Cản Pháp Lý" Trong Thủ Tục Kết Hôn" (translated as "Legal Barrier" in Marriage Registration Procedure Will Be Removed) (*Ministry of Justice*, 30 July 2015) <http://moj.gov.vn/UserControls/News/pFormPrint.aspx?UrlListProcess=/qt/tintuc/Lists/HoatDongCuaLanhDaoBo&ListId=893be1dc-01e7-43b1-bafc-cb20bff88e43&SiteId=b11f9e79-d495-439f-98e6-4bd81e36adc9&ItemID=2335&Site_RootID=b71e67e4-9250-47a7-96d6-64e9 cb69ccf3> accessed 20 October 2018.

got to know each other. Therefore, the inquiry procedures will be aimed at protecting the rights and interests of the parties in the cross-marriage relationship and to ensure administrative control of the marriage process. The interview outcome should be a very important ground for a marriage registration application to be accepted or refused. For example, if the registrar found that the bride in the cross-border marriage was forced by her parents to get married to a foreign man, (which means there was no free will or consent from her), the registrar can use "the requirement for consent" as a good ground to refuse the registration because the marriage does not meet one of the most important legal requirements (that of essential or material validity).

For this reason, such interviews should be re-established as one of mandatory procedures in the cross-border marriage registration process. In the last chapter of this thesis, the researcher also suggests an alternative approach through which pre-marital interviews could become more effective.

3.7.3 The Effectiveness of Centres for Consultancy and Support of Marriages and Families Involving Foreign Elements (The Centres)

It can be argued that Vietnamese legislators made a breakthrough when the first legislation on non-profit matchmaking practice was enacted, introducing an institutional framework in the form of Centres for Consultancy and Support of Marriages and Families Involving Foreign Elements (The Centres). As previously discussed, however, the operation of these physical Centres has not been as effective as it should be, and their presence has not been widely known in Vietnam. The disadvantages of the Centres arise from the fact that their networks do not fully cover the whole country and as a non-profit unit, the Centre faces financial constraints in its operation. Its capacity to provide support services to Vietnamese brides in cross-border marriages is therefore very limited. However, the researcher still believes that the operation of such Centres should be maintained and developed through a more flexible and diversified approach such as the introduction of online services or platforms. The cost of online services is relatively cheaper that for physical offices, and the brides can easily access the free support and services provided by the online Centre. This specific recommendation will be outlined in more detail in the concluding chapter of this thesis.

3.7.4 The Question of the International Human Rights of Vietnamese Women in Cross-Border Marriages

Trafficking in persons, especially in women through cross-border marriages is a highly lucrative global business. A lot of women from poor counties are trafficked globally and are sold as objects or goods to be used as if they were a commodity. The question concerning the protection of their human rights has been the subject of various international instruments. Trafficking victimizes mostly women and girls due to their vulnerability in many societies which mainly stems from gender discrimination. Responding to this problem, a lot of nations have signed or acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[288] which obliges nations to pass laws to stop trafficking.

Vietnam ratified this Convention in 1982. Vietnam has passed several laws in order to implement Article 16 of the Convention.[289] However, the continuing phenomenon of women trafficking in Vietnam, sometimes under the cover of cross-border marriages, represents an implementation or enforcement gap in the legal framework which in turn raises serious questions concerning Vietnam's commitments under this Convention. Before effective progress can be made in realising the aspirations of CEDAW concerning the protection of the international human rights of Vietnamese women, legislators in Vietnam will need consider ways of ensuring the effective implementation and enforcement of their obligations under the Convention. This will likely involve either the passing of new laws or more effective enforcement of current laws on people trafficking, as well as more coordination of enforcement policies with neighbouring countries such as China which is one of the main destinations for Vietnamese female victims of people trafficking.

3.8 Pilot Projects/Centres in Vietnam to Support Vietnamese-Korean Marriages

Since 2011 a number of pilot projects have been set up in various regions in Vietnam as part of efforts aimed at increasing the capacity of The Centre and eventually by creating a national network of match-making and support services for cross-border marriages. Two of these projects are examined in this section.

[288] The CEDAW was approved on 18 December 1979 and came into force on 03 September 1981.
[289] *See* Chapter 4, Section 4.7.3 of this thesis.

3.8.1 The Hau Giang and Hai Duong Project

On 16th July 2015, the Vietnam Women's Union (VWU) and Vietnamese Women's Cultural Centre (VWCC) in South Korea launched Vietnamese-Korean marriage counselling project[290] in the Mekong Delta province of Hau Giang. The 390,000 USD project was piloted over 18 months (from July 2015 to December 2017) in two provinces in Vietnam, the northern Hai Duong province and the southern Mekong Delta province of Hau Giang. In Hau Giang Province, from 2004 to July 2015, more than 11,000 local women got married to foreigners, 70 per cent of the foreigners being from South Korea.[291] Therefore, Hau Giang Province was selected as one of two localities where the project was run.

The project focuses on giving a variety of support services to Vietnamese brides who are married to South Korean men including consultation, education and pre-marriage and post-marriage support.[292] The project also aims to increase the awareness of local women who intend to get married to foreigners and to minimise the potential risks involving illegal international match-making agencies.[293] The outcomes of the 18-month pilot project run in Hau Giang Province were disappointing, with only 19 women having been counselled, 17 of which involved face-to-face counselling and the other 2 by phone or Facebook. 15 out of the 17 registered into the pilot project database. Of these, 4 eventually got married to South Korean men.[294] Giving a comment on the pilot project's outcome, the Vietnamese Women Union Vice-President, Ms Bui Thi Hoa emphasized that "knowledge of cross-culture marriages must be further provided for Vietnamese women, and the operation of marriage consulting centres should be improved in order to help make the project a success".[295]

Compared to the total number of cross-border marriages (which are in the thousands, as seen above), the statistics registered by the pilot project are very disappointing. These disappointing

[290] "VN-Korean Counselling Project Focuses on Mixed Marriages" (*Viet Nam News*, 17 July 2015) <https://vietnamnews.vn/society/273208/vn-korean-counselling-project-focuses-on-mixed-marriages.html#ywcAgchko th0yPFe.97> accessed 09 January 2019.
[291] Huynh Su, "Khởi Động Dự Án Hỗ Trợ Những Phụ Nữ Việt Lấy Chồng Hàn Quốc" *(Launching A Project to Support Vietnamese Women Married Korean Men)* (*Vietnam Plus*, 16 July 2015) <https://www.vietnamplus.vn/khoi-dong-du-an-ho-tro-nhung-phu-nu-viet-lay-chong-han-quoc/333051.vnp> accessed 09 January 2019.
[292] VNA, "Korean Marriage Support Project Launched in Vietnam" (*TuoitreNews*, 17 July 2015) <https://tuoitrenews.vn/society/29269/korean-marriage-support-project-launched-in-vietnam> accessed 22rd December 2019.
[293] Ibid.
[294] The Report on Summary of the pilot phase of the project (July 2015 - December 2017) dated in November 2017 by Women's Union in Hau Giang Province.
[295] VNA, "Korean Marriage Support Project Launched in Vietnam" (*TuoitreNews*, 17 July 2015) <https://tuoitrenews.vn/society/29269/korean-marriage-support-project-launched-in-vietnam> accessed 22rd December 2019.

results could be an indication that local women in these provinces, as in other parts of Vietnam, still prefer to rely on illegal commercial match-making agencies for cross-border marriages. The results also explain why the pilot project was terminated after the initial two years period.

3.8.2 Can Tho City Pilot Project

In 2011, the Can Tho City Women's Union signed an agreement with the South Korea Centre for United Nations Human Rights Policy (KOCUN) aimed at implementing the pre-departure programme for 6,000 women in the Mekong Delta provinces before their departure to South Korea as marriage migrants.[296]

In July 2016 KOCUN Can Tho and the Women's Union of Can Tho City has jointly launched **Vietnam – Korea Joint Care Project** (hereafter referred to as VKJC project) known as *Dự án "Việt – Hàn chung tay chăm sóc"*.[297] VKJC project *Phase 1* was implemented within a three-year period (7/2016 – 6/2019). The project was aimed to provide financial aid, legal consultancy and psychological advice to local women in the Mekong Delta region who plan to marry a Korean and also to support migrant married women and their Vietnamese-Korean children to overcome post-marriage challenges in their life after repatriation following a breakdown in their marriage.[298] Major activities of the project include: offering participants classes on Korean language and training courses on culture, multicultural family support policies, establishing a Vietnamese – Korean multicultural family library in Can Tho City, providing legal aid on divorce procedures for Vietnamese brides, organising community groups of repatriated women, and offering free vocational training courses.[299]

In recent years, numerous women from Vietnam's Mekong Delta region who were previously married to South Korean men have returned to their home country due to failed cross-border marriages. Between 2005 and 2018, over 75,000 local women in Can Tho City got married to

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[296] Quynh Lam, "Khánh Thành Trung Tâm Việt – Hàn Chung Tay Chăm Sóc Tại Cần Thơ" *(The Inauguration of the Vietnam-Korea Care Centre in Can Tho City)* (*Cần Thơ Online,* 26 January 2018) <https://baocantho.com.vn/khanh-thanh-trung-tam-viet-han-chung-tay-cham-soc-tai-can-tho-a94701.html> accessed 09 January 2019.

[297] The project was sponsored by Hyundai Motor Company and the Korean Social Welfare Relief Fund. VNS, "Assistance Offered to Vietnamese Women Married to Koreans" (*Viet Nam News*, 01 July 2019) < https://vietnamnews.vn/society/522010/assistance-offered-to-vietnamese-women-married-to-koreans.html> accessed 22rd December 2019.

[298] Pham Tam, "Cần Thơ: Khởi Động Dự Án Hỗ Trợ Phụ Nữ Lấy Chồng Hàn Quốc" *(Can Tho: Starting the Project to Support Women Getting Married with Korean Husbands*) (*Dan Tri*, 28 October 2016) <https://dantri.com.vn/cong-dong/can-tho-khoi-dong-du-an-ho-tro-phu-nu-lay-chong-han-quoc-20161028061327361.htm> accessed 09 January 2019.

[299] Ibid.

Koreans of which 15,000 women were subsequently divorced and returned to Vietnam.[300] The VKJC project has helped and also identified ways of helping these women and children to re-adapt and re-integrate themselves into Vietnamese society after returning home. Divorced women returning home have been supported with vocational training, job placement, loans for starting their own business so that they can be self-reliant in life, while the children from such mixed marriages have received help with establishing legal documents such as Vietnamese birth certificates.

As a result of the VKJC project, on 25 January 2018, the Vietnam-South Korea Centre for Joint Care (VKJC Centre) was established in the Mekong Delta city of Can Tho to support marriages between Vietnamese and South Korean nationals.[301] The VKJC Centre functions as the very *first* Multicultural Family Support Centre in Vietnam.[302] Its role is to provide economic, legal and psychological support for Vietnamese women either currently married or previously married to South Korean men. The range of services it provides include training courses, offering free legal counselling for Vietnamese women married to South Korean husbands, caring for multicultural Vietnamese-Korean families in Can Tho City, pre-marital support to marriage migrants-to-be, and post-marriage support to repatriated women and Vietnamese-Korean children.

As a result of the VKJC project, many Vietnamese-Korean children of Korean nationality, since the end of 2017, they have been guaranteed schooling and enjoy the same medical privileges as other children. In addition, the previous visa stay for such children from three to six months is now extended to one year. For repatriating women, they had previously faced difficulties in divorce due to differences in the marriage and family regulations of the two countries. However, with the close cooperation between the Viet-Han Family Legal Counselling Office and related agencies of Vietnam, it is now possible to find specific solutions for resolving these differences.[303]

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[300] VNS, "Assistance Offered to Vietnamese Women Married to Koreans" (*Viet Nam News*, 01 July 2019) < https://vietnamnews.vn/society/522010/assistance-offered-to-vietnamese-women-married-to-koreans.html> accessed 22rd December 2019.

[301] Tan Son, "Centre for Vietnamese-Korean Marriage Support Opens in Southern Vietnam" (*Tuoi Tre News*, 26 January 2018)<https://tuoitrenews.vn/news/society/20180126/center-for-vietnamesekorean-marriage-support-opens-in-southern-vietnam/43825.html> accessed 28 January 2018; Tuan Quang, "Cần Thơ: Khánh Thành Trung Tâm Việt – Hàn Chung Tay Chăm Sóc" *(Can Tho: The Inauguration of the Vietnam-Korea Care Centre)* (*Dai Doan Ket*, 25 January 2018) <http://daidoanket.vn/xa-hoi/can-tho-khanh-thanh-trung-tam-viet-han-chung-tay-cham-soc--tintuc393138> accessed 09 January 2019.

[302] Lam (n 296).

[303] Ibid.

It is worth noting that apart from the inter-government cooperation involving the VKJC Centre, Vietnam has not concluded judicial or Mutual Legal Assistance agreements and treaties which impact on the areas of marriage and family with China, Taiwan or South Korea which can be summarised in **Table 3.4** (below).

Table 3.4 MLA Treaties and Agreements between Vietnam and China, South Korea and Taiwan

Country	MLA Treaties	Comments	Status
China	Treaty on Mutual Legal Assistance in Civil and Criminal Matters between the Socialist Republic of Vietnam and the People's Republic of China	Contains provisions relating to cross-border marriages: **No** Contains provisions relating to match-making agencies: **No**	Signature: 19/10/1998 Ratification: 03/6/1999 Entered into force: 25/12/1999
South Korea	Treaty between the Socialist Republic of Vietnam and the Republic of Korea on Mutual Legal Assistance in Criminal Matters	Contains provisions relating to cross-border marriages: **No** Contains provisions relating to match-making agencies: **No**	Signature: 15/9/2003 Ratification: 27/9/2004 Entered into force: 19/4/2005
Taiwan	Agreement between the Taipei Economic and Cultural Office in Vietnam and the Vietnam Economic and Cultural Office in Taipei on Judicial Assistance in Civil Matters	Contains provisions relating to cross-border marriages: **No** Contains provisions relating to match-making agencies: **No**	Signature: 12/4/2010 Entered into force: 02/12/2014

(Source: The Researcher - adapted and summarised from MLA Treaties and Agreements between Vietnam and other countries)

3.9 Conclusion

Lawmakers in Vietnam have to some extent improved the regulations on marriage and family relations, especially on the question of marriage and family relations involving foreign elements. The main breakthrough in legislation has been in the introduction of a match-making agency in the form of The Centres, as well as clarifying legal procedures for the registration of cross-border marriages. In terms of policy and institution building the establishment of very first Vietnam-Korea Centre for Joint Care Centre to support Vietnamese-Korean marriages represents positive progress in dealing with the problems of cross-border marriages. However, there are still many unresolved issues. Foremost amongst these is the question regarding the legal status of commercial match-making agencies, as well as the question regarding how best to protect women from the risk of trafficking, sexual exploitation and labour exploitation. It is clear that legal solutions to address the issues need to be introduced into Vietnamese law in order to improve the legal framework. Before suggesting possible solutions to the current law on cross-border marriages in Vietnam in the form of recommendations in the final chapter, the

next chapter of this thesis will first of all examine the approaches adopted by other jurisdictions in dealing with similar problems.

CHAPTER 4
REGULATORY, PROCEDURAL AND INSTITUTATIONAL ASPECTS OF CROSS-BORDER MARIAGES: A COMPARATIVE PERSPECTIVE

4.1 Introduction

In this chapter, the legal frameworks of South Korea, Taiwan, China and the Philippines regulating transnational marriages and commercial match-making agencies will be examined. The reason for selecting these four countries is that they are all from the Southeast Asian region, and they are all impacted by the trans-regional phenomenon of cross-border marriages. The focus will be on how these different jurisdictions address commercial match-making industry in their legal system. To what extent are the human rights of foreign brides protected in these countries? The comparative analysis will highlight the differences in the policies employed in the selected jurisdictions regarding international match-making business. The final line of inquiry in this chapter is to critically examine the international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and to identify provisions of the convention which may be relevant to finding solutions to some of the problems of cross-border marriages.

4.2 South Korean's Policies and Laws on Cross-Border Marriages and Commercial Match-Making Agencies

4.2.1 Overview

South Korea has in the past three decades been faced with the challenge of reproduction and care provision for an ageing population[304] due to the rapid industrialization process which the country has been undergoing since 1960s.[305] Another factor has been the weakening role and function of the family unit in modern Korean society and the decrease in marriage and fertility rates. Therefore, one of priority policy areas at the start of the 21st century was to restore the importance of the concept of the family both ideologically and physically.[306] In South Korea, international marriages have increased significantly since the 1990s.[307] Since 2000 there has been a significant increase in the number of foreign brides migrating to South Korea. To be

[304] Hyunok Lee, "Political Economy of Cross-Border Marriage: Economic Development and Social Reproduction in Korea" (2012) 18(2) Feminist Economics 177.
[305] Lee (n 76) 1249.
[306] Ibid.
[307] Lee (n 304) 177.

more specific, in 1990 international or cross-border marriages accounted for 1.2 percent of all marriages in South Korea. By 2006 the figure had risen significantly to 13 percent, before falling down to 8 percent in 2016. 80 percent of these international or cross-border marriages are between Korean men and foreign women (many of them from developing countries) with the other 20 percent involving Korean women who are married to foreign men.[308] Previously, most of the foreign brides came from China (both ethnic Koreans and Han Chinese). However, more and more are now coming from Vietnam, the Philippines, Cambodia and Thailand.[309] Since the early 2000s, the South Korean government has promoted the vision of a multicultural society.[310] In 2004 the Framework Act on Healthy Families, was implemented. Its context is laid out as follows: [311]

> Families in Korea made huge contribution to develop and maintain Korean society by carrying out various functions including (biological) reproduction, welfare and human development, but the functions of the family have been undermined as female labour participation increased and the size of the family became smaller and the Korean family experienced chronic functional overload. The weakening (biological) reproductive function and care provision of family has emerged as new social danger. (*Korean Government 2006*)

Besides the welfare policies aimed at maintaining and supporting the family, another issue has risen is that of "family formation". During the 2000s local governments proactively facilitated programmes to encourage marriages by, for example, providing dating services. As part of these programmes, many municipalities implemented bills to support international or cross-border marriages involving local bachelors. It could be argued that the combined effect of these policies was to lead to the introduction of the commercial marriage-brokerage industry in South Korea.

Regarding the policy of 'family formation' or regeneration, marriage migrants play a very important role in renewing the population and in providing care to family members. The needs of the South Korean state which faces the problem of an ageing and dwindling population and

[308] Naomi Chi, "'Growing Pains?': Feminization of Migration and Marriage Migrants in South Korea" (2017) 8(1) Eurasia Border Review (Border and Gender Studies) 109, 112-113.
[309] Ibid 113.
[310] Since 2005 the South Korea government has proposed several social integration policies under the direction of the former president Roh Moo Hyun. The Female Marriage Migrant Family Social Integration and Support Policy (2006), the Foreigners in Korea Fundamental Treatment Law (2007), and the Multicultural Families Support Act (2008) have been enacted.
[311] Korean Government. 2006. Che 1 ch'aKo˘ngangkajo˘ngkibonkyehoek (2006–2010) [The First Five-Year Basic Plan for Healthy Families (2006–2010): Moving Along with Families 2010]. Seoul: Ministry of Gender Equality and Family.

care for the elderly, are ultimately projected on to the requirement for marriage migrants. Hence, the government pays a great deal of attention policies relating to marriage migration,[312] including how to legally define marriage migrants. Marriage migrants appear this, and other laws on family, social integration and immigration are examined in more detail below.

4.2.2 South Korea's Law on Cross-Border Marriages

Marriage is regulated under the Korea Civil Code 2013 (*Chapter 3*).[313] Accordingly, "any adult person may freely enter into a matrimonial engagement"[314]. The age requirement is different under Korean law and Vietnamese law, with the marriageable age in South Korea being 18 years or more for both males and females[315] - whereas in under Vietnamese law it is 20 years for males, but 18 years for females. Regarding the requirement of consent, unlike under Vietnamese law where only the parties' consent to the marriage is necessary, the law in South Korea requires not only the consent of the marrying couples but also the consent of parents or guardian in certain circumstances. On the Article 808, for example, the Civil Code states that a minor must have parental consent(s) to enter into matrimony and that an adult ward must obtain the consent of his or her parents (or adult guardian) to marry. The first part of this provision implies that it is possible for someone between the ages of 16 and 18 to be married in South Korea, as long as parental consent is given. South Korean law also imposes a ban on bigamy.[316]

Article 812 of Korea Civil Code regulates matters relating to the formation of a marriage. It states that a marriage shall only be valid if it complies with the provisions of the Act on Registration of Family Relations.[317] Prior to the marriage ceremony, the marriage couple must submit a notification in writing together with their co-signatures and the signatures of two adult

[312] Kim (n 64) 531.
[313] Korea Civil Code or Korea Civil Act 2013 was enacted by Act No. 11728 on 5th April 2013 and took its effect on 1st July 2013. Its English version can be found at <https://elaw.klri.re.kr/eng_service/lawView.do?hseq=29453&lang=ENG> accessed on 05 July 2020.
[314] Ibid Article 800.
[315] Ibid Article 807. This Article was wholly amended by Act No. 8720 on 21st December 2007.
[316] Ibid Article 810.
[317] Act on Registration of Family Relations was initially enacted by Act No. 8435 on 17th May 2007 and subsequently amended by several versions. The newly amended version was in 2017. Its English version can be found at <https://elaw.klri.re.kr/kor_mobile/viewer.do?hseq=45910&type=part&key=8> accessed on 05th October 2020.

witnesses.[318] Korean nationals who are living abroad can notify their marriage to the Korean Ambassador, Minister or Consul in that country.[319]

The conflict of laws aspect of cross-border marriage formation is ruled in South Korea by Article 36 of the Act on Private International Law of Korea 2001[320] states that the legal requirements for marriage formation shall be regulated by the law of nationality *(lex patriae)* of each party to a marriage. Regarding the law of nationality, the Act also states that if a party has two nationalities or more, the law of the country with which the party has the closest connection is considered to be the law of nationality in cross-border marriages involving Korean citizens.[321] Additionally, the formal validity, including all aspects relating to the ceremony of marriage, is regulated by either the law of the place of marriage or the *lex patriae* (law of nationality) of either of the two parties.[322] However, South Korean law will always be the applicable law in the case where one of the marrying parties is Korean and the marriage is conducted in South Korea.[323] On the question of the governing law concerning the "general validity of marriage", Article 37 of the Act states that this is regulated by any of the following systems of law in descending order of importance: (i) the *lex patriae* of the parties; (ii) the law of the habitual residence of the parties;[324] and (iii) the law of the place with which the parties have the closest connection.

Article 71 of the *Act on Registration of Family Relations (Act No .8435)* of 2007 regulates matters relating to the registration of cross-border marriages in South Korea. Article 71 states that a couple (a Korean and a foreign citizen) can notify and register their marriage at a competent administrative agency in South Korea[325] - normally at the local district office. They can do this by submitting, in-person or via mail, an application together with the required documents such as proof of identity and nationality, proof of current marital status, evidence of consent, and a completed affidavit of eligibility for marriage.[326] Unlike the approach adopted

[318] Korea Civil Code, Article 812(2).
[319] Ibid Article 814.
[320] The Act was enacted on 15th January 1962 and wholly amended by Act No. 6465 on 7th April 2001 and subsequently amended by Act No 10629 on 19th May 2011. It English version can be found at <http://elaw.klri.re.kr/eng_mobile/ viewer.do?hseq=22558&type=part&key=8> accessed on 07th July 2020.
[321] Act on Private International Law of Korea, Article 3(1).
[322] Ibid Article 36(2).
[323] Ibid.
[324] Article 4 of this Act states that if the habitual residence of a party cannot be determined, the law of habitual residence shall be the law of a country where the party resides.
[325] Competent administrative agency includes si (city), gu (district) eup (town) or myeon (ward).
[326] Act on Registration of Family Relations, Article 71. This Act was enacted by the Act No. 8435 on 17th May 2007 and took effect on 1st January 2008. A marriage certificate is normally issued within 7 working days.

under Vietnamese law, Korean law does not require marrying couples to have any interviews when notify and registering their marriage. In South Korea, a marriage certificate is normally issued within 7 working days following the notification. It is also worth noting that in 2014 the South Korean government took measures to tighten administrative controls over marriage immigration. As part of the new controls, the requirements for a spouse visa (F-6) application were revised.[327] Two of the most important revised requirements concern Korean language proficiency and financial capacity migrant spouses. According to the revised measures, the foreign spouse must have a basic level of Korean language, for example passing Test of Proficiency in Korean (TOPIK) at level 1 or relevant language capacity before he or she can be granted an F-6 marriage visa.[328] More importantly, Korean nationals who have foreign spouses must provide evidence of their financial status by meeting "the income requirement based on the number of household members announced annually by the Minister of Justice."[329]

It can be argued that these legislative and administrative measures have, on the whole, brought more clarity and certainty to the law on cross-border marriages in South Korea. The conflict of laws provisions in particular (with their focus on the *lex patria* and '*closest connection*' as the main connecting factors) should be capable of resolving any private international law questions regarding the validity of cross-border marriages, or the formal requirements for the registration of such marriages, in cases where a South Korean citizen is one of the parties to a cross-border marriage.

4.2.3 The "Grand Plan" 2006

On 26 April 2006, the "Grand Plan" was launched in South Korea. The vision of the "Grand Plan" is the "social integration of foreign wives [into South Korean culture] and an attainment of a multicultural society".[330] To implement the "Grand Plan", the Ministry of Gender Equality and Family played a leading role as the major coordinating government department. Other ministries such as the Ministry of Justice, Labour, Social Welfare and Health, as well as local

[327] The full revised requirements can be found at the website of Embassy of the Republic of Korea in the USA (updated 03rd August 2020) at <http://overseas.mofa.go.kr/us-en/brd/m_4502/view.do?seq=707148&srchFr&srchTo&srchWord&srchTp&multi_itm_seq=0&itm_seq_1=0&itm_seq_2=0&company_cd&company_nm&page=1> accessed 06 September 2020.
[328] Ibid.
[329] Ibid.
[330] Timothy Lim, "Rethinking Belongingness in Korea: Transnational Migration, "Migrant Marriages" and the Politics of Multiculturalism" (2010) 83(1) Pacific Affairs 51.

and central government departments were given key roles in the implementation of the "Grand Plan" as well.

There are seven major policies in the "Grand Plan" including (1) regulation of international match-making agencies and protection of foreign wives before entry into South Korea, (2) support for victims of domestic violence, (3) support and orientation for newly arrived foreign wives, (4) support for children of international marriages in schools, (5) providing social welfare to foreign wives, (6) raising social awareness of multicultural issues, and (7) making the comprehensive support system to attain the goals. The "Grand Plan" shows, in principle at least, the importance which the government of South Korea pays to the welfare of foreign wives or marriage migrant women providing protection and support through such a specific programme. Key features of the policy framework for the "Grand Plan", including participating institutions, are summarised in **Table 4.1** (below).

Table 4.1 Major policies of the 'Grand Plan' of 2016

Major Policies		Management	Cooperation
(1) *Regulation of international marriage brokerage agencies and protection of foreign wives before entry to South Korea*	(i) Control of illegal or unregulated activities by marriage brokerage agencies	Ministry of Justice	National Police Agency
	(ii) Legislation to regulate marriage brokerage agencies	Ministry of Social Welfare and Health	
	(iii) Regulation of trafficking in international marriages	Ministry of Justice	MFAT/MGEF/National Police Agency
	(iv) Standardization of marriage visa and emigration process	Ministry of Justice	Ministry of Foreign Affairs and Trade
	(v) Establish a national cooperation system	Ministry of Foreign Affairs and Trade	
	(vi) Provision of information for foreign wives	Ministry of Gender Equality and Family	Ministry of Social Welfare and Health/MFAT
(2) *Support for victims of domestic violence*	(i) Make it difficult for South Korean husband to withdraw identification guarantees for his foreign wife	Ministry of Justice	
	(ii) Make it easy for foreign wives to prove their grounds for divorce (E.g: domestic violence)		
	(iii) Simplifying the application process for South Korean citizenship for divorce foreign wives who have legitimate reasons for divorce		
	(iv) Offering South Korean citizenship or denizenship to children and their mother of unregistered international marriages abroad		
	(v) Protection and support for victims of domestic violence	Ministry of Gender Equality and Family	Ministry of Justice
(3) *Support and orientation for newly arrived foreign wives*	(i) Providing useful information to newly arrived foreign wives	Ministry of Gender Equality and Family	MJ/MGAHA/MIC/ local govt.
	(ii) Support for adaption and settlement applications.		MCT/MEHRD/Ministry of Agriculture and Forestry
(4) *Support for children of international marriages in schools*	(i) Establishing multicultural education and giving support to children experiencing prejudice	Ministry of Education and Human Resource Development	Ministry of Education and Human Resource Development (MEHRD)
	(ii) Offering welfare and counselling services	Ministry of Social Welfare and Health	
(5) *Providing social welfare to foreign wives*	(i) Support to meet minimum living costs and health care	Ministry of Social Welfare and Health	Ministry of Gender Equality and Family
	(ii) Support for child care		MGEF/Ministry of Agriculture and Forestry
	(iii) Providing job information	Ministry of Labour	
(6) *Raising social awareness of multicultural issues*	(i) Publicising governmental policies	MGEF/Ministry of Justice	
	(ii) Promoting a pro-multicultural environment	Ministry of Culture and Tourism (MCT)	MEHRD/MGAHA/local govt.
	(iii) Educating civil servants on multicultural issues	Civil Service Commission/MGEF/Justice	All admin. local govt.
	(iv) Educating social welfare and health care personnel on the Grand Plan.	MSWH/MGAHA/MEHRD/Ministry of Agriculture and Forestry	
(7) *Establishing a comprehensive support system*	(i) Conducting surveys of international marriage families and children	Ministry of Gender Equality and Family	MGAHA/MEHRD
	(ii) Building more centres to support international marriage families		Local govt.
	(iii) Providing translation, counselling, education and voluntary services	MGEF/MSWH	
	(iv) Building a network between central and local governments	Ministry of Gender Equality and Family	

*MCT: Ministry of Culture and Tourism *MGEF: Ministry of Gender Equality and Family *MEHRD: Ministry of Education and Human Resources
*MFAT: Ministry of Foreign Affairs and Trade *MSWH: Ministry of Social Welfare and Health *MJ: Ministry of Justice
*MGAHA: Ministry of Government Administration and Home Affairs *MIC: Ministry of Information and Communication

Source: Presidential Committee on Social Inclusion (2005)

4.2.4 Regulation of Marriage Brokerage Agencies in South Korea

Although commercial marriage brokerage agencies are illegal in many countries including Cambodia, China and Vietnam, it is legally recognised in South Korea. The ground for admitting the role of commercial marriage brokers in South Korea is that this service helps to address a radically declining birth rate together with an ageing labour force in the countryside.[331] The commercial match-making industry plays a very important role in helping local men in South Korea in their search for foreign wives, hence the reason for making these commercial dating services legal in the country. The regulatory framework for commercial match-making agencies in South Korea are is examined in greater detail in the sections below.

4.2.4.1 Marriage Brokerage as A Free Enterprise under South Korean Law

In South Korea, cross-border marriage brokerage agencies began to flourish in the 1990s due to the government policies that were friendly to cross-border marriages. By 1998, marriage brokerage advertisements were common everywhere in the country, using communication media such as newspapers, brochures, and especially street placards.[332] As a result of this advertising campaign, cross-border marriages between South Korean men and foreign wives (mainly from Vietnam and the Philippines) increasingly took place through the intervention of commercial marriage brokerage agencies. As discussed in **Chapter 6** of this thesis, these agencies through their bride recruiting agents in Vietnam play a crucial role in arranging the meeting between the foreign brides and South Korean bridegrooms. The South Korean brokers arrange the initial "marriage tour" during the course of which the South Korean selects the bride, followed by a simple wedding ceremony held in the bride's country.[333] The newly married husband then leaves for South Korea alone and starts the process of applying for a foreign spouse visa on behalf of his wife, with assistance from the marriage brokerage agencies.[334]

Until 1998, the international marriage brokerage agencies were regulated by the old Family Rite Act, which was legislated in 1969. However, this Act subsequently was replaced by the

[331] Lim Chang-Won, "South Korea Regulates Marriage with Foreigners" (*Gma News Online*, 10 April 2014) <https://www.gmanetwork.com/news/news/pinoyabroad/356324/south-korea-regulates-marriage-with-foreigners/story/> accessed 25 January 2019.
[332] (n 76) 1255.
[333] Dong-Hoon Seol, "Migrants' Citizenship in Korea: With Focus on Migrant Workers and Marriage-Based Immigrants", (The International Conference on Human Rights of Migrants and Multicultural Society, National Human Rights Commission of Korea, Seoul, 10-12 November 2008).
[334] Ibid.

new Family Rite Act in 1999. Under the new Act, marriage agencies could be established as a free enterprise with almost no regulation.[335] The increase in the size of marriage brokerage agencies in South Korea has been as a direct consequence of the liberal approach of the law towards the status of match-making agencies, as well as being in direct ratio to the increasing number of international marriages in the country. Due to the high profits to be obtained from successful marriage arrangements, international marriage brokerage agencies in South Korea were often tempted to use improper or unethical means to make marriage brokerage successful. Examples of such improper or unethical methods included providing false background or personal information about the parties to the marriage, forging documents, or bribing the officials, etc. They also used exaggerated claims in pre-dating advertisements, as well as exaggerating in pre-marriage introduction meetings between the bride and groom-to- be the problems associated with family-arranged marriages. These unethical practices by commercial match-making agencies led to an increasing demand for a new law to properly regulate the activities of commercial match-making agencies in South Korea. In response to these concerns and demands, the government introduced a new law in 2007 aimed at reforming commercial marriage brokerage agencies.

4.2.4.2 Legislative Framework: Act on Regulation of Marriage Brokerage Agencies 2007 (Act No. 8688)

The Act on Regulation of Marriage Brokerage Agencies (also known as Marriage Brokers Business Management Act) was enacted on 14 December 2007 and came into force in June 2008 (known as Act No. 8688).[336] There have been subsequent revisions in 2010 and 2012. The main aim of the Act is to regulate the marriage brokerage business by ensuring that it is run on an ethical basis and to protect its users, thereby contributing to creating a sound marriage culture.[337] In February 2005, South Korean Congressman Kim Chun-Jin initiated the law in an effort to deal with "the increasing abuses and exploitations caused by disguised marriages, scam marriages, and [the propagation of] false information as the result of increasing

[335] Shim (n 142) 210.
[336] The Act was enacted on December 14, 2007 and went into effect on the date six months after its announcement. Its English version can be found at <http://www.moleg.go.kr/english/korLawEng?pstSeq=52 867&search Keyword=Labor+standards+Act&searchCondition=AllBut+CsfCd&brdSeq=33&pageIndex=35> accessed on 01 February 2019.
[337] The Act No 8688, Article 1.

international marriages".[338] According to Act 8688, a "marriage brokerage business means any business of arranging marriages in exchange for fees, membership dues, or other money or goods".[339] There are both domestic and international marriage brokers in South Korea. The "international marriage brokerage business" denotes any business of arranging marriages between persons of South Korean nationality and foreign nationals.[340] Regarding cross-border marriages, this research will mainly focus on how an *international marriage brokerage* business is formed and goes in to operation in accordance with law in South Korea.

Since December 2007, any individuals or businesses wishing to conduct international marriage brokerage must register their business with respective municipal governments in South Korea. Under the Act, a person who intends to engage in an international marriage brokerage business shall, after undergoing professional and ethical training as required under Article 24 and meeting other necessary conditions, file a registration with the head of a Si (city)/Gun (county)/Gu (district) "having jurisdiction over the place in which the person intends to set up the brokerage office."[341] The head of Si/Gun/Gu shall issue a registration certificate to any person who registers the international marriage brokerage business.[342] The head of a Si/Gun/Gu is required by the Act to publish the current status of a registered international marriage business on its Internet homepage on a regular basis.[343]

The Act also stipulates several categories of people and businesses who are disqualified from engaging in an international marriage brokerage business. For example, a minor, a mentally incompetent person under adult guardianship, a person adjudicated bankrupt and not yet reinstated, or a person in whose case 2 years have yet not elapsed since being released from prison. Moreover, anyone convicted of specific crimes relating to human trafficking or arranging fraudulent visa applications for foreigners may not register until 3 years after serving their sentence. Furthermore, anyone who have lost their registration in the past for violating the marriage brokerage law are not eligible for re-registration for a period of 3 three years after

[338] Hyun-Mee Kim, ""Integration for Whom?": Marriage Migrant Women Policies in Korea and Patriarchal Imagination", (The International Conference on Human Rights of Migrants and Multicultural Society, National Human Rights Commission of Korea, Seoul, 10-12 November, 2008).
[339] The Act No 8688, Article 2(2).
[340] Ibid Article 2(4).
[341] Ibid Article 4(1).
[342] Ibid Article 4(2).
[343] Ibid Article 4-2.

the disqualification. Businesses will not be permitted to register if it is found that they have employed any individuals who have been blacklisted for any of the aforementioned reasons.[344]

In addition, any individuals or businesses performing marriage brokerage in (bride) source countries (such as Vietnam) must abide by that country's laws, protect the personal information of its clients (data protection), and are prohibited from conducting false or discriminatory advertising.[345] Moreover, South Korean brokers are "prohibited from working with local business partners who would be otherwise prohibited from working in marriage brokerage under South Korean law".[346]

The main features of Act 8688, as amended by several subsequent Acts, are summarised in **Table 4.2** below (relevant amendments have been identified in the footnote references for the table).

[344] The Act No. 10301, 17 May 2010, amended on 22 March 2013, Articles 6 (1-7).
[345] Ibid Article 11.
[346] Ibid Article 14-2 (3).

Table 4.2 Regulations in brief on international marriage brokerage business in South Korea under the Act No. 8688 and its latest amended versions

Main Regulations (requirements for marriage brokerage registration)		**Detailed Provisions/Penal Provisions (2017)**	**Current Provisions/Penal Provisions (after amendments)**
Mandatory Requirements	Education and training for marriage brokerage *(Article 4 and Article 24)*		
	Fulfil necessary requirements: a building registration, insurance policy, guarantee deposit, a brokerage office, etc. *(Article 4),* hold at least 100 million won in capital for each brokerage office and retain the capital continuously after the registration *(Article 24-3)*[347]	The registration shall be cancelled if there is failure to buy a guarantee insurance policy or to make a deposit at a financial institution *(see Article 18*)	If an international marriage broker fails to meet requirements for registration, the head of the relevant Si/Gun/Gu shall revoke his/her registration *(see Article 18)*[348]
	Register international marriage brokerage business *(Article 4)*	Imprisonment for **up to 3 years** or a fine **up to 20 million won** shall be applied to a party who made a false registration or made such registration through any other wrongful method, or does not file a registration or continues to do the business regardless a closure order *(see Article 26(1))*	Imprisonment with labour for **not more than 5 years** or by a fine **not exceeding 50 million won** shall be applied to any person who is registered by fraud or other wrongful means; without being registered, or continues operations despite shutdown measure taken. *(see Article 26(1))*[349]
	Register any subsequent changes *(Article 4)*	A fine for negligence of **up to 3 million won** will be imposed for failure to comply with this requirement *(see Article 28(1))*	A fine **not exceeding 3 million won** shall be imposed *(see Article 28(1))*
	Display tables of marriage brokerage fees, memberships fees, etc., registration certificate, and other relevant matters at easily noticeable spots within his/her brokerage office AND	A fine for negligence of **up to 1 million won** will be imposed for failure to comply *(see Article 28(2))*	A fine **not exceeding 1 million won** shall be imposed *(see Article 28(2))*

[347] Wholly amended by Act No. 13177, 03 February 2015.
[348] Amended by Act No. 11672, 22 March 2013; Act No. 13177, 03 February 2015.
[349] Amended by the Act No. 11283, 01 February 2012.

	his/her web site if he/she operates a web site *(Article 8)*		
	Obtain and provide personal information (including evidential documents) of a user to the other party so that they know about each other. The personal information includes: Marital history, health conditions, occupation, criminal records, and other matters prescribed by the law of the other party's citizenship *(Article 10-2)*[350]		Imprisonment with labour for **not more than 3 years** or by a fine **not exceeding 20 million won** shall be applied to any person who fails to provide personal information, omits significant matters, or provides false personal information on purpose. *(see Article 26(2)*[351]
	Provide interpretation and translation services to help a user and the other party communicate smoothly *(Article 10-3)*[352]		
	Have responsibility to compensate for damages in case they incur a loss to users either intentionally or through negligence in the course of performing marriage brokerage *(Article 25)*	In case of failure to buy a guarantee insurance policy or to make a deposit at a financial institution in violation of Article 25, the registration shall be cancelled *(see Article 18(1)(16))*	If an international marriage broker fails to purchase surety insurance, the head of the relevant Si/Gun/Gu shall revoke his/her registration *(see Article 18)*[353]
Prohibitions	Not to allow others to use their name or trade name and perform marriage brokerage OR LEND their registration certificate *(Article 9)*	Imprisonment for **up to 2 years** or a fine **up to 10 million won** shall be applied in violation of Article 9 *(see Article 26(2))*	Imprisonment with labour for **not more than 3 years** or by a fine **not exceeding 20 million won** shall be applied *(see Article 26(2)*[354]
	Not to recruit or broker candidates for international marriage by fraud or wrongful means; collect illegitimate fees, membership		

[350] Amended by Act No. 14405, 20 December 2016.
[351] Amended by the Act No. 11283, 01 February 2012.
[352] Newly inserted by Act No. 10301, 17 May 2010.
[353] Amended by Act No. 11672, 22 March 2013; Act No. 13177, 03 February 2015.
[354] Amended by the Act No. 11283, 01 February 2012.

	dues, or money and other valuables *(Article 10-5)*[355]		
	Not to advertise in a false or exaggerated manner; or encourage discrimination or prejudice on the grounds of nationality, races, sex, age, occupation, etc., or to cause human trafficking or infringement of human rights; Not to provide false information to users in arranging marriages and no person other than a marriage broker shall advertise the marriage brokerage *(Article 12*)	Imprisonment for **up to 2 years** or a fine **up to 10 million won** shall be applied in violation of Article 12 *(see Article 26(2))*	
	In arranging marriages, not to introduce a person under 18 years-old; or introduce 2 other parties or more to a user at the same time; or introduce 2 other parties or more to 2 or more users simultaneously or sequentially in the same place on the same date; have 2 or more foreigners lodge in the same place for the purpose of marriage brokerage *(Article 12-2)*[356]		
	Not to provide or reveal to a third party private information acquired during the course of performing marriage brokerage against the users' intent, nor use such information for purposes other than marriage brokerage *(Article 13)*	Imprisonment for **up to 2 years** or a fine **up to 10 million won** shall be applied in violation of Article 13 *(see Article 26(2))*	

(Source: The Researcher – adapted and summarised from the Act No. 8688)

[355] Newly inserted by Act No. 11283, 01 February 2012.
[356] Ibid.

By examining the Act on Regulation of Marriage Brokerage Agency of South Korea, there are 3 main points to focus on.

- What are the legal requirements for international marriage brokers in South Korea? Furthermore, what is the applicable law for regulating commercial marriage brokerages given that the latter are also required under South Korean law to abide by the laws of any foreign country in which they have operations?
- Secondly, what are the penalties for breach of these requirements?
- And thirdly, how can the operation and management of international marriage brokerage business be made more effective?

Firstly, as part of being granted legal recognition under the law in South Korea, commercial marriage brokerage businesses have an obligation to meet certain legal requirements in order to operate. To begin with, the establishment status of the international marriage brokerage agencies has changed from a free enterprise system with no regulation to a regulated registration system. Under the current system, the international marriage broker has to register their business with the competent head of a Si/Gun/Gu who will then issue a registration certificate to them.[357] Without registration, a marriage broker will be subject to penalties which include fines and possible imprisonment, as highlighted in **Table 4.2** above. To register successfully, the marriage broker has to meet some essential requirements. For example, he/she has to hold at least 100 million Korean Won[358] in capital for each registered brokerage office and retain the capital continuously after the registration.[359] Moreover, under Enforcement Decree of the Act on Regulation of Marriage Brokerage Agency[360], it is provided that any international marriage broker intending to make a registration under Article 4 of the Act shall purchase surety insurance which covers 50 million Korean Won or more.[361] If there is a branch office(s), 20 million Korean Won shall be added for each branch office.[362] Before the expiration date of the guarantee policy, the marriage broker shall purchase another surety insurance.[363]

[357] The Act No. 8688, Article 4.
[358] £1 = 1,525 Korean Won.
[359] Article 24-3, wholly amended by Act No. 13177, 03 February, 2015.
[360] This Decree known as Presidential Decree No. 20815 went into effect on 11 June 2008. Its English version can be found at <http://www.moleg.go.kr/english/korLawEng?pstSeq=52856&searchKeyword=Labor+stand ards+Act&searchCondition=AllBut+CsfCd&brdSeq=33&pageIndex=34> accessed on 15 February 2019.
[361] Ibid Article 6.
[362] Ibid.
[363] Ibid.

The purchase of surety insurance is required in order to guarantee compensation in the event of liability for harm or damage caused to users in arranging marriages.

A further question which arises is: what is the applicable law for regulating the operations of commercial marriage brokerage businesses in South Korea? Article 11 (1) of the Act No. 8688 requires that "where an international marriage broker engages in international marriage brokerage in a foreign country, he/she shall comply with this Act, and the applicable criminal statutes and administrative statutes of the foreign country."[364] This means that both the Law in Korea and the law (criminal or administrative) of the country where it conducts international marriage brokerage may regulate an international marriage brokerage agency. Assuming that there is a South Korean-based international marriage brokerage agency called **A** which is performing its match-making practice abroad in Vietnam. Under Article 11(1) of Act No. 8688, the operation of **A** must comply with the law in South Korea (because **A** registered its business in South Korea) and simultaneously conform to the laws of Vietnam where the match-making activities are taking place. In other words, both the law of Vietnam and South Korean law could be the applicable law to regulate the match-making operations of **A**.

It is worth noting that Article 11(1) does not mention at all about the possibility of a conflict of laws between the laws of another jurisdiction and South Korean law on this matter. This raises the question: will a cross-border marriage conducted through such match-making activities of **A** be considered valid? Certainly not in Vietnam where commercial marriage brokerage is illegal. But what about under South Korean law? Or will it depend on where the marriage was conducted (i.e. application of the law of the place of marriage registration, the '*lex loci celebrationis'*)?

It is also worth noting that Vietnamese brides are increasingly choosing to register their marriages in South Korea.[365] This is because of the ban on commercial matchmaking agencies in Vietnam. From a conflicts of laws point of view, this raises the question as to what happens if the marriage breaks down and the women return to Vietnam. How will the Vietnamese legal system address the question regarding the initial validity of the marriage? By following the choice of law rule, Vietnamese courts should apply Korean law to all aspects concerning the

[364] The Article was latest amended by Act No. 11672 on 22 March 2013.
[365] For example, data from Provincial Department of Justice in Hau Giang province and in Can Tho City of the Mekong Delta region showed that majority of local brides in these two areas register their cross-border marriage in South Korea rather than in Vietnam. (Please see Table 6.14 – 6.17 of this thesis).

formal and essential validity of the marriage because the marriage took place in Korea. But it remains to be seen if this will be the approach taken by Vietnamese courts when such cases are brought before them, and if they will be prepared to grant divorce petition to returning Vietnamese women from broken down cross-border marriages. A longer-term solution to the conflict of laws problem could be the legalisation of commercial matchmaking agencies in Vietnam. This forms one of the recommendations proposed in the final chapter of this thesis.

It is worth pointing out that both international marriage broker's users (who directly use the marriage brokerage services) and the other party (bride/husband-to-be) (who indirectly use the marriage brokerage services) are protected by the Act. The protection of users is the main reason why the Act requires international marriage brokers to buy surety insurance to compensate for any loss suffered by a user in connection with marriage brokerage.[366] Details relating to marriage brokerage fees, membership's fees, registration certificate number, etc. must be made public at the brokerage office and its website if any.[367] The marriage broker is not allowed to collect illegitimate fees, membership dues, whether in the form of money or other valuables.[368] To protect the users, the Act provides detailed regulations on a marriage brokerage contract, which is made between the marriage broker(s) and the user(s). Accordingly, the contract must be in writing[369] and must include details such as: matters relating to fees, membership fee; refund of fees; marriage broker's liability for reparations; terms of the service provided by the broker; and other matters.[370] The main objective of the Act is clearly to prevent unprofessional or fraudulent brokerage practices. Thus, the marriage broker is liable to provide users with complete information together with a full explanation. Accordingly, the match-making provider must state accurate information on matters mentioned in a marriage brokerage contract, and shall not make *two or more* contracts with different contents.[371] When concluding a written marriage brokerage contract, marriage brokers shall provide an authentic translated copy in a language the users can understand.[372]

In respect of private information obtained during the course of marriage brokerage, the international marriage broker is under a legal obligation to collect and provide *correct* personal

[366] Article 25(3) of the Act No. 8688, amended by Act no. 10301, 17 May 2010; Act No. 14060, 02 March 2016.
[367] Article 8 of the Act No. 8688.
[368] Article 10-5, newly inserted by Act No. 11283, 01 February 2012.
[369] Article 10 of the Act No. 8688.
[370] Ibid, Article 10(2).
[371] Ibid, Article 10(4).
[372] Enforcement Decree of the Act on Regulation of Marriage Brokerage Agency of 2008, Article 3(1).

information of its user to the other party and vice versa. The data protection requirements relate to personal information such as marital history, health conditions, occupation, criminal records, and other relevant matters.[373] Such information has to be translated into the preferred language of its user to make sure that the user understands it correctly. These regulations are very important for users as it enables them to make an informed decision as to whether they should get married with somebody based on the background details provided. At the same time, the Act also protects them by stating that their personal information shall not be revealed to a third party without their consent.[374] Moreover, the marriage broker must not, simultaneously or sequentially, introduce two or more parties to one user in the same place or on the same date.[375] This regulation prevents marriage broker from arranging bride group selection where there is only one man who is given the opportunity to choose a bride-to-be from among a group of women. However, it is evident that there were many international marriage brokers in South Korea breached this provision by organising bride group selection tours in Vietnam for South Korean men. For example, two brides who participated in the interviews with the researcher *(Interview 14 and Interview 9)* revealed that they met their husbands through a bride group selection tour held in Ho Chi Minh City of which each man selected a wife from among a group of 3-6 women.

Regarding the second main question posed above, there are relevant penalties imposed for illegal actions which violate the provision of the Act. Various penalties are applied such as suspending the international marriage brokerage business, revoking the registered certificate, shutting down the office[376], a fine[377], or even imprisonment for serious offences[378] (*see* **Table 4.2**, above). The highest fine is up to 50 million Korean Won and the toughest sentence can be up to 5 years in prison for the most serious violations of the Act. The increase in penalties for wrongdoings in contravention of the Act over the years (in the form of several amendments since the time the Act was enacted) serves as an indication that the South Korean government has a serious intention to ensure that the international marriage brokerage business operates properly, ethically and effectively, while staying within the law. Newly inserted articles in the subsequently amended versions of this Act provide more comprehensive regulations

[373] Article 10-2, amended by Act No. 14405, 20 December 2016.
[374] Article 13 of the Act No. 8688.
[375] Article 12-2, newly inserted by Act No. 11283, 01 February 2012.
[376] Article 19 of the Act No. 8688.
[377] Ibid Article 26.
[378] Ibid.

(particularly in relation to penalties for infringements) on the operations of international marriage brokerage businesses.

Finally (and in addressing the third question raised above), one of most innovative regulations on international marriage brokerage business in South Korea is that the Minister for Gender Equality and Family is required to conduct fact-finding surveys every 3 years regarding international marriages, including matters such as the operating conditions of the international marriage brokerage businesses, and "any harm or damage to users caused by international marriage brokerage, and publish the results thereof."[379] This point is very helpful because by conducting fact-finding surveys, the governemnt can measure the effectiveness of international marriage brokerage businesses and by publishing the results, it promotes accountability and transparency. Furthermore, the published results can become a good source for further research (possibly leading to improvements) in this area. Additionally, South Korea takes another approach to assessing the effectiveness of international marriage brokerage businesses by requiring international marriage brokers to submit annual reports. An international match-making provider shall annually report the outcomes from its brokerage activities to the Head of the relevant Si/Gun/Gu.[380] When conducting an inspection, the Head of a relevant Si/Gun/Gu can either require a match-making provider to submit requisite documents or reports or even make a request to public officials to pay a visit to relevant brokerage offices.[381]

Act 8688 was enacted with the primary aim of regulating the cross-border marriages in South Korea, given the increasing number of such marriages since the year 2000. However, commercialised matchmaking agencies have taken advantage of their recognition under the Act and have thrived due to the high profits they make from commercial marriage brokerage, which in turn has resulted in the violation of human rights in the course of cross-border matchmaking. Under the Act, domestic match-making agencies are managed through the reporting system while international match-making agencies through the registration system in order to minimize human rights violations. The reason for the latter (more rigorous) approach is because the foreign parties involved in international marriages are more easily subject to coercion and exploitation, in particular through the trafficking of women. However, over time the Act has its limitations in preventing and eliminating human right abuses throughout the match-making procedures of international marriage brokerage agencies. Among concerns

[379] Article 2-2 of the Act No. 8688.
[380] Article 15(2), newly inserted by Act No. 11283 on 01 February 2012.
[381] Article 15(1), amended by Act No. 10301 on 17 May 2010.

raised have been the following: operating unfavourable refund policies, providing misleading or false information of future spouses, and breaches of data protection through leakage of personal information. The main problems can be summarized as follows: client complaints related to excessive fees and hidden penalties (e.g. for failing to attend an appointment); issues relating to failure to comply with the regulations on standardized brokerage agreements and contracts; and the need to provide professional training to match-making agencies on the legal, regulatory and ethical procedures for conducting their operations.

To solve the problems will require a progressive development of the law through legal reforms aimed in particular, at the following: ensuring the use of professional interpreters by international match-making agencies as a mandatory requirement; increasing the amount of surety under the guarantee deposit and insurance schemes; and improving transparency by publishing the names of defaulting agencies.

4.2.5 Basic Act on the Treatment of Foreigners Residing in the Republic of Korea 2007 *(Act No. 8442)*

The Basic Act on the Treatment of Foreigners Residing in Korea[382] (hereafter referred to as Basic Act) was enacted in 2007 and aimed to provide basic principles and a comprehensive framework of policy for the "social integration" of foreigners residing in South Korea.[383] The purpose of the Basic Act is to stipulate the normative provisions concerning the treatment of foreigners in the country, to help foreigners in to adjust well into South Korean society in order to realise their full potential, and to create a society where South Koreans and resident foreigners understand and respect each other with the aim of contributing to the socio-economic development of South Korea based on the foundation of the social integration.[384]

The Basic Act provides important regulations on how the country should treat foreigners who are residing in South Korea. One of the most important provisions is that the Minister of Justice, in consultation with Chief of the Government Administration, should establish basic plans for foreigners in South Korea every 5 years.[385] Moreover, the Basic Act makes provision for the protection of human rights of foreigners in South Korea. In its Article 10, it is stated that:

[382] The Act No. 8442 was enacted on 17 May 2007 and amended by Act No. 21214 on 31 December 2008.
[383] Ki-Ha Kim, "Role of Law for Social Integration: Policy for Foreigners Staying in Korea" (2008) 106 Justice, 218-237 (Korean).
[384] The Act No. 8442, Article 1.
[385] Basic Act on the Treatment of Foreigners Residing in the Republic of Korea, Article 5.

Article 10 (Safeguarding Human Rights of Foreigners in Korea)

National, municipal, and local governments shall make efforts such as conducting educational programs public communication activities and whatever activities are deemed proper and necessary to prevent unreasonable discrimination against foreigners in Korea or their children and to safeguard their human rights.

The Basic Act also provides support aimed at promoting and facilitation the social adaption of foreigners to South Korean society,[386] support of marriage migrants and their children[387], treatment of permanent residents[388], refugees[389], and professional foreigners[390], etc. It states:

Article 12 (Treatment of Immigrants by Marriage and Their Children)

(1) By providing Korean language education to immigrants by marriage and educational support about institutions and culture of Korea, national, municipal, and local government may assist the immigrants by marriage and their children in adjusting themselves to Korea, including support for child care and education to the children of immigrants by marriage.

(2) The provision of Section 1 shall also apply to the foreigners in Korea who raise children born out of the common-law marriage to Koreans and to their children.

In an effort to create a welcoming atmosphere where South Koreans and migrants respect each other's culture and traditions, the Act seeks to promote a proper understanding of multiculturalism based on social inclusion.[391] Additionally, 20th of May is designated as the annual multicultural "Together Day", with the subsequent week designated as a "Together Week".[392]

By considering all these regulations together from the perspective of foreign brides (including Vietnamese brides) in South Korea, it can be argued that there have been legislative attempts by the South Korean government to provide some support for migrant brides and their children in what the lawmaker acknowledges is a multicultural society which seeks to promote cultural diversity. The law therefore strives to respect and protect the human rights of migrant brides, although in practice this legislative aspiration is not always successfully implemented (as seen from the various instances of abuse narrated by interview participants (Vietnamese brides) as part of the primary data analysis in **Chapter 6**). The Act is nonetheless significant in that it is

[386] Ibid Article 11.
[387] Ibid Article 12.
[388] Ibid Article 13.
[389] Ibid Article 14.
[390] Ibid Article 16.
[391] Ibid Article 18.
[392] Ibid Article 19.

the first South Korean law which is specifically aimed at promoting the social integration of multicultural families. Even so, it has been criticised by Young-Hee Shim[393] because it was supposed to be a comprehensive law covering *all* foreigners in South Korea (including marriage migrants, permanent residents, refugees, professional foreigners, etc.) but its focus over the years has mainly been on marriage migrants. Thus, the social integration which it seeks to promote has been very limited in its scope.

4.2.6 Multicultural Families Support Act 2008 *(Act No. 8937)*

With rapid immigration to South Korea in recent decades, politicians, lawmakers and commentators have emphasised the need for the country to embrace ethnic and cultural diversity. The Support for Multicultural Family Act was therefore enacted on 21st March 2008 (revised in 2017) as a response to the increasing number of international marriage migrants. It was designed to aid migrant women in creating social and family support networks. The Act provides the legal basis for making policies and programmes on multicultural families. It also aims at providing a broad social service platform to migrant women and their children, in order to realize the principles declared in the Basic Act. Its main provisions include raising social awareness of multicultural issues,[394] supporting and orienting newly arrived foreign wives in South Korea,[395] providing support for equal family relationships,[396] supporting victims of domestic violence,[397] promoting policies aimed at providing pre- and post-natal health care,[398] support for children of international marriages in schools,[399] providing multi-language services to foreign wives,[400] and the establishment of Multicultural Family Support Centres.[401]

The Multicultural Family Support Centre (MFSC) was established following the passing of the Act to serve as an avenue for accessing and providing community support for international marriage migrants.[402] The main aim of MFSCs is to make a contribution to improving of the quality of life of multi-cultural family members and the cohesion of society by assisting them

[393] (n 142) 213.
[394] Multicultural Families Support Act 2008, Article 5.
[395] Ibid Article 6.
[396] Ibid Article 7.
[397] Ibid Article 8.
[398] Ibid Article 9.
[399] Ibid Article 10.
[400] Ibid Article 11.
[401] Ibid Article 12.
[402] Emely D. Dicolen and Nicamil Sanchez, "Multicultural Family Support Centres (MFSCs) in South Korea: Promoting Harmony and Cultural Integration" (2016) 5(2) International Journal of Education and Learning 57.

to enjoy stable family relations.[403] As of 2018, there were 217 MFSCs in operation in South Korea.[404]

The basic functions of MFSCs include the provision of different educational activities and programmes such as group education (on family, gender equality, human rights, social integration, etc.), Korean language education, support with initial stages of settlement on South Korean society, counselling services, information services, and translation and interpretation services for marriage immigrants as well as support for language skills development of the children of marriage immigrants. A key aim of the programme is to help these families adapt well to South Korean society. The support programmes are various, ranging from language to counselling (*see* **Table 4.3**, below).

[403] Article 1 of the Act No.8937.
[404] 2018 Guidebook for Living in Korea by the Ministry of Gender Equality and Family < https://www.liveinkorea.kr/portal/USA/board/mlgd/boardView.do?boardSeq=14&menuSeq=3700> accessed 04 March 2019.

Table 4.3 MFSC programmes listed in the 2018 Guidebook for living in South Korea by the Ministry of Gender Equality and Family

Programmes	Contents	
	Required	**Elective (Example)**
Family	- Programme to promote a bilingual environment for multicultural families - Information on school admission for multicultural families with school-age children	- Family communication programme - Family relations improvement programme - Understanding marriage and the family - Meanings and roles of family members - Education for fathers - Programme to improve parent-child relations and build confidence - Programmes for education of children - Education on roles of parents and healthcare of children - Education on life of children, etc.
Gender Equality	- Education for spouses and couples	- Programme for immigrant women - Programme for immigrant women and spouses
Human Rights	- Education to understanding multiculturalism - Education to improve awareness of human rights	- Laws and institutions applicable to multicultural families - Immigrants and human rights
Social Integration	- Basic education for job seekers - Job seekers are registered on Worknet that is linked with the eSaeil system and connected with the Saeil Centre - Close cooperation for job opening training courses for married immigrant women at Saeil Centre (curriculum development, recruitment, etc.)	- n/a
	- Education for multicultural family volunteer groups - Multicultural family volunteer activities	- Education for consumers and education on money management - Operation of and linkage with learning support classes (classes for entrance qualification examination, etc.) - Self-support communities of multicultural families - Improvement of multicultural awareness - Mentoring programmes for marriage immigrants, etc. - Support E:E for each stage of settlement for married immigrants (choice of future planning programmes such as Future Seeking, Route Seeking, etc.) * Mandatory programmes: Support for Healthy Family and Comprehensive Services for Multicultural Family
Counselling	- Family counselling	- Counselling for individuals - Group counselling - Case management - Psychological tests - Emergency support for families in crisis - Linkage with external counselling organizations

(Source: The 2018 Guidebook for living in South Korea)

It is submitted that the concept of MFSCs in South Korea represents an institutional framework for providing important community-based support for multicultural families, including the families of Vietnamese brides. The MFSCs' programmes and services can contribute to promoting family and social harmony together with cultural integration. This is because the programmes and services of MFSCs have the potential to contribute towards increasing the knowledge of international marriage migrants, especially females, on South Korean language and culture, which can in turn improve their relationship with their husbands and in-laws.[405]

[405] Dicolen and Sanchez (n 402) 57.

Social support for migrant women in South Korea is conceptualised as life-cycle services including early years of migration, family forming stage (life-cycle 1); pregnancy, and birth stage (life-cycle 2); child-raising stage (life-cycle 3); and finally, entering the labour market stage (life-cycle 4). Migrant women, regardless their background and aspirations are offered a service in line with each life cycle.[406]

Based on the legal and institutional framework, it can be said that the South Korean government has established a good legal foundation for protecting the basic human rights of migrant wives and their families and to promote their overall well-being.[407] However, as the findings of the primary data analysis involving interviews with some of the Vietnamese brides who are married to South Korean men indicate, the services provided under South Korean law are not always available to all marriage migrants. Quite often, those who need such services the most are not even aware of their existence, particularly foreign women who are victims of trafficking, domestic abuse or who have since become illegal immigrants because of the failure of their marriages and their inability to renew their visas.

4.3 Taiwanese Law Relating to Cross-Border Marriages

4.3.1 Overview

As of 2018, Taiwan officially known as the Republic of China, is a sovereign state recognised by a small number of states. Some states regard the government of Taiwan as a representative of the Chinese people, rather than as the government of an independent sovereign state separate from China.[408] The question as to whether or not Taiwan is an independent country or a part of the mainland China is a purely political question and does not form part of this thesis. In this research, the laws of Taiwan on cross-border marriages are therefore examined independently from the law of China. The main issues of this section are to examine how marriage brokerage activities are regulated under Taiwanese law together with the question of the legal protection given to foreign brides (if any) under Taiwanese law.

[406] Nansook Park, "Experience of Migration and Multicultural Policy in Korea", (The International Conference on Human Rights of Migrants and Multicultural Society, National Human Rights Commission of Korea, Seoul, 10-12 November 2008) (Korean).
[407] Meejung Chin and others, "Family Policy in South Korea: Development, Current Status, and Challenges" (2012) 21 Journal of Child and Family Studies 53.
[408] Kimutai Gilbert, "Countries That Recognize Taiwan" (World Atlas, 29 May 2018) < https://www.worldatlas.com/articles/which-countries-recognize-taiwan-as-a-country.html> accessed 02 April 2019.

In late 1990s to early 2000s, Taiwan attracted a significant number of marriage migrants mainly from Southeast Asia, including Vietnam and China. The increase in immigrant wives in Taiwan was partly as a result of the country's immigration and foreign investment policies.[409] In 1992, Taiwan implemented the Employment Service Act to import Southeast Asian workers to deal with the labour shortage in Taiwan, leading to an open door for workers from Southeast Asian countries.[410] In addition to this, there was the 1993 "Go South" policy of Taiwan which encouraged foreign investment in Southeast Asian countries especially Indonesia, the Philippines and Vietnam.[411] It was around this time that commercial match-making agencies for mediating cross-border marriages between Taiwanese men and women from Southeast Asian countries started to appear.[412] In the early 1990s, Indonesia became the primary source of "foreign brides" recruited by Taiwanese commercial marriage brokers for Taiwanese men. However, after the Taipei Economic and Trade Office in Indonesia slowed down the processing of visas to reduce the number of Indonesian brides in Taiwan, the brokers turned to Vietnam and Cambodia as alternative sources for young brides[413], and by the start of the new millennium the focus was increasingly on the Mekong Delta region of Vietnam. The process of recruiting brides from the Mekong Delta region of Vietnam for Taiwanese men has intensified since the year 2000, leading to the increasing involvement of illegal commercial match-making agencies on the Vietnamese side.[414]

4.3.2 Taiwan's Law on Cross-Border Marriages

Matrimonial relationship between Taiwanese nationals is governed under Taiwan's Civil Code.[415] The Code stipulates that "an agreement to marry shall be made by a woman and a man of their own concord".[416] "The minimum age for engaging in a pre-marriage contract (betrothal or engagement) is 15 for women and 17 for men".[417] Under Article 980 of the Civil Code, the legalised age for marriage is 18 years of age for men , whereas it is 16 years of age for women.

[409] Wang and Chang (n 8) 95; Bélanger and others (n 207) 91.
[410] Cing-Kae Chiao, "Employment Discrimination in Taiwan". In Roger Blanpain, Hiroya Nakakubo and Takashi Araki (Eds), *New Developments in Employment Discrimination Law* (New York: Wolters Kluwer Law and Business 2008) 175-231.
[411] Xiangming Chen, "Taiwan Investments in China and Southeast Asia" (1996) 36(5) Asian Survey 447.
[412] Hsiao-Chuan Hsia, "Empowering "Foreign Brides" and Community Through Praxis-Oriented Research" (2006) 1 Societies Without Borders 93.
[413] Ibid.
[414] *See* Chapter 6, Section 6.3.3 of this thesis.
[415] The most recent amendments of Taiwan Civil Code were enacted on 19th June 2019. Its full content can be found at < https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=B0000001> accessed on 15 August 2020.
[416] Taiwan Civil Code, Article 972.
[417] Ibid Article 973.

Unlike Vietnamese law under which a minor is not eligible to marry, Taiwanese law allows a female minor from 16 years of age to conclude a marriage. However, the consent of the minor's statutory agent is required by law before the minor can enter into a marriage.[418] Regarding the formalities of marriage, the signatures of two or more witnesses are required, and the marriage must be registered at the Household Administration Bureau.[419] Taiwanese law also prohibits bigamy and polygamy.[420] Also prohibited are marriages between blood relatives (consanguinity), or between two parties who are related by marriage or by lineage (affinity).[421]

Regarding the establishment of a cross-border marriage under Taiwanese law, the Act Governing the Choice of Law in Civil Matters Involving Foreign Elements [422] states that:

> **Article 46**
>
> The formation of a marriage is governed by the national law of each party. However, a marriage is also effective if it satisfies the formal requisites prescribed either by the national law of one of the parties or by the law of the place of ceremony.

This Article provides a choice of laws rule to govern applicable law for a cross-border marriage formation in Taiwan. As is the case with South Korean law, Taiwanese law also refers to the law of nationality *(lex patriae)* of each party as the law governing the requirements for a cross-border marriage formation. By "the national law", the Act also further explains that in a case where a party has at least two nationalities, the national law is the law of the country with which the party has the closest connection.[423] Beside the national law of each party, the applicable law which govern the formation of a cross-border marriage in Taiwan is the law of the country in which the marriage is celebrated or in which the marriage ceremony takes place (*lex loci celebrationis*).

[418] Ibid Article 974 and Article 981.
[419] Ibid Article 982.
[420] Ibid Article 985.
[421] Ibid Article 983.
[422] The most recent amendments of Act Governing the Choice of Law in Civil Matters Involving Foreign Elements of Taiwan were enacted on 26th May 2010. Its full content can be found at <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=B0000007> accessed on 15 August 2020.
[423] Act Governing the Choice of Law in Civil Matters Involving Foreign Elements of Taiwan, Article 2.

Regarding the effect of a cross-border marriage relationship in Taiwan, Article 47 of the Act refers to three applicable laws, one of which can be applied to govern the validity of a marriage. The law of nationality common to the couple is given priority, followed by the *lex domicilii* (law of domicile) common to the parties, and lastly the law of the place with which the matrimonial relationship is closely connected. The details are stipulated in Article 47 as follows:

> **Article 47**
>
> The effect of a marriage relationship is governed by the national law common to the spouse; in the absence of a common national law, by the law of the domicile common to them; in the absence of a common law of domicile, by the law of the place most closely connected with the marriage relationship.

The approach that Taiwanese lawmakers adopted on the matter of validity of a marriage can be compared to a similar approach employed under the law of South Korea. The only difference is that if the national law is not the same for the marriage parties, the Korean approach refers to the law of the spouses' habitual residence, while Taiwanese law prefers applying the law of domicile (*lex domicilii*).

Under Household Registration Act, a cross-border marriage between a Taiwanese national and a foreign national can be registered under the Marriage Registration process at one of the Household Registration offices.[424] To register their marriage, the marriage parties must make an application, including the required documents such as proof of identity and nationality, marital status, and the foreign spouse's full declaration to adopt a Chinese surname.[425] Taiwanese law does not require interviewing marrying couples to verify their marriage as was previously the case under Vietnamese law. However, "if necessary, the household registration offices or the competent authorities are empowered to ask related authorities to verify the marriage and check any documents that prove the marriage".[426]

[424] Article 4 and Article 9 of Household Registration Act. The Act was lately amended on 21st January 2015. Its English version can be found at <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0030006> accessed on 07th August 2020.
[425] Under the Taiwan Name Act, amended on 20th May 2015, if a Taiwanese national marries an alien or stateless person, the foreign spouse and all children, must take a Chinese-language name (Chinese surname) that conforms to the conventions practiced in Taiwan (Article 1). More details on documents required for Marriage Registration in Taiwan can be found at < https://www.ris.gov.tw/app/en/3051> accessed on 08th August 2020.
[426] Ibid Article 33.

Regulations in Taiwan have also focused on immigration control and the prevention of fraudulent marriages and human trafficking. A visa interview system was introduced in Taiwan in 2010 for applicants from the list of selected countries (including Vietnam, Indonesia, the Philippines and Thailand) who wish to marry Taiwanese citizens.[427] This means that a foreign spouse of a Taiwanese national may be asked to attend one or even more than one visa interview (if necessary) in person at a Taiwanese diplomatic mission[428] before they can join their Taiwanese spouses by a Join Family Resident Visa.[429] Due to the new measures, approximately 30% of visa applications involving Vietnamese-Taiwanese cross-border marriages were refused in Vietnam, and applicants are required to wait for another three months before they can make another visa application following a rejection.[430]

4.3.3 The Taiwanese Government's Response to Marriage Migrants Phenomenon

In 2003, the rate of transnational marriages in Taiwan reached their peak, with almost 30 percent of marriages involving a foreign spouse.[431] In response to the cross-border marriage phenomenon and debates among the public on the issue, the Ministry of the Interior of Taiwan conducted a large-scale nationwide survey in 2003 to investigate the social and family situation of foreign brides in Taiwan. Since then, the Taiwanese Government has proposed 56 social integration polices aimed at "supporting and guiding foreign spouses to adapt to Taiwanese society".[432] These policies covered eight areas of importance such as "language learning, residency, local customs, employment, public health and hygiene, the upbringing and education of children, personal safety and basic rights".[433] Among those policies, one of the most significant programmes was the launching of free and widely accessible "Language Learning"

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[427] Guidelines for the Ministry of Foreign Affairs and Diplomatic Missions of the Republic of China (Taiwan) Regarding Interviews with Foreigners Applying for Entry into Taiwan on the Basis of Marriage to ROC Citizen. The guidelines were promulgated on 9th June 2010 and amended on 25th October 2013. Its full content can be found at <https://www.boca.gov.tw/cp-160-267-2dd9e-2.html> accessed on 8th August 2020; Angelea Tsai and Sofia Wu, "Fraudulent Marriages Create Problems For Immigration Control: NIA" (*Taiwan News*, 18th April 2013) <https://www.taiwannews.com.tw/en/news/2199819> accessed 8th August 2020.

[428] Ibid (Guidelines).

[429] Prior to 1999, Taiwan's representative office in Ho Chi Minh City (Vietnam) required Vietnamese intermarriage-related visa applicants to undergo face-to-face interviews. In 1999, the face-to-face interview requirement for Vietnamese brides-to-be was replaced by a "group presentation" requirement. The face-to-face interview requirement for Vietnamese brides was reinstated on 04th January 2005 by the Taiwanese government after the increasing social and legal problems related to Vietnamese-Taiwanese marriages.

[430] Tsai and Wu (n 427).

[431] Hong-Zen Wang, "Hidden Spaces of Resistance of the Subordinated: Case Studies from Vietnamese Female Migrant Partners in Taiwan" (2007) 41 International Migration Review 706; Hsun-Hui Tseng, "Gender and Power Dynamics in Transnational Marriage Brokerage: The Ban on Commercial Matchmaking in Taiwan Reconsidered" (2015) 15 Cross- Currents: East Asian History and Culture Review 108.

[432] Taiwanese Ministry of the Interior 2003.

[433] Ibid.

and "Life Support" classes for foreign spouses.[434] These classes and workshops, funded by the Taiwanese government and run by local government departments, were aimed at enabling migrant brides to study Mandarin Chinese as well as to adjust to Taiwanese society and culture.

Another policy which was introduced by the Taiwanese Government to deter "fake marriages" and "human trafficking" was the requirement for face-to-face interviews for all family reunion visa applicants. A pilot project was first implemented in 2003 to interview spouses from the Chinese mainland in-person when they arrived in Taiwan. This then became an official policy in Taiwan in 2004.[435] In January 2005, the Ministry of Foreign Affairs started to apply the same policy to spouses from Southeast Asian countries such as Vietnam, Cambodia, Indonesia, Thailand, the Philippines and Myanmar.[436] However, the face-to-face interview policy and process have been criticized by some commentators for exhibiting elements of racial, gender and class prejudice.[437] The accusation of racial bias is based on the fact that this policy is only applied to specific countries rather than all counties. On the question of gender bias, the interview required that only the foreign brides should speak Mandarin but not that Taiwanese men should speak the language of their wife. Regarding class bias there has been evidence to suggest that immigrants who are considered to belong to the "underclass" (i.e. without economic or "cultural" capital) are excluded from entry into Taiwan. For example, one officer in the Taipei Economic and Cultural Office in Ho Chi Minh City said that "if the applicants are engineers or civil servants, we have no trouble issuing them the visa".[438] It is for this reason that young brides from rural areas of the Mekong Delta of Vietnam with poor educational attainment are increasingly turning to illegal commercial match-making agencies who can provide false information about their educational background or status for their visa application.

In 2006, the Taiwanese Ministry of the Interior, together with the Ministry of Education, enacted further policies regarding support to school age children from cross-border marriage families. Besides offering free Chinese language and literacy classes as well as life adjustment

[434] Eva Chian-Hui Chen, "Taiwanese-Vietnamese Transnational Marriage Families in Taiwan: Perspectives from Vietnamese Immigrant Mothers and Taiwanese Teachers" (DPhil thesis, University of Illinois at Urbana-Champaign 2011).
[435] Hong-Zen Wang and Mei-Hua Chen, "Discourses on Non-Conforming Marriages: Love in Taiwan" (2017) 26 International Journal of Japanese Sociology 52, 56.
[436] Mei-Hua Chen, "The 'Fake Marriage' Test in Taiwan: Gender, Sexuality, and Border Control" (2015) 4(2) Cross-Currents: East Asian History and Culture Review 496.
[437] Wang and Chen (n 435) 57.
[438] Ibid 57.

course to immigrant mothers, the government characterised their children as one of the "under-privileged" groups. The benefits of belonging to this group is that the children from cross-border marriage families are able to attend after-school programmes offered by public elementary schools free of charge (rather than having to pay tuition fees). Schools are also required under this policy to organise parent-child workshops, normally consisting of two-day events during weekends. During these sessions, immigrant mothers and their children are encouraged to participate in learning how to "enhance" the quality of mother-child interactions.[439] Another response from the government has been through institution-building by the establishment of centres offering support services to foreign spouses and their families besides the development and promotion of multiculturalism curricula in collaboration with schools.

4.3.4 Commercial Marriage Brokerage in Taiwan

Before 2008, commercial marriage intermediaries played a very important role in the rise of cross-border marriages in Taiwan.[440] In their role as marriage brokers between foreign female migrant partners and Taiwanese men, the number of agencies had increased rapidly due to the lucrative earnings from arranged marriage activities, creating a booming industry.[441] In 2008, after coming under increasing pressure from some women's groups in Taiwan and criticism from anti-trafficking and human rights campaigners in the international community, the Taiwanese government was forced to impose a ban on cross-border commercial match-making. However, the ban divided opinion in Taiwan between those oppose it (commercial marriage brokers) and those in favour of it (women's groups).

Why did Taiwan decide to ban profit-oriented marriage brokers even though they were legally recognised before 2008? After the news of the booming marriage brokering business in Southeast Asia brides as well as the rapid rise in marriage migrant inflows into Taiwan started being reported regularly in the mass media, it attracted critical attention from the public. Concerns about social problems related to foreign spouses such as domestic violence and prostitution resulting from failed cross-border marriages started to be raised. International organisations such as the United Nations and several domestic non-profit organisations linked these problems to trafficking in women. Many women's rights groups in Taiwan believed that

[439] Chen (n 434).
[440] Wang and Chang (n 8) 93.
[441] Ibid 101.

the for-profit marriage brokerage businesses were the main cause behind the exploitation and trafficking of migrant brides.[442] Finding itself under increasing domestic and international pressure the government of Taiwan had to take actions to change its policies as well as to pass laws regulating cross-border marriages and the role of commercial match-making agencies in arranging such marriages.

In 2004, Taiwan took steps to incorporate marriage brokerage into its business registration management system. Initially, the government chose to regulate the business of commercial cross-border match-making rather than banning it. The government's perspective was that if the business is registered under the management system, the government could easily monitor its operations. However, this official recognition of commercial match-making brokerage as a legal business in Taiwan received the objection from many women's rights groups who advocated an outright ban on the business due to its profit-oriented nature, and the devaluing women as commercial objects or commodities. In addition to this, Taiwan also faced mounting pressure from international human rights organisations. For instance, in 2006 the American Trafficking in Persons (TIP) Report, placed Taiwan on Tier 2 watch list for its failure to show evidence of increasing efforts over the past year to address trafficking, despite having the resources to do so. It further called on the Taiwanese government to address the serious problems of forced labour among legally migrating contract workers, as well as the sexual exploitation and servitude suffered by foreign brides, many of them from Southeast Asian countries (including Vietnam). The 2006 Report stated that:

> Taiwan is primarily a destination for men, women, and children trafficked for forced labour and sexual exploitation. Women from the P.R.C. and Southeast Asian countries are trafficked to Taiwan for sexual exploitation and forced labour. Women and children, primarily from Vietnam, are trafficked to Taiwan through the use of fraudulent marriages, deceptive employment offers, and illegal smuggling for commercial sexual exploitation and forced labour.

As a result of continuing and strong feminist advocacy in Taiwan and international human rights organisations, the law in Taiwan was once again changed. Noticeably, Taiwanese Prime Minister Su Tseng-Chang also confirmed that "marriage is originally a good thing and should not be commercialized". In 2006, the business registration of marriage brokerage activities was annulled. In September 2007, a newly amended immigration law, which took its effect on 01 August 2008, was passed to prohibit commercial match-making agencies and advertisement of

[442] Inés Crosas Remón, "Migrant Brides in the Matchmaking Industry: Blurring the Binaries" *United Nations University* (18 May 2016) <https://unu.edu/publications/articles/migrant-brides-in-the-matchmaking-industry-blurring-the-binaries .html> accessed 24 April 2019.

foreign brides.[443] Any company or a firm or any individual engages in cross-border marriage match will be imposed a fine[444] up to NT$ 1 million.[445] Commercially arranged marriages for mainland Chinese spouses were also prohibited according to the amended Immigration Act. Consequently, registered brokering companies were forced to close down, leaving only not-for-profit match-making organisations in practice.[446] Furthermore, no advertising of match-making services is permitted.[447] As a non-profit organisation, service providers (including match-making services) are not allowed (by law) to demand any form of payment from clients in return for the services rendered.[448] Additionally, to avoid being shut down, the existing match-making companies were required to transform their business into non-profit ones within one year.[449] The effect of these new policies is that in 2008 commercial marriage brokerage activities effectively became illegal under Taiwanese law.

The change in Taiwan's policies from regulation of commercial marriage brokerage business to their complete ban in 2008 is believed to be a breakthrough in efforts by the state to regain control of cross-border marriages by freeing them from the stranglehold of commercial agents pursuing a profit motive.[450] However, the question remains as to whether an outright ban is the right response? Will this measure help to stop women trafficking through commercially arranged marriages as well as provide better human rights protection to migrant brides in Taiwan? These questions are addressed in the sections which follows.

4.3.5 Is the Ban on Commercial Marriage Brokerage Firms the Right Solution?

As a result of the ban imposed on commercial marriage brokerage in 2008, advertisements for "foreign brides" can no longer be posted in the streets and alleys of Taiwan as previously. Under the new provisions of the emended Immigration Law a fine between NT$ 100,000 and NT$ 500,000 will be imposed on anyone who tries to "disseminate, broadcast or publish advertisements for transnational marriage agencies".[451] Additionally, over 400 registered

[443] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 58; HZW, "MOI Bans Commercial Foreign Marriage Brokers" Taiwan Today (31 July 2009) <https://taiwantoday.tw/news.php?unit=10%2C23%2C45%2C10&post=15587> accessed 21 June 2019; "Taiwan Curbs Foreign Bride Firms" BBC News (01 August 2009) <http://news.bbc.co.uk/1/hi/ 8179359.stm> accessed 21 June 2019; Tseng (n 431) 110.
[444] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 76.
[445] £1 = NT$39.3.
[446] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 59.
[447] Ibid Article 58.
[448] Ibid Article 58.
[449] Ibid Article 61.
[450] HZW, "MOI Bans Commercial Foreign Marriage Brokers" *Taiwan Today* (31 July 2009) <https://taiwantoday.tw/news.php?unit=10,23,45,10&post=15587> accessed 24 April 2019.
[451] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 78.

matchmaking firms were shut down, and just 41 non-profit-making organisations are allowed to engage in cross-border matchmaking operation.[452]

On reviewing the ban on commercial brokering practice in Taiwan, there is evidence to suggest that the prohibition does not seem to be solving the many problems which migrant brides still encounter, nor has it succeeded to substantially decrease the demand for match-making services. First of all, although the proportion of marriages between Taiwanese men and foreign wives fell sharply after the ban in 2008, the number of foreign-born spouses has since increased and number remains significant.[453] Secondly, there are many cases in which commercial match-making agencies have simply changed their location in response to the ban, or continued their activities in a different or covert form.[454] For example, migrant brides can be advised to go to other countries such as South Korea or Singapore where commercial marriage brokerages are legal and less strictly controlled, and then make use of the overseas offices of Taiwanese brokerages located in these countries. This so-called "walk-in brides" way of conducting the match-making business is even more favoured as it cost less.[455] For example, it has led to Vietnamese brides proactively seeking out match-making agencies through online and social media platforms, unlike before the ban when agencies had to approach Vietnamese women through recruitment activities in the countryside and rural areas of Vietnam such as the Mekong Delta region.[456] Moreover, many of the current non-profit matchmaking organisations in Taiwan simply changed the form or name their businesses (from "company" to "association", for instance) to get around the ban and retained their previous business model which consisted of cooperating with local marriage brokers.[457] Last but not least, matchmaking organisations are still looking for ways to earn money such as changing their system of charging fees to avoid the accusation of profit making.[458] For instance, clients (Taiwanese bachelors) who are seeking foreign brides for marriage are routinely required to pay local matchmakers for miscellaneous *expenses* as soon as the marriage tour group arrives in the country of the bride-to-be.[459] In this situation, the clients have no way of knowing if the costs (expenses) have been reasonably

[452] Tseng (n 431) 127; Remón (n 442).
[453] Gavin W. Jones, "International Marriage in Asia: What Do We Know, and What Do We Need to Know?" (2012) Asia Research Institute Working Paper Series No.174.
[454] Yi-Han Wang, "Matchmaking Marriage, Mediating Adaption!? Exploring the Matchmaking Services of Non-Profit Transnational Marriage Agents in Taiwan" (2013) 17 Social Policy and Social Work 39-108.
[455] Yeoh and others (n 127) 233.
[456] Ibid.
[457] Tseng (n 431) 127; Remón (n 442).
[458] Tseng (n 431) 127.
[459] Ibid 127.

incurred, or whether or not they are genuine. In other words, although the brokers no longer ask clients to pay package services as previously, the total amount of the costs that a client has to pay for brokerage services remains seemingly unchanged compared to the fees before the ban on commercial brokerage practices in Taiwan.[460]

Therefore, many scholars have raised questions concerning the wisdom of banning commercial matchmaking while non-profit-oriented brokerage services are still encouraged.[461] As has been the case in Vietnam, the ban on the profit-making marriage brokerage in Taiwan is unlikely to solve the problems associated with cross-border marriages, nor does it substantially decrease the demand for match-making services. The measure is more likely to lead the match-making businesses being driven underground where they will remain unmonitored, with potentially serious consequences. If profit-seeking match-making agencies are forced to operate in secret, this could make foreign brides in Taiwan even more vulnerable. The International Organization for Migration (IOM) has advocated that the preferable solution is a regulatory approach (as before), with the added requirements that agencies should be liable for providing inaccurate information to their clients, rather than an absolute ban on commercial matchmaking agencies.[462] The seemingly contradictory positions held by domestic and international advocacy groups, some in favour of an outright ban and some (such as the IOM) against such a ban, in itself points to the complex nature of the problems associated with marriage migration.

4.3.6 Non-Profit Brokering Cross-Border Marriages

The Immigration Act of Taiwan was promulgated on 21 May 1999. The Act was then amended on 26 December 2007 (effective from August 1st 2008). Its current version is the Immigration Act of 2015. Under the current Immigration Act (amended in 2016)[463], it is stated that:

> **Article 58 Transnational marriage match shall not be an operating item**
>
> Transnational marriage agencies shall not demand [financial payment] or contractual remunerations.
>
> No person shall disseminate, broadcast or publish advertisements of transnational marriage agencies through advertising, publication, broadcast, television, electronic signalling, internet or other means that can make the advertisement publicly known.

[460] Ibid.
[461] Amanda Wei-Zhen Chong, "Migrant Brides in Singapore: Women Strategizing within Family, Market, and State" (2014) 37(2) Harvard Journal of Law & Gender 331; Tseng (n 431) 108.
[462] Hye-kyung Lee, *Background Paper WMR 2010: Family Migration Issues in North-East Asia* (IOM International Organization for Migration 2010) 12.
[463] The Immigration Act was enacted on 23 January 2015 and latest amended by Ministry of the Interior on 16 November 2016. Its English version can be found at <https://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?media=print&pcode= D00 80132> accessed 08 April 2019.

The lawmakers in Taiwan have taken a multi-dimensional approach to tackling the problems caused by cross-border marriages, compared to their counterparts in South Korea. In Taiwan, only non-profit transnational marriage agencies are allowed. Accordingly, both commercial matchmaking services and transnational marriage match advertisements are banned in Taiwan whereas commercial marriage brokerage services are legally recognised in South Korea. Taiwanese law prohibits matchmaking agencies from offering their services for profit or demanding compensation for what they do. A fine between NT$ 200,000 and NT$ 1 million shall be imposed for each incident which is deemed to be a violation of this provision.[464]

Under Article 59 of the Taiwanese Immigration Act, it is added that the operations of non-profit transnational marriage agencies shall be certified by the National Immigration Agency (NIA), which is part of the Ministry of Interior. Only foundations and non-profit institutions can apply to the NIA for approval to engage in cross-border match-making activities. The requirements for an application for NIA permission include a completed application form, service plan and procedures, source of income and expenditure budget, service locations, staff list and salary, written standard contracts for clients and other considered relevant to the promotion of cross-border match-making service.[465] Any marriage broker found to be operating illegally will have its license revoked. In case a person engages in cross-border match-making *without* permission or *after* the permission is revoked or repealed, he/she shall be subject to a fine of a minimum of NT$ 100,000 to a maximum of NT$ 500,000.[466]

Regarding the obligations of non-profit match-making agencies, they shall submit their reviews of their activities to the NIA regularly.[467] They also shall retain all data and information on their business for a period of 5 years. They shall not avoid, obstruct or refuse inspections conducted by the NIA.[468] Additionally, a transnational marriage agency is obliged to verify the content of the information provided by clients and to keep such information confidential. A violation of any of these obligations shall be subject to a fine between NT$ 30,000 and NT$ 150,000.[469]

[464] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 76.
[465] Regulations Governing Juridical Persons and Non-Profit Juridical Associations Brokering Transnational Marriage dated on 21 August 2015, Article 4. Its full English version can be found at <https://law.moj.gov.tw/ENG/LawClass /LawAll.aspx?pcode=D0080168> accessed 08 April 2019.
[466] The Taiwanese Immigration Act 2007 (amended 16 November 2016), Article 78(2).
[467] Ibid Article 59(1).
[468] Ibid Article 59(2).
[469] Ibid Article 80.

To sum up, Taiwanese lawmakers' perspective has changed from legally recognised the operation of the cross-border marriage brokerage in 2004 to a complete prohibition in 2008, making only non-profit cross-border marriage agencies currently legal in Taiwan. The measures taken by Taiwanese government is very different from South Korea's which consistently considered commercial transnational match-making agencies as legal businesses. The next section of this research will examine the approach employed by China regarding cross-border match-making agencies.

4.4 Chinese Law on Cross-Border Marriages

4.4.1 Historical Background

Marriages arranged by parents were the norm under traditional Han Chinese society where the purpose of marriage was to establish a communal relationship between two families, not a private relationship between two married persons.[470] Traditional ideas about marriage in China were based on the idea that marriage was first and foremost a contract between two independent corporate groups. Thus, the choice of marriage partners was always viewed as a family matter, and not a matter of individual; or personal choice. Parents held the ultimate power of expressing their own views on their children's marriage. Thus, the parents from both families were those who made decisions on marriage rather than the married couple. This is because in the Han perspective, a good marriage should include establishing good in-law relations, increasing the family labour force, finding a lifetime partner, and bringing up children under the canopy of the extended family. Marriages were therefore arranged by the parents so as to yield the greatest benefit to the extended family, rather than to the married couple. This traditional attitude was based on the view that a decision about marriage was too important to be left to two people who were not seen to be mature or experienced enough.[471] It was not even unusual for the bride and groom not to be consulted before the engagement, but simply to be informed and to be introduced to each other shortly before the wedding.

When Japan colonized China in 1895, the colonial administration retained this marriage custom.[472] The colonial the civil law stipulated that men under 30 years old and women under the age of 25 had to obtain consent from the head of the household to marry, normally the

[470] Wang and Chen (n 435) 54.
[471] Ibid 53.
[472] Peter Duus, Ramon Hawley Myers and Mark R Peattie (eds), *The Japanese Informal Empire in China, 1895 – 1937* (Princeton University Press, 1989) 159-306.

father[473] who plays a dominant role in a family. This again shows that the parties to a marriage lacked the capacity to freely express their own choice, but had to rely on the goodwill of their parents who had the power to veto the marriage requests of their children if they so wished.

The enactment of a new marriage law on 1st May 1950 by the regime of Mao Zedong marked a turning point in the Chinese perspective to marriage relations.[474] Inspired by the revolutionary socialist ideology which had taken hold in China, the law was believed to have signalled a radical change from the existing patriarchal Chinese marriage traditions.[475] The law stipulated that marriages should be based on the freedom to choose partners, on monogamy, on gender equality, and on the legal protection of women and children.[476] The Marriage Law of 1950 banned many of the feudal practices associated with traditional marriages including forced and arranged marriages, multiple wives (polygamy) and concubinage, marriages involving children or minors, the sale of sons or daughters for marriage purposes, the traditional obligation to pay bride-price[477], and giving women the right to divorce.[478] Under the new law monogamy was strictly enforced while adultery was severely punished.[479] The most noticeable reform can be said to be the ban on marriages by proxy. Both parties had to consent to a marriage in person, and not be represented by someone else.[480] Under the new law, the registration system allowed officials to reject marriages that were found to be forced, or if one of the parties was found to be a victim of human trafficking, if one of the parties was a child or a minor, children and infants, and marriages based on engagements arranged or imposed by patriarchs. [481]

Although forced and arranged marriages was prohibited under the Mao era, the fact remained that in China's countryside there were very few opportunities for potential couples to meet and to date because of the traditional lifestyle. Therefore, parental introductions and family intermediaries continued to play a major role in arranging marriages.[482] Moreover, with

[473] Wang and Chen (n 435) 54; "To Be Imperceptibly Influenced by What One Constantly Sees and Hears" (*Taiwan Daily News*, 20 May 1925).
[474] For the full content of the Law, *see* Yuan Yuan, "The Origins of The Chinese Communist Party's Early Marriage Laws" (2017) Senior Projects Spring 2017, 223 <https://digitalcommons.bard.edu/senproj_s2017/223/> accessed 14 August 2019.
[475] Xu Xiaohe and Martin King Whyte, "Love Matches and Arranged Marriages: A Chinese Replication" (1990) 52(3) Journal of Marriage and the Family 709, 714.
[476] The Chinese Marriage Law 1950, Article 1.
[477] Ibid Article 2.
[478] Ibid Article 17.
[479] Ibid Article 26.
[480] Ibid Article 3.
[481] Ibid Article 6.
[482] Neil J. Diamant, "Re-Examining the Impact of the 1950 Marriage Law: State Improvisation, Local Initiative and Rural Family Change" (2000) 161 *The China Quarterly* 171-198.

increasing industrialisation there was an emerging trend where factory workers were often required to obtain permission from their employers before they could get married. Under the socialist inspired system, marriages were often arranged by neighbourhood committees and work committees rather than by parents. However, it could be argued there was some element of personal choice as Chinese workers were able to identify potential mates in their community or work place prior to seeking the approval of the authorities. Ironically, Mao himself is known to have married three times and the first marriage was an arranged forced marriage[483] even though arranged marriages were banned as feudalistic and divorce was discouraged.

The second marriage law in China was passed in 1980 and took effect in 1981. [484] Its main legislative features were that it took a more liberal attitude to divorce and reinforced the one-child policy. As part of the drive for increasing modernisation, marriage between Chinese and foreigners was legalised in 1983, as well as inter-racial marriages.[485] There were further amendments in 2003 to aim at prohibiting any form of cohabitation involving a married couple with an unmarried person. The objective of this policy was to curb the re-emergence of the traditional practice of concubinage, mainly in urban centres.[486] The 1980 Marriage Law *(at Article 3)* forbids "mercenary marriages" in which a bride price or dowry is paid and also reinforced the ban on "exaction of money or gifts in connection with marriage". This, by implication, means that commercially arranged marriages were prohibited under the new Chinese Marriage Law. This is not surprising and can be said to in line with new Maoist philosophy inspired by socialism. The 1980 Marriage Law was modified in 2001 due to the social changes stemming from the rapid pace of economic and industrial development.

The one-child policy was introduced in China in 1979.[487] One of the reasons for its introduction (apart from China's rapidly growing population)[488] was that the Confucian preference for male

[483] "Tang Wei: Chairman Mao's Relationships" (*The Telegraph*,13 May 2011) <https://www.telegraph.co.uk/news/worldnews/asia/china/8512567/Tang-Wei-Chairman-Maos-relationships.html> accessed 26 August 2019.
[484] The Marriage Law 1980 went into effect on 01st January 1981. For the full content of the 1980 Law, *see* "China's New Marriage Law" 1981 Population and Development Review 7(2) 369-372 <https://www.jstor.org/stable/1972649?seq=1#metadata_info_tab_contents> accessed 28 September 2019.
[485] Chihua Wen, "For Love or Money" (*China Daily*, 04 April 2010) <http://www.chinadaily.com.cn/cndy/2010-08/04/content_11091992.htm> accessed 29 May 2019.
[486] Ibid.
[487] Katrin Kuntz, "China's 200 Million Singles Are A Big Business" (*Spiegel Online*, 03 August 2018) <https://www.spiegel.de/international/world/the-matchmakers-china-s-200-million-singles-are-a-big-business-a-1221127.html> accessed 24 May 2019.
[488] Junsen Zhang, "The Evolution of China's One-Child Policy and Its Effects on Family Outcomes" (2017) 31(1) The Journal of Economic Perspectives 141, 144.

children had led to the practice of sex-selective abortions and female infanticides.[489] Confucianism fostered a deeply patriarchal and misogynistic society which viewed girls as less desirable than boys. The unfortunate consequence of this was a rise in the practice of female infanticides at home in many families in China. The nation's one-child policy was strictly implemented from 1950 until 2015. However, the decades-long one-child policy resulted in a huge gender imbalance in China.[490] According to China's National Bureau of Statistics, in 2011, the national sex ratio at birth in China was 117.78.[491] This means that approximately 118 baby boys were born to every 100 baby girls although the normal ratio should range between 103 and 107 based on the global pattern.[492] Consequently, China has been facing "the most serious and prolonged"[493] gender imbalance in the world, leaving many Chinese men without Chinese wives. It has been estimated by the year 2020, China will have 30 million single Chinese men of marriageable age,[494] while projections suggest that more than a quarter of Chinese men in their late 30s will never have married by 2030.[495] The one-child policy was relaxed in 2016 through the introduction of a two-child policy, thereby relaxing decades of family planning controls. However, its legacy persists in the form of a highly distorted gender imbalance in the Chinese population with an excess of males of marriageable age. This in turn had led to a high demand for foreign brides, which is fuelling the trafficking of women and girls most often from Southeast Asian countries such as Cambodia, Laos, Myanmar, and

[489] Xie Z, "Regarding Men as Superior to Women: Impacts of Confucianism on Family Norms in China" (1994) 11(6) China Population Today 12; Monica Daw Gupta, Jiang Zhenghua, Li Bohua, Xie Zhenming, Woojin Chung and Bae Hwa-Ok, "Why Is Son Preference So Persistent in East and South Asia? A Cross-Country Study of China, India and the Republic of Korea" (2003) 40(2) The Journal of Development Studies 153, 154.

[490] Therese Hesketh, Li Lu and Zhu Wei Xing, "The Consequences of Son Preference and Sex-Selective Abortion in China and Other Asian Countries" (2011) 183(12) CMAJ 1374 < https://www.cmaj.ca/content/183/12/1374> accessed 25 November 2019; Matt Blomberg, "Families Ties Thwart Cambodia's Efforts to Tackle Bride Trafficking to China" (*The Japan Times*, 22 February 2019) <https://www.japantimes.co.jp/news/2019/02/22/asia-pacific/social-issues-asia-pacific/family-ties-thwartcambodias-efforts-tackle-bride-traffickingchina/#.XO_f_IYhKiUk> accessed 30 May 2019.

[491] Cited in Keira Lu Huang, "Illegal Chinese Cross-Border Matchmakers Flourish as Demand Grows" (*China Insider*, 12 November 2013) <https://www.scmp.com/news/china-insider/article/1354390/illegal-chinese-cross-border-matchmaker s-flourish-demand-grows> accessed 12 April 2019.

[492] Ibid.

[493] Xavier Symons, "China's Gender Imbalance "Most Serious and Prolonged in The World"" (*BioEdge*, 24 January 2015) <https://www.bioedge.org/bioethics/chinas_gender_imbalance_most_serious_and_prolonged_in_the_world_government/11292> accessed 28 October 2019; Vishal Narayan, "China Facing "Most Serious And Prolonged" Gender Imbalance in the World" (*The Citizen*, 22 January 2015) <https://www.thecitizen.in/index.php/en/NewsDetail/index/7/2260/China-Facing-Most-Serious-And-Prolonged-Gender-Imbalance-in-The-World> accessed 28 October 2019.

[494] Kate Hodal, ""I Hope You're Ready to Get Married": In Search of Vietnam's Kidnapped Brides" (*The Guardian*, 26 August 2017) <https://www.theguardian.com/global-development/2017/aug/26/ready-marriedkidnapped-bridesvietnam-china> accessed 24 May 2019.

[495] Rob Budden, "Why Millions of Chinese Men Are Staying Single" (*BCC*, 14 February 2017) <http://www.bbc.com/capital/story/20170213-why-millions-of-chinese-men-are-staying-single> accessed 06 June 2019.

Vietnam.[496] For example, over 7,000 Cambodian women have been trafficked to China and forced into marriage in one year alone, the government said in 2016.[497] However the real figures are likely to be much higher, not only for Cambodians but even more so for Vietnamese women, due to many cases which go unreported every year.

4.4.2 China's Law on Cross-Border Marriages

Under the current marriage law in China (i.e. Marriage Law of 1980), the freedom of choice and consent of the married parties are respected. It is stated that the current marriage system is based on the free will of the parties, on monogamy and on gender equality.[498] Neither party may use compulsion to pressurise or induce the other party, nor can a third party interfere with the free will of the parties.[499] Overall, the current marriage law of China seeks to uphold the principle of personal choice by allowing the parties autonomy in making their own marriage decisions without the interference of any third party such as family members, employers, or match-making agencies. The Marriage Law of 1980 also bans bigamy or any "exaction of money or gifts in connection with marriage."[500]

Under the current marriage law in China, the legal age for marriage for women at 20 years-old, and 22 for men.[501] Compared with other countries in the Southeast Asia region, the marriageable age in China is higher for both male and female. Despite the gender imbalance, Chinese women face intense societal pressure (from family and their peers) to be married before the age of 28, otherwise they may be rejected and stigmatised as "leftover women".[502] A 'leftover woman' in modern Chinese society is defined as a single woman who is no longer considered a desirable marriage partner (and therefore 'unmarriageable') by virtue of being 28 years of age or over.[503] However, it is not clear how the figure of 28 years became the threshold.

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[496] Qian Jinghua and Fan Yiying, "It's Complicated: Chinese Millennials and Marriage" *Sixth Tone* (04 August 2018) <http://www.sixthtone.com/news/1002717/its-complicated-chinese-millennials-and-marriage> accessed 30 May 2019.
[497] Blomberg (n 490).
[498] The Chinese Marriage Law 1980, Article 2.
[499] Ibid Article 2.
[500] Ibid Article 3.
[501] Ibid Article 5.
[502] Brook Larmer, "The Price of Marriage in China" *The New York Times* (9 March 2013) < https://www.nytimes.com/ 2013/03/10/business/in-a-changing-china-new-matchmaking-markets.html> accessed 29 May 2019.
[503] Marie Tulloch, "China: From Local Marriage Markets to A Global Wedding Industry" (*Emerging Communications* 07 June 2018) < https://www.emergingcomms.com/china-from-local-marriage-markets-to-a-global-wedding-industry/> accessed 10 November 2019.

On the question of cross-border marriages, Article 147 of General Principles of the Civil Law of the People's Republic of China states that a marriage between a Chinese and a foreigner "shall be bound by the law of the place where they get married." [504] This means that if a foreigner intends to marry someone in China, Chinese law shall be applied to govern all aspects of their marriage (including marriage formality and validity of a marriage) regardless the nationality of the foreign spouse. This approach adopted under Chinese law is very different from that of other jurisdictions (Taiwan, South Korea, Vietnam) which normally refer to the national law of each party.

Other aspects of cross-border marriages involving Chinese nationals are regulated by the Regulations on Control of Marriage Registration of China,[505] which state that a marriage between a Chinese national and a foreigne citizen can be registered with the international marriage registration authorities in the province where the Chinese national has their residence registration.[506] The marrying couple must attend the marriage registration together (in person). The documents required for the registration include proof of identity, residential status, marital status (affidavit of single status) and pre-marital medical reports.[507] Unlike Vietnamese law, Chinese law does not require the marrying couple to have interview when they register their marriage with a marriage registration authority. However, when a foreign spouse wishes to apply for a family reunion visa to join his or her Chinese spouse in China, he or she may be required to undergo an interview with a consular officer if necessary.[508]

4.4.3 The Legal Status of Cross-Border Matchmaking under Chinese Law

As in most other societies, the match-making tradition has been part of Chinese society for a long time. It goes back more than two thousand years, to the first marriage brokerage practices of the imperial Zhou dynasty. The main goal of marriage brokerage activities in traditional Chinese society was to match families of equal stature and economic status, as this was seen to

[504] General Principles of The Civil Law of The People's Republic of China was adopted on 12th April 1986 and came into force on 1st January 1987. Its English version can be found at <http://www.asianlii.org/cn/legis/cen/laws/gpotclotproc555/> accessed on 10th August 2020.
[505] Regulations on Control of Marriage Registration was enacted on 12th January 1994. Its English version can be found at <http://www.china.org.cn/living_in_china/abc/2009-06/24/content_18007155.htm> accessed 10th August 2020.
[506] Ibid Article 2 and Article 9.
[507] Ibid.
[508] Under Chinese law, a foreigner spouse can apply for a Q1 visa to go to China for family reunion if he or she intends to stay more than 180 days in China, or they can apply for a Q2 visa if they intend to stay for less than 180 days. Further details on visa matter can be found at <http://cs.mfa.gov.cn/wgrlh/lhqz/lhqzjjs/t1095035.shtml> accessed on 09th August 2020.

be for the long-term benefit of society. However, the concern in modern Chinese society has been that modern matchmaking has become too commercialised and is more focused on profit-making, rather than having a genuine intention to serve the whole society as was the case in the past.[509]

Regarding commercial matchmaking policy, China has adopted an approach which identifies two types of service providers, legal and illegal marriage brokers. Under this approach, domestic match-making agencies are classified as legal, and can therefore provide match-making services for profits within the national territory/among Chinese people. On the other hand, any brokerage activities facilitating marriage between Chinese nationals and foreigners are prohibited.[510] Under the first (legal) category, match-making activities vary from domestic online dating, match-making TV shows, match-making fairs, match-making clubs, etc.[511]

In China, the term "foreign-related marriage" refers to two types of marriages: any marriage conducted in China between a foreigner and a Chinese citizen; or any marriage conducted in the country between two resident or visiting foreigners. According to Article 147 of the Civil Law of China,[512] the marriage of a Chinese national with a foreigner shall be regulated by the law of the place where they get married [i.e. the *lex loci celebrationis*], while a divorce shall be bound by the law of the place where a court accepts the case [i.e. the *lex fori*].[513]

On 12 January 1994, the General Office of the State Council issued the Notice on Strengthening the Introduction and Management of Foreign-Related Marriage (hereafter referred to as the Notice Foreign-related Marriage), which stipulates that the establishment in China of foreign-related marriage match-making institutions is strictly forbidden.[514] Furthermore, the Notice provides that domestic marriage introduction agencies should not engage in any form of

[509] Larmer (n 502).
[510] The State Council Notification in China in 1994.
[511] Jing Zheng, "Xiangqin Wave: A Close Look at Modern Chinese Dating Culture" (2013) 2(9) Academic Journal of Interdisciplinary Studies 319, 320-324; Bo Brennan, "Modern Matchmaking: Chinese Go to Extremes to Find the Perfect Spouse" (*eChinacities.com* 17 January 2013) <https://www.echinacities.com/expat-life/Modern-Matchmaking-Chinese-go-to-Extremes-to-Find-the-Perfect-Spouse> accessed 20 November 2019.
[512] The Law was adopted at the fourth Session of the Sixth National People's Congress on 12 April 1986 and promulgated by Order No. 37 of the President of the People's Republic of China on 12 April 1986. Its English version can be found at <http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383941.htm> accessed 07 June 2019.
[513] For *lex fori, see* also Paul R Beaumont and Peter E McEleavy (eds), *Anton's Private International Law* (Edinburgh: W. Green/Thomson Reuters, 3rd edn, 2011) 93.
[514] Cited in: Liu Xin, "Pakistani Illegal Bride Business Raided in Shandong" (*Global Times*, 15 April 2019) <http://www.global times.cn/content/1145983.shtml> accessed 05 June 2019.

foreign-related marriage introduction business under the cover of their domestic activities.[515] Chinese laws and regulations therefore strictly prohibit foreign-related matchmaking activities, as well as the making of illegal profits from brokering cross-national marriages.[516] It has been argued that a possible reason for this prohibition could be to prevent transnational fraud and trafficking in women.[517] Another possible reason could be to protect women's human rights and legal interests.[518] Under the Chinese legal system, there are judicial organs whose function is to deal with any cases related to the crime of conducting illegal business such as any form of involvement in illegal match-making.

Under both Vietnamese and Chinese law, commercially arranged cross-border marriages are therefore illegal.[519] There has been no official data on how many cross-border marriages in China are procured through illegal or transnational match-makings agencies. However, evidence from trafficking in Vietnamese and Pakistani brides shows that illegal international commercial match-making practice in China is still flourishing.[520] A case in point is that of Ms Le, a 19-year-old Vietnamese woman who got married with a Chinese man through a cross-border matchmaker [521] (as a reminder, it should be pointed out that 19 years is below the required minimum age of marriage of 20 years for females under Chinese law). When Le first moved to China, she worked for a match-making website called 'Honest Asian Brides Network'. The agency was established in 2009 and now has several branches in Hong Kong, Guangdong, Shanghai and Vietnam. Through Le, the agency has been able to bring many Vietnamese brides to China over the years. Ms Le subsequently moved to Guangdong province in China where she started her own match-making services to recruit Vietnamese wives for Chinese men. The costs of a Vietnamese bride are on average 38,000 yuan[522] to the Chinese husband. This cost covers the "processing of legal documents, a translation service, Chinese lessons, a health check and a wedding ceremony".[523] A member of staff at 'Honest Asian Brides

[515] Yan Shuang, "More Men Say "I Do" to Mail-Order Vietnamese Women" (*Global Times,* 29 May 2012) <http://www .globaltimes.cn/content/711792.shtml> accessed 03 June 2019.
[516] Lahore, "Chinese Embassy Clarifies About Involvement Of Its Citizens In Illegal Human Trafficking, Sales Of Human Organs" (*Dunya News,* 13 April 2019) <https://dunyanews.tv/en/Crime/486886--Chinese-embassy-clarifies-illegal-> accessed 05 June 2019.
[517]Xin (n 514).
[518] Ibid.
[519] Fan Feifei, "Websites Come Under Scrutiny for Matchmaking" (*China Daily*, 13 November 2013) <http://www. chinadaily.com.cn/china/2013-11/13/content_17100143.htm> accessed 03 June 2019.
[520] Huang (n 491); Liu Xin (n 514); Anonymous, "China/Pakistan: China, Pakistan Move Against 'Illegal Matchmaking'" (*Asia News Monitor*, 15th April 2019); Anonymous, "China Assisting Pakistan Against Illegal Matchmaking Centres: Spokesperson" (*Right Vision News*, 16th April 2019).
[521] Huang (n 491.
[522] £1 = 9 Yuan.
[523] Huang (n 491).

Network' revealed that the most expensive brides from Indonesia might cost 60,000 yuan, followed by Cambodia brides with up to 57,000 yuan per bride.[524] An extra 10,000 yuan is added to the service fee if the client is looking for a virgin.[525]

Le's case is only an illustration of the fact that with the increasing demand for foreign wives in China, it is almost impossible to prevent illegal transnational marriage agencies from seeking foreign wives for Chinese men. Many Chinese bachelors paid professional marriage brokerage firms in China very high prices to find a wife in Vietnam.[526] This is an "illegal but booming industry in China."[527] Amongst the reported cases is one in which a Beijing man paid 70,000 yuan ($11,500) to a matchmaking company for matchmaking services.[528] His first wife returned to Vietnam because of domestic violence in China, and the second Vietnamese wife also fled for similar reasons. Illegal matchmaking agencies in China also changed the form and method of their operations by adopting online platform such as websites. A Chinese website called *55tuan.com* even offered a lottery to the winner (from among 20,000 men who sign up) to have a blind date with a Vietnamese woman. The winner was promised to have his round-trip tickets refunded if he successfully married a Vietnamese wife after the blind date.[529] This practice can be seen as an attempt to circumvent or bypass the ban on foreign marriage matchmaking activities under Chinese law.

Recently illegal marriage brokers have turned their attention to young Christian women from Pakistan for forced marriages in China. Some of the victims were as young as 13 years old.[530] Several China-based matchmaking agencies admitted that they used to practise matching single local men with Pakistani women.[531] On 21st February 2019, Chinese police raided two illegal matchmaking centres in Heze's Caoxian county of Shandong Province for their illegal practice in introducing Chinese bachelors to Pakistani women for a fee of more than 100,000 yuan

[524] Ibid.
[525] Ibid.
[526] Fan Feifei, "Websites Come Under Scrutiny For Matchmaking" (*China Daily*, 13rd November 2013).
[527] Wei Li, "Over Five Percent of Marriages between Chinese Men and Vietnamese Women, The Wives Were Trafficked Into China" (*Vietnam Insider*, 21st January 2020) <https://vietnaminsider.vn/over-5-percent-of-marriages-between-chinese-men-and-vietnamese-women-the-wives-were-trafficked-into-china/> accessed 22nd September 2020.
[528] Feifei (n 526).
[529] Ibid.
[530] Gujranwala, "Chinese Men Target Pakistani Christian Girls "Some As Young As 13" For Forced Marriage" (*CBN News*, 07 May 2019) <http://www1.cbn.com/cbnnews/world/2019/may/chinese-men-target-pakistani-christian-girls-some-as-young-as-13-for-forced-marriage> accessed 30 May 2019; Saher Baloch, "The Pakistani Brides Being Trafficked to China" (*BBC News*, 15 May 2019) <https://www.bbc.co.uk/news/world-asia-48260397> accessed 30 May 2019.
[531] Xin (n 514).

($15,000).[532] A local marriage broker in Dezhou (also in Shandong Province) revealed that Chinese men have to pay a price of 180,000 yuan for a package service to marry a Pakistani wife. The fees normally consist of travel tickets, accommodation in Pakistan, presents for the potential bride's parents, visa fees for the bride and even her ticket to China".[533] These activities are not restricted to China. Marriage brokers also run illegal matchmaking activities in Pakistan to recruit Pakistani brides for Chinese men, or for prostitution in China.[534]

In summing up, it is worth pointing out that one of the most important aspects of China's legal framework (as compared to countries such as South Korea and Vietnam) is its few numbers of legislative instruments. Boasting only two statutes on marriage (the 1950 Law and the 1980 Law, complemented by very few regulatory instruments), it would seem that China has opted for stability, rather than innovation, in its approach to regulating marital and family relations, including the regulation of cross-border marriages and the legal status of match-making agencies in China.

4.5 Law of the Philippines Relating to Cross-Border Marriages and Commercial Match-Making Agencies

Although the Philippines is not one of the countries in empirical study (primary data collection and analysis) for this thesis. It is nonetheless important to include it in the doctrinal analysis of the legal framework governing cross-border marriages and the regulation of commercial match-making in the Southeast Asia region. This is because the Philippines has a long history and 'largest exporter' of Asian mail-order brides to foreign countries in the region,[535] mainly China, South Korea and Taiwan. For this reason, it was considered necessary and relevant to examine the legislative experience of The Philippines on the issue of cross-border marriages and the regulation of commercial match-making agencies in order to see how they have tackled the problems associated with cross-border marriages.

[532] Ibid.
[533] Ibid.
[534] Anonymous, "China Assisting Pakistan Against Illegal Matchmaking Centres: Spokesperson" (*Right Vision News*, 16th April 2019); Anonymous, "Sold Into A Nightmare: Pakistani Women Trafficked To China As Fake Brides: Pakistan China (Feature)" (*EFE News Service*, 29th May 2019; Anonymous, "China/Pakistan: China-Pakistan Traffickers Force Brides Into Prostitution" (*Asia News Monitor*, 19th June 2019).
[535] Beverly Encarguez Perez, "Woman Warrior Meets Mail-Order Bride: Finding an Asian American Voice in the Women's Movement" (2003) 18 Berkeley Women's Law Journal 211, 219-220.

4.5.1 Philippines Law on Cross-Border Marriages

Marriage and family relationships are regulated by the Family Code of The Philippines of 1987.[536] The marriageable age for Filipino nationals is 18 years for both males and females.[537] Regarding the requirement of consent, both parties to the marriage must express their free will and consent in front of a solemnising officer.[538] Additionally, the written consent of parents to the marriage is required by law if any of the parties is over 18 (**but** below 21) years-old.[539] Moreover, parental advice or guidance must be obtained for parties aged between 21 and 25 years.[540] These provisions are very different from those adopted under Vietnamese law in which only the contracting parties' consents are required, and not parental consent or advice. The Code also emphasises that any purported marriage involving a person who is less than 18 years of age, even with parental consent, shall be void.[541] For the marriage ceremony, the code requires that the marrying parties must be present in person before a solemnizing officer, together with the presence of at least two witnesses, and that they must reach make a personal declaration to accept each other as husband and wife.[542] The married couple are also required to apply for a marriage license in the city or municipality where any of the parties has habitual residence.[543]

In considering cross-border marriage registration in the Philippines, the foreigner, before applying for a marriage license at the Office of the Civil Registrar in the city where his or her Filipino spouse resides, must provide a certificate of legal capacity to marriage from the relevant civil authority of his or her state (or embassy) that affirms that there are no legal impediments to the intended marriage.[544] This requirement is very different from that for marriages between Filipino nationals. This also means that Private International Law of Philippines considers national law as applicable law to each party's legal capacity to contract a cross-border marriage.[545] When filing for a marriage license, the foreign spouse also needs

[536] Family Code of The Philippines was enacted in 1987 and took its effect in 1988. Its English version can be found at <https://www.officialgazette.gov.ph/1987/07/06/executive-order-no-209-s-1987/> accessed 12th August 2020.
[537] Ibid Article 5.
[538] Ibid Article 2.
[539] Ibid Article 14.
[540] Ibid Article 15.
[541] Ibid Article 35.
[542] Ibid Article 3.
[543] Ibid Article 9.
[544] Ibid Article 21.
[545] *Also see* Saba, "Private International Law of Philippines Which Insists on Legal Capacity to Contract Marriage Has To Be Determined In Accordance With National Law" (The SCC Online Blog, 22rd May 2018) < https://www.scconline.com/blog/post/2018/05/22/private-international-law-of-philippines-which-insists-on-

to submit proof of civil status, proof of identity, and other documents such as parental consent or advice (if applicable). However, no pre-marital interview is required as is the case under Vietnamese law. The Family Code of The Philippines also provides recognition of marriages legally solemnized abroad and considered to be valid in the foreign jurisdiction in which the marriage took place, including marriages between Filipino and foreigner citizens.[546]

4.5.2 Commercial Match-Making: The Mail-Order Industry for Brides in the Philippines

The Philippines has been at the forefront, and remains a major player, in the mail-order industry for brides in the Southeast Asia region.[547] Over the years, the commercial match-making industry in the form of bride mail-order has raised concerns for being one of the most open platforms for the trafficking of women into developed nations.[548] Like many Vietnamese brides, Filipinas aspire to get out of poverty through a cross-border marriage. The bride mail order industry plays a crucial part in helping them to achieve this ambition. Once a Filipina decides to get married with a foreigner, the standard method is for her to provide a number of dating agencies with personal information including photos, physical measurements, and details of what she is looking for in a potential husband.[549] The information is then reviewed and verified by the agencies through face-to-face interviews, photography or video sessions and recording and confirmation of measurement such as height and size.[550] The companies will then publish this information in catalogues and web pages, usually filled with information on hundreds or even thousands of marriage-seeking women.[551] The catalogues and websites are in turn made available to foreign men seeking Filipina brides, who can then select the women with whom they wish to establish contact. Correspondence is then established between the foreign man and the Filipina and progress is monitored by the agency, which charges the

legal-capacity-to-contract-marriage-has-to-be-determined-in-accordance-with-national-law/> accessed 12th August 2020.

[546] Ibid Article 26. However, foreign marriages which are prohibited under Article 35(1), (4), (5) and (6), Article 36, 37 and 38 of this Code shall not be valid in the Philippines.

[547] Kathryn A. Lloyd, "Wives for Sale: The Modern International Mail-Order Industry" (2000) 20 (2) North-Western Journal of International Law & Business 341, 342.

[548] Susan Jeanne Toepfer and Bryan Stuart Wells, "The Worldwide Market for Sex: A Review of International and Regional Legal Prohibitions Regarding Trafficking in Women" (1994) 2(1) Michigan Journal Gender & Law 83.

[549] Lloyd (n 547) 347.

[550] Ibid 348.

[551] Ibid.

foreign men a fee for access to the bride database.[552] The fee could be in the form of the sale price of a catalogue or registration/ membership fees for online access.

The sale of potential brides' contact information represents the frontline of the industry, while "bridal tours" to the Philippines provide agencies with the most profitable operations. Agencies lacking the logistical capacity to offer such tours often link up in a partnership with a travel agency which makes travel arrangements for foreign men visit the Philippines.[553] The agency then arranges a meeting between the foreign men and the local women with whom they have developed a correspondence or pen-pal relationship. However, it is not unusual for the men to be introduced to many other women during the tour.[554]

In view of the many complaints by women campaigners and human rights group regarding the commodification of the marriage process and possible abuses (including women trafficking),[555] in 1996 the government of the Philippines brought in a law imposing restrictions on emigration.[556] Under the provisions of the Philippine Passport Act of 1996, Filipina brides who cannot provide sufficient details of their foreign fiancée or husband can be denied permission to leave the country, while couples in a cross-border marriage may also be required to attend counselling sessions and to obtain police clearance or an exit visa for emigration.[557] However, these regulatory measures have not lead to a decrease in the trafficking of brides.[558] Rather, it has pushed the commercial match-making industry in the Philippines underground as it continues to exploit advances in communications technology such as social media platforms to bypass traditional regulatory systems.

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[552] Gary Libman, "Lonely American Males Looking to the Orient for Mail-Order Brides" *Los Angeles Times* (14 September 1986) <https://www.latimes.com/archives/la-xpm-1986-09-14-vw-12154-story.html> accessed 28 November 2019.

[553] Christina S.Y. Chun, "The Mail-Order Bride Industry: The Perpetuation of Transnational Economic Inequalities and Stereotypes" (1996) 17 University of Pennsylvania journal of International Economic Law 1155, 1164.

[554] Ibid.

[555] Jonathan M Hicap, "Filipina Mail-Order Brides Vulnerable to Abuse" *The Korea Times* (Seoul, 11 October 2009) <https://search-proquest-com.libaccess.hud.ac.uk/docview/1991188496?pq-origsite=summon> accessed 28 November 2019.

[556] The 1996 Philippine Passport Act.

[557] Olivia H. Tripon, "Weekender: Network Reviews Efforts Against Trafficking in Women" (*Business World*, 12 September 1997).

[558] "Philippine Congress Urged to Outlaw Mail Order Bride Business" *The Xinhua general Overseas News Service* (13 April 1989) (quoting Senator Maceda); *also* cited in: Lloyd (n 547) 347- 349.

4.5.3 Legal Responses – Ban on Commercial Matchmaking Agencies in the Philippines

In 1990, the Philippines enacted **Republic Act No. 6955** (**RA 6955**) known as **Anti-Mail-Order Bride Law** which made illegal the operations of the mail-order bride industry.[559] The main objective of passing this law was to protect young Filipina women from being sexually and economically exploited by commercial match-making brokers under the guise of cross-border marriages.[560] The Act made unlawful the practice of matching Filipinas to foreign nationals for marriage through the use of the mail-order industry and criminalised foreign-related match-making services.[561] This ban extended to the advertisement, publication materials, the printing or distribution of brochures, fliers and other propaganda materials in furtherance of commercial match-making activities aimed at facilitating a cross-border marriage.[562] The law also made it illegal for an individual, organisations, clubs, and associations to make financial gains or profits from such match-matching activities.[563] It outlawed the advertising of mail-order bride services or personally soliciting Filipina women to recruit them as mail-order brides.[564] To enforce these measures, the Act also provided strict penalties for any violations. Accordingly, any person found guilty of committing an offence under the Act is subject to between 6 and 8 years of imprisonment, and a fine from 8 to 12 thousand pesos.[565] Furthermore, an offender who is a foreign national is to be deported immediately and permanently barred from returning to the country after serving their sentence and paying the stipulated fine.[566]

The authorities in the Philippines have over the years arrested many suspects for violating **Republic Act No. 6955,** and have also rescued many Filipinas following such arrests.[567] In an attempt to prevent the supply of Filipina women as mail-order brides to South Korea, in 2015

[559] The Act was approved on 13 June 1990. Its full English content can be found at <https://www.pcw.gov.ph /law/republic-act-6955> accessed 12 January 2019.
[560] The Republic Act Number 6955, Section 1. The Act states that the State to ensure and guarantee the enjoyment of the people of a decent standard of living. Towards this end, the state shall take measures to protect Filipino women from being exploited in utter disregard of human dignity in their pursuit of economic upliftment.
[561] "Philippines: Matchmaking To Be Criminalized Under Mail-Order Bride Law" *Asia News Monitor* (Bangkok, 20 August 2013) <https://search-proquest-com.libaccess.hud.ac.uk/docview/1426128600?pqorigsite =summon> accessed 24 November 2019.
[562] The Republic Act No. 6955, Abstract.
[563] Ibid Section 2(a)(1).
[564] Ibid Section 2(a)(2)(3). Further, it is a crime under the law for the manager of a newspaper, magazine, television station, or any other media to knowingly allow mail-order bride advertisements (Section 2(b)).
[565] Ibid Section 4; £1 = 65 pesos.
[566] Ibid.
[567] "Philippines: PAOCC Agents Rescue 29 Pinays, Arrest Suspects in Korea-Led Mail-Order Bride Ring" (*Asia News Monitor*, 01 July 2013).

the government of the Philippines sent an official warning to South Korean commercial match-making agencies about their bride recruitment practices. [568] Although transnational match-making services are legal in South Korea, it is nonetheless illegal under the **RA 6955**. Therefore, South Korean agencies are not allowed to conduct any bride recruitment activities inside the Philippines. The warning issued to South Korean match-making agencies represents the first time the Philippines had made an official complaint about South Korean marriage brokers conducting bride recruitment activities inside the country.[569]

Despite these endeavours by the government of the Philippines to control the supply of Filipina women as mail-order brides, widespread development of internet-based marriage agencies has continued to flourish, thus frustrating the efforts of the Philippine government.[570] Under **RA 6955**, the prohibition only covered match-making practices operating under the form of a mail-order business or through personal introductions.[571] This means that virtual matchmaking through the medium of online platforms had not been taken into consideration. Moreover, in the view of many commentators, the legal framework has proven over time to be ineffective, especially in view of the government's failure to designate a particular government agency tasked with monitoring and enforcing the law.[572] The absence of an enforcement agency can be said to represent a gap in the institutional framework. In addition to this, the judicial authorities in the Philippines do not have territorial jurisdiction to prosecute foreign marriage brokers who recruit or advertise Filipina women from abroad (by using oversees based websites, for example). This remains the case despite efforts made by the authorities in the Philippines to prosecute offenders under the Act.[573] Moreover, the majority of Filipinos seem to be unwilling to cooperate with the authorities by reporting marriage brokers to local authorities because their communities benefit from brokerage business.[574] Therefore, the Anti-Mail-Order Bride Law of 1990 is generally seen as having been unsuccessful in its legislative objective of trying to prevent international marriage brokers from commercially operating in

[568] Claire Lee, "Philippines Warns Against Korean Marriage Brokers" (*The Korea Herald,* 02 March 2015) < http://www.koreaherald.com/view.php?ud=20150302000936> accessed 25 January 2019.
[569] Ibid.
[570] Rufi Vigilar, "Filipino Brides for Sale Via Internet" (*CNN*, 15 January 2002) <http://edition.cnn. com/2002/WORLD/asiapcf/southeast/01/14/phil.mailbride/> accessed 17 January 2019;
[571] The Republic Act No. 6955, Section 2.
[572] Ibid.
[573] *See* Philippine Court Jails German Mail-Order Bride Operator, Agence France Presse, January 16, 1997; Philippine Government Files Charges Against South Korean "Moonies", Agence France Presse, May 6, 1997; Brown Bag, Filipinas Magazine, April 30, 2002.
[574] Beverly Encarguez Perez, "Woman Warrior Meets Mail-Order Bride: Finding an Asian American Voice in the Women's Movement" (2003) 18 Berkeley Women's Law Journal 211, 232.

the Philippines.[575] For this reason, the Anti-Mail-Order Bride Law of 1990 was subsequently repealed and replaced by the Anti-Mail Order Spouse Act of 2016, which will be examined shortly.

In 2003 Filipino lawmakers were prompted to introduce additional legislative measures in the form of the **Anti-Trafficking in Persons Act** (Republic Act No. 9208).[576] This was in response to the United Nations Protocol on Human Trafficking. The 2003 Act criminalised the international matchmaking industry,[577] together with any marriage procured through commercial matchmaking regardless the victim's consent.[578] The main objective of this legislation was put an end to human trafficking in the country by introducing tougher penalties against human traffickers, as well as providing more effective assistance to the victims of human trafficking. Republic Act No. 9208 reaffirms the Act 6955 of 1990, while imposing a much higher penalty of imprisonment of 20 years and a fine between 1 million and 2 million pesos for international matchmaking practice between Filipinas with foreigners .[579] A salient feature of the new law is that for the first time Filipino law punishes any person who procures or otherwise engages the services of a trafficked person for prostitution.[580] Under this provision, a first time offender is subject to 6 months of community service and a fine of 50 thousand pesos. If he/she is a repeat offender, subsequent offenses will attract imprisonment of 1 year and a fine of one hundred thousand pesos.[581] It can be argued that the 2003 Act is, to some extent, a ground-breaking law which conforms to international human rights standards. However, the relatively lenient sentence of 6 months community service for first time offenders can be said not to be a sufficient deterrent.

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[575] Rufi Vigilar, "Filipino Brides For Sale Via Internet" (*CNN*, 15th January 2002) < http://edition.cnn.com/2002/WORLD/asiapcf/southeast/01/14/phil.mailbride/> accessed 20th September 2020. The author mentioned two Florida-based companies which still run three websites advertising Filipino brides despite the ban in the Philippines; Erin Elizabeth Chafin, "Regulation or Proscription?: Comparing American and Philippine Proposals to Solve Problems Related to The International Marriage Broker Industry" (2005) 23(3) Penn State International Law Review 701,713; Karen M Morgan, "Here Comes The Mail-Order Bride: Three Methods of Regulation in The United States, The Philippines, And Russia" (2007) 39(2) The George Washington International Law Review 423, 435-436; Roxanne Sims, "A Comparison of Laws in The Philippines, The U.S.A., Taiwan, And Belarus To Regulate the Mail-Order Bride Industry" (2009) 42(2) Akron Law Review 607, 617.

[576] Republic Act No. 9208 was approved on 26 May 2003. Its full English content can be found at <https://www.lawphil.net/statutes/repacts/ra2003/ra_9208_2003.html> accessed 17 January 2019.

[577] Ibid Section 4.

[578] Ibid Section 3(a).

[579] Republic Act No. 9208, Section 10(a).

[580] Ibid Section 11.

[581] Ibid.

On 21st July 2016, the Congress of the Philippines repealed the Anti-Mail Order Bride Law of 1990 by enacting **Republic Act No. 10906** (RA 10906) known as **Anti-Mail Order Spouse Act,** which is still in effect. The Act of 2016 provides "stronger measures against unlawful practices, businesses, and schemes of matching and offering Filipinos to foreign nationals for purposes of marriage or common law partnership".[582] First of all, the **RA 10906** widens the scope of the **RA 6955** to protect both male and female nationals of the Philippines (rather than women only as was the case under the RA 6955), and to prevent them from becoming victims of abuse, mistreatment, exploitation, and prostitution - as well as any violence stemming from the unlawful practices of matchmaking schemes.[583] The new Act of 2016 has also made it illegal for anyone to engage the services of any commercial marriage brokerage through virtual matchmaking platforms such as email and websites.[584] However, it is important to note that not all matchmaking sites are illegal. Legitimate dating websites which perform to connect potential couples with shared interests to serious dating relationships are still allowed.[585] More importantly, a higher level of punishment was adopted in the new Act to impose to any person found guilty by the court, with a prison sentence of up to 15 years and a fine of up to one million pesos.[586] At the time of writing, there is currently no evidence available to determine whether or not these measures have been effective, and it could take a few more years before sufficient and reliable data can become available to assess their effectiveness.

4.6 Comparative Analysis of the Marriage Laws Discussed in This Chapter

There are some similarities as well as differences in the provisions on the subject of cross-border marriages and marriage brokerage practice adopted in selected countries which can be summarised in **Table 4.4** below.

[582] The Republic Act No. 10906, Abstract. The full English content of the Republic Act No. 10906 or Anti-Mail Order Spouse Act can be found at <https://www.officialgazette.gov.ph/2016/07/21/republic-act-no-10906/> accessed on 10th September 2020.
[583] Ibid Section 2.
[584] Ibid Section 3.
[585] Ibid.
[586] Ibid Section 4.

Table 4.4 Provisions on cross-border marriages in selected jurisdictions

Country	Marriageable Age		Consent of parents/guardian	Commercial marriage brokerage		Non-profit marriage brokerage	
	Female	*Male*		*Officially regulated/ recognised*	*Banned*	*Individuals*	*Public/Officially Recognised Organisations*
China	20	22	n/a	(Domestic only)	1994 (Transnational)	n/a	n/a
South Korea	18	18	Applied to minor and adult ward	2007	n/a	n/a	n/a
Taiwan	16	18	Applied to minor	2004	2008	2008	2008
The Philippines	18	18	Applied to people from 18 to 21 years of age	n/a	1990	1990	1990
Vietnam	18	20	n/a	n/a	2003	n/a	2000

(Source: The researcher - adopted and summarised from selected jurisdictions)

Regarding the similarities in regulations on cross-border marriage relationship, the law of all the selected countries defines a marriage as a contract concluded between a man and a woman, rather than between same-sex parties. Additionally, all these jurisdictions require the consent of both parties when they either engage or conclude the proposed marriage. Most of the selected legal systems refer to the national law of each party to the marriage as applicable law governing legal capacity to contract a marriage, with the exception of China where a cross-border marriage is regulated by the law of the place of marriage.

The national law of each contracting party in a cross-border marriage imposes different legal requirement regarding the legal age for marriage and the question of consent. Most of selected countries require the legal marriage age to be from 18 and above, meaning that the parties have to be adults at the time of marriage, except Taiwanese law in which a minor (from 16 years of age) is allowed to marry with parental consent. In other words, marriage below the age of 18 years is legal in Taiwan while it is considered to be illegal in South Korea, China, the Philippines or Vietnam.

The second difference relates to the issue of consent. Chinese and Vietnamese laws make it unnecessary to require the marrying parties' parental consent to contract a marriage because

the parties should be the ones who freely decide themselves and give their own consent. By contrast, South Korean and Taiwanese laws require the consent of parents (or guardian in certain circumstances), especially where one of parties is a minor or a ward. Similarly, the law in Philippines requires the parental consent, or the consent of guardian, even when the marrying couples are above the age of 18. It also requires parental advice on the proposed marriage if the parties are between 21 and 25 years of age. It is therefore the case that in the Philippines, South Korea, and Taiwan, the consent of the parents plays an important part in the formation of their children's marriage, whereas such provisions are absent under Chinese and Vietnamese law.

Thirdly, as part of the effort to control cross-border marriages and to prevent sham marriages, Vietnamese law adopted the pre-marital interviews as one of compulsory procedures if the marrying parties wish to register their marriage in Vietnam. This measure was later repealed by the Law on Civil Status 2014. In contrast, the receiving countries adopted a different approach to the problem of sham marriages. In China, South Korea, and Taiwan the focus was on tightening immigration control, rather than the marriage procedures. This meant that foreign brides could be required to attend a visa interview when applying for a spouse visa., but they are not required to undertake any marriage interview if they wish to register their marriage in the husband's country.

There are the differences in the approach that different countries use to cope with the marriage brokers, especially cross-border marriage brokerage agencies (**Table 4.4** above). In South Korea, there is a degree of consistency from the beginning in the form of the legal recognition of commercial match-making agencies. Provisions on marriage brokerage agencies have been subject to period revisions for better administration. The operation of commercial marriage brokers in South Korea has always been regulated under specific rules. The nation encourages international matchmaking agencies due to the shortfall in population reproduction. Therefore, the government also focuses on policies regarding post-marriages issues such as the wellbeing of multicultural families. Vietnamese law on the other hand does not recognise commercial match-making agencies. However, the policy has not always been applied with consistency from the beginning. Therefore, the commercial match business has over the years been able to establish deep roots in Vietnamese society. This in turn has made the regulation of commercial marriage brokerage even more complicated, making it very difficult to enforce the current ban on illegal matchmaking.

Taiwan employed a different approach compared to the South Korea's and Vietnam's. Profit-oriented matchmaking agencies was legally recognised in Taiwan in 2004. However, the commercial matchmaking was banned four years later in 2008 following pressure of feminist groups in Taiwan who were campaigning for women rights. Therefore, there has been a significant change in the policy of Taiwan concerning commercial marriage, which has evolved official recognition to an outright ban. Unlike Vietnam, after banning commercial matchmaking agencies, Taiwan still recognised the operation of both private non-profit matchmaking organisations, including those run by individuals. Vietnam, on the contrary, has never recognised the operation of neither commercial match-making agencies nor private not-for-profit marriage brokerage organisations. As seen in **Chapter 3** of this thesis, only the match-making activities of the public organisation known as The Centres which must be non-profit practices, are allowed. But more confusingly, under the current law in Vietnam, the role of individuals as non-profit marriage brokers is neither legalised nor prohibited. In other words, current legislation remains silent on this issue. This raises a pertinent question because the number of officially Centres in Vietnam are not sufficient to meet the increasing demand for match-making and advisory services relating to cross-border marriages.

China also has its own unique way of regulating commercial match-making activities based on a legal distinction between domestic and international match-making. Current Chinese law prohibits the operation of match-making activities related to cross-border marriages. Conversely, domestic marriage brokerage services are permitted under the law. The China's approach appears to be founded on the policy of preventing the trafficking of women into China. However, as seen in previous chapters of this thesis, this policy aspiration seems not to have been successful as many foreign brides from countries such as Vietnam continue to be trafficked into the country through illegal match-making activities. This approach is different from the current policy in Vietnam which is founded on an officially recognised institutional framework for facilitating cross-border marriages (in the form of the Centres), while banning commercial match-making activities.

Using a similar approach as Vietnam, the Philippines has also imposed a ban on profits-oriented international match-making agencies which practise matching Filipina women to foreign men for cross-border marriages, either on a mail-order basis or through personal introduction. However, as seen above, Filipino law has been regarded as been unsuccessful in in its attempt to prevent international marriage brokers from operating in the country. This a problem that

the Vietnamese government has also been facing. Notwithstanding the consistent prohibition on illegal or commercial match-making practice, there has been a significant increase in the number of such agencies due to high profits from match-making activities in Vietnam. On the other hand, it can be argued that the lawmakers in the Philippines have been more proactive regarding the ban on any activities relating to mail order brides. This is an area on which Vietnam has lagged behind as illegal marriage brokers seek ways to bypass the ban, increasingly moving their activities online, while using the mail-order and catalogue formats.

4.7 Cross-Border Marriages and Women's Rights: The Relevance of International Law

In this section, some international law aspects relating to the protection of the rights of women are examined in the context of cross-border marriages. The focus of the discussion will be on questions relating to consent, the minimum legal age for marriage, and the protection of the human rights of women involved in cross-border marriages.

4.7.1 The Matter of Consent

The matter of free will and consent in making decision on marriage has been emphasized in many international conventions including Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages 1964 *(Article 1)*,[587] the Hague Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1981.

In Convention on Marriage, Minimum Age for Marriage and Registration of Marriages 1964, it is stated that:

> **Article 1**
>
> No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witness, as prescribed by law.

Re-emphasising this point, the Hague Convention on Celebration and Recognition of the Validity of Marriages 1978, stipulates as follows:

[587] The Convention opened for signature and ratification by General Assembly Resolution 1763 A (XVII) of 7 November 1962, entered into force on 09 December 1964.

Article 11

A Contracting State may refuse to recognise the validity of a marriage only where, at the time of the marriage, under the law of that State -

5. one of the spouses did not freely consent to the marriage.

Furthermore, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1981 provides:

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
   (a) The same right to enter into marriages;
   (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent.

It could be argued that the requirement for consensual marriage relations contained in these conventions are recognised and respected under the marriage laws of the Southeast Asian countries which form part of this research. However, (as seen in **Chapter 6** of this thesis) one of the adverse impacts of commercial match-making activities has been on consent, with women being either deceived or tricked into entering into marriages on the basis of false or misleading information provided by agencies about their potential husbands. In the case of trafficking, women are simply being forced into marriages against their will. This clearly shows that the countries which form part of this study need to redouble their efforts in the areas of enforcement in order to comply with the requirements for consensual marriages as required by the convention articles cited above.

4.7.2 International Requirements on the Minimum Age for Marriage

In the Convention for Marriage, Minimum Age for Marriage and Registration of Marriages of 1964, it is stated that:

Article 2

States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

Under this provision, each State party retains the legislative competence to regulate the minimum age for marriage. The Hague Convention on the Celebration and Recognition of the

Validity of Marriage of 1978, on the other hand, has as its main objective the harmonisation of the different marriage laws with a view to avoiding possible conflicts of law.

On the question of the minimum age, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1981 provides as follows:

> **Article 16**
>
> 1. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

It is worth nothing that none of the conventions discussed above actually states what the minimum age for marriage is, despite the efforts aimed at harmonisation. This is perhaps an acknowledgement of the fact that the minimum legal or recognised age for marriage may vary from one culture to another, and from jurisdiction to jurisdiction, based on custom, traditions or religion. According to the UN Population Fund report published in 2010, there were 158 countries in the world which prescribed a minimum legal or recognised age for marriage of 18 years.[588] In view of the number of countries, 18 years can therefore be said to be the global standard for the minimum age. The CEDAW convention is examined in more detail in the section below.

4.7.3 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1981

At a ceremony in Copenhagen Conference on 17 July 1980, 64 states endorsed the CEDAW Convention, while two states also submitted their instruments of ratification. On 03 September 1981, the Convention entered into force, signalling successful efforts to codify a set of international legal or human rights standards for the protection of women. Consisting of a preamble and 30 articles, the Convention aims to establish an agenda for national action to end long standing discriminatory practices against women. In its first article, CEDAW defines discrimination against women as "… any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and

[588] UNFPA Report, "Marrying Too Young" (November 2015).

women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

As of January 2020, 189 countries have ratified the CEDAW.[589] By ratifying the Convention, member states are in effect committing their countries to undertake a series of legislative and policy measures to end discrimination against women, particularly in areas such as discrimination in the workplace, domestic abuse, sexual exploitation and women trafficking CEDAW specifically focuses on the following obligations on the part of member states: to incorporate the principle of gender equality in their legal system, abolish all discrimination "laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and to ensure elimination of all acts of discrimination against women by [person, organisations] or enterprises."[590]

In the area of political rights, CEDAW provides the basis for realising gender equality through equal access opportunities in political and public life. This includes equal rights to vote and to stand for election. The principle of equality also applies to the areas of education, health and employment. States parties are obliged under the Convention to take appropriate measures.[591] Such measures could include legislation and temporary special measures aimed at ensuring that women are able to exercise all of their human rights and fundamental freedoms as envisaged by the Convention.

CEDAW affirms the reproductive rights of women, while affirming women's rights to acquire, change or retain their nationality and the nationality of their children. In ratifying CEDAW, State parties also undertake to adopt appropriate measures aimed at preventing any forms of traffic in women and exploitation of women. These provisions are of particular relevance to the rising phenomenon of cross-border marriages in Southeast Asia in general, and in the Mekong Delta region of Vietnam in particular, where such abuses are normally concealed under the cover of cross-border match-making.

[589] Data can be found at the United Nations website at <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsgno=IV-8&chapter=4&clang=en> accessed 04 January 2010.
[590] CEDAW, Article 18.
[591] Ibid.

Under CEDAW, State Parties are also expected to guarantee gender equality before the law.[592] With regard to the institution of marriage and family relations, these shall also be founded on the basis of equality between men and women. The extract below contains a noteworthy provision for the Convention:

> **Article 16**
>
> 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
>
> (a) The same right to enter into marriage;
>
> (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
>
> 2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

There are two important points under the Article 16 of the CEDAW regarding a marriage in general. Firstly, the importance of free will and consent of parties who enter into a marriage. Secondly, child marriage is prohibited. These provisions would require many State parties to amend their marriage laws if the minimum age of marriage is under the age of 18, which is the global standard for the age of maturity.[593]

Following its adoption, CEDAW has often been described as an international Bill of Rights for women. In order to consider the progress by State parties on the implementation of CEDAW principles, a Committee on The Elimination of Discrimination against Women (hereafter referred to as the Committee) was established for monitoring and reporting purposes.[594] State parties are not only legally bound to put its provisions into practice; they are also under an obligation to submit national monitoring reports for consideration by the Committee. As prescribed under Article 18, the contents of such reports shall include details of administrative, legislative, judicial, or other application, enforcement or policy measures taken as part of State parties' compliance with CEDAW obligations.[595] These national reports should to be submitted

[592] CEDAW, Article 15.
[593] The Convention on The Rights of the Child of 1989 defines that "a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier" (Article 1).
[594] CEDAW Article 17.
[595] Ibid Article 18.

in the initial year following accession, and then every four years, or whenever the Committee so requests.[596]

One of the problems with the rights provided in conventions such as CEDAW is that the victims of human rights abuses, such as those who suffer abuse or violence within cross-border marriages, have to rely on State parties or governments to implement and enforce their obligations under the convention. Apart from the monitoring and reporting requirements contained in UN committee reports, such women have no other effective remedies under international law itself but have to rely instead on national judicial systems for the protection of their convention rights.

In **Table 4.5** (below), information about that ratification of CEDAW by countries of the Southeast Asia region is presented.

Table 4.5 The ratification of CEDAW by country

Members	Signature	Ratification, Accession, Succession
China	17 July 1980	4 November 1980
South Korea	25 May 1983	27 December 1984
Taiwan	*n/a*	*n/a*
The Philippines	15 July 1980	5 August 1981
Vietnam	29 July 1980	17 February 1982

(Source: https://www.un.org/womenwatch/daw/cedaw/states.htm)

Vietnam's CEDAW Reports

This section contains a summary of Vietnam's reports to date regarding compliance with its CEDAW obligations. On account of the volume of information contained in all the reports submitted by Southeast Asian countries which form part of this research, the researcher decided to review only Vietnam's report as Vietnam is the main focus of the research.

To implement the CEDAW provisions ratified by Vietnam in 1982, there have been many measures taken by the government to eliminate various forms of discrimination against women. The country has passed new laws and revised and amended other laws and various legal

[596] Ibid.

instruments in areas such as education, labour, civil, criminal, marriage and family, etc. These new laws and amendments to old laws have all been designed to introduce more policies to tackle the problem of discrimination against women in Vietnam. Within the context of this thesis, the summary of Vietnam's country reports (*see* **Table 4.6**, below) will mainly focus on the state's implementation of the CEDAW Convention in respect of marriage and family relations, and in particular Article 1, Article 2 and Article 16 of CEDAW.

Table 4.6 Summary of Vietnam's actions on the implementation of CEDAW from the 2nd to the 8th period

Reports	Article 1 (Discrimination)	Article 2 (Policy Measures)			Article 16 (Marriage and Family Life)			
		The principle of equality between men and women	*Measures to prohibit discrimination against women*	*Protection of women's rights*	*Legal basis of equal rights to marriage relations*	*Age of marriage*	*Equality regarding free will and full consent to marriage*	*Other matters*
CEDAW/C/VNM/2 *(15 March 1999)* Second period reports of Vietnam	Article 63 of the 1992 Constitution of Vietnam states that all acts of discrimination against women and all acts damaging women's dignity are prohibited.	Stipulated under various legal provisions such as Vietnam's 1992 Constitution, and The 1986 Law on Marriage and Family, the 1994 Labour Code.	Applied under Vietnam's 1992 Constitution (Article 63), the 1985 Penal Code (Article 125), the 1994 Labour Code (Article 111).	Stipulated under the Constitution and laws such as the 1988 Litigation Code (Article 4).	Vietnam's 1986 Law on Marriage and Family.	Men have to reach the age of 20, and women at 18 or over. This difference in age stipulated for men and women is due to gender differences in the psychological and physical development of Vietnamese people rather than implying any discrimination against women.	The 1992 Constitution (Article 64), the 1995 Civil Code (Articles 35-36), The 1985 Penal Code (Article 143), The 1986 Law on Marriage and Family (Article 6).	The 1986 Law on Marriage and Family, the 1992 Constitution, the 1995 Civil Code also stipulate important matters including equality of rights and obligations in marriage, equal rights and responsibilities for children.
CEDAW/C/VNM/3-4 *(20 October 2000)* Combined third and fourth periodic reports of Vietnam	All of Vietnam's normative legal documents have promulgated the constitutional principle that "all citizens are equal before the law".	Legal documents promulgated from 1998-2000 provided women with equal legal capacity in all areas such as economy, education and science and technology, political and social fields, etc.	- Administrative measures: The 1998 Complaint Denunciation Law (Article 6) - Judicial measures: the 1998 Ordinance on Civil Cases, the 1994 Ordinance on Economic Cases and the 1996 Ordinance on Labour Disputes.	The Penal Code is the highest legal and enforcement tool for courts in Vietnam to address cases related to the violations of women's rights.	The state ensures women's equal rights to marriage and family relations with a number of amended laws such as the 2000 Law on Marriage and Family, the 1999 Criminal Code.	- Men at the age of 20 or more and women at the age of 18 or over. - A sentence of 2 years imprisonment might be imposed on those people who organise weddings and register marriages for people without meeting the legal requirement for marriage. (The 1999 Criminal Code, Article 148-149).	The free will and full consent to marriage of women is reaffirmed in the 2000 Law on Marriage and Family.	The 2000 Law on Marriage and Family provides more fully the rights and obligations of spouses in marriage and family relations.

Reports	Article 1 (Discrimination)	Article 2 (Policy Measures)			Article 16 (Marriage and Family Life)			
		The principle of equality between men and women	*Measures to prohibit discrimination against women*	*Protection of women's rights*	*Legal basis of equal rights to marriage relations*	*Age of marriage*	*Equality regarding free will and full consent to marriage*	*Other matters*
CEDAW/C/VNM/5-6 *(22 June 2005)* Combined fifth and sixth periodic reports of Vietnam	The concept of "discrimination against women" has not changed. Women's rights in Vietnam continue to be protected and respected in accordance with the Constitution and laws.	Vietnam continues to concretize the principle of gender equality through revised laws including the 2001 revised Law on the Election of National Assembly Deputies, the 2002 revised Labour Code, the 2003 Ordinance on Prevention and the Combating of Prostitution, etc.	- Administrative measures: women have equal rights to exercise their rights to complain and denounce to competent authorities (Complaint and Denunciation Law).C14 - Decree 32/2002/ND-CP on the implementation of the 2000 Law on Marriage and Family tackled the problem of discrimination against women in some remote and mountainous areas of Vietnam.	Every Vietnamese citizen including women has the right to request the Court to protect their rights in relation to civil, labour and economic fields (Complaint and Denunciation Law).	The 2000 Law on Marriage and Family.	The marriageable age remains consistent with the age of 20 for men and 18 for women.	The free will and full consent to marriage of women is reaffirmed in the 2000 Law on Marriage and Family.	The 2003 Ordinance on Population stipulates that each couple and individual have rights to and responsibilities for productive healthcare, application of family planning measures.
CEDAW/C/VNM/7-8 *(13 December 2014)* Seventh and eighth periodic reports of Vietnam	- Strict prohibition of all acts of discrimination against women (the 1992 Constitution, Article 63) - The 2006 Law on Gender Equality	The principle of equality is reaffirmed in Vietnam in various legal documents such as the 2005 Civil Code, the 2006 Law on Gender Equality, the 2007 Law on Prevention of Domestic Violence, etc.	Educational and administrative, as well as criminal and civil measures were taken to eliminate discrimination against women.	To protect women's rights, the state takes measures from administrative to criminal punishments.	The 2000 Law on Marriage and Family.	Marriageable age is 20 for men and 18 for women.	The free will and full consent to marriage of women is reaffirmed in the 2000 Law on Marriage and Family.	- The 2003 Ordinance on Population which was revised and amended in 2009 states that each couple and individual have the rights and obligations to care for their reproductive health, apply family planning methods and ensure small family sizes. - The 2007 Law om Prevention of Domestic Violence was adopted to handle abuse on women.

(Source: The Researcher, adapted and summarised from the UN's CEDAW Reports)

Although the contents of the various reports on Vietnam seem to give a very positive picture of the progress made by the country in implementing its State party obligations under CEDAW, the reality (as seen from the findings of the primary data analysis in **Chapter 6** of this thesis is) that many Vietnamese women and brides involved in cross-border marriages are still subject to various forms of discrimination - both in Vietnam and in their husbands' countries. Due to word count limitations, it has not been possible for the researcher to include the CEDAW reports on China, South Korea and Taiwan. However, the researcher's future research and publication plans will include a review of reports for these countries in order to compare them with the real-life experiences of migrant Vietnamese brides from the Mekong Delta region (which formed part of the empirical research for this thesis).

4.8 Conclusion

Based on the analysis in this chapter, it can be seen that the countries reviewed have over the years taken various legislative measures aimed at tackling the problems associated with cross-border marriages such as marriages conducted on the basis of false or misleading personal information about the parties, as well as the operations of commercial match-making agencies which use the cover of cross-border marriages for activities such as transnational people trafficking, sexual exploitation, and forced labour. It was also seen that there have been measures taken by the countries whose legal frameworks on marriage law have been reviewed in this chapter to tackle the problem related to the commodification of marriage through commercial match-making or similar practices such as online or catalogue mail-order bride enterprises. While these legislative developments show that some progress is being made in principle, on the ground there has been very little progress made in practice as evidence from the findings of the primary data analysis in Chapter of this thesis clearly shows.

A number of factors have conspired to undermine the effectiveness of the legal framework aimed at protecting women in the Southeast Asian region from the abuses and risks posed by cross-border match-making. Among these factors are the following: a growing market economy with an increasing trend towards commercialisation of all types of services, including match-making; technological innovations which have made it possible for illegal commercial marriage brokers to avoid regulation by going 'underground' through the use of online and social media platforms for the advertising and recruitment of brides; and the inconsistencies in national policies and legislation which recognise commercial match-making in some countries

but not in others. On the last point, there is obviously a need for a more coordinated regional approach in the ASEAN region through which the law can be standardized on some of these questions. This will not only make the law more effective, but also make it possible to avoid any potential conflict of laws. In the next chapter of the thesis, the methodology adopted for conducting this research will be explained.

CHAPTER 5
METHODOLOGY

5.1 Introduction

In this research, a mixed method approach is used, combining qualitative and quantitative method. To be specific, there are a number of methods employed including doctrinal approach, comparative study, empirical method (semi-structured interviews), secondary data analysis and socio-legal approach. There are two data analysis software used in this study. They include NVivo used to analyse qualitative data (i.e. primary data collected from interviews), and Excel used to analyse quantitative data (statistical data mainly collected from the official websites of government departments in Vietnam).

5.2 Justifications for Mixed Methods Adoption

There have been several studies regarding cross-boundary marriages as part of projects or dissertations conducted internationally and nationally using different methods and looking at the problem from different perspectives. Regarding the complexity of the issue, employing a single research methodology, either quantitative or qualitative, may not provide an effective tool for studying the various multi-dimensional legal and social problems which are a by-product of cross-border marriages. Therefore, this research has been conducted using a combination of both qualitative and quantitative methods (i.e. mixed method approach). This mixed-method design thus comprises of specific elements of qualitative (doctrinal, comparative and interview) and quantitative methods (secondary data analysis). The mixed methods are expected to address key aspects and the complexity of the socio-legal problems associated with cross-border marriages and international marriage-related issues, which are often very complicated and need to be examined from different perspectives, using various approaches. Each method adopted in this research is used appropriately for a specific purpose in different parts or chapters of the research as identified at **Figure 1.1**.

Although qualitative methods are predominantly employed in this research, the researcher adopts quantitative methods for certain parts of the research. As part of the study, the researcher collected statistical data (through secondary data analysis) which includes official statistics published by competent organisations in Vietnam such as Ministry of Justice, General Statistics Office of Vietnam, and Provincial Departments of Justice. The reason why the quantitative

methods involving data collection and analysis need to be adopted are as follows. Analysing these statistical data helps to answer the first research question and address some of the aim and objectives on which the thesis is based. For example, by analysing these statistical data, the answer for the question why cross-border marriages are more common in the Mekong Delta of Vietnam can be found. Based on these data, the researcher can critically review and analyse the nature of cross-border marriages in Vietnam, and to the causes behind the rapid rise in the phenomenon in the Mekong Delta region of Vietnam. Such data collection and analysis assisted in arriving at a better understanding of the subject and the research problems, thus paving the way for identifying effective legal and social solutions to such problems. For this reason, the necessity of quantitative method and its relevance to the study are deemed appropriate.

By using mixed methods, the accuracy of the research findings is enhanced, allowing the researcher through this study to generate new knowledge through a synthesis of the findings generated from using different approaches and also to reflect on the complexity of the phenomenon.[597] The methodology can be summarised in **Table 5.1** (below).

[597] Nigel Gilbert (ed), *Researching Social Life* (3rd edn, Sage 2008) 127-128.

Table 5.1 Methods used in this thesis

Methods	Approach	Yes	No
Qualitative	Doctrinal	√	
	Comparative	√	
	Socio-Legal	√	
	Empirical (interviews)	√	
	Case Study		x
	Observation		x
	Documentary Analysis		x
Quantitative	Secondary data analysis (Official statistics)	√	
	Experiment		x
	Social Survey		x
	'Structured' Observation		x
	Conent Analysis		x

(Source: The Researcher)

In the sections which follow, each of these methods is briefly explained including the rationale for choosing them.

5.3 Doctrinal Method

Doctrinal method has been used mainly in **Chapter 3** and **Chapter 4** of the thesis. Doctrinal method means research into the law and legal concepts. Doctrine has been defined as "a synthesis of rules, principles, norms, interpretive guidelines and values' which explains, makes coherent or justifies a segment of the law as part of a larger systems of law"[598]. Doctrine includes legal concepts and principles of all types – cases, statutes, and rules. Using the doctrinal approach helps to critically examine the essential features of legislation and case law and then all the relevant elements are combined or synthesised to establish an arguably correct and complete statement of the law on the matter which is the subject of the study.[599] This means

[598] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research" (2012) 17 Deakin Law Review 83, 84.
[599] Dawn Watkins and Mandy Burton (eds), *Research Methods in Law* (Routledge 2013) 10.

that doctrinal research involves extraction of information from primary sources (statutes, international conventions, and decided cases) and secondary sources (academic textbooks, journal articles, commentaries of legal scholars, reports, and data), critically analysing such information and drawing reasoned and logical conclusions from the analyses. In legal research, doctrinal studies examine legal concepts in an attempt to understand the nature of legal norms.[600] It then "systematises and employs them to conduct descriptive analysis and normative evaluation of the process of decision-making."[601] Ultimately, one of the main aims of legal doctrine is to increase the coherence of law, to present it as a systematic whole, to present legal rules under the umbrella of principles, to present law as a stable entity which "may change but not at once" and to ensure the unity of legal validity.[602]

Doctrinal research in effect involves using black letter law[603] and the problem-based doctrinal research approach. Black letter law can thus be used in this research to extract and critically analyse information from primary (legal) sources on cross-border marriages such as international conventions and national statutes. By using some elements of the black letter law approach, the research critically analysed international conventions[604] and relevant national legislation as well as other legal documents on marriage and family including Government's Decrees and Circulars.[605] Besides that, relevant international legislations of other countries such as China, South Korea, Taiwan, The Philippines were analysed.[606] The main aim of employing the black letter law approach as part of the methodology is to provide a critical understanding and knowledge of statutory provisions on the matter of cross-border marriages in Vietnam as well as to identify the gaps and weaknesses in the existing legal framework on the issue. However, it important to state that the black letter law approach is employed in this thesis is a narrow sense which is limited to analysis of legislation. It does not extend to case law analysis because there are as yet no published case reports (or database of cases) on the question of cross-border marriages in Vietnam. This aspect of the methodology has therefore been identified as one of the limitations of the research in the final chapter of the thesis.

[600] Aleksander Peczenik, "Can Philosophy Help Legal Doctrine?" (2004) 17(1) Ratio Juris 106, 107.
[601] Ibid 107.
[602] Ibid 107.
[603] For more on the black letter approach, see: Michael Salter and Julie Mason, *Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research* (Longman 2007) 44.
[604] Used in Chapter 4, Section 4.7.
[605] This method is used in Chapter 3 of the thesis.
[606] This method is used in Chapter 4, Section 4.2-4.5 of the thesis.

Regarding the problem-based doctrinal research approach, it can be employed as a tool to study a specific legal problem which in this case is the phenomenon of cross-border marriages in the Mekong Delta region of Vietnam. This approach consists of the following basic steps: (1) Assembling relevant facts; (2) Identifying the legal issues; (3) Analysing the issues with a view to searching for the relevant law; (4) Reading background materials including textbooks on the subject, previous and current proposals and suggestions for law reform (if any), policy papers, official reports and journal articles; (5) Locating and analysing primary material including legislation, delegated legislation and case law; (6) Synthesising all the issues in the context of the research topic; and (7) Coming to a tentative conclusion with reference to the research aims and objectives as well as the research questions.[607]

By this approach, both primary and secondary sources are analysed critically. Black letter law approach by its very nature works better with primary sources and not with secondary sources, the doctrinal approach complements this through analysis of secondary sources including academic textbooks, journal articles, and commentaries of legal scholars, reports, and collected data. It is important to point out that secondary sources contain many important viewpoints and commentaries of legal experts in the subject area. Thus, part of the methodology involves a critical literature review with re-examining and identifying any gaps left by researchers or academic writers in previous studies regarding the subject area. These gaps then are filled by developing critical analyses and assessments in subsequent chapters of the thesis, providing the researcher with an opportunity to make an academic contribution to the topic concerned. Therefore, doctrinal research is considered a suitable research method for this thesis which aims to provide a systematic exposition and evaluation of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and tries to predict future developments while making recommendations for law reform.

5.4 Comparative Study

The research includes a critically comparative study dimension, involving the comprehensive review and evaluation of collected materials rather than description only. Comparative research seeks to identify and to understand how different legal systems deal with the same problems

[607] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research" (2012) 17 Deakin Law Review 83, 106.

and with what degree of perceived success or failure.[608] Therefore, elements of critical assessment, analysis and appraisal of relevant concepts are included in the study in order to compare and clarify the difference in legal approaches. As part of this the influence of societal and cultural values, political factors on the development of legal principles in this area of study will be examined. Hence there is also be a jurisprudential or philosophical aspect to this part of the research.

In this thesis, comparative method is employed mainly in **Chapter 4**. The explanation for choosing this research method is because the comparative method is normally associated with cross-jurisdictional research in which approaches to law and its enforcement in different countries are compared. This thesis examines cross-border marriages between Vietnamese brides and their husbands from Taiwan, China and South Korea. Therefore, the researcher made a comparison between various legal frameworks adopted in different jurisdictions for the regulation of cross-border marriages with the approaches employed under Vietnamese law. This task is important because the researcher, by using a comparative study, was able to identify the essential differences in approaches that these legal systems adopted. Additionally, she also examined the advantages and disadvantages of each of these approaches and was finally able to generate recommendations and ideas for law reform in Vietnam. Therefore, a comparative approach can be deemed to be an appropriate method to use for this research.[609]

Another reason why this research employed the comparative approach is because the researcher was able to compare the nature of three groups of cross-border marriages including Vietnamese-Taiwanese, Vietnamese-Chinese and Vietnamese-Korean marriages in the efforts of finding out if these marriages have different or similar features. This means that by applying comparative approach the researcher was able to compare, analyse and develop the arguments through which the key issues of the thesis may be clarified in a more systematic and logical way. Therefore, the comparative study is simultaneously combined with the analytical

[608] Michael Salter and Julie Mason, *Writing Law Dissertations: An Introduction and Guide to the Conduct of Legal Research* (Longman 2007) 183.

[609] Charles C. Ragin, *The Comparative Method: Moving beyond Qualitative and Quantitative Strategies* (Berkeley: University of California Press c1987); Else Oyen, *Comparative Methodology: Theory and Practice in International Social Research* (London: SAGE 1990); Charles C. Ragin, *Issues and Alternatives in Comparative Social Research* (Leiden: E.J. Brill 1991); Eric Stein, 'Uses, Misuses-and Nonuses of Comparative Law', (1977) 72(2) Northwestern University Law Review 198; Rudolf B. Schlesinger, "The Past and Future of Comparative Law", (1995) 43(3) The American Journal of Comparative Law 477; Vivian Grosswald Curran, "Dealing in Difference: Comparative Law's Potential for Broadening Legal Perspectives" (1998) 46(4) The American Journal of Comparative Law 657.

approach. This enables the researcher to address the required outcome of originality of the proposed research project.

Using the comparative theme for this thesis was both interesting and challenging. The comparative approach may have some limitations if the legal provisions differ significantly among the countries selected for the study. The differences can in turn obstruct the effectiveness of any academic exercise which is based on cross-jurisdictional comparisons. To address this problem, the researcher studied different models for comparative law research that were examined in a journal article by Professor Mark van Hoecke and Mark Warrington,[610] and learnt that when comparing different legal framework, it is important that the broader approach to comparative law should be moved beyond the "law as rules" approach of traditional legal doctrine. This means the researcher needs to consider not only the "law as rules" but to place the law in a broad context regarding historical, socio-economic, psychological and ideological factors.[611] However, the important role of legal doctrine should not be ignored because legal doctrine *describes* and *systematises* the law in one specific legal system.[612]

5.5 Secondary Data Analysis

Quantitative method is one of very important research methods which has "a distinctive epistemological and ontological position that there is a good deal more to it than mere presence of numbers".[613] Secondary data analysis is one of the most widely-used techniques of data collection in quantitative method applied to legal research. Secondary data refers to the statistical material and information originally generated by other researchers for other purposes.[614] Analyses of secondary sources uses 'old' data for 'new' idea or purpose and the researcher is not involved in primary data collection. There are three main sources of secondary data, comprising of surveys, official statistics and official records.[615]

[610] Mark Van Hoecke and Mark Warrington, "Legal Cultures, Legal Paradigms and Legal Doctrine: Towards a New Model for Comparative Law" (1998) 47(3) The International and Comparative Law Quarterly 495-536.
[611] Ibid 496.
[612] Ibid 530.
[613] Alan Bryman and Emma Bell, *Business Research Methods* (4th edn, Oxford: Oxford University Press 2014) 160.
[614] Mike McConville and Wing Hong Chui (eds), *Research Methods for Law* (Edinburgh University Press 2007) 57.
[615] Ibid 60.

Secondary data analysis has been used in **Chapter 6** of the thesis.[616] By *secondary data* in this instance, the researcher is referring to statistical data generated from government sources in Vietnam including annual reports related to the number of cross-border marriages published by Ministry of Justice and Provincial Departments of Justice in the provinces of the Mekong Delta region of Vietnam. Moreover, the statistical data published by General Statistics Office of Vietnam were used in this research to analyse the socio-economic background of the Mekong Delta region.

The official statistics offer the researcher numerous advantages over other forms of quantitative data, and can therefore be considered as an alternative to collecting new data. The data herein have already been gathered by government departments. By using secondary analysis, the researcher can save a lot of time for collecting primary data or cost saved for carrying out large-scale surveys because the design, data collection and data input functions have already been undertaken by official government sources. What the researcher needs to do is focus on obtaining the relevant datasets and hence, can begin early data analysis and interpretation. Moreover, some of secondary data (or databases) can now be accessed online by the public, and can be downloaded by users for further analysis. For example, these secondary data used in this thesis are easily accessible via websites of the government departments in Vietnam.

More importantly, these secondary datasets are often large and reliable and contain a high-quality data bank which are beneficial to this study in terms of reliability. Bryman stated that "most datasets that are employed frequently for secondary analysis are of extremely high quality because the sampling procedures have been rigorous, in most cases resulting in samples that are close to being as representative as one is likely to achieve."[617]

One of the most important elements when adopting secondary analysis is to consider both the reliability and validity of the data. "Reliability may sometimes be jeopardized because definitions and policies regarding the phenomena to be studied vary over time."[618] The problem related to the reliability of the statistical data which should be considered is that variations over time in the figures or the trends in cross-border marriages in Vietnam involving different groups. Regarding the validity of the data, there are some issues to consider. First of all, the researcher used national data from annual reports of Ministry of Justice and the data published

[616] At Section 6.2.
[617] Alan Bryman and Emma Bell, *Business Research Methods* (4th edn, Oxford: Oxford University Press 2014) 322.
[618] Ibid 334.

by General Statistics Office of Vietnam. These statistics were collected during a long period of years and can be used to cover many aspects of the research, especially the recent trends in cross-border marriages in Vietnam. These data comprise of "national" data and "official statistics" gathered only by the competent government departments in Vietnam. This reinforces the level of reliability and validity of the data. At the same time, the second data source from marriage registration statistics of Provincial Departments of Justice in the Mekong Delta regions are quite a large sample size of quantitative data which allows the researcher to justify for data validity and reliability.

5.6 Socio-Legal Approach

Social-legal studies refer to as "an interdisciplinary with particular ties with sociology, the majority of its practitioners are based in law schools."[619] Moreover, a socio-legal study can be considered as an approach to legal studies, or even regarded as a methodology for legal research. This means that socio-legal studies can be defined differently from one researcher to another, and therefore there is no single unified definition for it. Thomas stated that "socio in socio legal does not refer to sociology or social sciences, but represents a line with a background within which law exists",[620] whereas the socio legal research is defined differently by other scholars who refer it as the work related to the sociology of law.[621] Reza Banakar and Max Travers, on the other hand, consider a socio-legal study, which is formed by both disciplines social science and law,[622] as "interdisciplinary research".[623]

Socio-legal studies have become more and more popular for their advantages in engaging with both disciplines, sociology and law. Historically, the relationship between sociology and law is obvious "because the study of law played a significant role in the formation of classical sociology and social anthropology".[624] Unlike doctrinal research in law, which constitutes only one aspect of law, socio-legal studies (commonly termed as *interdisciplinary* studies) integrate aspects of two or more different disciplines into one single approach to create a new subject

[619] Reza Banakar and Max Travers (eds), *Theory and Method in Socio-Legal Research* (Hart Publishing 2005) 1.
[620] Phil Thomas and Wheeler, *Socio-Legal Studies* (Hart Publishers 2000) 267.
[621] Collin Campbell and Paul Wiles (eds), *Law and Society* (Martin Robertson 1979) 2.
[622] Reza Banakar and Max Travers (eds), *Theory and Method in Socio-Legal Research* (Hart Publishing 2005) 5.
[623] There are other interdisciplinary studies such as social psychology (sociology and psychology), bio-chemistry (biology and chemistry).
[624] Ibid 2.

field and therefore new knowledge. That is an explanation for why socio-legal studies (interdisciplinary studies) have become more acceptable. Bradney stated that:[625]

> Law schools have seen the rise of a host of movements such as socio-legal studies, sociology of law, economics and law, feminism, critical legal studies, queer theory and law and literature ... In the contemporary era whole departments are given over to modes of scholarship that would have been unthinkable in a law school in 1960.

Similarly, Fiona described the relationship between studies and socio-legal studies in an empirical study of academic lawyers in the United Kingdom as follows: [626]

> Law is a discipline in transition, moving away from traditional doctrinal analysis towards a more contextual, interdisciplinary approach … The legal academics I interviewed were evenly divided between those describing themselves as 'black-letter' … and those describing themselves as 'socio-legal/critical legal'. However, given the propensity of those adopting a socio-legal approach to stress the necessity for an understanding of cases and statutes before more theoretical analysis can be undertaken, and the equally strong comments made by the great majority of 'black-letter' lawyers about the importance of introducing contextual issues into their analysis, one could accurately characterise the dominant mode of academic law as 'concerned with doctrine and with placing those doctrinal materials in their social context' … There is clear evidence from my study that the discipline of law as a whole has left behind the pure doctrinal analysis with which it started when it was first taught in English universities at the end of the 19th century.

In a comparison with doctrinal studies, socio-legal research places legal phenomena in a broader context or the empirical reality of the operation of law and legal structures. This is commonly referred to as 'law in action' or 'the law in action versus the law the books'. 'Law in action' seems to describe socio-legal work which does not expressly use the ideas of another discipline to interrogate law and legal phenomena, while adopting social research methods to conduct its studies. By adopting such an interdisciplinary study, the researcher is able to combine different skills knowledge, and forms of research experience from two or more disciplines which can help the researcher to transcend some of the theoretical and methodological limitations of the disciplines in question.

[625] Anthony Bradney, *Conversations, Choices and Changes: The Liberal Law School in The Twenty-First Century* (Oxford, Hart Publishing 2003) 9-10.
[626] Fiona Cownie, *Legal Academics: Culture and Identities* (Oxford, Hart Publishing 2004) 197-198.

What is the relevance of socio-legal approach to this study? As previously discussed, socio-legal research does not analyse the law through purely legal documents only, but employs different media such as legal, commercial and social elements. This approach examines the context and structure of 'law' by applying the combination of both social-science and legal techniques.[627] Moreover, the socio-legal research employs the law-in-action model to examine how law actually performs in real life. It does not create new structure(s), but it constructed the tools from which a critique can be. Socio-legal studies in the area of family law has particularly common. Socio-legal studies are increasingly adopted for preparing recommendations on law reform for governments. The findings of such research often have policy impacts in the form of a direct policy transfer effect. This justifies why socio-legal approach is more suitable to this research.

There can be difficulties for the researcher to employ such method. Accordingly, in order to create an interdisciplinary space, the researcher needs to establish communicative links between two disciplines, law and social science. These links will assist the researcher to visualise the world from other relevant disciplinary perspectives and appreciate the value of the knowledge and skills they have developed in the process.

5.7 Interview as A Tool Used in Socio-Legal Research

Interviewing was employed in this study (Chapter 6) as a research tool to get an insight into individual experiences of Vietnamese women in the Mekong Delta region who have had experience of cross-border marriages with Taiwanese, Chinese or Korean men. The ultimate purpose of this is to gain an improved understanding of the problems associated with such marriages so as to propose law reform and better support for Vietnamese women at both pre-marriage and marriage stages.

5.7.1 Justification for Using Interviews and Sample Size Selection

In a comparison with focus group or observation, interview was chosen as the most flexible and appropriate approach for conducting this research. In addition to this, the main reason why the researcher employed interviews is because the researcher would like to have a clearer picture of cross-border marriages in the Mekong Delta region, an in particular the ideas, opinions, and perspectives of Vietnamese brides in such marriages (interviewees) who play an

[627] Ibid 33.

important role as an 'actor' in the studied subject.[628] Based on this, the researcher can learn about their real-life experiences and what they have undergone, instead of just getting their comments on it (as can be the case with questionnaires).[629]

The primary data collection was designed using the form of semi-structured interviewing. There was a set of questions prepared as a guide by the researcher which cover all relevant subjects of the research and pre-selected themes for the participants address.[630] Using semi-structured interviewing has some advantages for both the researcher and the respondents. For example, interviewees in semi-structured interviewing can use their framed categories to answer questions rather than addressing questions within categories directed by the researcher as seen in structured interviewing.[631] This form of interview enables Vietnamese brides (interviewees) to feel more comfortable to talk about their personal experiences in a cross-border marriage. Additionally, the researcher can modify her questions substantially for different (individual) respondents based on their answers. Therefore, the researcher can extemporise follow-up questions during the live or on-going interviews.[632] The interview guide also helps to remind the researcher of uncovered or outstanding aspects, or what kind of question should be asked first or later. Moreover, the structure of the interview guide (even just under a semi-structure form) enabled the researcher to avoid a digression as possibly encountered with unstructured interviewing.

The question about what is an adequate sample size for interviews was taken into consideration. Specific numerical recommendations have been suggested based on experts' experience of qualitative research.[633] Green and Thorogood maintained that interviewing 20 people for an interview-based study often generates "little new information".[634] Richie suggested that studies employing individual interviews should involve no more than 50 participants so that researchers are able to manage the complexity of the analytical task.[635] Similarly, it is suggested

[628] Greg Scott and Roberta Garner, *Doing Qualitative Research: Designs, Methods, and Techniques* (Boston, Mass; London: Pearson 2013) 281.
[629] David Silverman, *Interpreting Qualitative Data* (5th edn, Los Angeles: SAGE 2014).
[630] Please see Appendix 4.
[631] Ibid 282.
[632] Greg Scott and Roberta Garner, *Doing Qualitative Research: Designs, Methods, and Techniques* (Boston, Mass; London: Pearson 2013) 283.
[633] Konstantina Vasileiou, Julie Barnett, Susan Thorpe and Terry Young, "Characterising and Justifying Sample Size Sufficiency in Interview-Based Studies: Systematic Analysis of Qualitative Health Research Over a 15-Year Period" (2018) 18(148) BMC Medical Research Methodology 1.
[634] Judith Green and Nicki Thorogood, *Qualitative Methods for Health Research* (London: Sage 2004).
[635] Jane Ritchie and others, "Designing and Selecting Samples", in: Jane Ritchie and Jane Lewis, *Qualitative Research Practice: A Guide for Social Science Students and Researchers* (London: SAGE 2003) 77, 108.

by Britten that there should be no more than 50 or 60 interviews for large qualitative studies.[636] In considering the appropriate number of interview participants for this research, the researcher considered two elements. Firstly, that the number is not too small to support the scope of this research. Secondly, the interview sample size is not too big to be manageable. Limitations relating to distance and time could cause the researcher logistical difficulties in conducting more than 45 interviews. For this reason, the researcher planned to interview between 35 and 45 participants, and ended up interviewing 49 participants from the Mekong Delta region of Vietnam including 45 brides, 1 bride's mother, 1 local marriage broker and 2 staff from local Women's Union. However, 6 of interviewed brides withdrew their participation during the process, leaving the final figure of 43 interviews in total for data analysis.[637]

5.7.2 Research Ethics

5.7.2.1 Ethics Approval

Adequate preparation before data collection constitutes a very important stage in research. In compliance with the University of Huddersfield policies and frameworks regarding Research Ethics and Integrity Policy, the researcher had applied for and obtained Ethics approval from the Business School Research Ethics Committee on 11th November 2016 before interviews were conducted. Included in plans for data collection, the researcher prepared documents such as interview guide[638] and interview schedule.[639]

5.7.2.2 The Recruitment of Participants for the Research

There were two main sources to recruit Vietnamese brides for the interviews. Firstly, the researcher joined in Facebook pages of overseas Vietnamese brides' community. Vietnamese brides after going to South Korea or Taiwan, commonly created Facebook pages where they can keep in touch with friends and share useful information. The researcher joined the groups and contacted Vietnamese brides and asked if they want to participate in the research. However, due to the limitation of personal connection, time and the sensibility of the interview topic, many brides refused sharing their personal experience. Therefore, there were only two Vietnamese brides recruited through the Facebook source by Skype interviews.

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[636] Nicky Britten, "Qualitative Research: Qualitative Interviews in Medical Research" (1995) 311(6999) BMJ 251, 253.
[637] Please see *Figure 5.1* in Chapter 5 of the thesis for details.
[638] Appendix 4.
[639] Appendix 5.

Being conscious in the early stage of the research of the difficulty in recruiting participants by the first way, the researcher realised that the better to recruit brides for interview is to contact them in-person. This allows them to be provided with a personal explanation and more information about the research and they also have chance to make any inquiries about the interview topic. The face-to-face connection is believed to be the best way for the researcher to convince Vietnamese women to participate in the research which could be benefits to future brides who may experience similar circumstance like them. Therefore, the second approach is to identify brides and contact them in-person. This led the researcher to plan a trip to Vietnam for data collection with an estimated time for interviews with Vietnamese brides. Accordingly, a schedule for face-to-face interviews was planned to be conducted during the Vietnamese Lunar New Year period when many Vietnamese brides were expected to return to Vietnam for their family reunion. This is the best and only chance to meet them in person and conduct interviews. To do that, the local Vietnam Women's Unions in the Mekong Delta region was contacted for help.[640] The local Vietnam Women's Unions are very helpful and supportive. They not only recommended Vietnamese brides for the interviews, but also accompanied the researcher during the data collection.

As a former state official in the Mekong Delta region, the researcher did not find it difficult to establish contact with local authorities to collect primary and secondary data. The procedure involved the researcher getting a Recommendation Letter from her local government office then presenting it when she contacted any local Vietnam Women's Union or the Department of Justice (where cross-border marriages are registered). The staff from these organisations were very helpful and highly supportive of the research.

5.7.2.3 Informed Consent

Once initial contact was made with the Vietnamese brides, this provided the opportunity for them to be informed and to discuss the purpose of the research as well as read the participant information sheet.[641] More importantly, they had the opportunity to ask any questions if they found any points unclear. They were given enough time to decide whether or not they wanted to participate in the research. Once they made decision, they then had to express their consent

[640] The main role and commission of Vietnam Women's Union will be discussed more in-depth in Chapter 6 at Section 6.4.1.
[641] Appendix 1.

by signing the consent form[642] showing that they are willing to participate in the research before any interview could be commenced.

5.7.2.4 Possible Harm to Participants

The main purpose of the in-depth interviews was for the researcher to learn and to understand more about individual experiences of Vietnamese women in the Mekong Delta region of Vietnam in cross-border marriages. The individual experiences herein refer to what they experienced before, during and after marriage, focusing on key issues such as discrimination, domestic violence, sexual abuse, human trafficking or divorce in their husband's country. The ultimate purpose of this improved understanding is to identify opportunities for providing better support for such women by changing the law in Vietnam. The researcher believes that the best way to identify such opportunities is when insights can be gained from a proper understanding of the personal experiences which Vietnamese women have been through their cross-border marriages.

The ethical issues which arose in the interviews is that the interview questionnaire might remind participants, especially 'vulnerable' participants who experienced unhappy marriages, of unhappy memories from the past such as domestic violence, sexual abuse, or human trafficking. Where they have had an unhappy experience, emotional and psychological effects to participants are inevitable. This applies in particular to participants who were victims of human trafficking or sexual abuse. Or the experience may be something participants do not want to recall, especially participants who have been victims of human trafficking or sexual abuse.

5.7.2.5 Measures to Minimize Possible Harm

By conducting interviews with vulnerable women, the researcher was conscious early in the exercise about the sensitive nature of the interview topic and that possible harm may occur during the interviews. However, the possible harm to the participants who had face-to-face interviews (mostly with women were divorced and had return to Vietnam) might be higher than those who had Skype interviews (and who are still in marital relations).

To address the issues, the researcher particular care in selecting the word choice when formulating questions and avoided asking direct questions so that participants could feel more

[642] Appendix 2.

comfortable to answer them. The researcher also tried different ways or approaches when asking about a sensitive issue and left participants enough time to calm them down in some situations (when participants were crying, for example). Before interviewing, the participants were told that they can decline answering any questions if they do not want to. This helps to reassure the participants. The researcher also ensured that she was a good listener when the participants were sharing their individual experiences. The researcher listened to the participants about what they experienced in a sympathetic manner rather than keep asking them questions only. Some interviews were stopped halfway through, and the researcher then asked the participants if they would prefer to continue the interview at some other time (whenever they were ready to continue).

5.7.2.6 Support Provided to Participants Who Experienced Distress

The researcher was also concerned about monitoring the emotion, mood, and feelings of the participants during the interviews so as to offer them appropriate support. The researcher asked staff from the local VWU for additional support. These staff are well-trained, and they are very experienced in emotional and psychological counselling. The participants were therefore given mentally appropriate support from VWU staff when necessary. In order to provide support to participants who experience distress, the researcher implemented two approaches concerning the interview venue (which either had to be the local women union office or the participant's favourite venue).

- For some interviews, the researcher invited participants to go to the local Women Union office where well-trained staff can provide advice and psychological support. In this way, when participants had any issues during the interview such as distress or recalling unhappy memories, the staff from the local Women Union were on hand to provide relevant support. However, this method was applicable to in-person interviews rather than Skype interviews. Besides that, participants often felt uncomfortable to go to a new place (other than their home) to share their private experiences or stories and it took time to travel to a local Women Union. Therefore, many participants refused to participate in the research for this reason. To solve this problem, the researcher had the second approach.

- For the second approach, the participants could choose the interview venue where they thought they would feel most comfortable for the interview. In this case, the researcher invited one of staff from the local Women Union to go with her to the interview venue so that if there were any harm arising from the interview, the participants would be given appropriate psychological support from trained staff.

5.7.2.7 Rights to Withdraw

The interview topic is quite sensitive because the questions may lead to participants recalling what happened in the past, including some unhappy experiences. Before commencing each interview, participants were therefore informed that they can withdraw from this research at any time, without giving a reason, if they feel uncomfortable with the process. Eventually, there were 6 participants who withdrew from the research after interviews were fully conducted, making the final number of participants from who data was collected and analysed to drop from 49 to 43 interviews.

5.7.2.8 Flexibility in Interviewing

All interviews are conducted under semi-structured interviewing which allows the researcher to follow up interesting points that interviewees make by asking open questions. Participants can refuse to answer any questions if they do not wish to. The flexibility approach to data collection also come from the fact that participants can choose the time and venue for the interview to suit their own comfort and convenience.

5.7.2.9 Getting Interviews Recorded

Before conducting any interviews, the researcher asked interviewees for their permission to record the interviews. However, because of the sensitiveness of the interview subject, only 2 interviewees acceded to the request for the interviews to be audio-recorded and most participants refused to be taped. When faced with refusal, the researcher still went ahead with the interview and recorded detailed notes instead. To do that, there were two steps made. Firstly, during the interviews, the researcher took notes and showed the summary notes to the interviewees who evaluated their accuracy. Secondly, the researcher wrote these notes up soon after the session.

5.7.2.10 Safeguards Concerning Data Storage

The researcher took the safety of data storage into very careful consideration. Therefore, all of data collected from participants was stored safely under the university personal storage disk and the researcher's personal laptop set with password protection. Throughout the course of the research and writing up, there was no incident which could have led to a possible breach of data protection protocols.

5.7.2.11 Measures to Ensure Confidentiality

Regarding the importance of confidentiality, the researcher assured all participants in the study that their responses would remain confidential and anonymous. Any information which could reveal the identity of a participant has been treated in strict confidentiality. Signed consent forms which stated participant's names has been kept confidentially. The data can only be accessed by the researcher and her supervisor. The data is going to be destroyed after the research is completed. The research participants will not be identified in any written work stemming from this research. Participants' identify and any responses given by participants in the interview are protected by being anonymised, or by the use of pseudonym if necessary. To further ensure confidentiality in the data analysis stage of the research, the researcher asked for and obtained the research participants' permission for their words to be quoted in the thesis, but with the use of pseudonyms.

5.7.2.12 Opportunities and Challenges during Data Collection Stage

During the data collection stage, there were many advantages. Firstly, the researcher worked as an official of External Relations Division under the Office of Hau Giang Provincial People's Committee which is located in Hau Giang Province of the Mekong Delta region of Vietnam. Her main role was as a legal consultant on policies related to external relations of Hau Giang Province, including cross-border marriages between local residents and foreigners. This facilitated the researcher to contact and co-operate with the officials in the Departments of Justice and Vietnam Women's Union (VWU) in local governments. VWU's staff were enthusiastic and helpful who always facilitated the research during the data collection even on weekends or evening time which was the most convenient time for participants.

Secondly, the interview time scale was scheduled carefully and many Vietnamese brides were easily approached in person. The organisational support from local VWU helped the researcher to contact Vietnamese brides easier. Participants were given the freedom to choose a time and venue for their interview which they felt to be the most convenient and comfortable. Thus, several brides were very honest and open about their personal life story and marital experiences. Many of them understood and supported the aims of the research and even recommended other brides as participants in the research.

Besides the advantages, there were many difficulties that the researcher had to address when collecting data. Many brides refused to attend the research because they were not willing to share their private life or marital experiences which might include memories that they did not want to recall. Vulnerable women who experienced unhappy cross-border marriages found it difficult to trust anyone, especially strangers who they were meeting for the first time. Thus, it took a longer time to get to know them and to explain to them the importance of this research.

5.7.2.13 Transcribing Interviews

It is good research practice that the analysis of qualitative data should not be done until all the interview data is collected and completely transcribed.[643] The aim of the transcription is to "compile the amount of text to be analysed" so that the words of an interviewer and a respondent in an interview can be kept intact.[644] It is relatively unproblematic to translate the spoken into the written words. It is important that the written text reproduces exactly what the interviewee said, word for word. However, the problem with transcribing interviews is that it is very time-consuming. This is because the researcher has to write down everything that interviewees said, even the kind of things which are not as relevant to the research topic or are not been used or are not going to help the research in any way. It is suggested that it is best to allow "around five to six hours for transcription for every hour of speech".[645] In fact, it took three times the amount of time of the interview to transcribe it or even more. More difficulty was encountered with the interviews that were not taped, as the researcher had no opportunity to go back and listen once more to what was said. This made the transcribing process more challenging. In this research, it took much longer time for professional transcription since the

[643] John Lofland and others, *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis* (4th edn, Wadsworth Publishing 2005) 107.
[644] Alan Bryman and Emma Bell, *Business Research Methods* (4th edn, Oxford: Oxford University Press 2014) 495.
[645] Ibid 495.

researcher (a trained and professional translator) had to transcribe all interviews (in Vietnamese) before translating them all into an authentic English version.

Another consideration relates to reliance on transcripts of the interviews in the research. The big question to consider is whether the transcription should be done by the researcher herself, or if secretarial assistance should be used even though the secretary was not present at the interviews. It is advised that researchers should make every effort to transcribe all the interviews themselves rather than turning the task over to a "hired hand".[646] This is because the researchers themselves participated in the interviews and it is in the process of transcribing that they truly "hear" what the person has said, and, as such, this is a period in which analytic insights are most likely to occur.[647] Thus, it is advised that the transcribing should not done by a person who was not present for the interview. Instead, the researchers should transcribe all the interviews because they had a chance not only to listen to the answers directly but also observed the body language of interviewees. This helps transcribing to be more accurate and reliable. It is for these reasons that the researcher decided to do the transcription herself rather than use secretarial assistance.

5.7.2.14 Translating Interview Data

The second big question should be about whether the researcher does translation (from Vietnamese into English) herself or translation should be done by a professional linguist who is more likely to be neutral and objective. It is suggested that "the translation process constitutes a (re)construction of the social reality of a culture in a different language, in which the translator interacts with the data, actively interpreting social concepts and meanings"[648] rather than seeing translation purely as a technical exercise. Translation, in other words, is a sense-making process that involves the translator's knowledge, social background, and personal experience.[649] In fact, the researcher herself is a well-trained and experienced translator and interpreter.[650] Thus, the translation can be done by herself. More importantly, it is clearly stated in the Consent Form that "the interview data will be treated confidentially and only used for research purposes. No person other than the researcher and her facilitator will have access to the information

[646] John Lofland and others, *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis* (4th edn, Wadsworth Publishing 2005) 52, 107.
[647] Ibid 107.
[648] Alan Bryman and Emma Bell, *Business Research Methods* (4th edn, Oxford: Oxford University Press 2014) 500.
[649] Ibid.
[650] *See* Appendix 3 for the researcher's training certificate regarding interpreting.

provided."[651] For this reason, the researcher decided to translate all transcript's into English by herself as an experienced translator in respect of translation quality and reliance.

During the process of translating interview data, there were many difficulties. Firstly, there were situations where interviewees used words for which there is no equivalent in English, or grammatical structures that cannot be translated easily. Secondly, the difficulties associated with translating idioms or proverbs from Vietnamese to English that rely on socio-historical knowledge of their meaning. With high concerns about those difficulties, the researcher took a more reflexive approach that interview translation is based on the negotiation of cultural differences.

5.7.3 Interview Statistics

The primary data collection stage mainly started in early February 2017 and lasted for more than a month. At that time of year, Vietnam celebrated the Vietnamese Lunar New Year which provided a very good opportunity for the researcher to meet Vietnamese brides who returned to their hometowns in the Mekong Delta region for family reunion.

In designing the interviews, the researcher identified 3 groups of participants representing Vietnamese women who got married with Chinese, South Korean and Taiwanese men. The selection process mainly focused on those groups of Vietnamese women who either got divorced or had experienced an unhappy marriage life. The research concentrated in particular on identifying the difficulties or challenges facing Vietnamese women in such marriages, as well as problems related to women trafficking, domestic violence, and sexual exploitation.

The final primary data collection was based on 43 interviews comprising of 40 in-person interviews and 3 distance interviews (including 2 Skype interviews and 1 phone interview). The interviews participants comprised of 39 Vietnamese brides, 1 Vietnamese bride's mother, 2 staff from local Vietnam Women's Union and 1 local marriage broker (*see* **Figure 5.1**, below). Each interview lasted for at least 30 minutes. Among 39 interviewed Vietnamese brides, there is 1 bride who got married twice with foreign husbands at different time. Interestingly, 11 brides revealed that they each also have a sister married to a foreign man who comes from either Korea, China or Taiwan. This means that there are many families in the Mekong Delta regions which have not only one, but two or even more foreign sons-in-law.

[651] *See* Appendix 2.

One of the families who refused to attend the research have three daughters getting married with foreigners, two with Koreans and one with a Taiwanese. There were many brides who get married with a foreign man first then introduced a man from their husband's country to their sister, friends or relatives. More noticeably, among the 39 interviewed brides, there are 19 women who either got divorced or were exploited by the marriage brokerage agencies. In the divorced cases, the shortest marriage duration is just one month while the longest is 12 years. The researcher has included in the *Appendix section* of this thesis 3 separate interview samples with 3 Vietnamese brides who experienced cross-border marriages with a Chinese man[652], a South Korean[653] and a Taiwanese. [654]

[652] Appendix 7.
[653] Appendix 8.
[654] Appendix 9.

Figure 5.1 Interview participants

(Source: The Researcher © - analysed from the interview data)

The interviews were conducted in 7 communes in the Mekong Delta region, mainly in Hau Giang Province and Can Tho City. The main reason why the two areas were selected for the interviews is because they are ranked among the top 5 provinces in Vietnam for having the highest ratio of Vietnamese-Taiwanese and Vietnamese-Korean marriages.[655] Noticeably, there were 5 interviews with brides conducted in Tan Loc island, located in Tan Loc Ward of Thot Not District of the southern Vietnamese city of Can Tho. Tan Loc island is one of the localities in Can Tho City which is well known for having abnormally high rates of Vietnamese-Taiwanese and Vietnamese-Korean marriages. Tan Loc island has been dubbed as "Taiwanese island," due to the extremely high proportion of marriages between local women and Taiwanese men. The "Taiwanese island" is also well known as one of localities across the Mekong Delta of Vietnam having the highest figures for Vietnamese brides in Taiwan. In recent years a new trend has emerged in which many young women are marrying husbands from South Korea, rather than Taiwanese husbands as before.[656] The detailed statistics can be seen in **Table 5.2.**[657]

Table 5.2 The number of cross-border marriages between Vietnamese women in Tan Loc island with foreign men (1999 - 12/2016)

Country	Number	
Belgium	1	
France	1	
Italy	1	
Singapore	3	Tan Loc island - dubbed as "Taiwanese island"
Malaysia	5	Population: 31,402 (2016)
USA	10	
China	31	
South Korea	311	
Taiwan	494	

(Source: Vietnam Women's Union in Tan Loc Ward)

[655] *Please see* Table 6.3 and Table 6.4.
[656] "Vietnamese Women Wed Foreigners to Aid Family" *(Associated Press*, 08 October 2008) <http://www.nbcnews.com/id/26124698/ns/world_news-asia_pacific/t/vietnamese-women-wed-foreigners-aid-family/#.Xell3uj7SUk> accessed 05 December 2019.
[657] The data was provided by the President of Vietnam Women's Union in Tan Loc Ward.

It is clearly shown in **Table 5.2** above that though the local women in Tan Loc island mainly get married with three groups of foreign men from Taiwan, South Korea and China. Vietnamese-Taiwanese constituted the highest rate with 494 cases recorded within 17 years from 1999, closely followed by 311 Vietnamese-Korean marriages. This explains why the Tan Loc island has been dubbed as "Taiwanese island". According to the local Vietnam Women's Union in Tan Loc island, in recent years, cross-border marriages have turned to a new trend with more and more local women getting married to men from South Korea. The Vietnamese-Chinese marriages ranked at the third level though 10 times less than those of Vietnamese-Korean ones. The number of marriages between Vietnamese brides and men from other countries are by comparison insignificant. Data from Women Union in Thot Not District[658] revealed that as of January 2015, more than 3,000 local brides were married to foreign men. Among them, 1,680 women espoused Taiwanese husbands and 1,198 others wed South Koreans.[659]

[658] Thot Not District comprises 9 wards including Tan Loc ward.

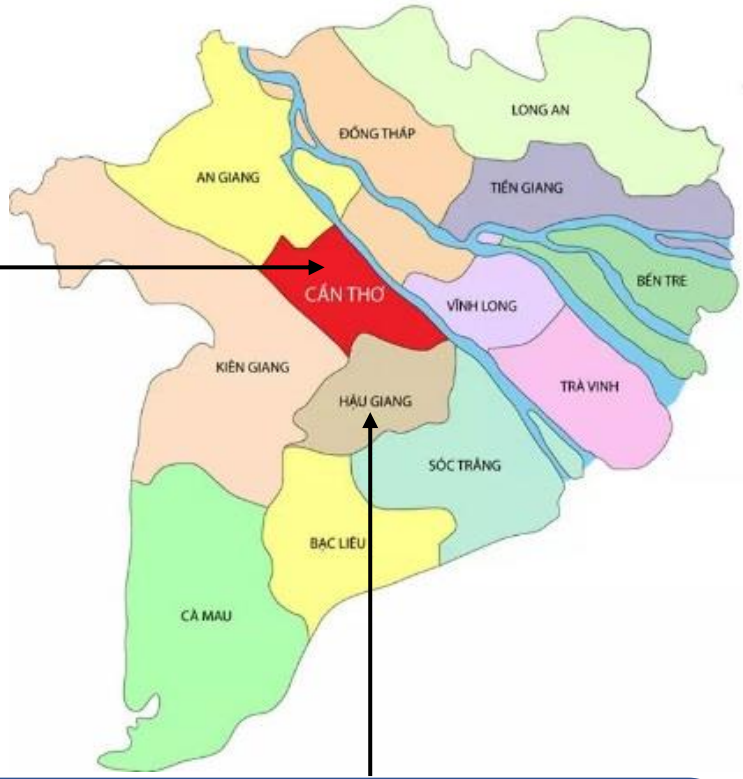
[659] "In Southern Vietnam, 'Taiwanese Islanders' Now Shake Head at Foreign Marriages" (*Tuoi Tre News*, 29 March 2015) <http://tuoitrenews.vn/features/27107/in-southern-vietnam-taiwanese-islanders-now-shake-head-at-foreign-marriages> accessed 14 July 2017.

Map 2.3 The map of the Mekong Delta region in Vietnam

Can Tho City:

The statistics from the Department of Justice in Can Tho City reveal that in 2013, there were 5,770 Vietnamese-Korean marriages in the whole country in which Can Tho City accounted for 1,030 Vietnamese-Korean marriages. This means that among every 6 Vietnamese women getting married with South Korean men, there is a bride from Can Tho city. Moreover, the divorce rate among Vietnamese-Korean marriages in Can Tho City is 20%.

(*Source: Vietnam Women's Union in Can Tho City*)



Hau Giang Province:

In Hau Giang Province, between 2004 and 2014, there were 11,000 local women got married to foreigners. 70% of these brides got married with South Korean men.

(*Source*: *General Department of Police - Ministry of Public Security)*

5.8 Tools for Data Analysis

Data analysis constitutes a very important stage in a research course. It provides the critical link from data collection to drawing findings. Regarding how to analyse data and to draw valid and dependable findings or conclusions from the data, the researcher employed two kinds of software to analyse data including **NVivo** for the primary data - interviews (qualitative) and **Excel** for the secondary data (quantitative). The reason why the two software are employed is because the size of data is not very big or complicated. Thus, using the software is relevant and suitable for analysing such data size. NVivo and Excel are both approved by the University of Huddersfield as data analysis tools for research. By using this approved software for data analysis, it helps to reinforce data validity and reliability as well as research findings.

5.8.1 Primary Data Analysis Software - NVivo

The data of 43 semi-structured interviews was analysed by using NVivo, a qualitative data analysis software which is the data analysis software tool approved by Huddersfield University Business School.[660] However, the researcher experienced many difficulties in using it because not many law students are familiar with such software. In efforts to analyse interview data, the researcher contacted to her supervisor for advice and found more documents to read about the software instructions. The researcher has learnt about and used the software at the same time. The researcher also attended several training sessions on how to get started with NVivo as part of PGCert programme. However, NVivo versions have been updated annually that made the researcher a bit confused and took time to get familiar with the latest version.

For the primary data collected from interviews, the researcher applied thematic analysis which requires "accessible and systematic procedures for generating codes and themes from qualitative data."[661] Codes are the smallest units of analysis, being used to capture key features of the data content which may be relevant to the research questions; whereas "themes provide a framework for organizing and reporting the researcher's analytic observations".[662] Codes are the building blocks for themes. Using thematic analysis is not limited to summarising the data content, but also to identifying, describing, organising, analysing and reporting themes found

[660] *See* Appendix 6.
[661] Victoria Clarke and Virginia Braun, "Thematic Analysis" (2017) 12(3) The Journal of Positive Psychology, 297, 297.
[662] Ibid 297.

within a data set.[663] This means that the researcher used the NVivo software to code the data set within different themes so that the data content can be accessed, interpreted and analysed systematically.[664] The emphasis of thematic analysis was to produce rigorous and high-quality analysis, and further to produce trustworthy and insightful findings.

5.8.2 Secondary Data Analysis Software (Excel)

Excel software was used in this research to analyse official statistics published on the website of governmental agencies in Vietnam for the purpose of examining the socio-economic context of the Mekong Delta region of Vietnam, as well as the situation with cross-border marriages in the region for the last two decades. The findings helped to provide a clearer picture about the ever-increasing phenomenon of cross-border marriages in the region, and the possible reasons behind this phenomenon at a macro level.

5.9 Conclusion

This chapter has explained methodology and the justifications for adopting the mixed methods approach for this research. The researcher used different research methods for different parts of the thesis, depending on their relevance to the subject matter of each part. The emphasis has been on primary data collection and analysis, with a great level of attention paid to research ethics and relevant software used to analyse the data. The focus of the next chapter will be on data analysis and the resulting findings.

[663] Lorelli S Nowell, Jill M Norris, Deborah E White and Nancy J Moules, "Thematic Analysis: Striving to Meet the Trustworthiness Criteria" (2017) 16 International Journal of Qualitative Methods 1, 2.
[664] Appendix 6.

CHAPTER 6
DATA ANALYSIS

6.1 Introduction

The aim and objectives of this chapter are mainly to identify the factors responsible for the increase in cross-border marriages in the Mekong Delta region of Vietnam. The methods used in this chapter is secondary data analysis using empirical or statistical evidence for support. Moreover, primary data collected from interviews with Vietnamese brides who experienced such marriages will be used to examine the situation of cross-border marriages in this region. A conclusion will then be drawn in answering the research question as to why cross-border marriages are more common in the region.

6.2 Secondary Data Analysis

6.2.1. An Overview about Cross-Border Marriages in Vietnam

6.2.1.1 Vast Majority of Cross-Border Marriages Related to Vietnamese Women

In Vietnam, cross-border marriages were recorded in all 63 provinces and cities nationwide. It is agreed that globalisation contributes to the increase of cross-border marriages in Vietnam. The latest figures published in *Viet Nam Migration Profile 2016*[665] revealed that the proportion of Vietnamese marriages with foreign nationals (not Vietnamese living overseas) made up 63% of marriage relations involving foreign elements.[666] This ratio continued increasing in recent years to 71.4% in 2015 from 62.4% in 2014. Interestingly, the number of marriages involving Vietnamese men has risen while that of women has declined. However, the vast majority of cross-border marriages related to Vietnamese women. In 2016, 16,233 cases of cross-border marriages were recorded nationwide, 85% of which involved Vietnamese females (**Table 6.1**).

[665] International Organization for Migration, *Viet Nam Migration Profile 2016*, (Hanoi, August 2017) 38

[666] The term "marriage and family relations involving foreign elements" is officially used under Vietnam Law on Marriage and Family, referring to the marriage and family relation in which at least one partner is a foreigner or an overseas Vietnamese or in which partners are Vietnamese citizens but the bases for establishing, changing or terminating that relation are governed by a foreign law, or that relation arises abroad or the property related to that relation is located abroad. (*See* Vietnamese Law on Marriage and Family of 2014, Art 3(25)).

Table 6.1 Gender-based division of Vietnamese marriages with foreign nationals by year

Year	Total	Men	Women	Ratio of Women (%)
2008	21,805	1,624	20,181	92.6
2009	19,795	1,527	18,268	92.3
2010	20,802	1,520	19,282	92.7
2011	18,420	1,730	16,690	90.6
2012	17,891	1,550	16,341	91.3
2013	18,636	2,318	16,318	87.6
2014	17,746	2,572	15,174	85.5
2015	18,726	2,733	15,993	85.4
2016	16,223	2,441	13,782	85.0

(Source: The Department of Civil Status, Nationality, Authentication, Ministry of Justice, 2015, 2016 and 2017)

6.2.1.2 Diversity of Cross-Border Marriages

In the last two decades, the rapid rate of development of the country together with globalisation have created a very good opportunity for the Vietnamese people to meet and exchange cultures with foreigners. Thanks to this, they have a better chance to get married beyond the country. The number of cross-border marriages shown in **Table 6.2** (below) are calculated by the inclusion of cross-border marriages registered in Vietnam and also those registered overseas.[667] The latest figures published in *Viet Nam Migration Profile 2016*[668] shown in **Table 6.2** below revealed that Vietnamese nationals get married to foreign nationals from a diverse range of countries, with Australia, China, South Korea, Taiwan and the United States, being the most common. The highest proportion of cross-border marriages in Vietnam were between Vietnamese and Korean nationals, accounting for 30.6% of cross-border marriages in Vietnam between 2008 and 2016. According to the Korean Immigration Service Statistics 2012,

[667] In the civil status management of Vietnamese citizens, where a cross-border marriage involving a Vietnamese citizen is registered at competent foreign agencies, then that marriage will be recorded in the civil status register by the competent organisation in Vietnam, usually the Departments of Justice. A similar procedure is applied to divorces arising from such cross-border where the divorce proceedings are settled in foreign countries.
[668] International Organization for Migration, *Viet Nam Migration Profile 2016*, (Hanoi, August 2017) 40.

Vietnamese women ranked second in the number of female marriage migrants in South Korea[669] while in 2018 Vietnamese female marriage migrants constitutes the largest group of women married to Koreans with 36.1%.[670] Vietnamese-American marriages were ranked second in Vietnam with 24% in the period from 2008 to 2016, followed by Vietnamese-Taiwanese marriages with 17.87% (**Table 6.2,** below). It is important to note that the majority of nationals from United States who get married with Vietnamese are Vietnam-born US nationals, or are originally from Vietnam.[671] In Taiwan, female migrant spouses from Vietnam has always accounted for one of the largest proportions of cross-border marriages.[672]

Vietnamese cross-border marriages with Australian nationals emerged during 2008-2012, making up 4.2% of all cross-border marriages in Vietnam within this time. According to statistics from the Australian Embassy in Hanoi, there were 2,140 Vietnamese citizens granted visas for family reunion in 2014 and another 843 Vietnamese people received the visas in the first 10 months of 2015.[673] These figures were far higher than those of 2008-2012 as shown in **Table 6.2**. Although Canadian-Vietnamese marriages only emerged later since 2013, the figure was much higher than marriages between Vietnamese and nationals from neighbouring countries such as China and Cambodia. The possible explanation for the small number of marriages between Vietnamese and Cambodian people could be that despite Cambodia being neighbouring country and having close links to Vietnam politically, the marriage regime of Cambodia "appears much closer to that prevailing in Thailand than to that in Vietnam, where Chinese influences dominate."[674] For this reason, there have not been many Vietnamese – Cambodian marriages. The second possible reason is the post-Vietnam war anti-Vietnamese sentiment in Cambodia, which has resulted in many ethnic Vietnamese in Cambodia being stateless to this day.[675] This could have had a negative impact on formally registered cross-

[669] Seo-Young Cho, "A Bride Deficit and Marriage Migration in South Korea" (2018) 56(6) International Migration 100, 103.
[670] Misoon Jeon, Okhee Ahn, Minjeong An, "Immigrant Vietnamese Women's Adaptation To Culture and Society in Rural Areas of Korea" (*Plos One*, 14th February 2019) <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0212265> accessed 27th September 2020
[671] Peter Nguyen, "Transnational Vietnamese American Marriages in the New Land" (2014) 24 Journal of Human Behaviour in The Social Environment 179, 180.
[672] Wang and Chang (n 8) 96; Lu (n 105) 275.
[673] International Organization for Migration, *Viet Nam Migration Profile 2016*, (Hanoi, August 2017) 39.
[674] Patrick Heuveline and Bunnak Poch, "Do Marriages Forget Their Past? Marital Stability in Post-Khmer Rouge Cambodia" (2006) 43(1) Demography 99, 100.
[675] Ramses Amer, "The Ethnic Vietnamese in Cambodia: A Minority at Risk?" 1994 16(2) Contemporary Southeast Asia 210-238; Jennifer S. Berman, "No Place Like Home: Anti-Vietnamese Discrimination and Nationality in Cambodia" (1996) 84(3) California Law Review 817-874; Ramses Amer, "Cambodia's Ethnic Vietnamese: Minority Rights and Domestic Politics" (2006) 34(3) Asian Journal of Social Science 388-409; Stefan Ehrentraut, "Perpetually Temporary: Citizenship and Ethnic Vietnamese in Cambodia" (2011) 34(5) Ethnic

border marriages between citizens of the two countries, although some marriages could have been conducted informally in the border areas between the two countries where the two communities intermingle on a daily basis. Such informal marriages will not necessary be reflected in the data for cross-border marriages in Vietnam, as the married couples have not registered their marriages either in Vietnam or Cambodia (the figures shown in **Table 6.2** below were only for registered marriages).

Table 6.2 Division of Vietnamese nationals marrying foreign nationals by places of origin (2008-2016)

Year		Total	USA	South Korea	Taiwan	China	Europe	Australia	Canada	Malaysia	Cambodia	Others
2008		*21,805*	4,472	7,655	4,055	222	1,887	874	...	30	10	2,600
2009		*19,795*	4,569	6,623	3,252	206	1,763	901	...	36	26	2,419
2010		*20,802*	4,198	8,425	3,139	257	1,793	905	...	43	17	2,025
2011		*18,420*	3,925	6,957	3,019	210	1,345	698	...	61	22	2,183
2012		*17,891*	4,136	6,343	2,579	270	1,246	771	...	53	15	2,478
2013		*18,636*	5,105	6,066	2,950	255	...	...	737	...	...	3,523
2014		*17,746*	4,786	4,374	3,208	339	...	...	533	...	...	4,506
2015		*18,726*	5,119	4,158	3,840	555	...	...	599	...	...	4,455
2016		*16,223*	4,516	1,492	4,344	294	...	...	557	...	...	5,020
TOTAL	***Quantity***	**170,044**	**40,826**	**52,093**	**30,386**	**2,608**	**8,034** (2008-2012)	**4,149** (2008-2012)	**2,426** (2013-2016)	**223** (2008-2012)	**90** (2008-2012)	**29,209**
	Percentage	100%	24%	30.64%	17.87%	1.53%	8.14% (2008-2012)	4.2% (2008-2012)	3.4% (2013-2016)	0.26% (2008-2012)	0.09% (2008-2012)	17.18%

(Source: Department of Civil Status, Nationality, Authentication, Ministry of Justice, 2015, 2016 and 2017)

Table 6.3, 6.4 and 6.5 (below) provide detail figures about cross-border marriages between Vietnamese and nationals from Taiwan, South Korea and China. Accordingly, it contains the list of 20 major provinces/cities in Vietnam which have the highest number of Vietnamese nationals marrying people from these three countries. Noticeably, the provinces/city marked (*) are located in the Mekong Delta region.

and Racial Studies 779-798; Anonymous, "Ethnic Vietnamese in Cambodia Face Discrimination" (*IRIN ASIA Service*, 19th September 2013).

Table 6.3 shows the 20 major provinces/cities in Vietnam with the highest ratio of Vietnamese-Taiwanese marriages, accounting for 73.32% of all marriages to these nationals during 2013-2016. There was an upward trend in the number of Vietnamese marrying Taiwanese throughout the years, from 2950 cases recorded in 2013 to 4344 in 2016. Among the 20 province/city list, the Mekong Delta region accounted for the highest numbers of Vietnamese nationals who get married with Taiwanese in the country, with seven provinces and one city in the Mekong Delta making the list. Worth noting are Can Tho City and Hau Giang Province ranked the second and the fourth.

Table 6.3 Vietnamese-Taiwanese marriages in 20 major provinces/cities (2013-2016)

No.	Province/City	2013	2014	2015	2016	Total 2013-2016
1	Ho Chi Minh City	646	233	2	232	1,113
2	Can Tho*	0	318	130	504	952
3	Dong Nai	253	258	85	290	886
4	Hau Giang*	243	240	27	367	877
5	Tay Ninh	135	143	15	331	624
6	Dong Thap*	136	176	85	189	586
7	Ba Ria-Vung Tau	44	54	439	43	580
8	Bac Giang	60	120	296	97	573
9	An Giang*	37	79	301	143	560
10	Bac Lieu*	56	67	320	114	557
11	Hai Duong	121	186	37	189	533
12	Vinh Long*	152	163	0	195	510
13	Hai Phong	106	82	76	109	373
14	Binh Thuan	41	50	186	65	342
15	Nghe An	40	91	29	113	273
16	Kien Giang*	61	71	5	129	266
17	Binh Phuoc	15	10	191	19	235
18	Binh Dinh	4	1	220	5	230
19	Ha Noi	77	41	30	79	227
20	Ben Tre*	41	38	97	43	219
	Total of Vietnamese marrying Taiwanese nationals nationwide	**2,950**	**3,208**	**3,840**	**4,344**	**14,342**

Province/city marked with "" is located in the Mekong Delta region.*
(Source: The Department of Civil Status, National and Authentication, Ministry of Justice, 2015, 2016 & 2017)

The data on the number of marriages between Vietnamese and citizens from South Korea between 2013 and 2016 is indicated in **Table 6.4**. In 2013, Vietnam with 6,066 Vietnamese-Korean marriages, accounted for the highest number of cross-border marriages by country. However, in the subsequent three years, this figure has dropped significantly, to only 1,492 in 2016. The 20 major provinces/cities in Vietnam, mainly from the Mekong Delta and coastal area provinces, had the highest numbers of Vietnamese-Korean marriages and accounted for 88.05% of all such marriages in Vietnam during the 4-year period between 2013 and 2016. Noticeably, Can Tho City and Hau Giang Province in the Mekong Delta area are among the provinces having the highest numbers of marriages to Koreans.

Table 6.4 Vietnamese-Korean marriages in 20 major provinces/cities (2013-2016)

No.	Province/City	2013	2014	2015	2016	Total 2013-2016
1	Can Tho*	943	658	616	212	2,429
2	Hai Phong	744	506	641	207	2,098
3	Hau Giang*	594	395	327	51	1,367
4	Quang Ninh	465	377	366	134	1,342
5	Kien Giang*	431	307	285	45	1,068
6	Hai Duong	272	472	255	55	1,054
7	Ca Mau*	319	192	161	37	709
8	Ho Chi Minh City	465	57	122	63	707
9	Tay Ninh	209	158	135	57	559
10	Bac Lieu*	172	147	99	15	433
11	Binh Thuan	108	95	180	19	402
12	An Giang*	148	94	93	35	370
13	Vinh Long*	119	74	85	27	305
14	Ha Noi	78	43	83	59	263
15	Dong Thap*	89	64	49	31	233
16	Ba Ria-Vung Tau	89	54	49	31	223
17	Dong Nai	12	53	76	44	185
18	Nghe An	86	39	21	25	171
19	Bac Ninh	40	37	32	16	125
20	Thai Binh	49	38	17	21	125
	Total of Vietnamese marrying Korean nationals nationwide	**6,066**	**4,374**	**4,158**	**1,492**	**16,090**

Province/city remarked with "" is located in the Mekong Delta region*
(Source: Department of Civil Status, National and Authentication, Ministry of Justice, 2015, 2016 and 2017)

The most marriages are between Vietnamese and their neighbour the Chinese. The Ministry of Justice data shows the list of 20 provinces/cities which have the most nationals marrying Chinese, constituted 73.13% of all marriages to Chinese during 2013-2016 (**Table 6.5**). Geographically, the fact that Vietnam borders China to the North creates very good conditions for Vietnamese-Chinese marriages to flourish in the last five years. Such marriages seem not to be mainly concentrated in any certain area in Vietnam, but scattered nationwide. Noticeably, in the list, there are four provinces in the Mekong Delta which are farthest places from China. This again indicates that Chinese people get married with Vietnamese from provinces not only in the Northern which border China, but also to the Southern provinces.

Table 6.5 Vietnamese-Chinese marriages in 20 major provinces/cities (2013-2016)

No.	Province/City	2013	2014	2015	2016	Total 2013-2016
1	Dong Nai	10	21	128	16	175
2	Ho Chi Minh City	35	31	44	32	142
3	Ha Noi	34	24	36	13	107
4	Hai Duong	14	54	14	3	85
5	Hai Phong	16	15	35	18	84
6	Lai Chau	0	1	44	0	45
7	An Giang*	2	7	10	22	41
8	Binh Duong	12	10	11	7	40
9	Quang Ninh	3	9	12	11	35
10	Tay Ninh	5	9	15	5	34
11	Bac Giang	8	8	7	9	32
12	Thai Binh	8	9	10	5	32
13	Nam Dinh	9	4	2	15	30
14	Phu Tho	1	9	5	13	28
15	Lao Cai	5	7	11	3	26
16	Nghe An	8	5	6	6	25
17	Vinh Long*	9	8	5	2	24
18	Soc Trang*	2	3	16	3	24
19	Ninh Binh	0	0	9	15	24
20	Kien Giang*	4	7	9	3	23
	Total of Vietnamese marrying Chinese nationals nationwide	**255**	**339**	**555**	**294**	**1,443**

Province/city remarked with "" is located in the Mekong Delta region.*
(Source: Department of Civil Status, National and Authentication, Ministry of Justice, 2015, 2016 and 2017)

It is clear that there are tens of thousands of Vietnamese marrying foreigners, including overseas Vietnamese every year. The majority of Vietnamese in cross-border marriages are women. Taiwanese and Korean nationals seem to get married more and more Vietnamese women, especially those who come from the Mekong Delta region, while China has its nationals marrying with Vietnamese nationals distributed nationwide.

6.2.2 The Socio-Economic Profile of the Mekong Delta of Vietnam

6.2.2.1 General Information

To provide a better understanding of the phenomenon of cross-border marriages in the Mekong Delta of Vietnam, it is necessary to examine the general socio-economic background of the region which is believed to have significant impacts on the abnormal increase in the number of such marriages in the last two decades. To provide a picture of socio-economic background of the region, the researcher analysed secondary data published on the official website of the General Statistics Office of Vietnam. The latest data was updated until 2018.[676]

[676] The website can be accessed at <https://www.gso.gov.vn/Default_en.aspx?tabid=766> accessed 01 October 2019.

According to the General Statistics Office of Vietnam, the S-shaped country is divided into six regions geographically, with each region being formed by grouping provinces and cities. They include Red River Delta, Northern Midlands and Mountain Areas, North Central and Central Coastal Areas, Central Highlands, Southeast and Mekong River Delta **(Map 2.1**).

Map 2.1 Six region in Vietnam

(Source: https://www.researchgate.net/figure/254408055_fig1_Fig-1-Regions-in-Vietnam)

Located in the southwestern of Vietnam, the Mekong River Delta region of Vietnam (**Map 2.2a**, below) and its social and economic background will be examined in comparison with the other five regions in the country with the aim of highlighting noticeable features of the region which are believed to have certain influences on the recent trend in cross-border marriages.

Map 2.2a Mekong Delta map

Map 2.2b Map of the Mekong Delta region

The Mekong Delta (Vietnamese: *Đồng bằng sông Cửu Long)*, is the region in southwestern Vietnam formed from the Mekong River. The Mekong Delta region, also known as the biggest barn of rice in Vietnam, playing an important role in food supply in the country and national economy. The region is constituted by 13 provinces including Long An, Tien Giang, Ben Tre, Dong Thap, Vinh Long, Tra Vinh, An Giang, Can Tho, Hau Giang, Kien Giang, Soc Trang and Ca Mau (**Map 2.2b**, above). Can Tho City - the fourth largest city in Vietnam, and the largest city in the Mekong Delta region, is featured as the heart of the Mekong Delta region. The Mekong Delta of Vietnam is a multi-cultural region where many ethnic groups alternately live through many centuries.

Table 6.6 The statistics on areas and population of the six main regions in Vietnam in 2018

2018	Red River Delta	Northern Midlands and Mountain Areas	North Central and Central Coastal Areas	Central Highlands	South East	Mekong River Delta	Vietnam
	1	*2*	*3*	*4*	*5*	*6*	
Area (km2)	21,260.0 *(6.42 %)*	95,222.2 *(28.75 %)*	95,876.0 *(28.94 %)*	54,508.3 *(16.46 %)*	23,552.8 *(7.11 %)*	40,816.4 *(12.32 %)*	**331,235.70**
Population (thousand people)	21,566.4 *(22.78%)*	12,292.7 *(12.98 %)*	20,056.9 *(21.19 %)*	5,871.0 *(6.20 %)*	17,074.3 *(18.04 %)*	17,804.7 *(18.81 %)*	**94,666**

(Source: General Statistics Office of Vietnam)

The latest official data published in 2018 by the General Statistics Office of Vietnam[677] indicated that the Mekong Delta region's area made up 40,816.4 km^2, accounting for 12.32% of the whole country's area. In the same year, the region was home to more than 17.8 million people, constituting about a fifth of the total population of Vietnam (**Table 6.6**, above).

From the year 1995 to 2018, the Mekong Delta region witnessed a gradual increase in its population by 2.3 million people (**Table 6.7**, below)[678]. Interestingly, during this period, the female population in the region remained higher than male rate. For example, the female population of the region was more than 7.95 million in 1995 while the number of males was approximately 7.57 million in the same year. In 2018, the region was made up of nearly 9 million of females and more than 8.8 million of male residents. More noticeably, the majority of the population in the region resides in rural areas based on data for the period between 1995 and 2018. For instance, in 2018 there were more than 74% of the population living in rural areas though urbanisation has been increasing rapidly (from 15.69% in 1995 to 25.56% in 2018) (**Figure 6.1**, below).

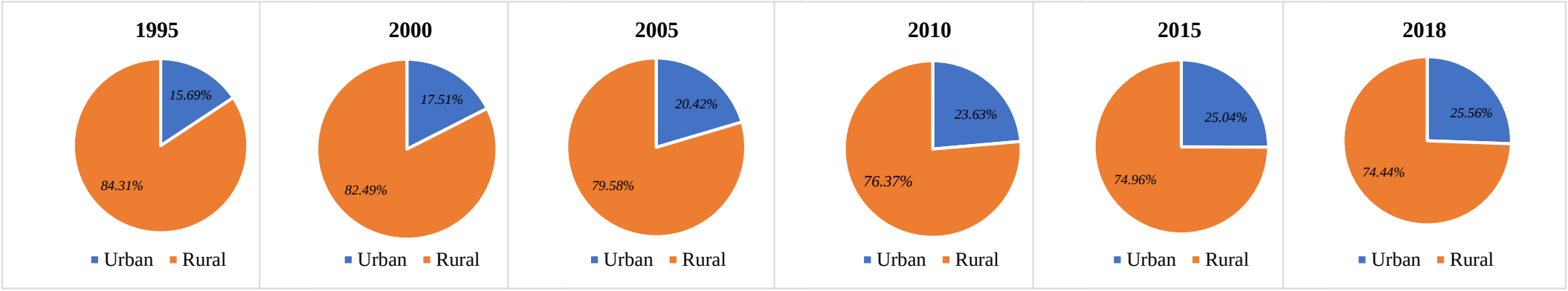
[677] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 01 November 2019.
[678] Ibid.

Table 6.7 Population of the Mekong Delta region by gender

Population in the Mekong Delta (in thousands)						
	1995	**2000**	**2005**	**2010**	**2015**	**2018**
Male	7,574.5	7,982.3	8,256.5	8,572.2	8,723.5	8,810.3
Female	7,957.4	8,314.3	8,602.8	8,679.1	8,865.7	8,994.4
Total	15,531.9	16,296.6	16,859.3	17,251.3	17,589.2	17,804.7

(Source: General Statistics Office of Vietnam)

Figure 6.1 Population of the Mekong Delta region by residence



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*

6.2.2.2 Lowest Rate in Educational Attainment

Table 6.8 (below) shows the general idea about the main levels of education system in Vietnam. For many years, the Mekong Delta region has been identified as having the lowest rate in educational attainment. This alarming fact has been a harsh puzzle for local governments' leaders in the region. One of the reasons is that the region has the highest dropout ration. For example, from 1990 – 2003 the primary school dropout ratio in Mekong River Delta was the highest in Vietnam. In 2000 - 2001, the primary dropout rate in the Mekong Delta was twice the national average and ten times higher than that of the Red River Delta where the lowest ratio was. In 2002-2003, this ratio was 6.22%, whereas the ratio for the entire country fell to 3.66%.[679] As in primary education, the Mekong River Delta had the highest lower-secondary dropout ratio during the 1990-2003 period.[680] The gap in education rate between the Mekong Delta and the other regions is clearly widened when the level of education gets higher.

Table 6.8 Education levels in Vietnam

School/Level	Grade	Age	Year
Primary Education	1-5	6-11	5
Lower Secondary/Intermediate Education	6-9	12-15	4
Upper Secondary/High School	10-12	16 - 18	3
University/College Level	n/a	n/a	2-6

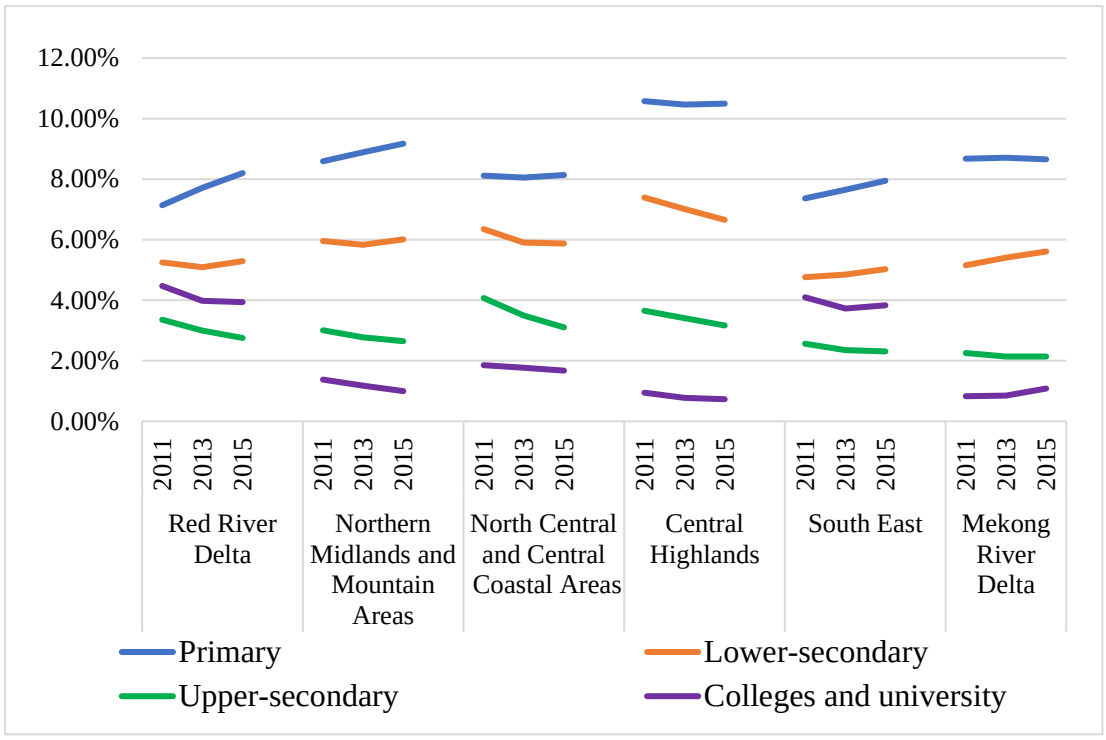
(Source: The Researcher)

To address this issue the Prime Minister took necessary actions to monitor the urgent matter on low educational attainment in the Mekong Delta region. Accordingly, on the 30 June 2011, the Prime Minister enacted a *Decision No.1033/QD-TTg* dated 30 June 2011 on development of education, training and vocational training in the Mekong River Delta for the period 2011 – 2015.[681] The Decision targeted a 5-year mission of the Mekong Delta region to improve education and training, mainly focusing on vocational training. The Decision was expected to

[679] Jonathan D. London, *Education in Vietnam*, (ISEAS Publishing 2011) 155-156.
[680] Ibid 156-157.
[681] The full English version of the Decision No.1033/QD-TTg dated 30 June 2011 can be found at <https://vanbanphapluat.co/decision-no-1033-qd-ttg-on-development-of-education-training-and-vocational> accessed on 04 November 2019.

make a breakthrough for the region in educational improvements. However, in spite of the efforts made after the 5-year period, the Mekong Delta's position remained unchanged, almost staying at the lowest point of levels in the educational attainment pattern of the country, especially at upper-secondary and colleges and university level **(Figure 6.2)**.

Figure 6.2 The percentage of educational attainment by region in Vietnam (2011-2015)



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[682]

6.2.2.3 Highest Unemployment Rate

The data published by the General Statistics Office of Vietnam also reveals that the Mekong Delta is one of regions in Vietnam accounting for the highest unemployment rate from 2008 to 2018. However, there was a dramatic fluctuation in the rates during this period of time. Therefore, it is very important for the government's policy makers to be concerned about the effectiveness of labour policies and job creation programmes for the region. More importantly, examining the rates is necessary because this will provide an overview picture about employment factors in the Mekong Delta region of Vietnam which is believed to have

[682] The data can be found at the website of the General Statistics Office of Vietnam at Statistics, Section 10. Education at <http://www.gso.gov.vn/default_en.aspx?tabid=782> accessed on 26 July 2017.

considerable impact on, or connection to, the increase in cross-border marriages in the region. In sections below, the researcher is going to provide analysis of unemployment rates by regions in Vietnam (**Figure 6.3**) and unemployment rates in the Mekong Delta region by age group (**Figure 6.4**), residence (**Figure 6.5**) and gender (**Figure 6.6**).

(a) National Versus Regional Unemployment Rates in Vietnam

Regarding the unemployment rate of the labour force during the 10-year period 2008-2018, the Mekong Delta experienced a fluctuation in unemployment rates though the 2018 rate remained relatively unchanged compared to the rate in 2008 at approximately 2.7% (**Figure 6.3**, below). However, the rates are always higher than the average national unemployment rates. Compared to the other five regions in the country, the Mekong Delta was one of the highest unemployment rates regions, with 2.71% in 2008 and ranked second (just after the South East's rates) during the period between 2008 and mid-2012. In 2010, the Mekong Delta region reached its highest unemployment rate with 3.59%. Although the following two years the situation had been improved with a sharp fall, an upward trend in unemployment rate in the Mekong Delta revived in subsequent years. Especially since 2014 the Mekong Delta's unemployment figures increased significantly and overtook the South East's rate, reaching the highest unemployment rate in Vietnam at 2.77% in 2015. Subsequently, the region remained on the top region having highest unemployed rate since then until 2018.

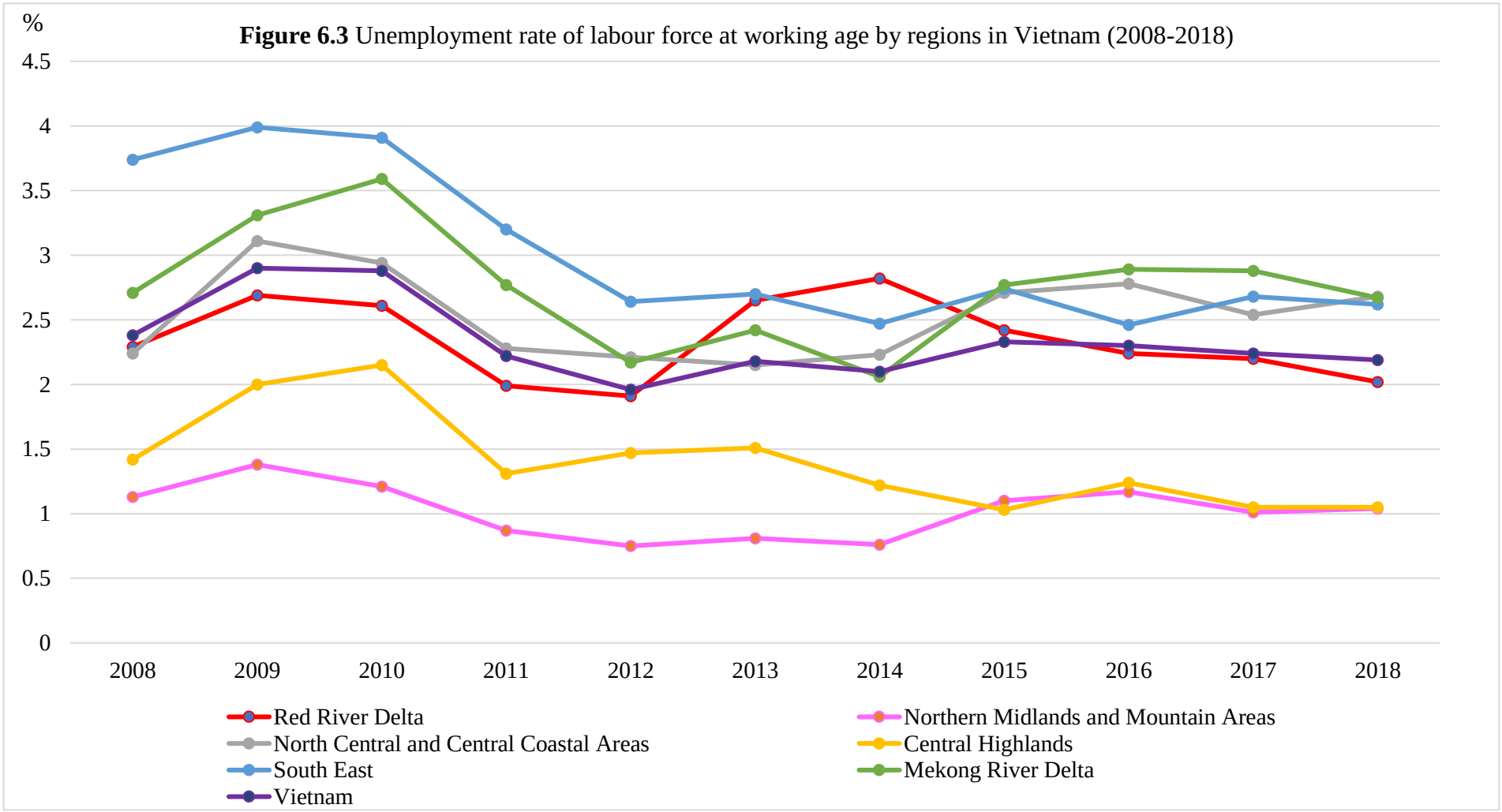


Figure 6.3 Unemployment rate of labour force at working age by regions in Vietnam (2008-2018)

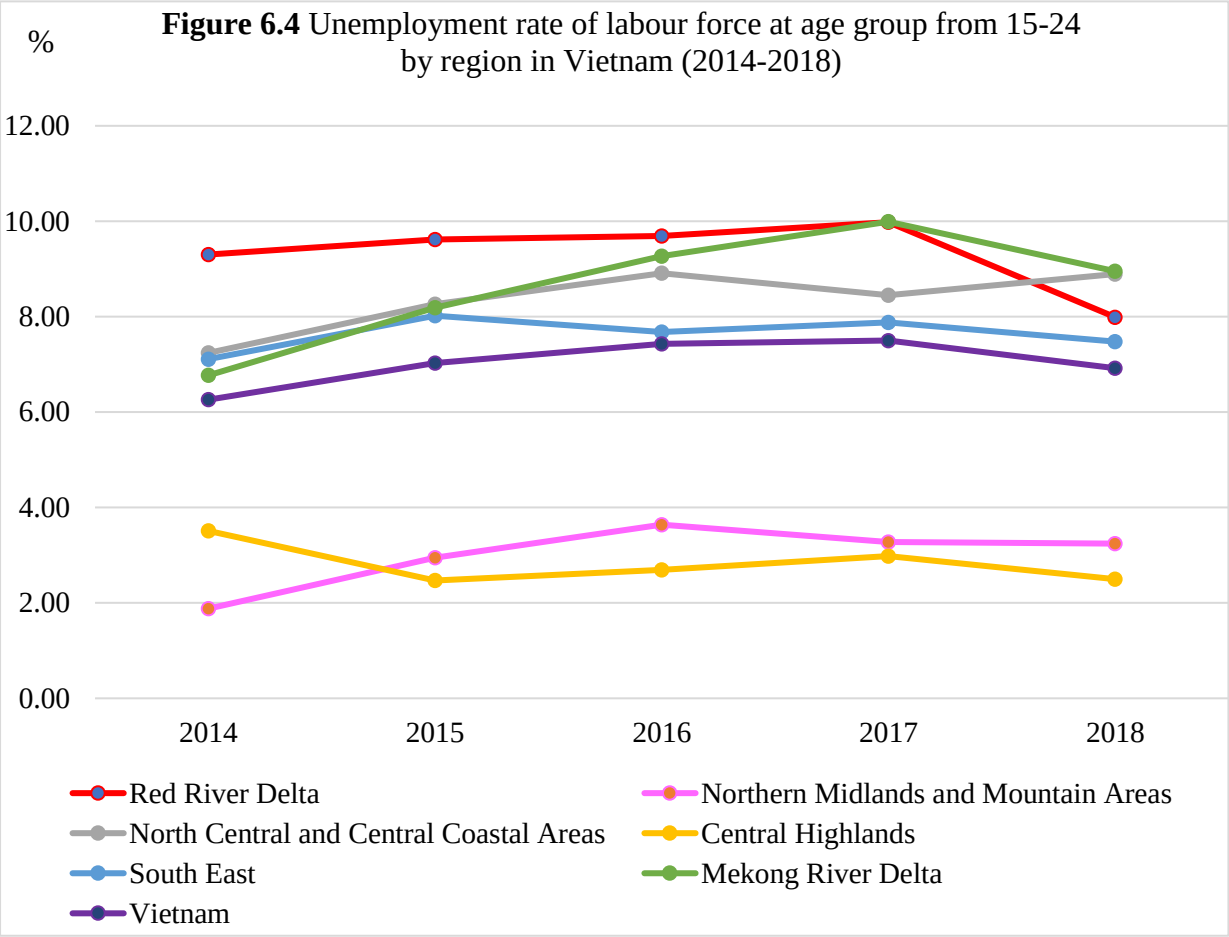
*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[683]

[683] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

(b) Youth Unemployment

It is worth noting that the unemployment rate of the labour force in Vietnam in general and in the Mekong Delta region in particular mainly fell in the age group from 15 to 24 years-old (**Figure 6.4**). Between 2014 and 2016, the Red River Delta had the highest rate of unemployment for this age group, followed by the Mekong Delta region which subsequently constituted the highest unemployment rate the age group of 15-24 from late 2016 until 2018.

Figure 6.4 Unemployment rate of labour force at age group from 15-24 by region in Vietnam (2014-2018)



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[684]

[684] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

(c) Urban Versus Rural Unemployment Rates in the Mekong Delta Region

Examining the unemployment rate in the Mekong Delta region of Vietnam by residence, it is important to note that there was a fluctuation in the rates for both urban and rural areas from 2008 to 2018 (**Figure 6.5**, below). However, during this period, the unemployment rate in urban areas was always higher than that rate in rural areas. In 2008 the rate in urban areas nearly doubled that in rural areas (4.12% and 2.35% respectively). The year 2009 witnessed the highest rate of unemployed people living in urban area with the rate at 4.54%. However, between 2016 and 2018, the rate dropped and remained relatively unchanged at 3.7%. On the other hand, there has been a gradual rise in the unemployment rate in rural areas since 2008 (with 2.35%), reaching its peak at 3.45% in 2010. The figure tended to decline gradually in following years to 1.83% in 2014 before rising again in 2015 to 2.63% where it has remained relatively unchanged since then.

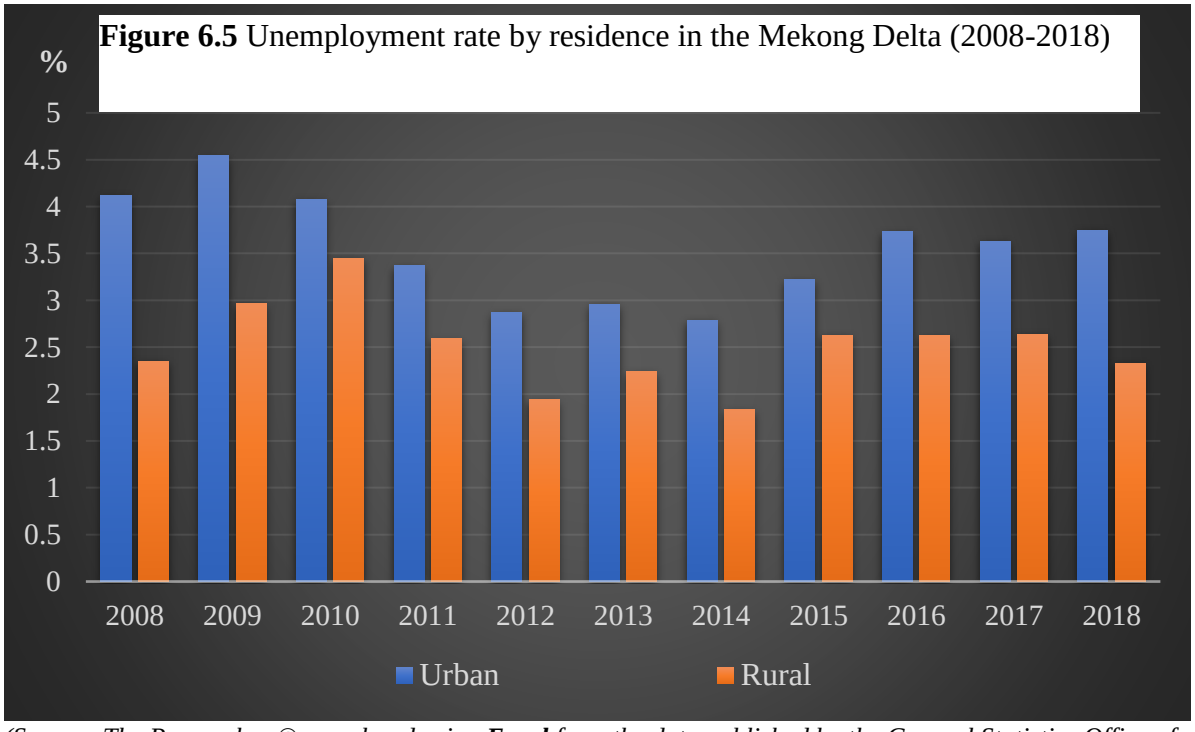


Figure 6.5 Unemployment rate by residence in the Mekong Delta (2008-2018)

*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[685]

Overall, between 2010 and 2014, the unemployment rates have dropped gradually in both urban and rural areas in the Mekong Delta region of Vietnam. The unemployment rate gaps between the two areas narrowed during this period. However, from 2014 onward the figures showed

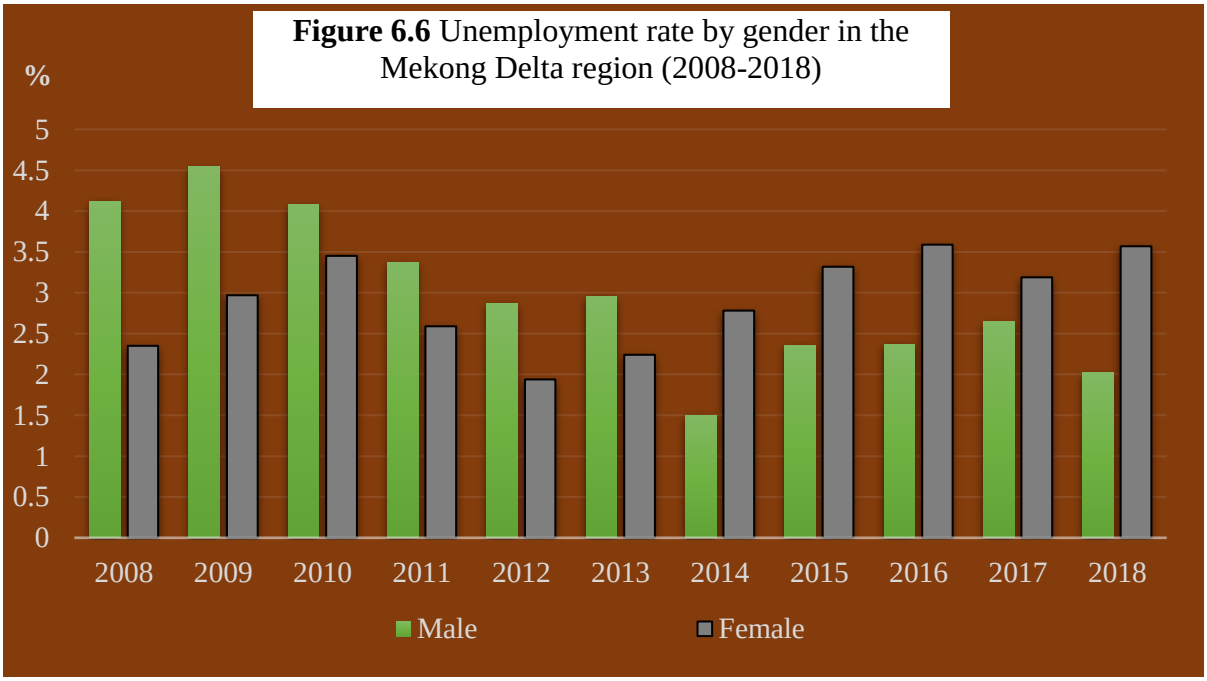
[685] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

that both urban and rural areas experienced an increase in unemployment rates compared with previous years, making the Mekong Delta to become the region in the country with the highest unemployment rate.

(d) Gender Analysis of Unemployment Rates in the Mekong Delta Region

Examining the unemployment rate of the Mekong Delta region of Vietnam by gender, it is evident that there were opposite patterns in male and female unemployment rate between 2008 and 2018 (**Figure 6.6**). Whereas the period witnessed a significant drop in male unemployment rate among the male labour force, there was an increasing trend in that rate of females. From 2008 to 2013, male unemployment rate was much higher than the female unemployment rate, while the completely opposite pattern was true between 2014 and 2018.

Figure 6.6 Unemployment rate by gender in the Mekong Delta region (2008-2018)



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[686]

Regarding the unemployment rate among the male labour force, in the three-year period between 2008 and 2010, the rates were more than 4%, with its peak at 4.54% in 2009. The rate reduced gradually in in the years that followed, dropping to 1.5% in 2014 before rising again in 2015. The rate was 2.02% in 2018 which dropped twice after 11 years compared with the

[686] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

2008 figure (namely 4.12%). In 2018 the rate for male unemployment stood at 2.02%, which is still relatively low when compared to the rate of 4.12% in 2008.

On the other hand, there was an increase by 1.1% in the female unemployment rate to 3.45% in the Mekong Delta region from 2008 to 2010. After 2010, this situation improved significantly with a drop from 3.45% in 2010 to 1.94% in 2012. However, the subsequent years witnessed a rapid increase in the rate, rising up to 3.57% in 2018. It is apparent that the unemployment rate among females of working age remained relatively high after 2012. It can therefore be argued that one of the key factors accounting for women in the Mekong Delta region deciding to emigrate through marriage with foreigners is due to the region experiencing higher rates of female unemployment in the period from 2014 onwards.

Overall, it can be argued that the combined effect of the factors discussed above (based on empirical evidence drawn from statistical data), has contributed to an increase in the phenomenon of cross-border marriage in Vietnam, with the Mekong Delta region registering a disproportionately higher representation in such transnational marriages than other regions in the country.

6.2.2.4 Variations in the Rate of Underemployment

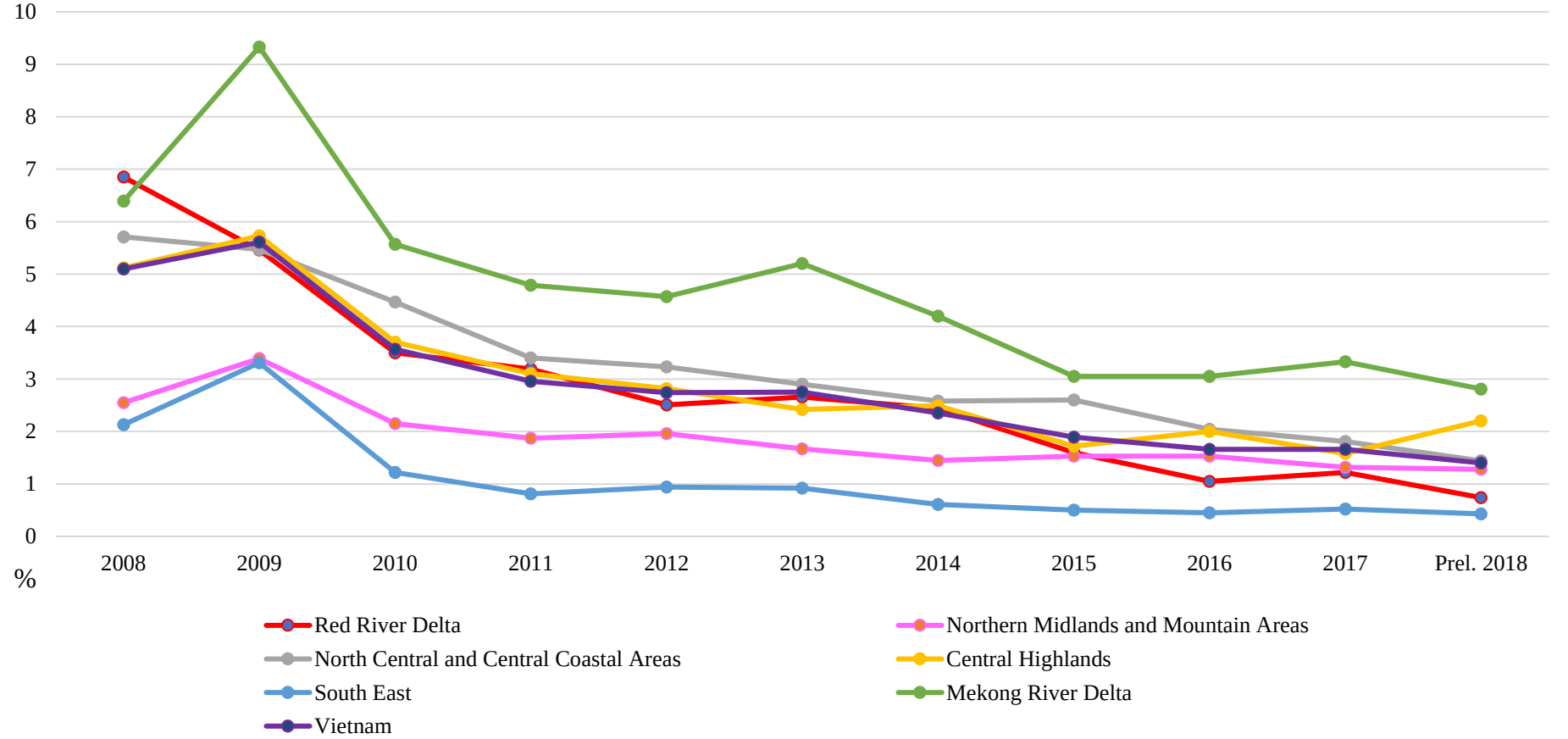
The data published by the General Statistics Office of Vietnam also reveals that the Mekong Delta region also accounted for the highest rate of underemployment in Vietnam from 2008 to 2018. The following research sections will provide analysis of underemployment rates by regions in Vietnam (**Figure 6.7**) and underemployment rates in the Mekong Delta region by residence (**Figure 6.8**) and gender (**Figure 6.9**).

(a) Regional Rates of Underemployment

Figure 6.7 (below) indicates the rate of underemployment among the labour force (i.e. economically active people) of working age in Vietnam in general, and in 6 regions in particular, during a decade from 2008 to 2018. During this time, although there was a downward trend in the underemployment rate in most of regions of the country, the Mekong Delta region was the worst affected with the highest rate of underemployment, far higher than the national rate or the rates for other regions of Vietnam. By comparison, the South East region always accounted for the lowest underemployment rate. The most conspicuous figure was in 2009 when the Mekong Delta region's rate reached its peak at 9.33%, nearly three times higher

than the figure for the South East region. The gap between the Mekong Delta region (the highest) and South East (the lowest) almost remained unchanged, following the same pattern during the 10-year period under review. Although the 2018 figure has dropped dramatically (declining by 6.52% since 2009), the Mekong Delta region stills accounted for the highest rate of underemployment in Vietnam.

Figure 6.7 Underemployment rate of labour force at working age by regions in Vietnam (2008-2018)



(*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[687]

[687] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

(b) Urban Versus Rural Rates of Underemployment

Figure 6.8 indicates that during the period 2008-2018 the underemployment rates in the rural areas doubled the rate in urban areas. The year 2009 also witnessed the highest rate of underemployment in both rural and urban areas (10.49 % and 5.46% respectively). However, the rates dropped in following years before rising again in 2013. Since then the underemployment rates in both categories gradually decreased, down to 3.22% in rural areas and 1.51% in urban areas by 2018. The high underemployment rate in rural areas of the Mekong Delta could partly be due to the fact that more than 74% population of the region live in rural areas. Furthermore, there has always been a significant shortage of jobs in rural areas of the Mekong Delta which, historically, has been home to agricultural communities. This led to the phenomenon whereby economically active people from rural areas in the Mekong Delta region had to leave their hometown to seek for jobs in urban areas. Ultimately, this rural to urban migration took on a new dimension through different forms of foreign migration such as cross-border marriages facilitated by commercial dating agencies, and (increasingly) illegal migration facilitated by organised transnational gangs of people traffickers.

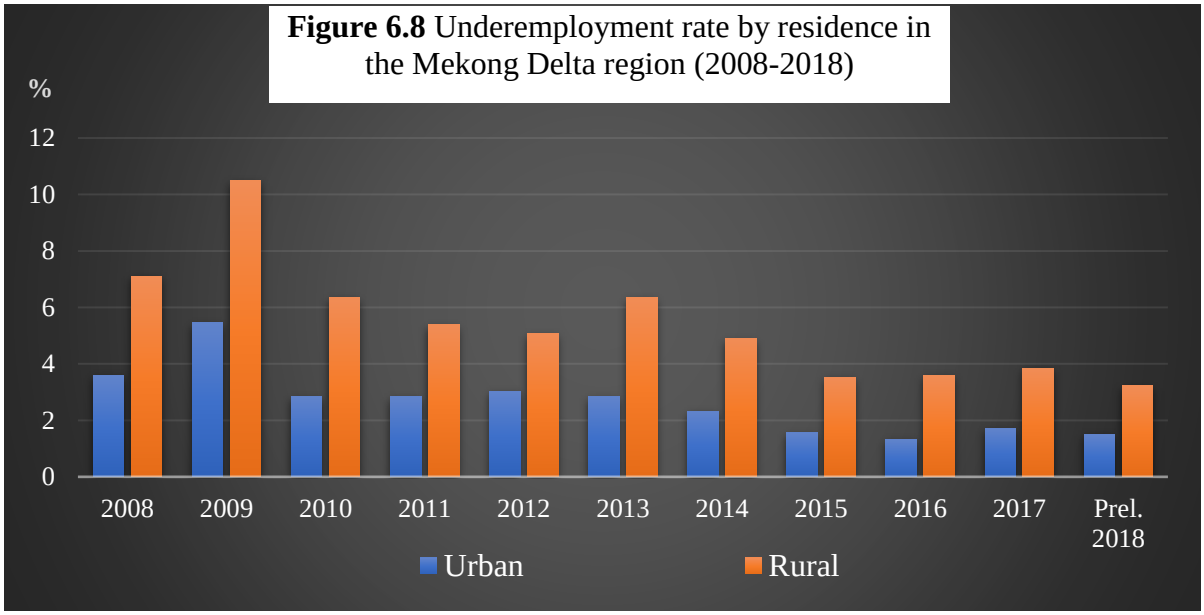


Figure 6.8 Underemployment rate by residence in the Mekong Delta region (2008-2018)

*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[688]

[688] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.

(c) Analysis of the Rate of Underemployment by Gender Category

An analysis of rates of underemployment for the Mekong Delta region by gender during the period under review reveals that female underemployment rates were always higher than the rate for males between 2008 and 2018, except for 2014 when the male underemployment rate was slightly higher (**Figure 6.9**). From 2008 to 2013, the underemployment rate for women nearly doubled that rate for men. In 2009, for example, 10.49% of females and 5.46% of males were underemployed, accounting for the highest underemployment rate of the Mekong Delta region as well as Vietnam. Since 2015, the male underemployment rate remained relatively unchanged at around 2.85%, while the rate for females was slightly higher. The 2018 figure showed a narrow gap in the underemployment rates in both categories, namely 2.84% for females and 2.74% for males.

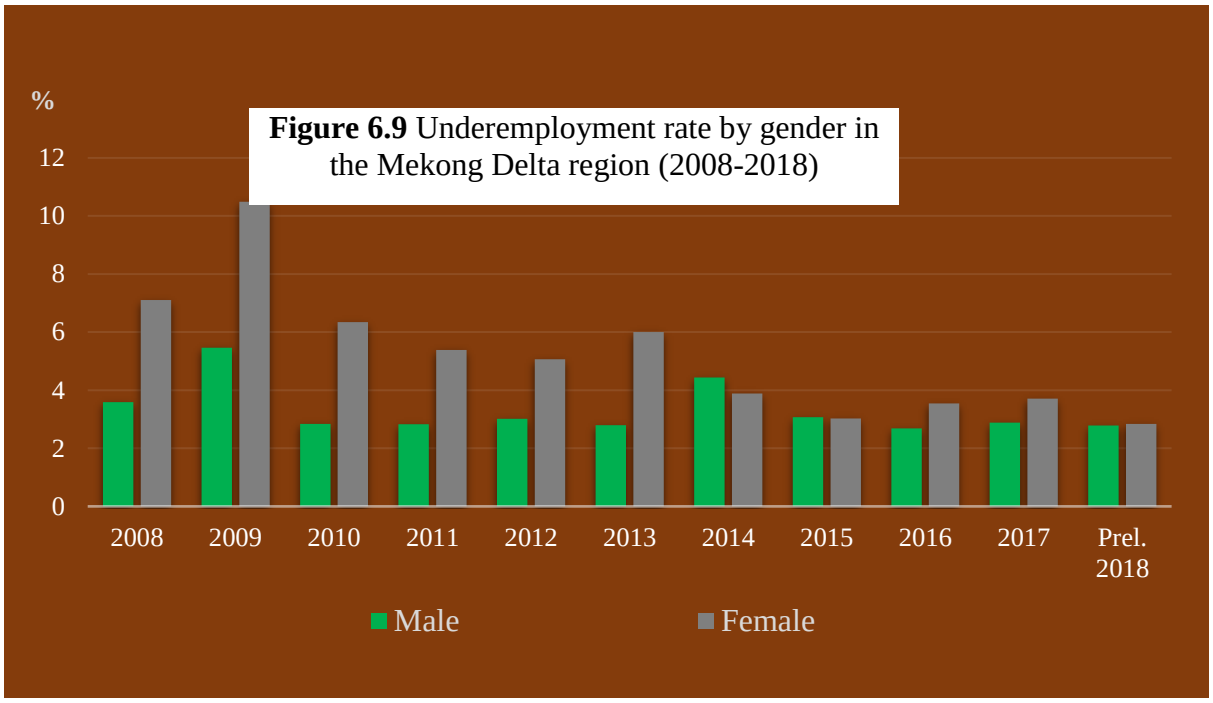


Figure 6.9 Underemployment rate by gender in the Mekong Delta region (2008-2018)

*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[689]

6.2.2.5 Low Levels of Educational Attainment and Lack of Local Job Opportunities

By virtue of having the lowest rate of educational attainment[690], it becomes apparent why the Mekong Delta region consistently registered the highest rate of unemployment in the period

[689] The statistical data can be found at Statistics, Section 02. Population and Employment the website of General Statistics Office of Vietnam <http://www.gso.gov.vn/default_en.aspx?tabid=774> accessed on 4 November 2019.
[690] Chapter 6, Section 6.2.2.2.

from 2008-2018. Overall, the wide differences in unemployment and underemployment rates in the Mekong Delta region compared to other regions in Vietnam, as well as the differences between the urban and rural areas, reflect the fact that there have been a *significant shortage* of job creation and job opportunities in the region. As seen in the previous sections, compared to other regions in Vietnam, women in the Mekong Delta has been facing the highest ratio in both unemployment and underemployment. This explains why more and more people at working age in the area, especially the young women from rural areas of the Mekong Delta, have left their hometowns for job-seeking in urban areas or even beyond Vietnam where it is expected there will be more job opportunities. There is, therefore, a positive correlation between a high local demand for jobs, limited local supply of job opportunities, and an increase in outward migration from the region. This in turn explains the phenomenon in cross-border marriages in the Mekong Delta region, of which young, mainly poorly educated women accounted for the majority. It can therefore be argued that women in the Mekong Delta, especially young rural women with very low levels of educational attainment, see in cross-border marriages a possible solution on the difficulties they face in terms of a deficiency in job opportunities in their localities.

6.2.2.6 High Poverty Rate

The official poverty rate is different for rural and urban areas in Vietnam. The poverty rate is calculated on the basis of monthly average income per capita of household according to the Government's poverty baseline for the 2010-2016 period (updated by consumer price index (CPI)) as shown in **Table 6.9** (below)[691].

Table 6.9 Government's poverty baseline for 2010-2016

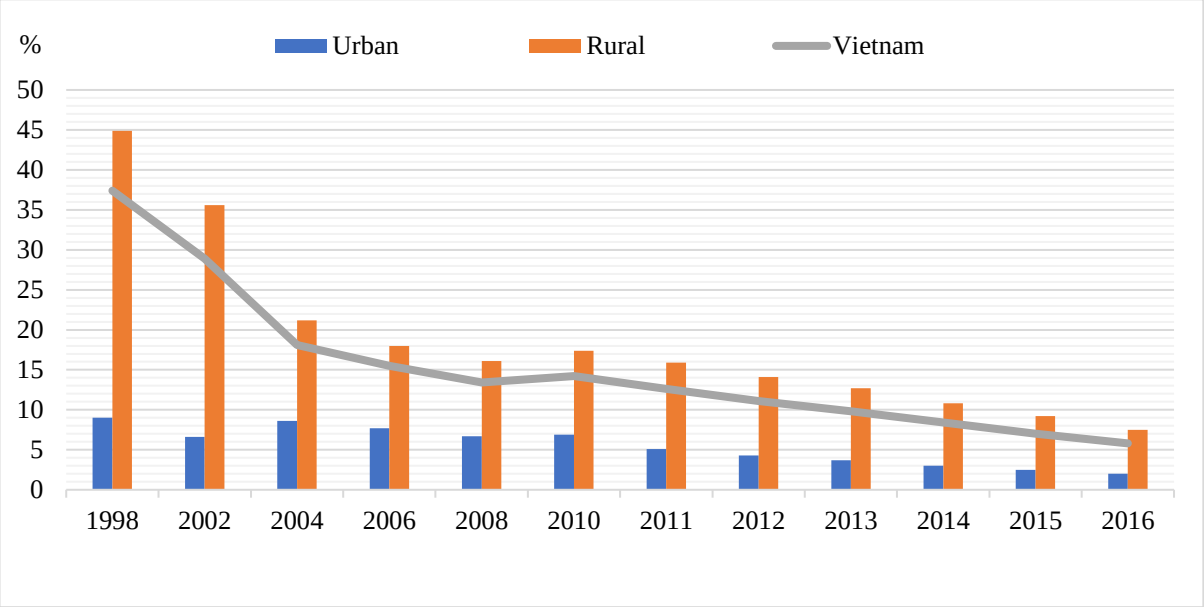
Currency unit: Vietnam Dong (VND) *US$1 = 20,000 VND*		**2010**	**2012**	**2013**	**2014**	**2015**	**2016**
Vietnam	***rural***	400,000	530,000	570,000	605,000	615,000	630,000
	urban	500,000	660,000	710,000	750,000	760,000	780,000

(Source: General Statistics Office of Vietnam)

[691] The data can be found at the website of the General Statistics Office of Vietnam at Statistics, Section 11. Health, Culture and Living Standard at <https://www.gso.gov.vn/default_en.aspx?tabid=783> accessed 19 November 2019.

Figure 6.10 (below) shows the general poverty rate in Vietnam in both rural and urban areas in the period from 1998 to 2016. During this period of time, the poverty rates in both categories dropped significantly (from 44.9% in 1998 to 7.5% in 2016 for rural areas and from 9% in 1998 to 2% in 2016 for urban areas). Nonetheless, the poverty rate in rural areas remained far higher than the poverty rate in urban areas, nearly five times in 1998 and 3.75 time in 2016. In 2004, the poverty rate in the rural areas decreased to 21.2%, whereas the rate in urban areas only slightly improved. In a following decade (2006-2016), although the general poverty rate has been declining gradually each year in both rural and urban areas, the gap between the two areas remains significantly high, with the poverty rate in rural areas 3.75 times higher than that of urban areas in 2016 (7.5% and 2.0% respectively).

Figure 6.10 General poverty rate in Vietnam by residence (1998-2016)



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[692]

Regarding the poverty rate in the Mekong Delta region, the rate has dropped significantly from 36.9% in 1998 to 5.2% in 2016. However, the current poverty rate of the region remains relatively high though this rate has been lower than the average poverty rate of Vietnam **(Table 6.10)**[693]. As previously stated, the majority of the population in the Mekong Delta reside in rural areas.

[692] The data can be found at the website of the General Statistics Office of Vietnam at Statistics, Section 11. Health, Culture and Living Standard at < http://www.gso.gov.vn/default_en.aspx?tabid=783> accessed on 19 November 2019.
[693] Ibid.

Table 6.10 General poverty rate (%) by year in the Mekong Delta region and Vietnam

	1998	2002	2004	2006	2008	2010	2011	2012	2013	2014	2015	2016
Mekong Delta	36.9	23.4	15.3	13	11.4	12.6	11.6	10.1	9.2	7.9	6.5	5.2
Vietnam	37.4	28.9	18.1	15.5	13.4	14.2	12.6	11.1	9.8	8.4	7	5.8

(Source: General Statistics Office of Vietnam)

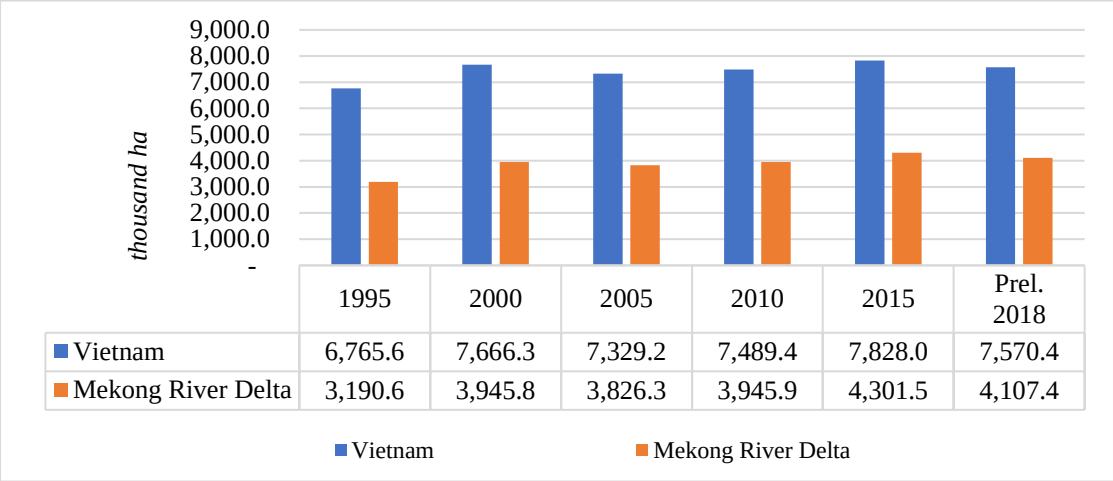
The high poverty rate in the rural areas of the Mekong Delta region can be attributed to it having the lowest rate in educational attainment coupled with fewer job opportunities, and hence the highest rate of unemployment plus outward migration (mainly through cross-border marriages) in Vietnam.

6.2.2.7 An Agriculture-Based Economy

As mentioned earlier, before 2000, more than 80% of population in the Mekong Delta region were resident in rural areas where traditional (or peasant) agriculture is the main way of earning a living. Due to its geographical location and its main natural feature, the River Mekong, agriculture has always been the economic pillar of the Mekong Delta's economy. Development is progressing rapidly in the region, but it remains primarily agrarian, with rice production as its defining feature. The Mekong Delta is known as "rice bowl" of the whole country and of the world.[694] In fact, the Mekong Delta accounted for more than 50% of rice production in Vietnam between 1995 and 2018 (**Figure 6.11**). It also accounted for 90% of rice exports from Vietnam to the rest of the world,[695] although the region's area only constitutes 12.32% of the national territory of Vietnam.

Figure 6.11 Planted area of paddy by year

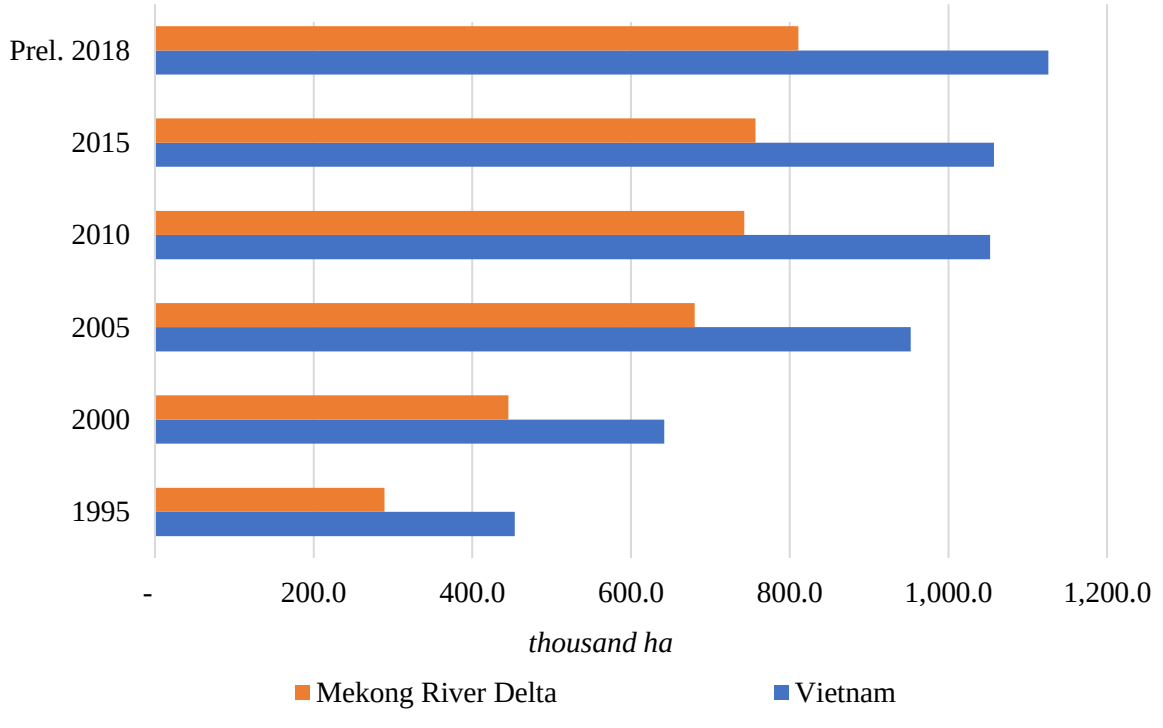
[694] Nguyen Thi Tuong Vi and Tianjun Liu, "Improve the Competitiveness and Valces 707, 708.
[695] Ibid 708.



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*

Besides having highest rice production yield compared with other regions in Vietnam, the Mekong Delta is also a major seafood production hub in Vietnam. During the period from 1995 to 2018, the region constituted around two third of the country aquaculture area **(Figure 6.12).** Although this may seem at first sight to be good economic indicators, on closer examination it is evident that the local economy of the Mekong Delta region is based primarily on the agriculture and aquaculture sectors at the expense of industrialisation which offers more job creation opportunities. This explains why in the last two decades, the average income per head in the region has remained very low, as discussed in the next section.

Figure 6.12 Aqua culture area by year

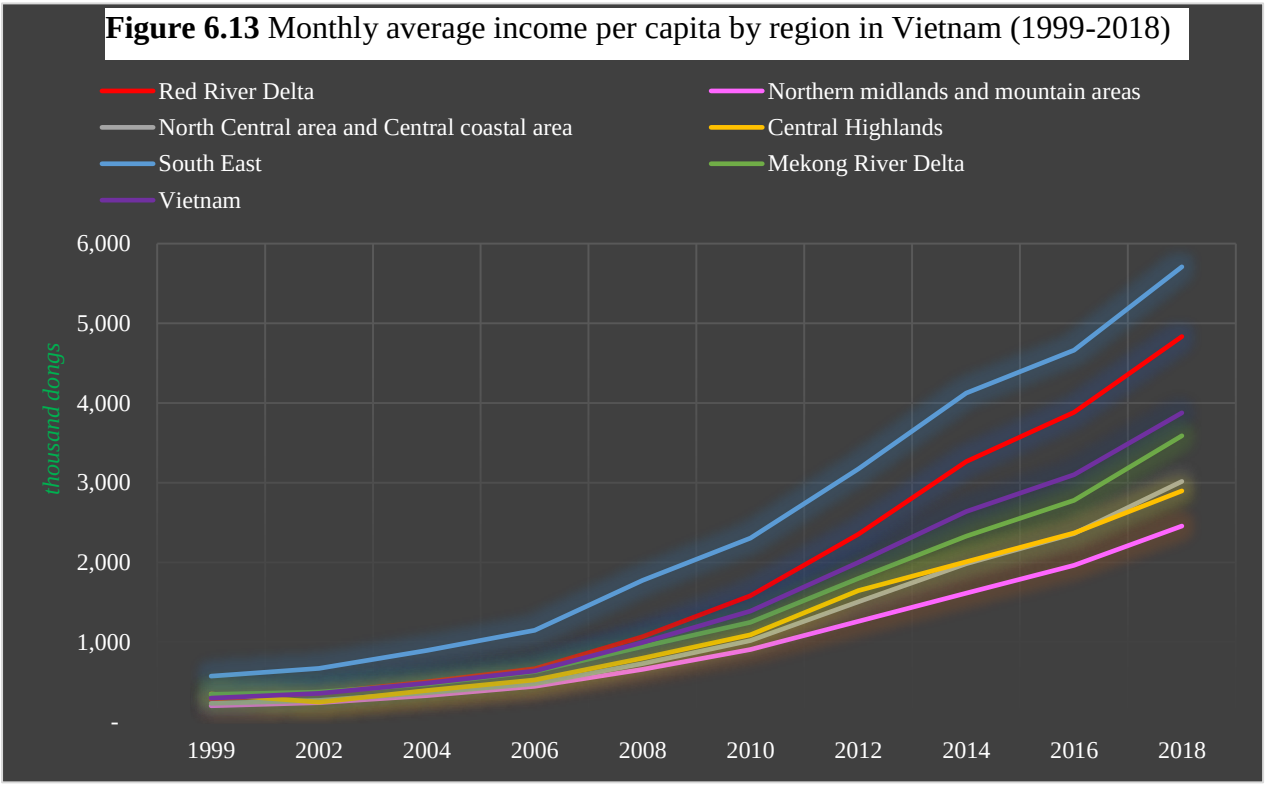


*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[696]

6.2.2.8 Low Monthly Average Income Rate

The monthly average income rate in Vietnam in general, and in the Mekong Delta in particular, has been improving year by year from 1999 to 2018 in the last decade, the monthly average income rate has increased significantly (**Figure 6.13**).

Figure 6.13 Monthly average income per capita by region in Vietnam (1999-2018)



*(Source: The Researcher © - analysed using **Excel** from the data published by the General Statistics Office of Vietnam)*[697]

During the period from 2014 t0 2018, the Mekong Delta region, witnessed a rapid increase in monthly income rate, rising from 471,000 VND (2004) to 3,588,000 VND (2018) per month. However, these figures were much lower than the monthly average income rate for the South East region which accounts for the highest income rate in Vietnam. Despite the rise of more than 7.6 times within the 14-year period, the Mekong Delta region registered a lower income rate than the national rate, and has been ranked third in comparison to the other five regions of

[696] The statistical data can be found at Statistics, Section 06. Agriculture, Forestry and Fishery of the website of General Statistics Office of Vietnam <https://www.gso.gov.vn/default_en.aspx?tabid=778> accessed 18 November 2019.

[697] The data can be found at the website of the General Statistics Office of Vietnam at Statistics, Section 11. Health, Culture, Sport and Living Standards at <http://www.gso.gov.vn/default_en.aspx?tabid=783> accessed on 11 November 2019.

Vietnam since 2004. In 2018, the income rate of the Mekong Delta region was 3,588, 000 VND (around 156 USD) while the highest income rate of the country was of the South East region with 5,709,000 VND per month (approximate 259.5 USD), while the average national income was 3,876,000 VND (around 176.2 USD) per month. Overall, the monthly average income of the country as well as of the Mekong Delta region remain relatively low. This in turn translated into low living standards.

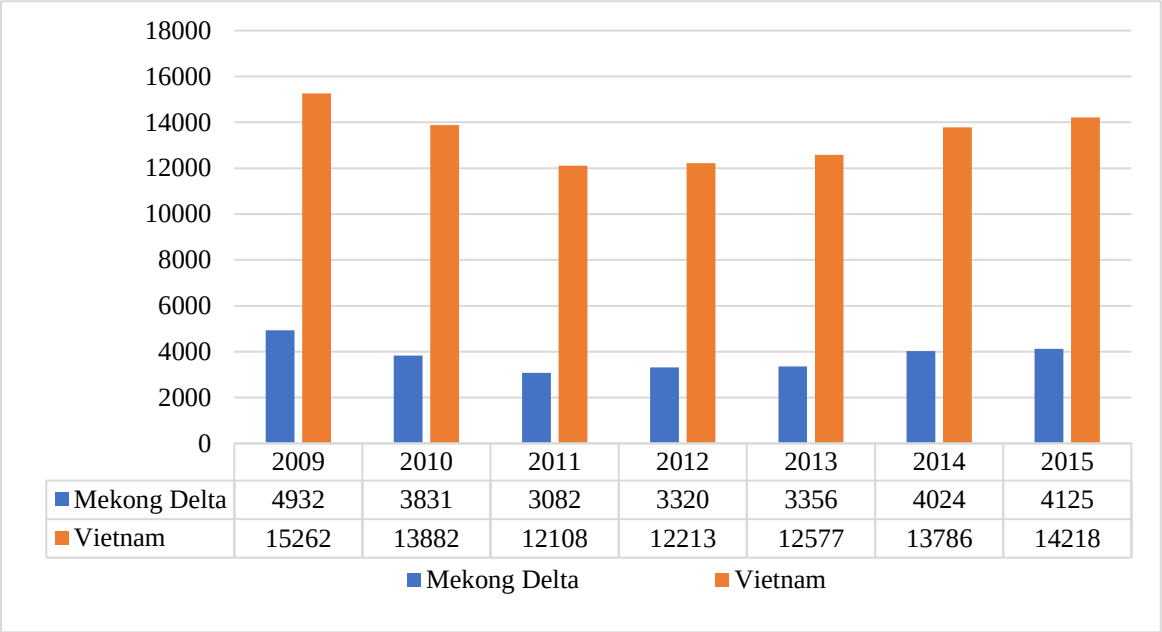
From the perspective of this research, information on the socio-economic background of the Mekong Delta is gathered with a view to presenting a general picture about the current situation of the region. The region, which occupies 12.32% of Vietnam's area and had a population in 2018 of more than 17.8 million people (approximately 74.5% of which reside in rural areas) has a mainly agricultural economy. The Mekong Delta region has been facing several challenges, with the lowest rate in educational attainment, as well as being one of regions having highest unemployment rate and underemployment rate in Vietnam. Additionally, the region's monthly average income per capita is relatively low and the poverty rate remains quite high, hence the low living standard of the region. It is thus important to fully understand the socio-economic background of the region which is believed to have a significant influence on the abnormal rise in the number of cross-border marriages between Vietnamese women in the Mekong Delta with foreigners (South Koreans, Taiwanese and Chinese in particular). The next part of this research will further examine how the socio-economic situation impacts on the rapid increase in the number of cross-border marriages in the Mekong Delta, a phenomenon which has been viewed with great concerns by not only local governments but also several organisations and researchers.

6.2.3 An Overview of Cross-Border Marriages in the Mekong Delta Region

6.2.3.1 Statistics

Cross-border marriages are not equally distributed throughout Vietnam and differ from province to province. This phenomenon is concentrated in Mekong Delta area, where most people live in the poorest rural communities. The number of cross-border marriages in the Mekong Delta region in the last two decades amount to a considerably high figure and the trend is continuing to increase in coming years. The high rate of cross-border marriages in Vietnam is mainly focused in the Mekong Delta region which constitutes the largest proportion compared with other regions in Vietnam, reaching nearly one third of the number of cross-border marriages in the whole country (**Figure 6.14**).

Figure 6.14 Number of marriages involving foreign elements registered in Vietnam (2009-2015)



	2009	2010	2011	2012	2013	2014	2015
Mekong Delta	4932	3831	3082	3320	3356	4024	4125
Vietnam	15262	13882	12108	12213	12577	13786	14218

(Source: Ministry of Justice in Vietnam)[698]

The data published by the Ministry of Justice in Vietnam in **Figure 6.14** (above) indicates that every year, thousands of Vietnamese people in the Mekong Delta, especially women get married with foreigners. During the period from 2009 to 2015, the Mekong Delta region recorded 26,670 cross-border marriages. In 2009, there were 4,932 cases of cross-border marriages registered in the region recorded, making up 31% the cross-border marriages in Vietnam. The phenomenon dropped in 2010 before recovering gradually since 2011, following the similar pattern for the whole country. Among these marriages, Can Tho City is ranked first, followed by Vinh Long, Tien Giang, Kien Giang and Hau Giang Province. In the lists of major 20 provinces/cities in Vietnam which have most Vietnamese marrying Koreans and Taiwanese, Can Tho city and Hau Giang Province are found in top five (**Table 6.3** and **Table 6.4**, above). In fact, Can Tho is the city has the highest number of Vietnamese-Korean marriages in Vietnam and it is ranked second in Vietnamese-Taiwanese marriages while Hau Giang Province is ranked the third for Vietnamese-Korean and the fourth for Vietnamese-Taiwanese marriages.

In another source from the Ministry of Public Security, between 2008 and 2018, Vietnam has an average of 18,000 citizens married to foreigners each year. Of these, 72% are females,

[698] The statistics is collected from the official website of Ministry of Justice in Vietnam <http://www.moj.gov.vn/cttk/chuyenmuc/Pages/thong-tin-thong-ke.aspx> accessed 14 July 2017.

mostly married to Taiwanese, Chinese, Americans and South Korean.[699] According to the aforementioned statistics, 78% of women married to foreigners are from poor families, with low educational attainment and unemployment, mainly living in Ho Chi Minh City and Mekong Delta provinces. Particularly in the Mekong Delta region, within the 10 years (2008-2018), there were up to 70,000 women get married to foreigners. Notably, marriages through brokers and more recently tourist marriages have been increasingly arranged to avoid marriage registration.[700]

6.2.3.2 Why the Mekong Delta Region?

As previously stated, more than 85% of cross-boundary marriages in Vietnam are related to Vietnamese women and in three groups of foreign men from Taiwan, South Korea and China.[701] Among them majority of cross-marriages with the three group concentrate in the Mekong Delta region.[702] Vietnamese women accounted for "the second largest group of marriage migrants in both Taiwan and South Korea from 1990 to 2007, surpassed only by the group of foreign brides from Mainland China."[703] Statistics previously discussed show the fact that there has been an abnormal increase in the number of cross-border marriages in the Mekong Delta which is far higher than other regions in Vietnam. This alarming fact places the matter of cross-border marriages in the region in question and the most common question asked, is why the Mekong Delta region rather than others?

In an effort to find out the answer for the question, first of all, the socio-economic background of the Mekong Delta to some extent provide an overview picture about the situation of the region as well as actual challenges facing the area. Living in the Mekong Delta region which has experienced almost the highest unemployment and underemployment rates, high poverty rate, low income rate, low educational attainment rate, young people choose to move to other areas inside and even out of the country for job opportunities. This is even more important to women who account for the far higher unemployment rate than their counterpart, having less job opportunities than men. Thus, Vietnamese women, especially rural young females, choose to get married with foreigner husbands because that it is considered as a solution for the matter

[699] Ngoc Tan, "70,000 Phụ Nữ ĐBSCL Lấy Chồng Nước Ngoài" *(70,000 Women From The Mekong Delta of Vietnam Get Married With Foreigners)* (29 July 2019) <http://tphcm.chinhphu.vn/70-000-phu-nu-dbscl-lay-chong-nuoc-ngoai)> accessed 01 November 2019.
[700] Ibid.
[701] Truong and others (n 19) 94.
[702] Reported at the Seminar about 'Marriages Involving Foreign Elements, Causes and Current Situation' held in Ba Ria -Vung Tau province on 11 June 2015.
[703] Bélanger and others (n 16) 1112.

of shortage of jobs and an ambition for seeking better life overseas. The next section of this research will provide a more comprehensive picture about this phenomenon and from this, more reasons will be revealed which have emerged from data analysis obtained from interviews in which Vietnamese brides in such marriages have shared their views with the researcher.

6.2.3.3 How Did the Phenomenon Happened?

The phenomenon of Vietnamese women getting married with Taiwanese men began to emerge in the 1990s[704] and subsequently increased rapidly in Ho Chi Minh City and later extended in provinces to the Mekong Delta region such as Can Tho, Dong Thap, Vinh Long, Soc Trang and recently Hau Giang.[705] Vietnamese-Korean marriages between Vietnamese women and Koreans began in 2000, a bit later but the rapid increase in quantity is significant from 2003 until now.[706] For example, in 2001 the proportion of Vietnamese wives in South Korea was only 1.3%, but rapidly increased to 9.6% in 2004, 18.7% in 2005, and 33.5% in 2006.[707] In 2016, Vietnamese women constituted 27.9 percent of foreign brides in South Korea.[708] Vietnam is on the top list of countries having the highest number of brides in the East Asian nation, according to the National Bureau of Statistics of South Korea.[709]

The explosion of match-making agencies which are legally recognised in some countries such as South Korea and Taiwan (but not in Vietnam), is regarded as a favourable tool to connect people of marriageable age worldwide. Especially, commercial marriage brokerages play a significant role in the boom in cross-border marriages between Vietnamese brides and foreigners in the Mekong Delta region[710] regardless of the fact that those commercial match-making services are illegal under Vietnamese law. Based on the findings of the 2009 National Survey on Multicultural Families in South Korea, 66.6% of Vietnamese wives were introduced to their Korean husbands through the commercial match-making media.[711]

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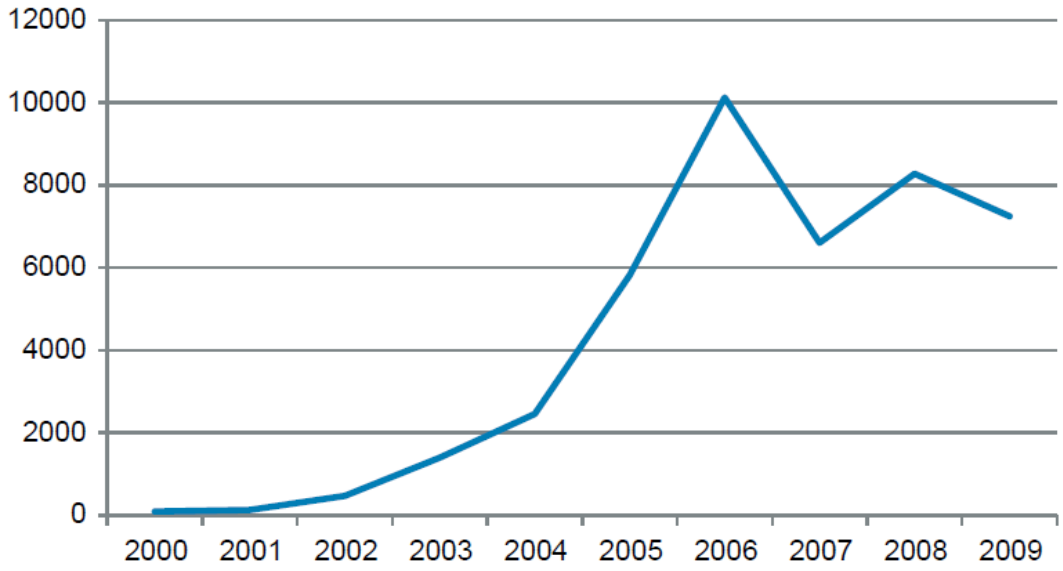
[704] Bélanger and others (n 207) 91.
[705] Reported at the Seminar about 'Marriages Involving Foreign Elements, Causes and Current Situation' held in Ba Ria -Vung Tau province on 11 June 2015, p2.
[706] Doo-Sub Kim, "The Rise of International Marriage and Divorce in Contemporary Korea" (2007) 3(1) Population and Society 1-37; Hye-Kyung Lee, "Cross-border Marriages between Korean Men and Migrant Women and Their Marital Satisfaction", paper presented at the PAK/IPAR Conference on International Marriage Migration in Asia, Seoul, 13-14 September 2007.
[707] Shim (n 142) 204.
[708] Son (n 301).
[709] Ibid.
[710] Wang and Chang (n 8) 93; Hsun-Hui Tseng, "Gender and Power Dynamics in Transnational Marriage Brokerage: The Ban on Commercial Matchmaking in Taiwan Reconsidered" (2015) 15 Cross- Currents: East Asian History and Culture Review 108.
[711] Lee (n 76) 1252.

Figure 6.15 illustrates for an upward trend in South Korean-Vietnamese marriages arranged through commercial match-making agencies based in South Korea from 2000 to 2009. It is clearly showed that Vietnamese-Korean marriages through marriage brokerage agencies initially began in second half of 2001 and increased gradually in following years. Such cross-border marriages soared between 2004 and 2006 when they reached a peak at more than 10,000 marriages. The following years witnessed a decrease in such commercially-arranged marriages even though the figure still remained relatively high (namely more than 7,000 in 2009).

Figure 6.15 Commercial arranged marriages between Vietnamese brides and Korean men



(Source: Korean Statistical Information Service)[712]

6.3 Primary Data Analysis (Interviews)

By analysing primary data, the researcher aimed to examine the nature of cross-border marriages in the Mekong Delta and the experiences of Vietnamese women in such marriages. Before examining the nature of cross-border marriages in the Mekong Delta region of Vietnam, it is important to examine the socio-demographic characteristics of Vietnamese brides in the Mekong Delta region who have been involved in cross-border marriages.

[712] Ibid 1254.

6.3.1 Defining Features of Vietnamese Women in Cross-Border Marriages

Table 6.11 Socio-demographic characteristics of Vietnamese brides in cross-border marriages

	No.	Percent
Age at the time of getting married		
<18	1	2.56%
18 -20	24	61.54%
21-23	9	23.08%
24-29	4	10.26%
>=30	1	2.56%
Not mentioned	0	0.00%
Educational Attainment		
Primary (1-5 grade)	0	0.00%
Secondary (6-9 grade)	5	12.82%
High School (10-12 grade)	25	64.10%
Higher (university/college)	5	12.82%
Not mentioned	4	10.26%
Marital Status prior marring to foreign husband		
Single, never married	34	87.18%
Married with Vietnamese husband and divorced	4	10.26%
Married with foreign husband and divorced	1	2.56%
Widowed	0	0.00%
Employment prior to cross-border marriage experience		
Teacher	1	2.56%
University/ college student	3	7.69%
Tailor	2	5.13%
Restaurant waitress/ kitchen assistant	2	5.13%
Shop assistant/ shop seller	5	12.82%
Manicure/nail care/ hair care	2	5.13%
Worker	1	2.56%
Freelance worker	2	5.13%
High school student	6	15.38%
Unemployed	14	35.90%
Not mentioned	1	2.56%

(Source: The Researcher © - analysed from the interview data)

There are four factors to be examined regarding the socio-demographic characteristics of Vietnamese brides in the Mekong Delta region of Vietnam in cross-border marriages. These include their age at the time of getting married, the educational attainment of brides, their marital status, and their employment status prior marrying a foreign husband. Knowledge about the socio-demographic characteristics of Vietnamese brides in such marriages is very important

because it helps us to understand why more and more Vietnamese brides in that region are choosing to get married with foreigners.

6.3.1.1 Marital Status Prior Marrying Foreign Husband

Regarding the marital status of Vietnamese brides before they got married with foreign husband, there are 34 among 39 interviewed brides were single and never married before (**Table 6.11**, above). Among the interviewees, there are 4 of them used to get married with Vietnamese husband and got divorced after that. The unhappy experience of them in the first marriage with Vietnamese men is one of the factors that impacted their decision on marrying foreigners for the second marriage.[713] However, there are a case where a Vietnamese bride got married twice, first with a Taiwanese husband and second with a Korean.[714]

6.3.1.2 Young Women from Rural Areas

Data from interviews revealed that majority of Vietnamese brides in the Mekong Delta region who get married with Taiwanese, Chinese and Korean men come from rural areas where they found their life poor and difficult. Majority of them got married generally of very young age (18-23 years old). 61.54% of interviews got married at their 18-20 years old while 23.08% fell into the ages of 21-23 (**Table 6.11**, above). In the interviews, there is a bride *(Interview 20)* who was just 17 years old at the time she got married, which is illegal under Vietnamese law. Thus, she could not register her marriage at that time. As she revealed that: "I got married with a Chinese man at the end of 2016 when I was a high school graduate and 17 years old at the time which was not old enough to get married under Vietnamese law". This is a considerable case which violated the law in Vietnam that stipulates that marriageable ages for females are 18 years old and 20 years old for males.[715] The interview with a local marriage broker *(Interview 15)* also revealed that the Vietnamese brides he introduced were around 18 - 32 years old, with the majority of them being more than 20 years old.

[713] Interviews: 22, 24, 26, 31.
[714] Interview 3.
[715] Vietnamese Law on Marriage and Family of 2000, Article 9; Vietnamese Law on Marriage and Family 2014, Article 8.

6.3.1.3 Low Educational Attainment

Regarding educational attainment of those brides, the interview data showed that most of them just graduated from high school or lower. 25 brides which account for 64.10% revealed that their literacy was at high school level while 5 of 39 responsible for 12.82% have lower educational attainment with just completing secondary school level (**Table 6.11**, above). Many of the women could not pursue higher education and decided to get married instead because they claimed that their families were poor and that they could not afford tuition fees. One woman said:

> My parents have 5 children, 4 girls and 1 boy and I am the first child. My parents were very poor and they couldn't afford me to go to school. They had no official jobs. They did any job if people hired them. So, I decided to stop studying to give the chance to my younger sisters. *(Interview 16)*

Noticeably, women with higher education such as university students or college students also among brides who got married with foreigners, namely 12.82% (**Table 6.11**, above).

Regarding the educational attainment question, a marriage broker who has recruited more than 1000 brides for over 7 years revealed more details that:

> In general, their educational attainment is relatively low and they have unstable jobs. Most of them just completed grade 5, grade 6. However, in recent years, I noticed that women with higher qualification such as those who are university or college graduates still want to get married abroad. When going for "greeting delegation", these girls have more chance to be selected by foreign men because at least they can communicate with their future husbands in English. I have introduced such 8 women successfully so far. *(Interview 15)*

6.3.1.4 Jobless or Unstable Occupation

When asked about their jobs before getting married with foreigners, majority of interviewed brides said that they were unemployed or had an unstable job with low income by the time they got married (**Table 6.11**, above). This is mainly because they have a low educational attainment, many of them having just completed upper secondary school programme, even just lower secondary school. They had to leave school very early stage because their parents could not afford their school fees. Unlike other education systems in Europe, in Vietnam education is not free for students from primary to high schools. Thus, many women are forced to leave school at early school stage and stayed unemployed.

14 of 39 brides revealed they were jobless at that time while 6 other brides indicated that they were still a high school student when they got married. This means that they were likely unemployed as well. One bride was very honest that:

> I got married 5 years ago. At that time, I had just completed secondary school programme and jobless. *(Interview 11)*

Similarly, another participant said:

> I got married long time ago. At that time, I just completed secondary school programme so it was difficult for me to look for a job." *(Interview 12)*

15 in 39 brides do have a job prior marrying foreign man and their jobs were very diverse, but mainly low-skilled jobs. Some of them worked in a hair salon as apprentices, while others worked as a shop assistant. Some were freelance worker, others were kitchen assistant or tailors (**Table 6.11**, above). These jobs get relatively low income in Vietnam. The only bride with high-skilled job as a primary teacher

The fact is that not only young women who have low educational attainment and jobless participate in cross-border marriages, even women having high-skilled job such as teacher or who have higher education attainment such as university students still entered into cross-border marriages. When asked about why they want to get married abroad, they referred to the low income in Vietnam. One bride who previously was a primary teacher stated that:

> I thought that if I can go to another country, I can find a job and improve my economic situation. So, I may partly help my family. Instead of staying in Vietnam, though I had a job, but the income was too low for me to survive on. *(Interview 42)*

6.3.2 Why Do Vietnamese Brides Want to Get Married Overseas?

In the effort to find out the reason why Vietnamese women in the Mekong Delta region got married with foreign nationals, several reasons were given. However, the main reason involved in economic factors and none of the 39 interviewees admitted that she had true love with foreign husband before marriage. The main purpose of their marriages was to improve their financial position and also the family's economic situation. For this purpose, many brides try to get

naturalised in their husband's country in order to improve their employment opportunities.[716] A bride who got married to a Taiwanese said:

> My family faced financial difficulty. In Vietnam, the average income is relatively low. So, I wanted to get married with a foreigner to improve my family's financial situation. *(Interview 23)*

Similarly, a bride living in a rural area of the Mekong River Delta who got married with a Taiwanese shared her own story:

> At that time, I was very young and people said that I was beautiful. My family was very poor and we didn't have enough food to eat. I wanted to marry a foreign husband because I wanted to help my parents escape from poverty. You know, I just finished secondary school and it was very difficult for me to find a job. *(Interview 16)*

The economic purpose is also referred by two Vietnamese women who got married to Koreans. One is honest that her main intention was to go to Korea and then to find a job, earn money and send it back to Vietnam[717] while the other revealed that she has helped to buy two houses for her parents in Vietnam since she got married abroad[718]. Another woman told:

> My family was poor and my father passed away early. My mother is a tailor who doesn't have a high income. So, I stopped going to school soon because my mother couldn't afford my school fees. I wanted to get married with a Korean man to improve my family financial situation. *(Interview 35)*

In a marriage with a Chinese man, another bride *(Interview 20)* revealed that she got married the Chinese man because she wanted to go abroad to look for jobs and because the value of Chinese currency is higher than Vietnamese currency. Moreover, she believes that going to China is easier than going to either Taiwan or Korea.

To explain further the reason why some brides who have high educational attainment still want to get married with foreign men, the broker in the interview added:

[716] Interview 11.
[717] Interview 26.
[718] Interview 24.

> Usually, because these girls have just graduated from university or left university for some years but they shared with me that looking for jobs in Vietnam is very difficult and competitive. Girls graduated from university may find a job while girls graduated from college failed to seek a good job. So, the latter just stay at home and depend on their parents financially. So, they want to get married abroad to look for a job opportunity and because the income is higher than in Vietnam. Some of girls want to get married abroad because they have many friends who get married abroad. So, they want to do the same as their friends did. *(Interview 15)*

It is clearly shown that getting married with foreigners has formed "a trend" that young Vietnamese women, especially who those are unemployed favour. Family financial problems and better job opportunities in a foreign country are most referred to as the main reasons why these young women want to marry foreign men.

The second reason is that previously successful cross-border marriages of the girls within the area are regarded as a good example for young girls to admire and follow and they simply think that an ideal life is waiting for them out there in a new country. A young bride explained why she gets married with a Taiwanese man:

> I wanted to change my life. I wanted to go abroad and look for a job as well as experience overseas life. I looked at my sister and her happy life in Taiwan. So, I had a high hope about an ideal life abroad. *(Interview 12)*

Having the same point of view based on a similar argument, a bride from Hau Giang Province added:

> My life in Vietnam was without a job, without money. I felt very uncomfortable. My parents had manual jobs so they could not afford my tuition fees to study further. So, I left school after completing the high school programme. I wanted to get married with a Taiwanese man to improve my life. I know many neighbours who got married with Taiwanese men and sent money back to Vietnam to build houses for their parents. So, I wished I could do the same. *(Interview 21)*

The third reason is that young women in the Mekong Delta decided to get married with foreign men because of their parents' wishes. Many brides revealed that they got married with foreigners because their parents wanted them to do so and they were influenced by their parents. A woman got married to a Korean due to her mother's advice stated that:

> I got married around 2012 when I was 20 years old. At that time, I was a worker in a clothing company. My mother asked me to stop working in the clothing company and get married in Korea. I wanted to improve my family's finance so I decided to get married with a Korean man….
>
> At first, I didn't intend to get married with a Korean man. I wanted to get married with a Taiwanese man instead because I have an aunt in Taiwan. But when greeting the foreign delegation, there was no Taiwanese delegation, just Korean one. So, then I called my mum to ask for her opinion. She said that it was alright to get married with a Korean man. I hoped it is ok. *(Interview 14)*

The most noticeable case is of the very young lady who was significant influenced by her parents in making a decision on getting married with a Taiwanese. She detailed that:

> Actually, at first, I had no intention of getting married with a foreigner. I have a boyfriend in Vietnam but my parents don't want me to keep the relationship with him. My parents want me to get married with a Taiwanese man. I disagreed at first but later on, I love my parents, so I agreed because I don't want to upset them. *(Interview 17)*

It has been seen that in rural areas of the Mekong Delta, when a marriage is arranged by parents or influenced by parents, the consent of a bride was not properly considered or even is entirely ignored.

Another reason for getting married with foreigners rather than Vietnamese men is that there are many brides who have experienced unhappy marriage lives with their ex-Vietnamese husbands and they do not want to get married with a Vietnamese man again. One bride in Can Tho City said that:

> To be honest, I had an ex, a Vietnamese husband before him. I had lived with the Vietnamese husband for two years but had an unhappy marriage then we got divorced. This makes me have a bad view of Vietnamese men. Thus, I wanted to get married with a foreigner after that so as to change my life. *(Interview 22)*

Facing similar circumstances, another woman found her life difficult after her divorce with a Vietnamese husband. She said:

> It was an unhappy marriage so the second-round time, I wanted to get married with a foreigner. Partly because I wanted to improve my family finance. After getting divorced with the Vietnamese husband, I had to work hard to raise my daughter. But, the income in Vietnam was low, not enough to survive on. *(Interview 24)*

A very young 19 years-old bride believes that the way Taiwanese men behave to their wife more properly than Vietnamese men and she considered it as the main reason why she decided

to get married to her Taiwanese husband.[719] Agreeing with the bride's opinion, the local marriage broker also added more explanations about why Vietnamese brides want to get married with foreign men rather than local men.

> Most of the families who contacted me are the poor ones. They couldn't afford tuition fees for their daughters who have to stop going to school early. So, these women couldn't find a job. And in Vietnam, income is low. They couldn't afford their living expenses. Regarding Vietnamese men, those who have high educational attainment usually don't like to get married with low educational attainment counterparts, and those men who have low qualification themselves find it difficult to find a job or have low incomes. Besides that, Vietnamese men are mostly patriarchal. So Vietnamese women want to get married abroad so as a broker I have a chance to change their life. *(Interview 15)*

The final reason which is most disturbing is easy immigration procedures. Women who get married with Koreans or Taiwanese often refer to economic factor as their main justification while those who get married with Chinese often said that the immigration procedures are easier. A young teenager innocently said that:

> I got married with a Chinese man because the immigration procedures are simple and easy. I meant it is easier to go to China than other countries. *(Interview 28)*

Another woman shared a similar opinion that:

> I have a cousin also getting married with a Chinese man. She introduced my husband to me. Compared to Taiwan and Korea, immigration procedures to China are easier and faster. It did not take much time. *(Interview 37)*

6.3.3 How Do Vietnamese Brides Get to Know Their Foreign Husband?

The Vietnamese brides in the Mekong Delta region got to know their foreign husbands through different ways, but mainly through matchmaking agencies, through the introduction of their sisters, their relatives or their friends who also have experienced in cross-border marriages before. Among the 39 brides interviewed, there were 25 of them (64.1%) revealed that they were matched with their foreign husband by a marriage brokerage agency in Ho Chi Minh City while 11 brides (28.2%) admitted that their relatives introduced them to their husband and 3 of them (7.7%) said they know their husband through friends (**Table 6.12**, below). Although under Vietnamese law the Centre for Consultancy and Support of Marriage and Family

[719] Interview 10.

Involving Foreign Elements Centres is allowed to perform the role of a non-profit marriage brokerage unit by providing match-making services between Vietnamese citizens and foreign nationals,[720] the majority of the brides interviewed have not known about the Centres and none of them was matched with their foreign husband through the Centres. It is possible that the existence of these newly established Centres model had not been brought to the attention of the interviewed brides.

[720] *See* Chapter 3, Section 3.6.1.

Table 6.12 The ways Vietnamese brides got to know their foreign husbands

Interview No.	Husband's country	How to get to know husband			Know each other for how long before marriage
		by marriage brokers *(66.7%)*	by relatives *(28.2%)*	by friends *(5.1%)*	
1	China	x			within a short time
2	Korea		x		3-4 months
3	Taiwan/Korea		x		3 days
4	Korea		x		within 1 month
5	Korea	x			2 days
6	Korea		x		5-6 months
7	Taiwan	x			1 week
8	China	x			1 month
9	Korea	x			3 days
10	Taiwan	x			3 days
11	Korea	x			some weeks only
12	Taiwan		x		within some weeks
13	Korea	x			1 week
14	Korea	x			2 days
16	Taiwan	x			1 week
17	Taiwan	x			2 months
18	Taiwan	x			not mention
19	Korea	x			2 weeks
20	China	x			2 weeks
21	Taiwan	x			5 days
22	China	x			1 week
23	Korea	x			1 day and 1 night
24	Korea	x			not mention
25	Korea		x		about 2 months
26	Korea	x			some days
27	China	x			20 days
28	China			x	10 days
29	Korea	x			within short time
30	Korea		x		1 week
31	China			x	2 weeks
33	Korea	x			not mention
34	Taiwan	x			7 days
35	Korea	x			10 days
36	Korea	x			within 1 week
37	China		x		2 weeks
39	China	x			not mention
40	Korea		x		about 2 months
41	Taiwan		x		less than a year
42	Taiwan		x		4 months

(Source: Researcher © - analysed from the interview data)

There were many cross-border marriages involving Vietnamese brides in the Mekong Delta region who had simply followed in the footsteps of what seemed to be the happy foreign marriages of their sisters or relatives. A bride got to know her Korean husband through an introduction by her sister who has experienced a happy marriage with a Korean man as well. She explained:

> I have a sister who has got married with a Korean man 7 years before. She has a happy marriage with her husband in Korea. She introduced a Korean man to me. He is her husband's friend. She advised me to get married to him. I learnt that she has a successful marriage so I decided to get married to a Korean man as well. *(Interview 30)*

Meanwhile the majority of brides (64.1%) when interviewed said that they know their foreign husbands through marriage brokerage agencies in Ho Chi Minh City. Commercial brokerages play a crucial intermediary role in facilitating the recruitment of Vietnamese women for foreigners, which includes arranging almost everything including the meeting(s) of the marrying couple, subsequent wedding and marriage procedures or even visa application,[721] even though their operation has not yet been legalised in Vietnam.

Interview 14 who got to know her Korean husband through a marriage brokerage in Ho Chi Minh City explained that there were groups of Vietnamese women comprising of around 3 to 6 women in each group who were arranged by a marriage broker to "greet a foreign delegation". A foreign man of the so-called "foreign delegation" then selected one wife from among the group of women through a process which is called "a beauty contest". Marriage brokerage agencies often arrange an interpreter for the meeting or the *greeting*. However, foreign men often select a wife by "looking at the bride's body, physical appearance and selected her. They could not communicate much because of language barrier."[722]

Another woman *(Interview 16)* who got married to a Taiwanese husband related a similar experience in which she attended a "beauty contest" with 12 other girls. She then was shortlisted and finally selected as a wife. The marriage was concluded within the space of only one week after her first meeting with the Taiwanese man. She stated:

[721] The role of matchmaking agencies in cross-border marriages in the Mekong Delta region of Vietnam will be addressed in details in the same chapter at Section 6.3.4.2 of the thesis.
[722] Interview 14.

> I knew my Taiwanese husband through a commercial marriage brokerage agency in Ho Chi Minh City. You know, in the City, there are many marriage match-making agencies. They often send their staff to the countryside in Mekong Delta area to look for virgins who want to marry to foreigners…
>
> There was a woman working for a marriage brokerage agency in HCMC who knew my parents. She promised them that she would help me find a Taiwanese husband. Then, she took me to HCMC to buy clothes, shoes and cosmetics. At that time, I even didn't know how to make up. She helped me make up and I wore a new dress that she bought for me. She took me to a hotel in HCMC to meet my husband. We came to a room in hotel and I met 12 other girls who dressed very beautifully and 2 men, one Vietnamese, one Taiwanese. We (all of candidates) were told that the Vietnamese man was an interpreter and the Taiwanese man was our future husband. We had a beauty contest. We were asked to step forward a bit like what a model does. After the 'first round', four of us were selected to come to the 'second round'. Of course, I was one of the four. At that round, we were asked to take off dress, leaving underwear only so that the Taiwanese man can see body of each candidate. I felt so ashamed because I felt we (Vietnamese women) were just like commodities. But thinking about my parents and my siblings, I followed what I was told. Then the Taiwanese man pointed towards me and said something but I didn't understand. The woman who took me to the hotel told me that I was selected and that, the marriage brokerage agency and the Taiwanese man which is my husband now, would arrange a wedding party next week. The woman then gave me 10 million VND and said that, I should give it to my parents to prepare for the wedding. She said she would give us more at the wedding party. She said the money was from my Taiwanese husband. But I didn't know how much he gave her. So, since the day when I first met my husband, we got married only one week after that. *(Interview 16)*

More worryingly, Vietnamese women will agree to get married with foreign men who may much older than them or who they just know within a short time and are not sure about his background. Two brides revealed that they have a 19-years age gap with their husband,[723] while two other women said that their husbands are even older than their parents.[724] Another bride said that she decided to get married with a Chinese man even though she had no idea about his background. What she knew about him was just what she was told by a marriage broker. She stated that:

> My aunt has a friend who introduced me to my husband. The friend is working for a matching agency…All information about my husband was from the broker. She told me that my husband was 34 years old and was working for a shoes company. He has proper house. In general, I just got to know my husband through what the broker told me. I had no personal knowledge about him. *(Interview 1)*

[723] Interviews: 10 and 23.
[724] Interviews: 16 and 36.

When asked if they are aware of any risk or harm that they may face when determining to get married to a stranger who they do not know well, a bride said:

> I was worried because I did hear from others that in China, there are many victims of human trafficking. I heard about that but because of my family's poor financial situation, I decided to go to China, taking the risk of my life. I remember at that time; a broker took me to a hotel and told me that they were going to send me to China with my husband. That night, I could not sleep, thinking about what might happened. I tried to stay awake that night to make sure that they would not harm me. I prayed that they would not sell me. *(Interview 1)*

Regarding how long they got to know their husband before they got married, their answers were really revealing (**Table 6.12**, above). 6 brides said merely from one to three days while 14 of 39 brides said that it was just a week or less. 7 of them said that it was 2 weeks and 7 of them got to know their husband for around one month. This means that 27 out of 39 interviewed brides (69.2%) got into a marriage with their foreign husband just a month or less after knowing them. The longest time a bride got to know her husband before marrying him was 5-6 months, and in another case, it was less than one year. This means that cross-border marriages between Vietnamese brides and Chinese, South Korean and Taiwanese men took place within a very short time after the spouses were matched successfully by marriage matchmakers, family relatives or friends.

Most of brides agreed that if brides and grooms get to know each other due to the introduction of a friend, a relative or a family member, the possibility to be deceived is lower. Marriages through match-making agencies often go with intentional misrepresentations about the husband's background because of the high profits to be gained from recruiting a wife successfully. This will be discussed in the next section of this chapter together with an examination of how local marriage brokers recruits Vietnamese brides in the Mekong Delta region of Vietnam for foreign men, and the role played by local brokers in such cross-border marriages.

6.3.4 The Role of Commercial Match-Making Agencies in Cross-Border Marriages

As previously discussed, commercial matchmaking agencies play a crucial role in recruiting Vietnamese brides for foreigner men. In this section, the researcher will examine how the bride recruitment process operates in the Mekong Delta region of Vietnam.

6.3.4.1 How Does A Commercial Match-Making Agency Actually Work in the Mekong Delta Region of Vietnam?

Any brokerage services not provided by the Centres are regarded as illegal under Vietnamese law and must be subject to a fine.[725] Although commercially matchmaking agencies are banned in Vietnam, the evidence seems to suggest that transnational marriage brokerage industry has nonetheless prospered under various forms. As previously discussed, 64.1% of the participants confirmed that they were introduced to their foreign husbands by commercial matchmaking agencies in Ho Chi Minh City. The operation of international matchmaking agencies in Vietnam has previously been reviewed in literature review chapter of this thesis.[726] As part of the discussion in this part of the research a clearer picture will emerge, illustrating how the bride process operates in the Mekong Delta region of Vietnam. Analysis of the interview data collected from a local marriage broker and Vietnamese brides in the region will help in understanding how the bride recruitment process functions.

Typically, in order to recruit Vietnamese brides for foreign men, brokerage agencies (without legal status) in Ho Chi Minh City have employed many local brokers who live in local areas in the Mekong Delta region.[727] In fact, these agencies have not registered their business because in Vietnamese marriage brokerage agencies have not been legalised. The local brokers are responsible for making personal contact with the local young women who are seeking to get married to foreign men (mainly men from Taiwan, South Korea and China). The local brokers collect images of the local girls as well as the girls' requirements (such as husband's nationality or husband's age). The images and basic background of the young women would be sent to the brokerage agencies in HCMC.[728] In the interview with a local broker, he revealed that:

> They (brokerage agencies) paid me 2 million VND (around $100)[729] for introducing a bride successfully. It depends. Sometimes, the bride's family gave me extra 0.5 – 1 million VND ($25 - $50). *(Interview 15)*

Operating in this way, the brokerage agencies are able to extend their networks in rural areas in the Mekong Delta region. Therefore, they always have a Vietnamese bride source available

[725] *See* Chapter 3, Section 3.4.2.
[726] Chapter 2, Section 2.7.
[727] Interviews: 7, 10, 15, 16, 17, 21, 22.
[728] Interviews: 10, 15, 16, 17, 21, 22, 27.
[729] '$' in all of interviews conducted by the researcher means US dollar. The currency was exchanged into US dollar by the researcher with the rate: averagely, 1USD = 20,000 VND.

to “supply” for foreign men who desire to marry Vietnamese wives. A bride recruitment process in the Mekong Delta region of Vietnam is illustrated in **Figure 6.19** (below).

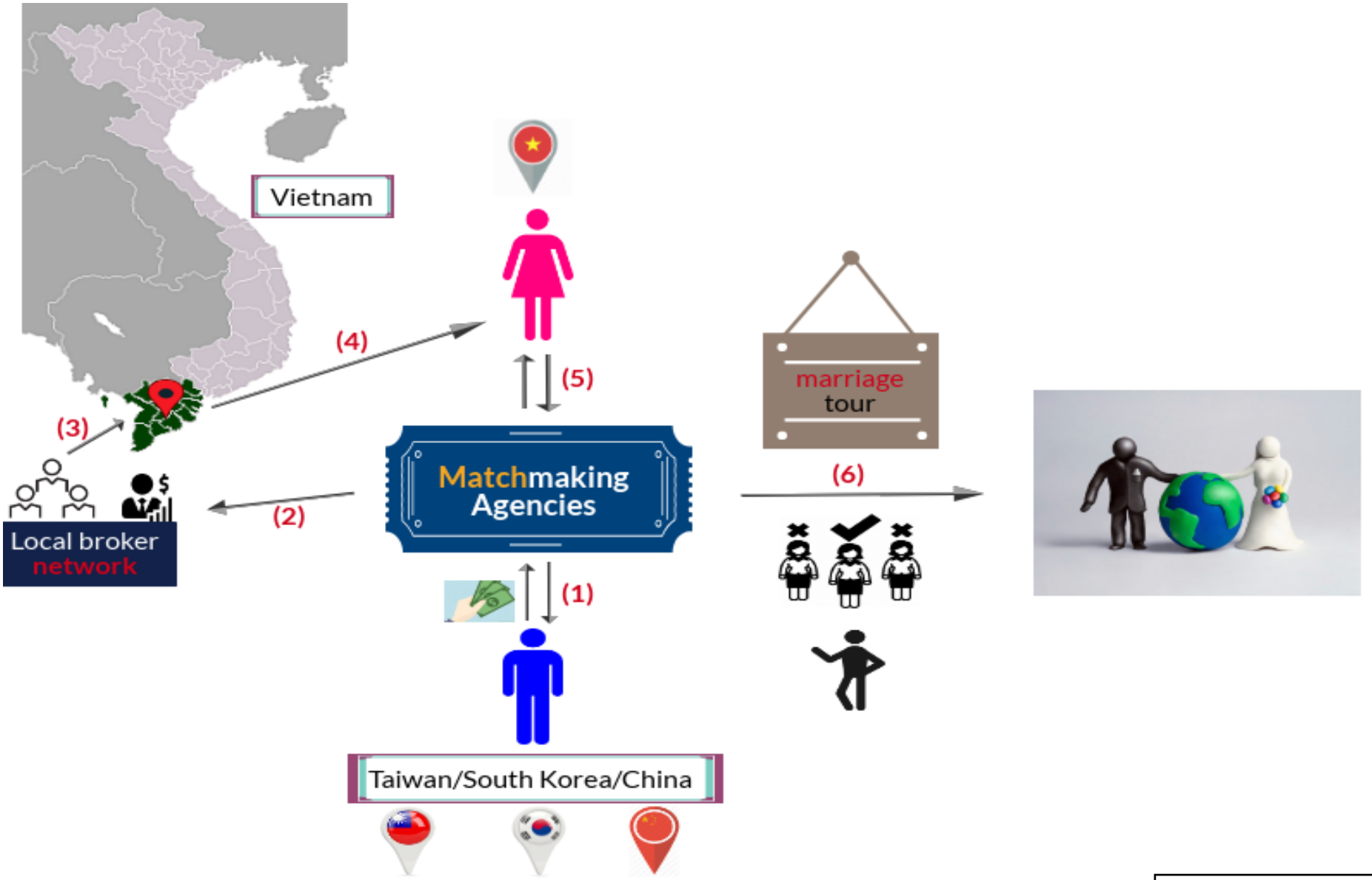


Figure 6.16 Bride recruitment process by local brokers in the Mekong Delta region of Vietnam

(Source: The Researcher)

When there is a "delegation" from China, or Taiwan or South Korea coming to Vietnam to look for wives, brokerage agencies in HCMC would arrange meetings between these men and Vietnamese women. There are two ways in which the first meeting for each couple can be arranged, but the activities of these agencies must be kept to a low profile to avoid local authorities' attention. Either the local broker would bring the brides (usually a group of brides from 3-6) to the venue (in HCMC) designated by the brokerage agency in HCMC to meet their future husband[730] or the agency in HCMC would take a foreign man to the local area to meet the brides.[731] In both cases, the local broker and the brokerage agency in HCMC would first of all discuss and identify the most convenient and less time-consuming arrangement for the foreign client. During the arranged meetings, there is always an interpreter provided by these agencies. A bride would be selected (from among a group of women) by a foreign man from the "delegation", mainly based on her physical appearance.[732] After the bride selection, a wedding ceremony would quickly be arranged by the agency in HCMC. The bride's family would be present at this ceremony, and the parents would receive a *wedding gift* from the foreign son-in-law.

The majority of Vietnamese brides who participated in this researcher admitted that they got to know their husbands through brokerage agencies which exercised actual power and influence over on their marriage. This is because the brokerage agencies arrange almost everything and all the brides need to do is to follow what they are told. The agencies actively collect and provide information of each party to the other party. The participants in interviewing said all information of their foreign husbands was provided by the brokerage agencies and much of the information turned out to be inaccurate or wrong (as previously discussed). Vietnamese brides in such commercially-arranged marriages by matchmaking agencies were in a passive position to get to know their husband's background. All of tasks that a match-making agency in HCMC normally perform were listed by a local broker as follows:

> The brokerage agency would arrange the first meeting for the Vietnamese bride and a foreign man. If agreed, then they will book a restaurant for wedding party in Ho Chi Minh City. After the wedding party, they would rent a hotel for the bride and her husband to stay together for some nights before the husband returns to his country. After that, they help to apply for marriage registration process and visa application. *(Interview 15)*

[730] Interviews: 1, 5, 8, 9, 13, 14, 15, 16, 18, 19, 21, 23, 24, 26, 27, 29, 33, 34, 35, 36.
[731] Interviews: 7, 10, 11, 17, 20, 22.
[732] Interviews: 9,14, 16, 23, 27, 34, 35, 36.

To describe how *powerful* a marriage brokerage agency is, a bride in a rural area of Hau Giang Province added that:

> The marriage brokerage agency in Ho Chi Minh City has a strong network which can threaten brides. I mean because Vietnamese law says that marriage brokerages are illegal. So, they always remind Vietnamese brides not to reveal any information about the brokers. If authorities ask the brides how they got to know their husbands, they have to say that it was due to the introductions of their relatives. Besides that, the brokers have already prepared answers for me for the interviews for marriage registration at the Department of Justice. They also do the same for visa interviews. Thus, they call it as "a whole package" to marry a Vietnamese wife. *(Interview 13)*

The brokerages managed almost every aspect of the pre-marital relationship and these vulnerable women were completely under their control.

6.3.4.2. An Illegal but High-Profit Service

Regardless of the fact that under Vietnamese laws commercial marriage brokerage services have not been legalised yet, the high profits earned from arranged marriage activities remain a key factor which encourages more and more illegal match making agencies to operate under various forms. The data from interviews shows that brokerage agencies can earn very high profits if they can recruit a Vietnamese wife for a foreigner successfully. One former bride who used to be married to a Korean man said:

> In fact, in accordance with Korean law, marriage brokerage is legal while it is illegal in Vietnam. In Korea, the match making agencies advertise the price for seeking Vietnamese wives and that is legal. Korean men will look at the price and decide if they want to look for a Vietnamese wife with that proposed price. If they agree, they have to pay for the brokerage agency that amount of money. Besides that, I am not sure if they may take extra fees or not. I know for sure that the brokers normally get around $13,000 - $14,000/bride package. *(Interview 13)*

The interview with the local broker clarifies what a "bride package" or "marriage package" actually means. The marriage broker said that:

> Usually, the brokerage agency costs them (foreign men) 150-200 million VND/each bride (around $7,500 – $10,000) including paying for a hotel room, organising a meeting, wedding party. Then the agency may take $2,000 extra fees for marriage registration fees, visa application fees and flight tickets. They name it as a "marriage package. *(Interview 15)*

Another bride revealed more about the brokerage fees and what constituted a "marriage package". She said:

> After marriage, when I moved to live in Korea, I asked him (her husband) about that. He said that he paid $20,000 to the broker for a whole marriage package including wife selection, wedding party, flight tickets, visa fees, etc. *(Interview 9)*

The "bride package" or "a marriage package" therefore means the foreign husband has to pay a brokerage agency for a *whole package* including the costs for recruiting a wife, arranging meetings, arranging hotel accommodation, the wedding party, marriage registration fees, visa application fees and flight tickets. The brokerage arrangement requires the foreign men who are seeking to marry Vietnamese wives have to pay for a "whole marriage package" to the brokerage agency which recruits Vietnamese wives for them. It is important to point out that the costs for a "whole marriage package" vary from agency to agency. One bride's mother revealed in the interview with this researcher that the brokerage fees may cost around $8,000 - $10,000/bride[733] while another bride said that the "bride package" fees were normally around $13,000 - $14,000.[734] However, another bride said that her Korean husband had paid as much as $20,000 for the whole marriage package including wife selection, wedding party, flight tickets, and visa fees. [735] Generally, though the costs as well as the profits the agencies make may differ from one agency to another, the profits made on each transaction are quite high and far higher than monthly average income in Vietnam.

It is important to note that under the traditional wedding system in Vietnam, the groom's family is required to give to the bride's family so-called "wedding presents" in the form of money or gold and other gifts. The "wedding presents" are compulsory and can be given pre-wedding or during wedding ceremony.[736] The "wedding presents" are regarded as a "Thank you!" to the bride's parents for giving birth to her and nourishing her. Therefore, in a traditional wedding, besides the wedding presents for the bride, the groom or his family has to also give wedding presents to the bride's parents. These wedding presents are separated and are also separated from the costs he has to pay for the marriage package services. However, for reason of convenience, the foreign husband in a cross-border marriage normally give everything (the marriage package fees and the "wedding presents" for the bride's family) to the brokerage agency. Unfortunately, some agencies can earn extra profits from the "wedding presents". One bride revealed that her husband paid the agency around 400 million VND (around $20,000)

[733] Interview 33.
[734] Interview 13.
[735] Interview 9.
[736] McLeod and Dieu (n 169) 137; Thuc-Doan T. Nguyen and Russell Belk, "Vietnamese Weddings: From Marx to Market" 2012 32(1) Journal of Macromarketing 109-120.

whereas the agency gave her parents $200 only for the wedding presents.[737] Another woman revealed that:

> He (her husband) paid a huge amount of money to them. But in fact, my family just received 5 million VND (around $250) after the wedding party. *(Interview 11)*

Another bride added:

> The woman (the broker) then gave me 10 million VND (around $500) and said that, I should give it to my parents to prepare for the wedding. She said she would give more at the wedding party. She said the money was from my Taiwanese husband. But I didn't know how much he gave her. *(Interview 16)*

Similarly, another bride stated that:

> I asked my-ex about that and he said he paid the broker 150 million VND (around $7,500) for the "whole package" including arranging documents for me to go abroad. However, the brokerage gave my parents 25 million VND only (around $1,250), I have no idea about what they did with the other money. *(Interview 31)*

The matchmaking agencies have many ways to acquire money from the groom and even from the bride as well. A mother of a bride whose son-in-law is a Korean revealed a shocking story when she explained that:

> My son-in-law gave my daughter $2,000 - $3,000 but the brokerage agency took it. If we hadn't given them, they would not have arranged visa procedures for us. The brokerage agency got money from both sides, from Vietnam and from Korea. *(Interview 33)*

Even worse is the fact that, an agency kept the "wedding presents" and gave them to the bride's parents gradually to make sure that the bride will not escape after the wedding. A bride stated that:

> The delegation leader kept all the money that my husband gave. They just gave my parents 2.5 million VND (around $125). After I got on a plane, they gave my parents 1.5 million VND more (around $75). *(Interview 36)*

6.3.4.3 Misleading Information by Matchmaking Agencies

In the quest to recruit as many brides as possible for foreign men for the high profits gained from each successful matchmaking event, many brokerage agencies provided wrong or

[737] Interview 14.

incorrect information about the husbands' background.[738] Consequently, vulnerable brides faced marital agony because they were often misled by incorrect information provided by illegal matchmaking agencies. Many brides in the interview revealed that they have were deceived by for-profit marriage brokers who gave them false information in relation to the husbands' criminal record, health status, or economic status.

The marriage broker tends to provide inaccurate information by presenting the groom-to-be as a perfect potential husband who has a good job, good financial status, good health and no criminal record regardless the fact that he could be either a former prisoner, or an alcoholic, or unemployed man. For example, one divorcee *(Interview 24)* stated during the interview that after getting married on the basis of the information provided to her by the commercial match making agency, she later found out that 99% of the information about her husband was incorrect. She does not know if it was the broker or her ex-husband told a lie. Three other divorced women were lied to about their husband's jobs[739] One of them *(Interview 23)* revealed that she was told that her husband was working in a company in Korea although the fact is that he was a farmer instead and she helped to work on his family's farms. The other participant *(Interview 20)* was told that her husband was living in a city and runs a business, but he was actually living in a remote area and unemployed. Yet another bride (*Interview 10*) was misled by the incorrect information provided by a marriage broker who told her that her Taiwanese husband was an electronic engineer, but she then found that he had been unemployed for a long time, even at the time he went to Vietnam. The woman in *Interview 16* was shocked because she had not been told about her husband's criminal record that he was sent to prison twice. She said:

> The woman (broker) told me some basic information about my husband. She said that my husband has a construction company in Taiwan and he was living with his mother in Taipei. She also said that he had never been married before and that because he was relatively old, so it was difficult for him to find a Taiwanese wife. I asked her about his age and learnt that my husband was 30 years older than me. He was even older than my parents. Actually, I had no love for him at that time because we didn't know each other. But after the beauty contest, he came to me to ask my name and asked about my family. He said 'I like you because you look very beautiful'. I didn't know if what the broker told me was right or wrong. But because I needed money to help my family, I didn't mind. It was not until after I came to Taiwan that I learnt that she told a lie. The reason why my husband couldn't find a wife in Taiwan because he was imprisoned twice and he was a worker, not a company director. *(Interview 16)*

[738] Interviews: 10, 16, 18, 19, 20, 23, 24.
[739] Interviews: 20, 23.

The participant in *interview 16* is not the only victim of such commercially-arranged marriages. She is only one of the *many* who suffer similar situations. Two other women explained that their husband' background was misrepresented by the agency and they ended up marrying mentally ill or alcoholic husbands.

> All information was provided by the broker. They lied to me. They told me that my husband was healthy and he had no health problem. But actually, he has a mental health problem and I ended up being physically abused by him. *(Interview 18)*
>
> Or
>
> After coming to South Korea, I realised that my ex-husband is an alcoholic. This is also the reason why he couldn't get married to a Korean. He often gets drunk and beats me a lot. *(Interview 19)*

The data from interviews provide an overall picture clearly showing that commercial brokerage agencies, in the role of a third party in a cross-border marriage, are deeply involved in almost all nuptial activities and play a main role in recruiting Vietnamese wives for foreign men. Naive Vietnamese women (and even their families) who have low educational attainment become vulnerable and are subject to exploitation. These women are treated as "a main tool" by which brokerage agencies can earn money and the heart-breaking truth is that the principal beneficiary is the commercial brokerage agency rather than the brides or their families.

6.3.5 How Do Vietnamese Brides Prepare Themselves Before Marriage Overseas?

The majority of Vietnamese brides when asked about pre-marital preparation revealed that they do not have a good preparation before their marriage. These brides admitted to have no knowledge about the marriage law and immigration procedures of their husband country. Even their knowledge of Vietnamese law on marriage is very limited. The only aspect they can prepare themselves for is the culture of their new country that they have learnt from movies and social media and also the language. However, brides start to learn the language of their husband's country just some months before they emigrate (**Table 6.13**, below).

For further analysis of Vietnamese brides' preparation for a cross-border marriage, brides participated in the interviews are divided into two groups, **Group A** – for brides married to Korean and Taiwanese men, and **Group B** – for brides married to Chinese men.

Table 6.13 Brides' preparations for a cross-border marriages

Interview No.	Husband's country	Preparation for Language Skills				Preperation for Cultural Adjustment (Method of Study)	Where to Register Cross-Border Marriages
		Attended any language class/course		Length of time it took to learn a language before marriage	Method of Study		
		Yes	No				
1	China		x	n/a	self-studied	via news and tivi	China
2	Korea	x		1 month	n/a	from language course	Vietnam
3	Taiwan/ Korea	x		2 months	learnt in my hometown	from news and tivi	Vietnam
4	Korea	x		3 months	n/a	from watching movies	Vietnam
5	Korea	x		1 month	arranged by the marriage broker, learnt with other brides	from movies	Vietnam
6	Korea	x		n/a	learnt in a vocational training centre	from language course	Vietnam
7	Taiwan	x		2 months	arranged by the marriage broker	from news	Vietnam
8	China		x	n/a	self-studied	from movies	China
9	Korea	x		1 week	arranged by the marriage broker	from movies	Vietnam
10	Taiwan	x		4 months	arranged by the marriage broker, learnt with other brides	from other experienced brides	Vietnam
11	Korea	x		n/a	n/a	from movies	Vietnam
12	Taiwan	x		n/a	I learnt Taiwanese 3 months in Taiwan	from sister and friends	Vietnam
13	Korea	x		3 months	arranged by the marriage broker, learnt with other brides	from movies	Vietnam
14	Korea	x		2 months	self-studied	n/a	Vietnam
16	Taiwan	x		6 months	arranged by the marriage broker	from friends and language course	Vietnam
17	Taiwan		x	n/a	n/a	not prepared	*not registered yet*
18	Taiwan	x		a few months	n/a	n/a	Vietnam
19	Korea	x		2 months	n/a	from movies and friends	Vietnam
20	China		x	n/a	n/a	not prepared	*not registered yet*
21	Taiwan	x		n/a	n/a	from friends and language course	Vietnam
22	China		x	n/a	n/a	from movies	*not registered yet*
23	Korea	x		5-6 months	n/a	from movies	Vietnam
24	Korea	x		n/a	learnt a bit	from movies	Vietnam
25	Korea	x		2 months	n/a	from newspapers and movies	Vietnam
26	Korea	x		n/a	n/a	from news and movies	Vietnam
27	China		x	n/a	I learnt Chinese on tivi in China	from watching movies	China
28	China		x	n/a	n/a	from Chinese films	China
29	Korea	x		n/a	arranged by the marriage broker, learnt with other brides	from songs and movies	Vietnam
30	Korea	x		a few months	n/a	n/a	Vietnam
31	China		x	n/a	self-studied via dictionary	not prepared	China
33	Korea	x		n/a	arranged by the marriage broker	from movies	Vietnam
34	Taiwan	x		1 month	n/a	n/a	Vietnam
35	Korea	x		2 months	arranged by the marriage broker	from movies	Vietnam
36	Korea	x		n/a	learnt a bit	from movies	Vietnam
37	China	x		n/a	self-studied	from movies	China
39	China		x	n/a	n/a	n/a	*not registered (trafficked)*
40	Korea	x		n/a	self-studied	from watching films	Vietnam
41	Taiwan	x		3 months	n/a	from relatives living in Taiwan	Vietnam
42	Taiwan	x		n/a	n/a	well-prepared	Vietnam

(Source: Researcher © - analysed from the interview data)

6.3.5.1 Brides' Language Preparation

The interview data which is produced on **Table 6.13** (above) provides detail information regarding preparations made by 39 of the interviewed brides for learning their husband's language before they moved to live in their husband's country. The majority of interviewed brides revealed that they did not attend a proper language course to prepare themselves. In order to learn a language spoken in their husband's country, these brides either self-studied by dictionary, television, movies or attended short courses on language arranged by marriage brokerage agencies which lasted a few weeks or a few months.

In **Table 6.13** above, it can also be seen that brides in **Group A** equipped themselves with better preparation in terms of learning the language than those in **Group B** where almost every interviewed bride revealed that they had no language preparation at all before marriage and they only learnt Chinese by themselves after marriage. This is explained by the fact that brides in the Mekong Delta region could not find or did not know where to learn Chinese. Moreover, their marriages with Chinese men usually took place within a very short time after they first meeting, so they did not have enough time to learn Chinese. Differently, brides in **Group A** had more opportunities to study Korean and Taiwanese Hokkien[740] before they emigrated to their husband's country. However, these brides only spent from one week to 6 months to learn the foreign language which was not an officially certificated course, but rather informal classes arranged by the marriage brokerage agency.

In interviews, local brides in **Group A** revealed that the marriage broker made all the detail arrangements regarding when, where and how to study the languages spoken in their husband's country. However, it is important to remark that these brides only studied the languages after wedding party and before they went to their husband's country. This again clearly shows the fact that cross-border marriages between Vietnamese brides and South Korean or Taiwanese men occurred regardless of the fact that the bride and the groom did not know each other's language. The brides only acquired a basic knowledge of their husband's language after the wedding ceremony. Even where the opportunity was provided to learn the languages, the brides did not attend proper language courses, except for the informal classes arranged by the marriage

[740] This language is the most widely spoken language in Taiwan today.

brokers. These classes were held in Ho Chi Minh City where many local brides from the Mekong Delta region were grouped to study together. Two interviewees said that:

> I had studied Taiwanese in Ho Chi Minh City for 4 months. The brokerage agency arranged the course for us. I learnt with other Vietnamese brides who mainly come from the Mekong Delta region. *(Interview 10)*

> I had learnt Korean for 3 months before going to Korea. The brokerage agency arranged the class for me and other brides. Actually, the teacher was arranged by them and we didn't have an official class. After going to Korea, I learnt more Korean as well. *(Interview 13)*

> I learnt Korean before I went to Korea. The brokerage agency arranged the course for me and other women to study together. *(Interview 29)*

Another bride who acquired her basic Taiwanese Hokkien language after six months said that:

> After my wedding party, the agency found a Taiwanese class for me to study the language. I studied for six months before moving to live with my husband in Taiwan. I knew about Taiwanese culture and custom from my friends whose husbands are also Taiwanese and from movies I watched. I didn't know the law in Taiwan. After 6 months of study, I can acquire basic communication skills. I can talk a bit to my husband. After coming to Taiwan, he sent me to a centre where I learnt more about language skills. *(Interview 16)*

It is noticeable that the language course was arranged shortly after the wedding ceremony and can be as short as few weeks to a few months, with the duration of the course decided by the marriage brokerage agency.

> Before going to Korea, I had learnt Korean for one month in Can Tho City and got a certificate. I was taught about basic communication skills and Korean customs. *(Interview 2)*
>
> *or*
>
> I studied Korean a bit. I learnt it in one month in Ho Chi Minh City before I went to South Korea. The brokerage agency arranged the Korean training class for me and other Vietnamese women. *(Interview 5)*

This once again shows the important role and active involvement of marriage agencies in cross-border marriages. The inadequate nature of the language courses can be summarised as follows:

- Many brides learning together.[741]
- The language lessons took only some weeks, one month[742], two months[743] or a couple of months which is too short for the brides to master a new language which they will frequently use to communicate in their husband's country.
- The brides had no idea about where to study the language, but mainly relied on the arrangement of marriage brokerage agencies.

Only one bride acknowledged that she had been learnt Korean properly in a vocational training centre before she went to South Korea. At the centre, she also studied about Korean cultures as well.[744] However, not every bride had the same opportunity to study like her.

Women who get married with Chinese men in **Group B** encounter even worse circumstances in that the brides hardly have an opportunity to learn the Chinese language before they go to China *(see* **Table 6.13**, above*).* A bride revealed that:

> I don't know Chinese. I didn't learn Chinese before going to China. I learnt Chinese after going to China and I self-studied. *(Interview 8)*

Similarly, another bride revealed that:

> Before getting married, I couldn't speak Chinese. About Chinese cultures, I learnt from news and television. I found Chinese and Vietnamese cultures have something in common. So, I felt fine. There is not a big difference…. Regarding language, I bought a book and I studied by myself…. Just self-studied. I didn't attend any Chinese course. *(Interview 1)*

It should nonetheless be acknowledged that culture is not a significant factor to Vietnamese brides because of the long history of shared cultural characteristics and common traditions between the two countries. However, language is a major challenge because Vietnamese and Chinese are completely different language systems. Not knowing the Chinese language, but still opting to get married with Chinese men placed Vietnamese brides in a difficult position

> I didn't study Chinese before I went to China. This is because I had no time. We got to know each other within ten days only and then I went to China with him. *(Interview 28)*

[741] Interviews: 5, 10, 29.
[742] Interviews: 2, 5, 34.
[743] Interviews: 7, 14, 35.
[744] Interview 6.

because they and their Chinese husbands could not communicate in the same language. When asked why she did not study Chinese before going to China, one bride honestly answered:

6.3.5.2 Brides' Preparation for Cultural Adaptation

As seen in **Table 6.13** (above) almost every bride admitted that they got to learn about the culture of Taiwan, South Korea and China through news, movies or had been told by other brides or friends who experienced cross-border marriages before rather than through support provided by any governmental agency. One bride shared her experience as below:

> I watched many Korean movies in Vietnam in order to learn Korean cultures and customs. I have many friends who got married with Korean men, so I asked them to share their personal experiences about life in South Korea. Also, I had learnt Korean for a period of about 5-6 months before going to South Korea. *(Interview 23)*

Similarly, another bride admitted that:

> I know nothing about the family law or immigration law in South Korea. I learnt Korean cultures via news that I read from newspaper and movies. *(Interview 25)*

It is worth noting here the danger of these Vietnamese brides relying on movies or television as a way of learning the culture of their adopted countries because entertainment sources such as movies and television can sometimes present a false or misleading picture of the culture and way of life of a country.

Another way to prepare for cultural adaptation is through the experience of other brides who have conducted marriages with Taiwanese or Koreans. These other brides can be a sister, a cousin or even a friend. Two interviewed brides whose husbands are Taiwanese revealed that:

> Also, I asked other Vietnamese women who previously got married with Taiwanese men to learn from their experience. *(Interview 10)*
>
> *or*
>
> I asked my sister for information and learnt from some friends who also got married in Taiwan. *(Interview 12)*

Similar to **Group A**, Vietnamese brides in **Group B** mainly learnt about Chinese culture through movies.[745]

[745] Interviews: 22, 27, 29, 37.

> I watched many Chinese movies in Vietnam and learnt their culture through these movies. However, I hadn't learnt Chinese before I went to China. *(Interview 22)*

Vietnamese brides in the Mekong Delta also have no idea about where to go to or who they can contact for support and counselling in Vietnam before marriage. From the interviews, no brides mentioned receiving any support from The Centre for Consultancy and Support of Marriages and Families Involving Foreign Elements regarding the language, culture, legal issue, whereas under Vietnamese law, it is clearly stated that one of obligations of the Centre is to counsel and train Vietnamese citizens in languages, cultures, customs, and the law on marriage and family as well as immigration law of the countries of their future.[746] This again shows that Vietnamese brides were left on their own to cope with the challenges before marriage. On the whole these brides have not got enough support systems in place which are needed to prepare them for a very important part of their lives in a cross-border marriage with so many challenges. They heavily relied on arrangements made by marriage brokers rather than the services of their local government through the Centre as it should be. This again shows that there is insufficient support from the local government which is represented by the Centres.

6.3.6 Marriage Registration and Immigration Process

It is shown in **Table 6.13** (above) that brides in **Group A** normally have their cross-border marriages registered in Vietnam (namely at Department of Justice at provincial level) while most of such marriage in **Group B** (between Vietnamese brides and Chinese men) are registered in the husband's country – China.

Regrading **Group A**, almost 100% of brides registered their marriages in Vietnam shortly after the wedding ceremony arranged by the marriage brokers. As discussed in **Chapter 3** of this thesis, before 01/01/2016 Vietnamese law required spouses in a cross-border marriage to attend separate interviews prior to registering their marriage. The main purpose of the interviewing the parties is to verify the authenticity marriage or to determine if it is a genuine marriage or not. Many brides participating in this research revealed that marriage brokers would draft and give them the answers in advance so that they can respond correctly to the questions being

[746] Article 55 of the Government's Decree No. 126/2014/ND-CP dated on 31st December 2014 detailing a number of articles and measures for implementation of the law on marriage and family.

asked at the pre-marriage registration interview, and also for visa interviews.[747] One bride provided more details as follows:

> Normally, the broker prepares answers for brides for the marriage interview and even visa interviews. The brides just need to learn by heart. *(Interview 9)*

Illegal marriage brokers also warned vulnerable brides not to tell the authority anything about their operation, and that if the registrar asked them how they got to know their husband, they should just say that it was through friends or relatives.[748] Moreover, one bride revealed that she applied for a marriage registration in Vietnam in the absence of her husband, and that he was not present on the interview date, but the local authority still went ahead with the procedures. This was clearly a violation of the marriage law which requires that the two parties to the marriage must attend the interview as scheduled by the Department of Justice, and that they must be interviewed in person separately.[749] She said that:

> I registered my marriage at Department of Justice in my hometown. He (the husband) was absent on that day. At the registration interview, he was absent again but got an approval from the authority. He was busy at work and failed to request for an annual leave. So, he could not attend the interview, only me was interviewed. *(Interview 3)*

It should however be pointed that a blatant violation of the law by officials is a very rare occurrence in Vietnam, and this particular case seems to have been an isolated incident.

In contrast, 6 out of the 9 brides in **Group B** registered their marriages in her husband's country, while the remaining 3 in the same group had not registered their marriages yet at the time they participated in this research (**Table 6.13**, above).

Although the data analysis from interviewed brides in this research shows that almost every cross-border marriage between a Vietnamese bride and Korean man was registered in Vietnam, a review of statistics collected from marriage registration institutions in Hau Giang Province of the Mekong Delta region between 2005 and 2015 shows that the vast majority of Vietnamese-Korean marriages were mainly registered in the husband's country (*see* **Table 6.14**

[747] Interviews: 9, 10, 13, 23, 25, 34.
[748] Interviews: 9 and 13.
[749] Article 10 of the Decree No. 24/2013/ND-CP dated March 28, 2013 of the Government promulgating the implementation of some Articles of the Law on Marriage and Family 2000 on relations of marriage and family related to foreign factors; Article 23(1) of the Decree No. 126/2014/ND-CP, dated December 31, 2014 of the Government detailing a number of articles and measures for implementation of the law on marriage and family.

and **Table 6.15**, below). Data collected from Department of Justice[750] in Can Tho City of the Mekong Delta region also confirmed that Vietnamese-Korean marriages between Vietnamese citizen in Can Tho City were mainly registered in South Korea (*see* **Table 6.16** and **Table 6.17**, below).

Why is an examination of the place of marriage registration important when studying cross-border marriages in the Mekong Delta region? This is because a cross-border marriage, if it is registered in Vietnam, will be with the active official involvement of Vietnamese authorities. For example, the information on the grooms' background can be verified by the authorities from official documents provided by grooms as part of marriage registration procedures. In this case, the cross-border marriage is carefully monitored with exercise of official oversight (and intervention, if need be) by the authorities. In contrast, if a cross-border marriage is not registered before Vietnamese authorities, it will be difficult for the authorities to intervene to protect Vietnamese citizens if something went wrong. This is particularly important in a case where Vietnamese brides also have limited foreign language skills. Therefore, the risk for them to be exploited will be even higher in such cases if their marriage is registered abroad.

[750] Under Vietnamese Law, Department of Justice at is a governmental agency where cross-border marriages are registered in Vietnam.

Table 6.14 Cross-border marriage registered in Hau Giang Province, Vietnam (2004-2015)

	Country	Year											
		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1	Taiwan	850	631	333	552	377	226	239	213	205	203	240	320
2	South Korea	77	218	20	18	4	2	6	2	5	2	5	12
3	USA	12	27	46	45	54	54	44	51	47	47	50	56
4	Australia	10	10	14	11	6	8	7	13	8	9	7	5
5	Canada	9	16	10	9	14	6	10	6	5	8	2	8
6	Japan	2	5	1	3	2	4	4	2	6	8	16	12
7	France	1	4	2	3	1	1	6	1	3	4	5	2
8	Norway	1		1			1			1		1	
9	Malaysia	1		1				2		1		2	2
10	Germany		4	2	2		5	1	1	1	2	2	1
11	Denmark		1			1		1					
12	UK			4								1	
13	Sweden			1	1					1		1	
14	Finland				1	1			1	1	1		1
15	New Zealand				1								
16	Russia										1		1
17	China						1		1		1	1	2
18	Singapore								1		1		3
19	Belgium						1	1		3			
20	Hungary								1				
21	Thailand						2						1
22	Netherlands						1						
23	Mexico											1	
24	Cambodia											1	1
25	Ireland	3											
26	Austria	1											
27	Romania	1											
28	Hong Kong												1
	Total	**968**	**916**	**435**	**646**	**460**	**312**	**321**	**293**	**287**	**287**	**335**	**428**

(Source: Department of Justice in Hau Giang Province)

Table 6.15 Marriages between Vietnamese citizens in Hau Giang Province and foreigners registered abroad (1/1/2005 – 31/12/2015)

	Country	Year										
		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1	South Korea	175	1,612	1,253	845	623	739	784	890	495	390	314
2	Japan								1			
3	New Zealand								1			
4	China								1	1		4
5	Singapore										2	1
6	Australia									3		
7	Canada									1		
8	USA									3		
	Total	**175**	**1,612**	**1,253**	**845**	**623**	**739**	**784**	**893**	**496**	**392**	**326**

(Source: The Department of Justice of Hau Giang Province)

Table 6.16 Vietnamese – Korean marriages registered in Can Tho City, Vietnam (2001-2015)

Year	Total	Marriages with Koreans
2001	2,737	1
2002	3,107	86
2003	2,303	56
2004	1,428	34
2005	1,431	329
2006	760	20
2007	939	9
2008	754	5
2009	510	0
2010	466	2
2011	327	2
2012	424	4
2013	470	5
2014	556	15
2015	681	40
Total (2001-2015)	**16,893**	**608**

(Source: Vietnam Women's Union in Can Tho City)

Table 6.17 Marriages between Vietnamese citizens from Can Tho City and Korean nationals registered in South Korea (2005-2015)

Year	Total	Marriages with Koreans
2005	508	508
2006	1,598	1,598
2007	1,435	1,435
2008	1,709	1,708
2009	1,486	1,486
2010	1,438	1,433
2011	616	613
2012	837	831
2013	1,029	1,025
2014	655	645
2015	583	577
Total (2005-2015)	**11,894**	**11,859**

(Source: Vietnam Women's Union in Can Tho City)

Regarding the visa application process, interviewed Vietnamese brides in this research who had married Chinese men revealed that they would apply for a tourist visa to China first, then have their marriage registered in China. For example, one bride got to know her husband through her cousin who had brought the husband to Vietnam to meet her for the first time. Two weeks after the first meeting, she applied for a tourist visa to China to study about life in China before making the marriage decision. She said that:

> I got a confirmation on my marital status issued in Vietnam. Then I went to China to see how life there is before I could make a decision on marriage. I hold a tourist visa when I first went to China. After I had been in China for two months, I registered my marriage at the Embassy of Vietnam in China. *(Interview 37)*

By contrast, in cross-border marriages with Taiwanese and Korean men, Vietnamese brides would first of all register their marriage with Vietnamese authorities. Then the brokerage agencies would process their visa application, while their husbands would return to his country after the marriage tour. According to interviewed brides, marriage brokers would prepare all documents necessary to process the visa, even including the interview answers for brides.[751] However, Vietnamese brides normally underwent a visa interview which is not always easy for them. Therefore, it may take brides from a couple of months up to one year to finally get a spouse visa at the second or even the third attempt of their visa application.[752] There was a case in which while the bride was applying for visa, her husband returned to Taiwan and disconnected with her. She then contacted the marriage broker, but they were unable to contact him.[753]

6.3.7 Primary Data Analysis of Post-Marriage Impacts of Vietnamese Cross-Border Marriages

6.3.7.1 Introduction

Section **6.2.2** of this chapter provided an overview background factors responsible for the rise in cross-border marriages between local women in the Mekong Delta of Vietnam and foreign men from China, Taiwan and South Korea. As seen **the literature review,** and also in Section **6.3.3**, a lot of these marriages are arranged through marriage tour services provided by

[751] Interviews: 2, 3, 7, 9, 10, 13, 14, 25, 33, 34.
[752] Interviews: 2, 3,10, 14.
[753] Interview 7.

commercial match-making agencies. Such quick marriages are believed to have their socio-economic impacts to both bride-sending and bride-receiving countries. The main purpose of this part is to examine the socio-economic impacts of cross-border marriages, socio-economic aspects in Vietnam, and particularly the impacts on the life of Vietnamese women in the Mekong Delate region.

It is important not to confuse the socio-economic impacts of cross-border marriages (post-marriage) with the socio-economic background (pre-marriage) which have both been examined in this chapter.

The post-marriage socio-economic impacts to be discussed in this chapter include:

- Cross-border marriages as a social tool for potentially positive effects of cross-border marriages on bilateral relations;
- Demographic impact of cross-border marriages: "marriage squeeze";
- Brides' negative experiences with language and cultural barriers, domestic violence, illegal immigration, unlawful residence and prohibited employment;
- Women trafficking under the form of marriage;
- High risk of divorce;
- Economic or financial impacts of cross-border marriages: Brides' remittances.

6.3.7.2 Cross-Border Marriages as A Social Tool for Potentially Positive Effects of Cross-Border Marriages on Bilateral Relations

Cross-border marriages in general help to bring people in the countries involved closer together. Parties in an international marriage tend to get to know better about the spouse's culture, language, beliefs, and norms. Each gets an opportunity to learn about the differences and over time this can contribute to fostering cultural or even political ties the two countries involved. As previously discussed, thousands of Vietnamese women have accounted for one of the largest numbers of foreign brides in South Korea and Taiwan. It is these internationally married families that function as a bridge in connecting and possibly strengthening the relationship between Vietnam and these two countries. Through such cross-border marriages, people in Vietnam have come to know more about life in South Korea, Taiwan and China and people from these countries have learnt more about Vietnamese cultures, traditions and way of

life. The generation of children born into cross-border marriages inherit from both parents a bicultural or even a multicultural identity, which gives them an understanding of the cultures, languages, and customs of the two countries. With this multicultural identity they have the potential to make positive contributions in preserving and developing the ties between their motherland (Vietnam) and their fatherland. In this sense, multicultural families built from cross-border marriages encourage cultural adaptation and strengthen bilateral relations.

Regarding policy making, increasingly international marriages may be one of the reasons for countries to review their law or policies in the domain of marriage, migration as well as naturalization. As mentioned in **Chapter 3,** the legal dimension of cross-border marriages was discussed in detail. For instance, Vietnam has reviewed and amended the legal framework governing marriage and family to consider the increasing phenomena of cross-border marriages and to regulate the legal aspects relating to international marriages to which Vietnamese citizens are one of the parties. The Law on Marriage and Family in 2014 was passed to replace its precursor, the Law on Marriage and Family 2000. In additions, several Government Decrees have been issued to regulate issues related to cross-border marriages. Moreover, a number of judicial assistance agreements on civil (including marital relationship) and criminal matters have been approved by the government such as the Judicial Assistance Agreement in Civil Matters between Vietnam and Taiwan signed in 2010.

6.3.7.3 Demographic Impact of Cross-Border Marriages: "Marriage Squeeze"

In the last two decades, thousands of Vietnamese women in the Mekong Delta region have gotten married with foreigners annually, especially with foreign men from Taiwan, South Korea and China. **Table 6.18** below[754] provides more details about cross-border marriages registered in the Mekong Delta by province from 2009 to 2015. During the period 2009 - 2015, the Mekong Delta region recorded 26,670 cross-border marriages, accounting for a third of the cross-border marriages of the whole country. In terms of distribution by location, Can Tho City was ranked first, followed by Vinh Long, Tien Giang, Kien Giang and Hau Giang Province.

[754] The statistics was collected from the website of the Ministry of Justice in Vietnam at <http://www.moj.gov.vn/cttk/chuyenmuc/Pages/thong-tin-thong-ke.aspx> accessed 14 July 2017.

Table 6.18 Cross-border marriages in the Mekong Delta region by province (2009-2015)

Cross-Border Marriages in the Mekong Delta Region									
No.	**Province/City**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**Total (2009-2015)**
1	An Giang	260	281	271	280	123	304	315	**1,834**
2	Bac Lieu	196	160	132	179	189	188	224	**1,268**
3	Ben Tre	261	240	204	229	246	217	235	**1,632**
4	Ca Mau	163	154	152	118	146	186	134	**1,053**
5	Can Tho	1,875	475	343	410	448	654	646	**4,851**
6	Dong Thap	303	284	152	250	286	412	327	**2,014**
7	Hau Giang	214	328	322	288	270	336	408	**2,166**
8	Kien Giang	287	312	234	278	307	441	352	**2,211**
9	Long An	75	138	160	159	172	173	193	**1,070**
10	Soc Trang	279	214	203	211	179	226	278	**1,590**
11	Tien Giang	290	406	296	344	374	352	352	**2,414**
12	Tra Vinh	282	282	225	207	247	246	235	**1,724**
13	Vinh Long	447	557	388	367	369	289	426	**2,843**
	Total	**4,932**	**3,831**	**3,082**	**3,320**	**3,356**	**4,024**	**4,125**	**26,670**

(Source: Ministry of Justice in Vietnam)

The increasing phenomena of cross-border marriages in the Mekong Delta region is a contributing factor to the increased risks of gender imbalances in marriageable-aged population in the region. The outward migration of young women caused an evitable consequence whereby local men in the region struggle to find local women to marry due to the significant shortage of local women of marriageable age. For a better understanding of this issue, it is important to examine the data which has been published on the website of the General Office for Population and Family Planning of Vietnam (**Table 6.18).** [755]

[755] The statistics was collected from the website of the General Office for Population and Family Planning of Vietnam at <http://www.e.gopfp.gov.vn/> accessed 27 June 2018.

Table 6.19 Sex ration by age group in Vietnam (2004-2014)

SEX RATIO BY AGE GROUP (2004 – 2014)											
											Unit: %
Age group	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
0-4	107.1	106.6	106.9	108.1	108.8	111.5	111.0	111.6	112.2	111.4	111.2
5-9	107.2	106.2	106.6	106.6	106.5	108.7	109.8	110.4	108.5	109.8	108.5
10-14	107.7	104.6	105.6	105.8	106.2	108.5	108.3	109.1	106.1	106.7	105.9
15-19	105.0	102.5	106.5	106.8	105.1	105.3	105	105.8	106	106.7	104.7
20-24	101.7	87.7	99.7	96.9	98.4	99.0	98.2	101.1	102.8	102.2	103.3
25-29	97.8	98.3	97.2	97.6	94.4	98.4	97.7	98.9	99.4	99.5	100.7
30-34	97.8	97.3	97.9	98.7	95.1	100.8	99.4	98.2	98.4	97.8	99.1
35-39	95.9	95.9	98.6	97.9	96.6	101.3	101	100.4	99.0	99.1	99.8
40-44	93.3	93.1	97.2	95.0	97.4	98.9	97.8	97.3	99.5	99.8	99.6
45-49	94.6	84.5	96.3	85.8	93.6	94.9	102.3	99.9	101.9	101.4	96.2
50-54	82.7	83.5	82.5	83.6	86.4	89.3	85.1	88.4	87.5	88.7	89.8
55-59	83.4	75.5	84.0	80.5	84.6	86.3	87.7	87.6	87.7	88.7	83.6
60-64	76.4	74.1	79.0	73.6	81.4	82.4	81.0	83.6	81.9	80.9	79.6
65+	66.7	66.5	67.3	66.6	64.9	66.1	66.8	66.4	68.00	67.9	65.5
Total	**96.6**	-	**96.6**	-	**95.3**	**98.1**	**97.7**	**97.9**	**97.9**	**97.9**	**97.3**

(Sources: General Statistics Office of Vietnam, Population change and family planning survey ¼ period 2004 – 2008, 2010 – 2013)
General Statistics Office of Vietnam, the 2009 Vietnam population and housing census: Major findings.
General Statistics Office of Vietnam, the 2014 Vietnam Intercensal population and housing survey 1/4/2014 period.)

Table 6.19 (above) comprising of three composite sources, indicates the gender ratio[756] by age group in Vietnam from 2004 to 2014. Two groups, teenagers aged between 15-19 and 20-24 years old, will be mainly examined because most brides in Vietnam or in the Mekong Delta region come from these age groups. In general, the number of males at marriageable age (mainly from the two groups, 15-19 and 20-24 years old) were higher than females in Vietnam during the period from 2004 to 2014. Regarding the age group 15-19, the male to female was relatively high, ranging from 106.8% to 102.5 of males for every 100 females, with the latest update of 104.7 males to 100 females in 2014. This means that the number of males from 15-19 years old consistently surpassed those of women in a ten-year period. On the contrary, the gender gap for the age group 20-24 dropped from 2004 (with 101.7 males for every 100 females) to 2010 (with 98.2 males to 100 females), but has increased since then to 103.3 males to 100 females in 2014.

[756] Gender ratio or sex ratio is the ratio of males to females in a population.

The latest up-to-date statistics show that in the year 2016 the sex ratio index for Vietnam for the age group 15-24 years old was 1.08 (i.e. 108 males for every 100 females).[757] To put it in perspective, this figure translates into an excess of 8 males compared to the global average of 1.07 (i.e. 107 males for every 100 females, or an excess of 7 males). The skewed sex ratio (marriage squeeze) for the 15-24 age group is even worse in China (115 males to every 100 females or an index of 1.15), as a result of the combined impact of its previous one child policy together with the preference by most families for a son[758]; hence the reason why more and more Chinese bachelors are turning to the poorer areas of Vietnam in search of young Vietnamese brides.

The very high male to female sex ratio together with the increasing number of thousands of Vietnamese women getting married with foreigners makes it inevitable for Vietnam in general and for the Mekong Delta region in particular to confront a gender imbalance at marriageable age. The findings of a previous study on the subject established among other things the concern expressed by people of the Mekong Delta region regarding the shortage of females at marriageable age.[759] This expression of concern was noticeably higher among local males at marriageable age. There have been reports of many young local women in the Mekong Delta region who chose to get married with foreigners for economic reasons and they even left their boyfriends who are local males in order to seek a better life abroad. Therefore, young and poor local men constantly worry about the limited opportunities to find local partners.[760] The deficit of local women at marriageable age makes it very difficult for local men to find local wives. The ultimate result is what scholars refer to as a "marriage squeeze",[761] a phenomenon which is particularly noticeable in the Mekong Delta region of Vietnam. The term "marriage squeeze" refers to a demographic imbalance between the number of males and females available for marriage in a society. It is obvious that there has been a demographic change in marriageable populations in the Mekong Delta region. If this pattern remains unchanged, the gender imbalance will get more and more serious in coming decades, and this in turn could have serious social and economic impacts for the region and for the country as a whole.

[757] CIA World Factbook, 2018. *See* also, Hannah Ritchie and Max Roser, "Gender Ratio", in: Our World in Data (2019) at <https://www.ourworldindata.org/gender-ratio> accessed 16 December 2019.
[758] Therese Hesketh and Zhu Wei Xing, "Abnormal Sex Ratios in Human Populations: Causes and Consequences" (2006), 103 Proceedings of the National Academy of Sciences of the United States of America (PNAS), 13271, at 13273.
[759] Yang and Lu (n 26) 171.
[760] Nguyen and Tran (n 46) 171-172.
[761] Goodkind (n 5) 108.

Another negative side effect of this phenomenon is that local men who cannot find brides locally, especially those living in urban areas of the Mekong Delta region might end up being affected psychologically with the feeling that their lives are unfulfilled, and that they are undervalued and despised by the community. This is because that more and more local women get married with foreigners and sent money back to Vietnam to support their families financially. This form of women empowerment helps to project a positive image of women in the community whereas it might degrade the self-esteem of local men who remain relatively poor with many unfulfilled aspirations in their family lives. In a previous study, it is concluded that "marriage migration" has empowered Vietnamese women, and that brides who once assisted their families financially have now become decision-makers thanks to the leverage granted to them by their marriages.[762] This sounds unacceptable to local men, especially in a patriarchal society like Vietnam where males have historically played a dominant role in family life.

As part of the findings of interviews conducted in Mekong Delta region of Vietnam, this researcher was able to establish that many families with daughters preferred having foreign sons-in-law rather than local ones. Primary data collected by this researcher through semi-structured interviews also showed that there are in some cases two even three daughters in just one family who have gotten married with a husband from Taiwan, South Korea or China.[763] For example, eleven of the thirty-nine interviewed brides in the Mekong Delta region stated that they have sisters married to foreigners (mainly Chinese, South Korean and Taiwanese men) as well as being married to foreigners themselves.[764] In many families, a daughter chose to get married with a foreign man due to her sister's advice or recommendation.[765] An interviewed bride who got married to a Taiwanese man before getting divorced after twelve years revealed that:

> Actually, I have a sister who introduced my ex-husband to me. My sister got married in Taiwan and she knew my ex-husband so she took him to Vietnam to introduce to me. *(Interview 12)*

[762] Bélanger and others (n 207) 89.
[763] Interview 33.
[764] Interviews: 11, 12, 13, 18, 21, 26, 27, 28, 29, 30, 33.
[765] Interviews: 12, 13, 29, 30.

Similarly, another bride whose sister also got married to a South Korean man said:

> I have a sister who has got married with a Korean man seven years before. She has a happy marriage with her husband in Korea. She introduced a Korean man to me. He is her husband's friend. She advised me to get married to him. I learnt that she has a successful marriage so I decided to get married with a Korean man as well. *(Interview 30)*

What might make local men in the Mekong Delta region even more apprehensive is that successful and happy marriages between local women and foreigners could establish "a trend" which is considered as a good example for local women in the Mekong Delta region to follow, especially young women who are jobless. A young bride who got married to a Taiwanese following her sister's recommendation explained that:

> I wanted to change my life. I wanted to go abroad and look for a job as well as experience overseas life. I looked at my sister and her happy life in Taiwan. So, I had a high hope about ideal life abroad. *(Interview 12)*

Additionally, young local women tend to imitate their neighbours or constantly reminded by parents about their female neighbours who got married to foreigners and have been supporting their families financially as a result of these marriages. This parental pressure ends up convincing young local women that it is unnecessary for them to have a high level of educational attainment to be successful in life, and that all they need to do is to get married to someone abroad. A young bride who just got to know her Taiwanese husband within five days before a marriage which ended up in divorce just six months after admitted that:

> I left school after completing high school programme. I wanted to get married with a Taiwanese man to improve my life. I knew many neighbours who got married with Taiwanese men and sent money back to Vietnam to build houses for their parents. So, I wished I could do the same. *(Interview 21)*

A combination of socio-economic factors accounts for the increasing shortage of local women at marriageable age in Vietnam in general and in the Mekong delta region in particular. If this trend remains unchanged in the coming decades, the demographic gender gap and the resulting "marriage squeeze" will inevitably have unpredictable consequences for the Mekong Delta region and for the country as a whole.

6.3.7.4 Brides' Negative Experiences

Previous studies showed that not all cross-border marriage involving Vietnamese women ended in failure. Those marriages which have been successful to some extent contribute to strengthening the bilateral relationships between Vietnam and the receiving country. The main aim of this section is to gather some insights into the challenges and difficulties faced by Vietnamese brides involved in cross-border marriages with grooms from China, South Korea and Taiwan. Examining the circumstances and drawbacks of these cross-border marriages is necessary in order to enable this researcher to generate findings and recommendations (including suggestions for legal reform) which could help in improving the conditions of such marriages in future.

6.3.7.4.1 From Language Difficulty to Cultural Barriers

From the interview data collected from local women in the Mekong Delta region, it is apparent that there were several challenges facing Vietnamese brides as soon as they decided to get married with a foreigner. The majority of interviewed brides referred to language and culture differences as the first and main obstacle that they faced in their husband country. 100 percent of interviewed brides revealed that their foreign husbands could not speak Vietnamese and therefore they had to learn the husband's language so that they can communicate with each other. For instance, two interviewed brides revealed that:

> After getting married, my husband paid for my three-month course to study Taiwanese. He couldn't speak Vietnamese. *(Interview 41)*
>
> *or*
>
> I learnt Korean before coming to South Korea. My ex-husband couldn't speak Vietnamese. *(Interview 11)*

As previously discussed in Section **6.3.5**, the duration for language study for these brides lasted for one month or less, and mainly short language courses were arranged by matchmakers. The improper or inadequate learning language process makes it difficult for brides to adjust well to their new living environment because their language skills are restricted to verbal communication and does not include advanced communication skills such as reading and writing in their new language. As one bride revealed:

> The Embassy of South Korea in Ho Chi Minh City offered me a one-day course to study Korean for free. Besides that, the brokerage agency arranged a one-week course for me to study Korean. The interpreter taught me as well. But I only learnt how to speak, I didn't know how to write. *(Interview 9)*

More importantly, challenges related to language and culture adaptation faced by Vietnamese brides after marriage are even more serious. After moving to live in their husband's country, Vietnamese brides found it very difficult to adapt to their new environment, especially in relation to language and culture adaptation. These barriers made their marriage life more difficult, leading to conflicts and arguments[766] with their husband, and with their husband's family as well. A bride married to a Taiwanese said:

> I think the most difficulty thing for me after coming to Taiwan was language and culture. My husband left me at home with his mother and I had to take care of her. She was 82 years old at that time and she was a very hard woman. She didn't like the food that I made and she didn't want to talk to me. I can't communicate much with her due to language difficulties. Two weeks after I arrived my husband took me to a language centre in Taiwan to study the language. I met many Vietnamese women in that centre and I learnt many things. *(Interview 16)*

Similarly, another bride admitted that it was difficult to get along well with her Taiwanese husband because their marriage objectives are different. She also acknowledged that there were difficulties and with the conflicts regarding language and culture.[767] Agreeing with her, other brides who got married with South Korean men revealed that:

> We have a 19-year age gap, have conflicts in language, cultures and customs which make it very difficult to have a happy marriage. *(Interview 23)*
>
> *or*
>
> Main pressure is about language, cultures and custom. Not cooking well may cause conflicts and then domestic violence. The role expected of a daughter-in-law in Korean culture is difficult. *(Interview 24)*

[766] Interviews: 12 and 13.
[767] Interview 21.

Quickly arranged marriages without a solid foundation of love and without good planning could place Vietnamese brides in a dilemma or even the potential risk of exploitation.

> I don't know Taiwanese and my husband couldn't speak Vietnamese either. But I had learnt Taiwanese for two months. While I was applying for a visa, my husband disappeared and we have lost contact since then. I contacted the brokerage agency and they told me that they tried to contact him but failed. *(Interview 7)*

More importantly, the lack of language preparation exposes Vietnamese brides to the higher risks of being trafficked or other forms of exploitation in China. It has been confirmed by brides that there is a real risk to life of getting married with somebody that they do not know. In fact, there have been many reports of Vietnamese brides being trafficked to China under the form of cross-border marriages and combatting this phenomenon has proven to be very difficult.[768] Even the brides themselves, although they were aware of the potential risks they may be facing, seem to be nonetheless prepared to endanger themselves in order to fulfil their wish of getting married with Chinese men. A bride who experienced a very short (one-month) marriage life in China revealed that:

> I hadn't studied Chinese before I came to China, so, I didn't know anything… I have advice for those women who intend to get married with Chinese men that they should think carefully. Usually, Vietnamese brides have no chance to learn Chinese before they go to China. Most of them self-studied. After coming to China, it is not certain if you will have the opportunity to learn or not. The language barrier and having no marriage registration can easily lead to human trafficking. My one-month experience in China was terrible. *(Interview 20)*

Similarly, another bride from the Mekong Delta region admitted that she took the risk of her life to get married with a Chinese man who she had never met before.

> I couldn't speak Chinese and my ex-husband couldn't speak Vietnamese. I hadn't learnt Chinese before I went to China because there was no time. I bought a Vietnamese-Chinese dictionary and self-studied... I have no friend in China so it was difficult to prepare for a cross-border marriage properly. I thought it was a risk that I took and I bet on it all of my luck in life. *(Interview 31)*

It may be argued that that even though young women in the Mekong Delta region appreciate the risks involved, they still however decided to get married with unfamiliar Chinese men, and

[768] This will be examined in a latter part of the thesis.

that this could be mainly for economic reasons. This could be really dangerous because of the potential risks of becoming victims of sexual exploitation, sexual slavery and people trafficking.

The adverse consequences of such hastily arranged marriages extend not only to the post-marriage life of the brides involved but can also influence the way Vietnamese women in general are viewed by foreigners. Two of interviewed brides who have Korean husbands revealed that there was discrimination from local people in South Korea against immigrant brides. For example, staff working in a bank or hospital did not pay attention to Vietnamese brides as much as they did to local people when they saw the names of these brides on documents.

> I encountered discrimination. For example, I felt like the staff in a bank or hospital discriminated in favour of local people when they saw foreign names. *(Interview 4)*

The other bride also feels discriminated but confirmed there was no domestic violence.

> I felt like I was discriminated but there was no domestic violence. I suffered pressure and stress because of the differences in languages and cultures. *(Interview 5)*

The pressure that Vietnamese brides encountered is partly due to the fact that they had poor preparation before marriage. Inevitable conflicts related to language and cultural differences result in unexpected arguments and ultimately lead to domestic violence which is the main reason why a significant number of these marriages end in failure and divorce within a short period of time. This issue will be examined in more detail in a subsequent part of this chapter.

6.3.7.4.2 Domestic Violence

Domestic violence is one of the greatest concerns facing Vietnamese brides in cross-border marriages. Not every Vietnamese bride has been lucky enough to have a successful and happy marriage as expected. 12 out of 39 accounting for 30.77% of interviewed brides from the Mekong Delta region experienced domestic violence under various forms. There were 6 brides who had suffered physical abuse from their husband, 1 bride encountered mental harm, and 4 brides had to endure controlling behaviour of either their husbands or the husband's family (*see* **Table 6.20** below).

Table 6.20 Brides' experience to domestic violence in their husband's country

Interview No.	Husband's country	Domestic Violence by whom	What form of domestic violence	Note
3	Taiwan/Korea	Taiwanese husband	Shouted at, beaten	This bride was married twice, first with a Taiwanese husband and second with a Korean.
16	Taiwan	mother in law	aggressive, not talking for 2 weeks	Husband imprisoned twice because of smuggling.
18	Taiwan	husband	hit many times	husband has mental illness
19	Korea	husband	got drunk and violent	an alcoholic husband, arrested before
20	China	husband & husband's family	husband and his parents behaved violently	got married when she was 17 years old, not old enough by law (18 years old)
22	China	mother in law/family	not allowed to use mobile phone	n/a
24	Korea	husband	beaten	n/a
27	China	husband	not mentioned	n/a
31	China	husband´s family	not allowed to contact my family, couldn't go out	n/a
35	Korea	husband's sister/family	prevented from studying Korean, not allowed to use mobile phone, bullied by husband's sister	husband has illness
36	Korea	husband	Husband is difficult, controlling and conservative. I had to serve him.	n/a
39	China	husband & husband's uncle	beaten, held in a dark room, not allowed to contact any one, sexually abused	trafficked

(Source: Researcher © - analysed from the interview data)

There are many reasons behind domestic violence. It can be because of the language barrier, cultural difference, or husband's health problems. Many brides found that they were deceived by the marriage broker who attempted to hide information about their husband's health problems which was also the reason why these men could not find a wife in their country. The health problems of the husband can lead to serious physical abuse to Vietnamese wives.[769] A former bride who was married to a Taiwanese man explained that:

> I suffered domestic violence because my husband has mental illness. He hit me many times so I decided to escape him and returned Vietnam. *(Interview 18)*

[769] Interviews: 18, 19, 35.

Another bride also suffered domestic violence in South Korea at the hand of her alcoholic husband who was arrested several times for domestic violence:

> My Korean husband likes drinking and when he got drunk he shouted loudly, smashed furniture in the house and disturbed me. I remember once we returned to Vietnam to visit my parents. At that time, we had a son. I told him that because he usually got drunk and caused troubles, I didn't want to return South Korea with him. I wanted to stay in Vietnam with my parents. Then he took our son and jumped into the river trying to suicide. My neighbours rescued both of them. I suspect him of having mental health problems. After that incident, I started suffering from panic attacks and I don't want him to have any form of contact with me and my son anymore. *(Interview 19)*

Being a victim of domestic violence in China, another former bride had a slightly different experience in that the person who was violent to her was not her husband, but her mother-in-law and the husband's family. She said that she was not even allowed to use a mobile phone to contact any one. This caused her a lot of mental distress and also violated her right to personal freedom. She said:

> I was a victim of domestic violence by my ex mother-in-law and I was discriminated against….
>
> I couldn't contact my family in Vietnam because I was not allowed to use my mobile phone. …This was because my ex-family in-law didn't let me use my mobile to contact to others. *(Interview 22)*

Another bride who is married to a South Korean shared an interesting experience about how she helped other Vietnamese brides during the time she was working for a local Church in South Korea where she met many Vietnamese brides, mainly from the Mekong Delta region, who were victims of domestic violence. She said that as part of her work for the local church they provide support to domestic violence victims in the form of food, accommodation or help the victims to look for jobs. She also knew cases of many Vietnamese brides who suffered discrimination from local people or who had been sexually abused by their husband.[770]

> I know a Vietnamese bride who comes from the Mekong Delta region. When she came to South Korea, she was jobless for 7 months and relied on her husband financially. But her husband is very stingy, so the wife had to move out. Their marriage was unhappy. … When she was 4-months pregnant, she craved for Vietnamese food but her husband refused to buy it. Moreover, when he got drunk, he beat her and asked her to take off her clothes to be nude in front of him. After that she went to the church to ask for help. Within 6 months working for the church, I saw many pregnant Vietnamese brides receiving support from the church. Those pregnant women could be victims of domestic violence or were treated improperly by their husbands. These brides after getting appropriate support can have a job and improve their lives for the better. *(Interview 24)*

[770] Interview 24.

One of the forms of mental abuse suffered by brides is that they were not allowed to use their mobile phone to contact their family or anyone else, and they were not allowed to go out to meet friends.[771] This controlling behaviour seriously violates human rights and adversely affects the brides mentally. However, enduring abuse was the most common response by Vietnamese women to domestic violence.[772] There were many other cases that brides had to escape and move out of her husband family because of serious mental and physical violence.[773] This is one of common reasons why the divorce rate in cross-border marriages has been increasing in the last two decades.[774]

Among interviewed brides who experienced domestic violence, there are two particular cases to take into consideration: one is the case of a Vietnamese bride who got married twice, first with a Taiwanese and then to a Korean husband. The other case involved a bride who was married at the age of 17 which was not old enough to get married under Vietnamese law.[775] These two cases are represented by *Interview 3* and *Interview 20* respectively. The *Interviewee 3* got married with to a Taiwanese man at first when she was an accounting student. Their marriage lasted for four years and they got divorced because he was addicted to gaming and she was beaten by him on many occasions. Six years after the divorce, she decided to get married to a South Korean man after being introduced to the new husband by her niece who was also married to a Korean husband. Her new husband came to Vietnam to look for a wife after getting divorced. However, her second marriage to the Korean man only lasted for seven months. They got divorced because he did not let her return Vietnam to visit her parents. Concerning the *Interviewee 20* who got married to a Chinese man when just was 17 years old, which is below the minimum legal age for marriage of 18 years under Vietnamese law. A marriage broker arranged everything for her to emigrate to China. However, she was not old enough to be legally married; thus, she could not register her marriage at that time. She suffered violence from her husband's family and decided to return to Vietnam just one month after her trip to China. She explained:

[771] Interviews: 22, 31, 35, 39.
[772] Suyeon Park, "Vietnamese Women's Responses to Domestic Violence in South Korea" (2018) 3(3) Asian Journal of Social Science Studies 45, 49.
[773] Ibid.
[774] Hyun Mee Kim, Shinhye Park and Ariun Shukhertei, "Returning Home: Marriage Migrants' Legal Precarity and The Experience of Divorce" (2017) 49(1) Critical Asian Studies 38, 43.
[775] It is stated under the Vietnamese Law on Marriage and Family, Article 8(1) that the minimum legal age for marriage is 18 to females and 20 to males.

> When I arrived China, I couldn't speak Chinese, so I faced many difficulties. My husband and his parents behaved violently to me. One month after that I tried to find a way to escape from them, and then I returned Vietnam because I was worried. *(Interview 20)*

In the course of looking for a way to return Vietnam, unfortunately she met a Vietnamese woman who exploited her vulnerable situation. The woman took 35 million VND[776] from her family (which is a large amount of money by Vietnamese standards) before agreeing to help her to return Vietnam. Even so, this incident was not reported to police. She added:

> We haven't reported to local police yet because I don't want other people to know what happened to me in China. Actually, I hoped that I could find a job in China to make money. Now things went wrong. I was abused, suffered domestic violence and lost 35 million VND. *(Interview 20)*

This sad experience again confirms that some Vietnamese brides in cross-border marriages are vulnerable to domestic violence. There are many reasons for their vulnerabilities to abuse. Firstly, these Vietnamese women got married without having sufficient time to properly learn about their spouse's background. As previously discussed, 27 out of 39 interviewed brides (69.2%) decided to enter into a cross-border marriage within one month or less from when they first met their husbands. Additionally, they did not really know their husbands and were heavily dependent on information (often misleading) provided by marriage brokers. These brokers, because of their pursuit of high profits, either mispresented or would not disclose full information on the foreign husbands' background, especially their criminal record and medical status. In a well-publicised case, a 20-year-old Vietnamese bride was stabbed to death by her mentally ill, 46-year-old husband in South Korea on the 8th of July 2010, just eight days after her arrival.[777] The woman had not been informed by the marriage brokers that her prospective Korean husband was suffering from mental illness. Due to their ignorance and lack of information, the brides themselves are not fully aware of the potential dangers they could face. Secondly, as revealed by many participants, language and cultural barriers made it more difficult for them to smoothly communicate with their husband and in-laws or to adjust well in their new living environment. But they did not think that this could lead to family conflicts,

[776] This amounts to more than one thousand pounds.
[777] Chang-Won (n 331); Sayuri Umeda, "South Korea: International Marriages to Be Strictly Controlled" (*Global Legal Monitor*, 18 August 2010) < http://www.loc.gov/law/foreign-news/article/south-korea-international-marriages-to-be-strictly-controlled/> accessed 25 January 2019.

which in turn could end in spousal abuse. Williams and Yu in a study found that "vulnerable brides with language difficulties are more likely to become victims of domestic abuse".[778] A senior official at the Gender Equality and Family Ministry in South Korea also stated that language and cultural barriers are common reasons behind domestic violence against female marriage migrants that resulted in "disturbing killings".[779] Thirdly, due to the husband's family structure where many generations live together under the same house, many Vietnamese brides have to live with their in-laws. This means that they are at risk of abuse not only by the husband, but also by their in-laws. In this case, their vulnerability to abuse is even worse. There have been increasing reports of Vietnamese wives having experienced traumatic marital relationship with domestic abuse caused by their husband or their in-laws in China, South Korea, and Taiwan.[780] Fourthly, the brides' expectation for the marriage and the expectation of the husband (or even the husband' family) do not always match. As previously discussed, the majority of the participants admitted that they chose to get married to foreign husbands because they wanted to provide financial help and support their family back in Vietnam. Foreign men from Taiwan, China or South Korea, on the other hand, expected a wife who can assume a traditional role in his family, including caring for the husband's family. They did not expect their wives to be providing financial support to family members back in Vietnam. The conflict in expectations can clearly be seen in the form of controlling behaviour on the part of some husbands or the in-laws. In a study on the subject of influences on vulnerabilities to domestic violence among Vietnamese brides in South Korea, Park and Morash stated that "Korean husbands and in-laws used abuse as a tactic to enforce the realisation of their expectations for

[778] Lucy Williams and Mei-Kuei Yu, "Domestic Violence in Cross-Border marriage – A Case Study from Taiwan" (2006) 2(3/4) International Journal of Migration, Health and Social Care 58, 63-64.
[779] Philip Iglauer, "South Korea's Foreign Bride Problem" (*The Diplomat*, 29 January 2015) <https://thediplomat.com/2015/01/south-koreas-foreign-bride-problem/> accessed 29 June 2020.
[780] Andrew Buncombe "Mail-Order Bride Killed By Husband" (*Independent*, 17 July 2010) <https://www.indepenent.co.uk/news/world/asia/mail-order-bride-killed-by-husband-2028705.html> accessed 28 June 2018; Steven Borowiec "For Better or Worse: Foreign Brides in South Korea" (*GlobalPos*t, 04 June 2011) <https://www.pri.org/stories/2011-06-04/better-or-worse-foreign-brides-south-korea> accessed 28 June 2016; "Second Vietnamese Bride Murdered in South Korea within 3 Weeks" (*Thanh Nien News*, 18 December 2014) < http://www.thanhniennews.com/society/second-vietnamese-bride-murdered-in-south-korea-within-3-weeks35461.html> accessed 28 June 2018; Philip Iglauer, "South Korea's Foreign Bride Problem" (*The Diplomat*, 29 January 2015) <https://thediplomat .com/2015/01/south-koreas-foreign-bride-problem/> accessed 29 June 2018; "Vietnamese Bride Killed by South Korean Father-in-law in Seoul" (*Tuoi Tre News*, 30 June 2017) <https://tuoitrenews.vn/society/41836/vietnamese-bride-killed-by-south-korean-fatherinlaw-in-seoul> accessed 28 June 2018; Suyeon Park, "Domestic Violence among Vietnamese Wives in South Korea: A Comparison of Women with and without In-Law Abuse" (2018) 6(1) Journal of Sociology and Social Work 23, 29-30; Fang-Hsin Lee, "Factors Influencing Marital Violence Among Vietnamese Women in Taiwan" (2020) 31(2) Journal of Transcultural Nursing 128, 130-131.

the marriage."[781] In response to a question on domestic violence, almost none of Vietnamese brides participating in the study for this thesis reported incidents of domestic to police or the authorities (except for the case of *Interview 39*). This is consistent with a former study which found that the most common strategy adopted by Vietnamese wives in South Korea in response to domestic violence was enduring rather than confronting abuse.[782]

It is worth noting that domestic violence in Vietnamese cross-border marriages studied in this research (30.77%) was relatively low when compared with figures for domestic violence in purely Vietnamese marriages. In the first national study on violence against Vietnamese women conducted by the General Statistics Office in 2010, 34% of married women in Vietnam experienced either physical or sexual abuse by their spouses.[783] The second national study on in 2019 conducted by the Ministry of Labour, Invalids and Social Affairs in conjunction with the General Statistics Office showed that 62.9% of women suffered one or more forms of domestic abuse from their male partners at some point in their life.

In South Korea, according to Philip Iglauer's analysis, experts from both government and NGOs agreed that migrant women are "particularly at risk to domestic violence".[784] A survey conducted in 2017 by the National Human Rights Commission of Korea involving 920 foreign wives living in South Korea also indicated that 42.1% of those surveyed admitted that they had experienced domestic violence including verbal, physical, sexual, and mental abuse - and that 68% of them had also suffered unwanted sexual advances.[785] However, there was no official statistics available regarding the prevalence rate of domestic abuse experienced by Vietnamese women in particular in South Korea, which can be compared with the rate of domestic violence among native Korean women. However, it can be argued that due the language, cultural and

[781] Suyeon Park and Merry Morash, "An Exploratory Study of Influences on Vulnerabilities to Family Violence Among Vietnamese Wives Who Marry South Korean Men" (2017) 25 Critical Criminology 1, 8.
[782] Suyeon Park, "Vietnamese Women's Responses to Domestic Violence in South Korea" (2018) 3(3) Asian Journal of Social Science Studies 45, 47.
[783] Thi Minh Le, Christine Morley, Peter S. Hill, Quyen Tu Bui and Michael P. Dunne, "The Evolution of Domestic Violence Prevention and Control in Vietnam from 2003 to 2018: A Case Study of Policy Development and Implementation within The Health System" (2019) 13(41) International Journal of Mental Health Systems 1, 2.
[784] Philip Iglauer, "South Korea's Foreign Bride Problem" (*The Diplomat*, 29 January 2015) <https://thediplomat .com/2015/01/south-koreas-foreign-bride-problem/> accessed 29 June 2020.
[785] Hyung Eun Kim, "South Korea Shocked by Abuse of "Marriage Migrants" (*BBC News*, 10 July 2019) <https://www.bbc.co.uk/news/world-asia-48917935> accessed 10 December 2019; Ock Hyun-Ju, "Marriage Migrants Often At Mercy of Korean Husbands" *(The Korea Herald*, 24th July 2019) <http://www.koreaherald.com /view.php?ud=20190724000709> accessed 02nd October 2020; Julia Hollingsworth, Yoonjung Seo and Gawon Bae, "South Korea Authorities Encourage Men to Marry Foreign Women. But Their Brides Often Become Victims of Abuse" (*CNN*, 5th August 2020) <https://edition.cnn. com/2020/08/02/asia/foreign-wives-south-korea-intl-hnk-dst/index.html> accessed 02nd October 2020.

social barriers faced by migrant women in South Korea, they are far more likely to be at risk of domestic abuse than Korean women.[786] The first national survey regarding domestic abuse conducted in South Korea in 1997 showed that 27.9% was the annual figure for physical abuse against Korean women.[787] The relatively more recent domestic violence survey conducted in 2016 by the Ministry of Gender Equality and Family of South Korea indicated that 12.1% of Korean wives were victims of spousal violence.[788] The findings in this thesis of 30.77% of abused Vietnamese women show a higher rate of domestic violence experienced by Vietnamese brides in cross-border marriages than native Korean women. However, one of the problems encountered by the researcher was that the statistics tend not to be up to date due to the fact that surveys on domestic violence tend not to be regular in the countries studied.

Another issue of concern regarding domestic violence among Vietnamese-Korean marriages was the case took place in South Korea in July 2019 when a 36 years-old South Korean man was arrested after 3-hour-long brutal assault on his 30-year-old Vietnamese wife in front of their toddler son.[789] The highly distressing attack took place in their home in Yeongam, South Jeolla Province and the wife managed to film the abuse. The reason for the assault was because the wife could not speak Korean well.[790] After that, she sent the video to her Vietnamese acquaintances who reported to the police before uploading the video on social media. The video went viral and made the public furious with the violent husband who was charged with criminal offences. The public in South Korea and Vietnam demanded the need for urgent action by both governments including proactive measures to strictly regulate cross-border marriages. After the incident, the South Korean government responded with measures to tackle the issue of domestic violence related to migrant brides. There were two measures proposed. Firstly, a multi-language police hotline has been suggested to provide to foreign wives so that they can

[786] Ga-Young Choi and Soo-Jung Byoun, "Domestic Violence against Migrant Women in South Korea: Addressing the Needs of a Uniquely Situated Victim Population in Domestic Violence Policy" (2014) 57(6) International Social Work 645, 646.
[787] Jae Yop Kim, Sehun Oh, and Seok In Nam, "Prevalence and Trends in Domestic Violence in South Korea: Findings from National Surveys" (2016) 31(8) Journal of Interpersonal Violence 1554, 1555.
[788] The data on the Domestic Violence Survey in 2016 can be found on the website of Ministry of Gender Equality and Family available at <http://www.mogef.go.kr/eng/lw/eng_lw_s001d.do?mid=eng003&bbtSn=704933> accessed 4th October 2020.
[789] Hyung Eun Kim, "South Korea Shocked by Abuse of "Marriage Migrants" (*BBC News*, 10 July 2019) < https://www.bbc.co.uk/news/world-asia-48917935> accessed 10 December 2019.
[790] Nguyen Huy, "South Korean Man Arrested for Three-Hour Beating of Vietnamese Wife" (*VNExpress News*, 08 July 2019) < https://e.vnexpress.net/news/news/south-korean-man-arrested-for-three-hour-beating-of-vietnamese-wife-3949315.html> accessed 10 December 2019.

report domestic violence.[791] Secondly, the government is to enact a new marriage law that will prohibit men with history of abuse from marrying foreign women.[792]

As stated above, statistic on domestic violence in Southeast Asian countries tend to be old as surveys are not conducted on a regular basis. For this reason, the researcher was constrained to use the statistics were available, some of which are from surveys conducted some time ago. Statistics published by the Ministry of Health and Welfare in Taiwan in 2014 revealed that the rate of abuse which women experienced in purely Taiwanese marriages were 203.03 in 100,000 which were far less the rate of violence of 1,481.84 in 100,000 suffered among female mirage migrants in cross-border marriages in Taiwan.[793] It is worth noting that Vietnamese brides account for the largest group of female marriage immigrants in Taiwan.[794] Additionally, despite Taiwan being the first country in Asia to criminalise domestic violence by enacting the Domestic Violence Prevention Act in 1998,[795] a study by Lin in 2016 found that up to 70.4% of Vietnamese brides had suffered marital violence in Taiwan.[796]

When compared with purely Chinese marriages, it is seen that the rate of domestic violence suffered by interviewed brides in this research (30.77%) is higher than the rate of domestic abuse experienced by Chinese wives. For example, a national survey conducted in 2011 showed that nearly 24.7% of married Chinese women had undergone different forms of

[791] Thanh Danh, "Hàn Quốc Mở Đường Cho Cô Dâu Việt Báo Cảnh Sát Khi Bị Chồng Đánh" (South Korea Facilitates Vietnamese Brides to Report Domestic Violence To Police) (*News Zing*, 22 November 2019) <https://news.zing.vn/han-quoc-mo-duong-cho-co-dau-viet-bao-canh-sat-khi-bi-chong-danh-post1016332.html> accessed 06 January 2020; Yonhap, "Korea to Enhance Protection of Foreign Wives from Violence" Yonhap News Agency (Soul, 22 November 2019) < https://en.yna.co.kr/view/AEN20191122004600315> accessed 06 January 2020.

[792] Yonhap, "Korea to Ban Men with History of Abuse from Marrying Foreign Women" (*The Korea Times*, 11 October 2019) <https://www.koreatimes.co.kr/www/nation/2019/10/251_276965.html> accessed 06 January 2020.

[793] Fang-Hsin Lee, "Factors Influencing Marital Violence Among Vietnamese Women in Taiwan" (2020) 31(2) Journal of Transcultural Nursing 128, 129.

[794] Statistics published by the Taiwanese National Immigration Agency indicated that from January 1987 to October 2018, there were 103,149 Vietnamese brides in Taiwan which constituted 56.3%, the largest group, of female marriage immigrants in Taiwan. Cited in Fang-Hsin Lee, "Factors Influencing Marital Violence Among Vietnamese Women in Taiwan" (2020) 31(2) Journal of Transcultural Nursing 128, 128.

[795] Taiwan Domestic Violence Prevention Act was passed on 28th May 1998 and was officially announced by the president on 24th June 1998. The Act was officially implemented after 1999 and was amended in 2008 and again in 2015. Its latest version in 2015 can be found at <https://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=D0050071> accessed 20th September 2020.

[796] Fang-Hsin Lee, "Factors Influencing Marital Violence Among Vietnamese Women in Taiwan" (2020) 31(2) Journal of Transcultural Nursing 128, 130-131.

domestic abuse.[797] The researcher could not find any official reports available on how many Vietnamese wives experienced domestic violence in China.

6.3.7.4.3 Illegal Immigration, Unlawful Residence and Prohibited Employment

Another increasing phenomenon related to cross-border marriages concerns the illegal residence status of Vietnamese brides in their husband's country after their visa expire. This phenomenon is especially noticeable in South Korea. Interviewed brides revealed that their visa to South Korea was initially for one year and they needed to renew it after that. When marriages with South Korean men were unhappy due to domestic violence or conflicts, Vietnamese brides decided to move out of the marital home in order to escape from their husband's family. It should be recalled that in many cases, the main purpose of a lot of Vietnamese brides in getting married to a foreigner was for economic reasons (i.e. to seek a better life abroad). They want to earn money as much as they can in order to help their poor family back home in Vietnam. Therefore, they try to remain in South Korea as long as they could after the collapse of their marriage even when they are aware of the fact that their visa has expired.[798] They find a way to stay for as long as they can until they are deported. A Vietnamese bride in South Korea explained as follows:

> After coming to Korea for four months, I thought about returning to Vietnam because I thought that if I continued living with him that way, I will not have a bright future. Then, I decided to move out and looked for a job and worked until my visa expired and then I was arrested and deported to Vietnam. *(Interview 23)*

Having a similar experience, another bride even stayed illegally in South Korea for a period of almost 5 more years after her visa had expired, until the day she was deported back to Vietnam. She explained:

> Actually, my first visa lasted for eleven months and if I wished to stay for longer, I needed to apply again. In August 2011, my visa expired, but I stayed in South Korea until March 2016. That means I had lived illegally in Korea for about five years. This is because my friend trusts me and she voluntarily gave her legal documents to me so that I could use these documents to apply for a job in Korea. I didn't pay her anything. She helped me for free. I know that is illegal but I have nothing to be afraid about. My marriage life ended and I just wanted to earn money as much as possible to help my parents before I was deported. *(Interview 9)*

[797] Hongwei Zhang and Ruohui Zhao, "Empirical Research on Domestic Violence in Contemporary China: Continuity and Advances" (2018) 62(16) International Journal of Offender Therapy and Comparative Criminology 4879, 4880.
[798] Hyun Mee Kim, Shinhye Park and Ariun Shukhertei, "Returning Home: Marriage Migrants' Legal Precarity and The Experience of Divorce" (2017) 49(1) Critical Asian Studies 38, 43.

Asked about why she did not ask for help and support from the local government in South Korea, she said it was because she thought that the government only provided support to foreign brides who reside legally while she resided illegally, so she would not qualify for such support. She added:

> They have a support programme for foreign brides in general, not only Vietnamese brides. I didn't have time to attend their programmes. They only support those who reside legally. But I resided illegally, and I was afraid that they might know, so I avoided attending activities held by them. *(Interview 9)*

Explaining the issue of illegal residence of Vietnamese bride migrants in South Korea, a bride in another interview stated that she knew former Vietnamese brides who chose to stay illegally in South Korea to earn money. However, she was aware of the fact that that if they did so, there would be no possibility for them to return to South Korea in future if they get deported. So, she chose not to do the same.

> Normally, Vietnamese women after coming to Korea and finding that their marriage life is unhappy, escaped out and looked for a job. They try to earn as much as possible and then send money back to Vietnam. But if they are arrested, it means there is no chance to return to South Korea again. I am aware of that so I decided not to escape. Instead, I got divorced legally so that I still have the possibility to come back to South Korea if I wish. *(Interview 14)*

These revelations show the fact that Vietnamese brides, with low educational attainment, language limitation, and without knowledge about law of the country where they reside, together with being victims of domestic violence or discrimination, nonetheless made very risky decisions to continue living illegally in their former husband's country after the breakdown of their marriages. The question arises as to what the Vietnamese government and the authorities in the host country can do to provide appropriate support to migrant Vietnamese brides who face so many difficulties both prior to and after marriage? Exactly what kind of support can be provided to migrant Vietnamese brides?

6.3.7.5 Economic Impacts of Cross-Border Marriages: Brides' Remittances

As evidence of the fact that many cross-border marriages are influenced mainly by economic motives rather than true love, some Vietnamese brides revealed through the interviews how their commodified cross-border marriages had helped to provide financial support to their families in back in Vietnam. The brides affirmed that money earned as a result of their foreign marriages helped their parents to pay off their debts or build new houses in Vietnam. Seven

interviewed brides from the Mekong Delta region agreed to provide more details about this. One of them shared her own story by stating that the money which her parents received from her foreign husband at her weeding party helped them to pay off their loan in Vietnam. That made her happy and encouraged. Additionally, after moving to Taiwan, she found a job as a packager near her new family home. That was her first job in Taiwan and at the time her first baby was three years old. She saved money earned from the job and sent it to her parents in Vietnam. She said:

> I sent money to my parents several times before…Every New Year, I sent money to my parents to celebrate. After I found a job, I earned more money and I helped my parents to build a new house. Now, they have a proper house and their living standard has been much improved. *(Interview 16)*

Similarly, another Vietnamese woman who gets divorced with her Korean husband helped to support their parents in Vietnam financially. However, her circumstance was even worse because her father was a gambler. She said:

> When I was working in Korea, I sent money to my parents in order to buy a house and land in Vietnam. However, I was so disappointed that my father gambled and spent all of the money I sent to them. Until I returned Vietnam, I learnt about the incident and I argued with him badly. *(Interview 24)*

Another Vietnamese bride whose husband is a South Korean man revealed that:

> Normally, Vietnamese women after coming to South Korea found that their marriage life is unhappy, then they escaped and looked for a job. They try to earn as much as possible and then send the money back to Vietnam. *(Interview 14)*

Other interviewed brides admitted that they have sent money to Vietnam very often, one among them has sent money back to Vietnam every three month.[799] The money was sent to support their parents and their kids in Vietnam. This is because in some cases the brides have kids with their ex-Vietnamese husband. When they get married the second time with the foreign husband, they left the kids staying with their parents in Vietnam.

[799] Interview 34.

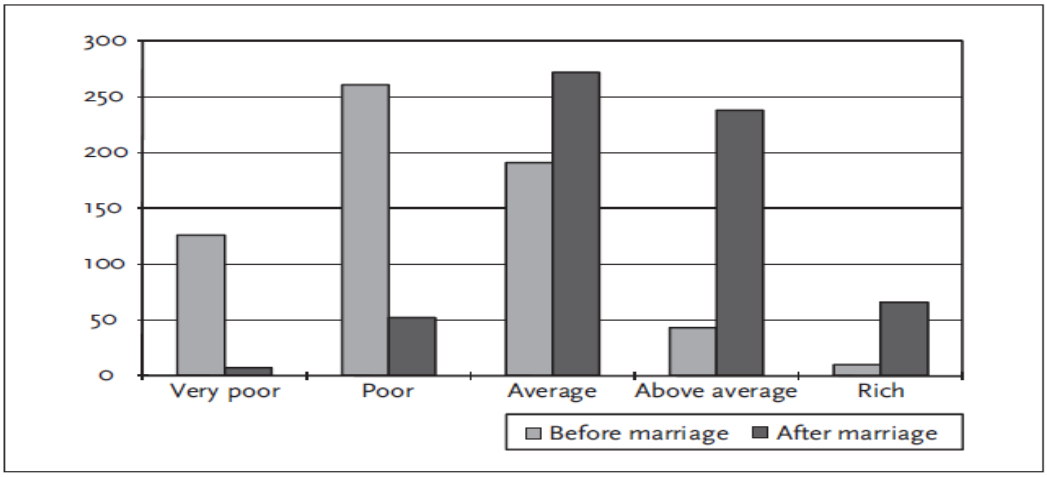
The interview conducted with an official of the Vietnam Women's Union of Tan Loc Island known as "Taiwanese Island" in Can Tho City (the Mekong Delta region) revealed that:

> The majority of local brides after moving to live in their husbands' country often sent money back to their family in Vietnam. As you can see many houses were newly built in the island due to the money sent from brides. The money sent from abroad helped to reduce the poverty rate of the local area significantly. *(Interview 43)*

The financial contribution of brides to their families also has a positive impact on local economy (such as a drop in the poverty rate). Although the researcher could not collect reliable data from the primary data collection on how the local economy in the Mekong Delta region has been improved through brides' remittances from abroad, there is evidence available from a previous study on the subject. In a large-scale survey conducted in 2004 by the Committee of Population, Family and Children, collaborating with the Department of Sociology at the School of Social Science and Humanities, National University in Ho Chi Minh City regarding Vietnamese-Taiwanese marriages,[800] it was found that Vietnamese brides helped to improve their family's finance significantly after getting married with Taiwanese men. The study also found that the financial support had brought a positive economic impact to the local community, especially the decrease in the local poverty rate (**Figure 6.17, below**).

[800] The 2004 Survey applied both quantitative and qualitative methods. It included 1,084 structured interviews with 624 households and 460 young people in six provinces in the Mekong Delta region, from which most of the brides come. Also, 110 in-depth interviews with 82 brides and 28 local authorities and 23 focus group discussions were conducted.

Figure 6.17 Living standards of households before and after their daughters' marriages



(Source: 2004 Survey)

From a local standpoint, the success of a cross-border marriage is unfortunately measured by how much money a bride sent back to her family in Vietnam. Vietnamese brides continue to choose to get married to foreigners for the aim of getting better life, and playing an important role in bearing the financial burden of their family back in Vietnam. This has its negative side effect as well because young local girls growing up may look at them as their role models. Young local women end up with a false illusion of having a bright future abroad where they can improve their life just by simply getting married somebody abroad.

The desire of migrant brides to make such remittances could also have a negative impact on the marriage itself. Previous studies on Vietnamese immigrant spouses who experienced domestic violence showed that in most cases conflict and violence erupted over the women's desire to work and send the money earned abroad to their families.[801] Form husband's perspective, Vietnamese immigrant wives in South China, South Korea or Taiwan are expected to stay at home and fulfil their traditional role of a subservient wife, a son's mother and a servile daughter-in-law. However, if brides spend too much time working, so that they can send money back home as they wish, it may result in a greater self-empowerment. When brides work, they start to raise their status in the family. They become more financially independent, socially connected and have more self-confidence. This contributed to the increase in conflicts and tensions rather than equality within the family-in-law because of the difference in expectations

[801] Bélanger and others (n 207) 102; W H A Tang, Danièle Bélanger and Hong-Zen Wang, "Politics of Negotiation between Vietnamese Wives and Taiwanese Husbands", in T W Ngo and Hong-Zen Wang (eds), *Politics of Difference in Taiwan* (Routledge, London 2011) 134-151.

between husband and wife. Such conflict may lead to domestic violence[802] and a further increase in the rate of separation or divorce from the marriage breakdown.[803]

6.3.7.6 High Risk of Divorce in Commercially-Arranged Cross-Border Marriages

Based on the findings from primary data analysis at **Table 6.21 (**below), there were 16 in 39 interviewed brides in cross-border marriages (accounting for 41%) who got divorced. The shortest marriage lasted for just one or two months[804] while longest marriages lasted for even 10 years or more.[805] Among the 16 divorced cases, there were 12 cross-border marriages conducted through marriage agencies (accounting for 75% of divorces), 3 marriages resulted from introduction through relatives (18.75% of divorces), and 1 marriage involving matchmaking by friends (6.25%). Moreover, by combining **Table 6.12** and **Table 6.21**, it is found that within the 39 interviewed brides, 12 out of 25 brides (48%) who got to know their husband through marriage agencies were divorced; 3 in 11 brides (27.3%) who were matched to their husbands through relatives ended their marriages, while 1 in 3 brides (33.3%) who were introduced to their husbands through friends got divorced. This means that cross-border marriages between Vietnamese women in the Mekong Delta region and foreigners which were matched by commercial marriage agencies have the highest divorce rate (48%), followed by those matched by friends (33.3%), and then by relatives (27.3%). In other words, such marriages which are commercially arranged by matchmaking agencies have a highest risk of ending in divorce.

[802] Wen-Hui Anna Tang and Hong-Zen Wang, "From Victims of Domestic Violence to Determined Independent Women: How Vietnamese Immigrant Spouses Negotiate Taiwan's Patriarchy" (2011) 34 Women's Studies International Forum 430, 436.
[803] Cecilia Menjívar and Olivia Salcido, "Immigrant Women and Domestic Violence: Common Experience in Different Countries" (2002) 16(6) Gender & Society 898, 907.
[804] Interviews: 6, 14, 20, 22.
[805] Interviews: 12 and 13.

Table 6.21 Divorce rates among interviewed Vietnamese brides in cross-border marriages

Interview No.	Husband's Country	Divorce rates of cross-border marriages through:			For how long the couple got to know each other before marriage	Genuine Love at the time of marriage	Length of Marriage Before Divorce
		marriage brokers *(75%)*	relatives *(18.75%)*	friends *(6.25%)*			
1	China				within a short time	no	n/a
2	Korea				3-4 months	no	n/a
3	Taiwan/Korea*		x		3 days	no	4 years/7 months
4	Korea				within 1 month	no	n/a
5	Korea*	x			2 days	no	6 years
6	Korea*		x		5-6 months	n/a	one month only
7	Taiwan				1 week	no	n/a
8	China				1 month	n/a	n/a
9	Korea*	x			3 days, we have 14-year age gap	no	1 year
10	Taiwan				3 days, we have 19-year age gap	no	n/a
11	Korea*	x			some weeks only	no	3 years
12	Taiwan*		x		within some weeks	n/a	12 years
13	Korea*	x			1 week	no	10 years
14	Korea*	x			2 days, we have 10-year age gap	no	2 months
16	Taiwan				1 week	n/a	n/a
17	Taiwan				2 months	no	n/a
18	Taiwan				n/a	n/a	n/a
19	Korea*	x			2 weeks	no	3 years
20	China*	x			2 weeks, I was not old enough to get married by law	n/a	one month
21	Taiwan*	x			5 days	no	6 months
22	China*	x			1 week	n/a	just some months
23	Korea*	x			1 day and 1 night, 19-year age gap	no	4 months
24	Korea*	x			n/a	n/a	2 years
25	Korea				about 2 months	no	n/a
26	Korea				n/a	no	n/a
27	China*	x			20 days	no	4 years
28	China*			x	10 days, we have 10-year age gap	n/a	2 years
29	Korea				within short time	no	n/a
30	Korea				1 week	n/a	n/a
31	China				2 weeks	no	n/a
33	Korea				n/a	n/a	n/a
34	Taiwan				7 days, we have 14-year age gap	n/a	n/a
35	Korea				10 days	n/a	n/a
36	Korea				1 week, we have 29-year age gap	n/a	n/a
37	China				2 weeks	no	n/a
39	China				n/a	n/a	n/a
40	Korea				about 2 months	n/a	n/a
41	Taiwan				less than a year	no	n/a
42	Taiwan				4 months	no	n/a

Note: "" refers to brides who got divorced* *(Source: Researcher © - analysed from the interview data)*

Due to the absence of official reports published nationally on divorce rates relating to purely Vietnamese marriages, and on divorce rates for Vietnamese cross-border marriages in Vietnam in general (and in the Mekong Delta region in particular), the researcher is unable to make a comparison on this aspect of the subject. However, apart from the interview data analysis in this thesis, there have been other sources of evidence showing that Vietnamese cross-border marriages in the Mekong Delta region suffer from a high risk of divorce. For example, according to a statistic provided by the Vietnam Women's Union in Can Tho City,[806] within a 10-year period from 2005 to 2015, there were 14,871 Vietnamese women in 72,830 Vietnamese-Korean marriages got divorced,[807] constituting more than 20.4% of such marriages. In South Korea, between 2005 and 2009, divorce rates between Vietnamese wives and Korean husbands always ranked second in the ranking of "the number of divorces between Korean husbands and foreign wives."[808] In 2009, the number of Vietnamese-Korean divorces accounted for "15.6% of the number of divorces between Korean husbands and foreign wives."[809] Moreover, a former study based on data from Statistics Korea on transnational marriages and divorces between 2010 and 2014 registered in South Korea found that "transnational marriage, particularly marriage between a Korean husband and a foreign wife, experienced an extremely high risk of divorce."[810] The study also concluded that 19% of international marriages between Korean men and foreign brides ended within 4 years while this figure was only 6% for purely Korean marriages.[811] Concerning the cumulative probability of divorce within 4 years, this study also showed that Vietnamese wives were ranked second in terms of the risk of divorce in transnational marriages in South Korea, just after Chinese wives.[812] Additionally, according to the Korea Statistics Bureau, by the end of 2016, nearly one out of five (namely 19.25%) Vietnamese women living in South Korea was divorced.[813] In 2017, divorce rates related to Vietnamese marriage immigrant women were reported to be

[806] Can Tho City is one of 13 provinces of the Mekong Delta region of Vietnam.
[807] Van Vinh, "Hàng Chục Ngàn Cô Dâu Miền Tây Khốn Đốn Sau Làn Sóng Lấy Chồng Ngoại" (Thousands of Brides in The Mekong Delta Region Miserable After The Wave of Foreign Marriages) (*Công An Nhân Dân Online*, 30 October 2016) <http://cand.com.vn/doi-song/Hang-chuc-ngan-co-dau-mien-Tay-khon-don-sau-lan-song-lay-chong-ngoai-414673/> accessed 19th October 2020.
[808] Statistics Korea: Divorce Statistics in 2009. Available at < http://kostat.go.kr/portal/eng/pressReleases/8/11/index.board?bmode=read&bSeq=&aSeq=273503&pageNo=2&rowNum=10&navCount=10&currPg=&searchInfo=&sTarget=title&sTxt=> accessed 09th October 2020.
[809] Ibid.
[810] Yool Choi, Doo-Sub Kim and Jungkyun Ryu, "Marital Dissolution of Transnational Couples in South Korea" (2020) 46(14) Journal of Ethnic and Migration Studies 3014, 3025.
[811] Ibid.
[812] Ibid 3027.
[813] VNA, "Assistance Offered to Vietnamese Women Married to Koreans" (*Vietnam Plus*, 01 July 2019) < https://en.vietnamplus.vn/assistance-offered-to-vietnamese-women-married-to-koreans/155316.vnp> accessed 10 December 2019.

the second highest group among groups of migrant brides in South Korea.[814] It shoul be pointed out that vast majority of Vietnamese brides in South Korea come from the Mekong Delta region of Vietnam. As confirmed by Park Noh Wan, Consul General of the South Korea's Embassy in Vietnam, up to 2018, there were more than 70,000 Vietnamese brides married to South Korean men, of which there were approximately 50,000 brides from the Mekong Delta region of Vietnam.[815]

There are many reasons for the high risk of divorces among Vietnamese cross-border marriages in the Mekong Delta region. Firstly, as seen in **Table 6.21** (above), none of interviewed brides admitted that they got married for love. As previously discussed, the majority of Vietnamese cross-border marriages in the Mekong Delta region were made through commercial marriage agencies. Vietnamese brides would not have a relationship before they got married to each other. In some of the interviews, Vietnamese brides stated they decided to marry foreign husbands because they wanted to move to a more affluent country and be able to provide financial help to their families back home rather than because of genuine love. Having a comment on this issue, Lee Yong-Hwan of the *Hansun Foundation for the Freedom and Prosperity* said that, "if love is the reason for a cross-cultural marriage, there would be little room for disillusionment, but if money is the reason, the marriage is more likely to end up being a disappointment".[816] Secondly, divorces were common for couples who got to know each other for a very short time before marriage. In **Table 6.21 (**above), there were 8 divorced couples who initially got to know each other within less than a week while the other 7 divorced couples had decided to get married after only two or three weeks of knowing each other. This means that these couples would not have had enough time to really understand each other and know more about their would-be spouse's background. Consequently, it would be very difficult for these couples to maintain a long-term marital relationship without mutual understanding and trust. Thirdly, language and cultural barriers can be identified as the main factors which have a negative impact on the length of Vietnamese cross-border marriages. Vietnamese brides found it difficult to adjust to a new living environment and a new culture, resulting in conflicts, marriage breakdown and divorces within a short period of time after marriage. Finally,

[814] Misoon Jeon, Okhee Ahn, Minjeong An, "Immigrant Vietnamese Women's Adaptation To Culture and Society in Rural Areas of Korea" (*Plos One*, 14th February 2019) <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0212265> accessed 27th September 2020.
[815] Vien Su and Son Lam, "Cần Một Chính Sách Cho Trẻ Con Lai Miền Tây" *(Need A Policy on Children in the Mekong Delta Region)* (*Tuoi Tre Online*, 25 January 2018) < https://tuoitre.vn/can-mot-chinh-sach-cho-tre-con-lai-mien-tay-20180125120659988.htm> accessed 20 July 2018.
[816] Cited in Michael C. Howard, *Transnationalism and Society: An Introduction* (McFarland 2011) 113.

domestic violence is an equally important cause for Vietnamese brides getting divorced from their foreign husbands.

6.3.7.7 Professional Support Services from the Sending and Receiving Countries

For a better understanding how the government of Vietnam, the bride's country of origin and the host country (of the foreign husband) support Vietnamese brides in cross-border marriages, it is first of all necessary to review the support systems available to these brides. This will then allow the researcher to make an assessment of how these services can be improved and made more effective.

Table 6.22 (below) provides detail information regarding the various types of support Vietnamese brides received from both countries, Vietnam and their husband's country, in dealing with the pre-marriage and post-marriage difficulties. Regarding support from their home country, almost every Vietnamese bride interviewed by this researcher indicated that they received no support from the local government before or after marriage. They also said that they not know if their local government has any form of support for them. Moreover, many brides said that they have never heard about the Centre for Consultancy and Support of Marriages and Families Involving Foreign Elements (the Centre) which was established for the specific purpose of providing help and support to them.[817] Only one bride acknowledged that they had heard about the Centre but had never contacted them before.[818] Similarly, the interviewed brides answered "nothing" to the question asking what the local government in the Mekong Delta region did to support them after marriage. The only case where a bride got support from the local government was because she was trafficked to China.[819] It is very important to emphasize that the brides themselves admitted that they did not know if the Vietnamese government provides any support to brides who get married to foreigners. But so far as their personal experience was concerned, they did not get any support from the government. Everything was simply arranged by the marriage brokerage agency.

[817] Interviews: 9 and 39.
[818] Interview 13.
[819] Interview 39.

Table 6.22 Supports from Vietnam and husband's country

Interview No.	Husband's Country	Supports from the Vietnamese Government		Supports from Husband's Country	Do you know who to contact in an emergency?
		Before marriage	*After marriage*		
1	China	no support	no support	I can get support from the police	local police, or Embassy of Vietnam in China
2	Korea	no support	I don't receive any support	Support from MFSC such as teaching cooking skills, organising travel, teaching about cultures, making friends with other foreign brides from Mongolia, Cambodia, Philippine and China	staff from Multicultural Family Support centre (MFSC)
3	Taiwan/Korea	no	no	n/a	I don't know, maybe the police or MFSC
4	Korea	no support	no	support from MFSC such as language, cooking skills, cultures, vocational training	n/a
5	Korea	no	no support	I got to know about the MFSC a long time after I arrived	I know. My house is close to a police station
6	Korea	no	no support	I don't know	I don't know
7	Taiwan	I don't know of any available support	n/a	n/a	n/a
8	China	n/a	no support	n/a	n/a
9	Korea	no support and I have never heard about the Centre	no support	Support programmes for foreign brides in general	I was provided with key contact numbers by MFSC
10	Taiwan	no	no	I don't know	I know. I was told about emergency contacts when I had language lessons
11	Korea	no	n/a	n/a	n/a
12	Taiwan	n/a	n/a	n/a	n/a
13	Korea	I know about the Centre, but never contacted it	nothing	I was provided with support to learn Korean	n/a
14	Korea	no support	no support	I don't know	I don't know
16	Taiwan	I don't know	n/a	n/a	I have the number to call if something wrong happens
17	Taiwan	n/a	n/a	n/a	n/a
18	Taiwan	n/a	n/a	n/a	I don't know
19	Korea	no	no	they support a lot of things	local police
20	China	no	n/a	n/a	n/a
21	Taiwan	no support and I don't know	nothing	I don't know	local police
22	China	no	I don't know	I don't know	no idea
23	Korea	no	no one supported me	from MFSC	I know because I was told about it
24	Korea	n/a	no support	I know about MFSC, but haven't jointed yet. I worked for a local church which supports foreign brides on issues such as: domestic violence, or looking for jobs	n/a
25	Korea	no	n/a	n/a	It's not a problem because I am fluent in Korean
26	Korea	no	n/a	n/a	n/a
27	China	no	no support	I don't know	I don't know
28	China	n/a	nothing	I don't know	I don't know
29	Korea	no	nothing	I received support from MFSC on matters such as language, culture and other skills training	I didn't know at first. But I know now
30	Korea	no	nothing	I attended MFSC activities and received support for things such as learning the language, cultures, new skills, and travelling expenses	I know whom to contact
31	China	no	no support and I don't know if they have any	I don't know	I don't know because I couldn't speak Chinese
33	Korea	n/a	n/a	n/a	n/a
34	Taiwan	no	no	For naturalised brides, they are guaranteed a stable job	n/a
35	Korea	no	nothing	I don't know	I don't know
37	China	no support. I don't know about the Centre	no	Local government will intervene and support brides in domestic violence	I know because the Embassy of Vietnam in China gave me a contact number
39	China	no	supported by local	Embassy of Vietnam in China, local police in China	Police and my sister in China
40	Korea	n/a	n/a	Great support from government to foreign brides such as training in language, Korean culture, children care skills, and finding a job	MFSC
41	Taiwan	no one helped me	no support	local government offered free language course	I don't know
42	Taiwan	I received some support from Taipei Economic and Cultural Office in HCMC	nothing	monthly support, they called us, asked about life, sent books and leaflet about language schools	Vietnamese people, my friends

*MFSC: Multicultural Family Support Centre *The Centre: Centre for Consultancy and Support of Marriages and Families Involving Foreign Elements *(Source: interview data)*

Moving the support from the host country, it is evident from the primary data contained in **Table 6.22** (above) that Vietnamese brides received more support from their husband's country than their home country. However, 9 out of the 39 brides stated that they do not know about any support that they could get from the husband's country. Most of brides married to South Koreans said that they were normally supported by the Multicultural Family Support Centre (MFSC) where they received help on issues such as cultural awareness and skills training including language, cooking skills, and children care skills, or job search. Brides who are married to Taiwanese and Chinese men did not have access to a similar level of support as those married to South Korean men. Most of them answered the question by stating that they did not know where to get support in Taiwan and China or if the government has any support available to foreign brides.

The support system to migrant brides in South Korea will be examined in more detail in Chapter 4 of this thesis. However, it is necessary to briefly mention here the Korean Multicultural Family Support Centre which provides classes to migrant women to improve their Korean language skills, culture understanding of Korean culture, general education, as well as promoting a bi-lingual environment. These skills are necessary to help migrant brides to better adjust to their new living environment. However, there has been some criticism that the Korean government's approach is too focused on "cultural assimilation" and that what they should do is emphasize legal protections for migrant brides, prevention of domestic violence and raising awareness of the human rights of immigrants.[820] This is more important because when brides learn about the rights they have, they can protect themselves even better.

Moreover, it has been alleged that marriage visa system in South Korea (which provides that the renewal of marriage migrant's visa status, as well as eligibility for permanent residence and naturalization) depends on the sponsorship of the South Korean spouse, can make marriage migrants vulnerable to domestic abuse. This system makes many migrant brides to be depended on their husbands for their visa status, which can result in abuse both physically and emotionally, including isolation and seclusion.[821] Brides who suffered domestic violence might keep silent about their suffering. They might not report it because they do not want to be divorced until they are naturalised. This is just one of many of the dilemmas that Vietnamese brides might be facing. Another possible explanation for their silence is that economic,

[820] Philip Iglauer, "South Korea's Foreign Bride Problem" (*The Diplomat*, 29 January 2015) <https://thediplomat.com/2015/01/south-koreas-foreign-bride-problem/> accessed 29 June 2018.
[821] Ibid.

financial and social reasons Vietnamese brides want to keep their marital status for as long as they can even if they are not in a happy marriage. This is because the longer the marriage lasts, the longer they can stay and work in their husband's country to earn more money to support their natal family.

Another area of concern is regarding contact details available to Vietnamese brides in their husband's country in case of an emergency. Among 39 interviewed brides, there were 11 brides who admitted that they do not know who to contact in a situation of emergency situation or if something went wrong. This again raises the vital question about how to provide better protection to Vietnamese migrant brides. With the number of cross-border marriages in the Mekong Delta region soaring in last decade, it is important to have a proper support system available to Vietnamese brides. This includes better legal protection raising more awareness of the human rights of Vietnamese migrant brides so that they can protect themselves from domestic violence or any other forms of abuse which they may encounter in their host country.

6.3.7.8 Women Trafficking under the Cover of Cross-Border Marriages

In the previous part of this chapter, it was seen that in contemporary cross-border marriages in the Mekong Delta region, the majority of Vietnamese brides tend to get married with foreign men of a higher socio-economic status than themselves for financial reasons. These marriages, mostly arranged by match-making agencies via the so-called marriage tour which involves a few days' trip, can have adverse consequences for the both parties in the marriage and especially for Vietnamese brides who often uninformed, naive and vulnerable. The inadequate pre-marital preparation together with insufficient support from the home government placed Vietnamese brides in a risky position, especially in relation to their post-marriage legal status.

Commercially arranged marriages involving brides who migrate from less developed countries to more developed or emerging nations is increasingly becoming the target of traffickers of women. Young Vietnamese women from poor rural backgrounds are increasingly becoming victims of this type of trafficking.[822] An example drawn from the primary data (interviews) collected for this research is touching story of a Vietnamese woman ***(Interviewee 39)*** from the Mekong Delta region and was trafficked to China in May 2015 by a marriage broker. She

[822] Thi Nhu Tam Do and other authors, *Marriages of Convenience: Context, Processes and Results of Cross-border Marriages between Vietnamese Young Women and Taiwanese Men* (Hanoi: Mobility Research and Support Centre, 2003).

wanted to go to China to visit her sister who at the time was living with a Chinese husband there. Then she met a marriage broker who promised to help her to go to China as quickly as possible. However, the broker sold her to a Chinese family where she was forced to have sex with a Chinese man and his uncle as well. She got pregnant but she did not know who her baby's real father was. She explained:

> I had no choice, but to stay in an empty room with just the four walls. I had no contact with people outside. I was forced to live in a Chinese family with 4 people including my so-called "husband", his mother and his uncle. They were all very aggressive. I was forced to sleep with and have sex with my "husband". I disagreed and resisted and I was beaten many times. I had a lot of wounds and scars on my body. Once I had no choice, but involuntarily had sex with my 'husband'. I was even forced to sleep with his uncle but I disagreed and both of them beat me terribly. He used electrical wires to beat me many times until I fainted. I begged them to contact my sister for me but they refused. I cried during so many nights and I thought I had developed a mental problem at that time. *(Interview 39)*

She further explained that she was kept in a dark room by the family during a period of seven months. She could not speak Chinese, was not allowed to go out or contact anyone. They treated her poorly and always with violence. She added:

> They made Chinese food and gave me a bit. They put the food in a dark room and locked me inside every day. But I can't eat Chinese food, sometimes they bought some rice. So many times, I had to eat rice soup with salt only. *(Interview 39)*

With the cooperation of the Vietnamese Embassy in China, the local police in China and local government in her hometown in Vietnam, this victim of trafficking was rescued after seven months in China and returned to her home town in Vietnam, but what she had experienced was dreadful and unacceptable. Unfortunately, her case is not unique. She is not the only bride who has been the victim of trafficking under the cover of cross-border marriages. It was reported that during the period from 2008 to 2013, the police in Can Tho City in the Mekong Delta region had arrested four traffickers who deceived 11 women from provinces in the Mekong Delta region with false promises of marriage and then sold them to China for work in the sex industry.[823] In 2013, the police in Can Tho City also arrested Lee Chung Chen (a South Korean citizen) together with a Vietnamese citizen who had arranged and brought together 130 Vietnamese women for 13 Korean men to meet and select as brides.[824]

From the interview data analysis, it seems that Vietnamese women in the Mekong Delta region are more likely to be trafficked to China under the cover of cross-border marriages, compared

[823] Report No.571/BC-BCD dated 7th November 2013 on Results of the General Survey on Situation of Trafficking and other Related Crimes during 2008-2013.
[824] Ibid.

to Vietnamese brides in Taiwan and South Korea. This is because majority of Vietnamese brides having Taiwanese or Korean registered their marriages in Vietnam before emigrating to Taiwan or South Korea. This means that the groom's personal information and background (address, job, health history, and marital status) could be checked by the competent authorities as part of the formalities for the marriage registration process in Vietnam. This review process will follow legal procedures involving several stages. Moreover, Vietnamese women involved in Taiwanese or Korean marriages have pre-marital preparation in language and cultural adaption by learning the language of their husband before emigrating through short courses, although these courses are not often organised properly. In this case, the risk to brides of trafficking or exploitation is less because of the involvement or intervention of local government agencies in Vietnam.

On the contrary, women in Vietnamese-Chinese marriages tend to be exposed to much higher risk of exploitation or trafficking because most of them did not register their marriage in Vietnam. The lack of marriage registration in Vietnam makes it more difficult for the local government to intervene if their marriage goes wrong. Vietnamese brides married to Chinese men also do not have any opportunity to learn Chinese before emigrating to China. 100 per cent of brides interviewed who got married in China revealed that they either learnt Chinese by themselves, or did not learn Chinese before they moved to China. Therefore, it can be argued that this lack of basic Chinese language skill poses a higher risk to Vietnamese women of becoming victims of human trafficking in China.

Despite the severity of the problem of Vietnamese brides being trafficked for forced marriages in China, there are very few statistics available regarding brides trafficking in Vietnam in general, and from the Mekong Delta region of Vietnam in particular. In Report No.451/BC-BCD dated 18 December 2015 issued by Steering Committee 138/CP,[825] it is emphasised that trafficking under the form of illegal marriage brokering and sham marriages involving Vietnamese brides to South Korea, Malaysia, China, and Taiwan occurred more often in the southern provinces of Vietnam, while cases of child trafficking (including in infants and children) were more prevalent in the northern provinces bordering China. While in the past more Vietnamese women in the North were trafficked to China, there is evidence that the illegal trade of brides has recently expanded to the South of Vietnam with more victims coming from

[825] Report No.451/BC-BCD: Results of the National Plan of Action on Combating of Human Trafficking in 2015, dated 18th December 2015 (Steering Committee 138/CP.2015b) p1.

the Mekong Delta region.[826] There have been several Vietnamese women who have been deceived and trafficked to China to become prostitutes or wives in forced marriages.[827] However, despite the high visibility given by news media and other international reports to the problem involving Vietnamese women being trafficked into forced marriages in China the empirical evidence – both quantitative and qualitative - remains sparse.[828]

In an effort to tackle the problem, a seminar on sharing experiences in combating human trafficking under the form of cross-border marriages was co-organised by the Ministry of Public Security and the Vietnam Women's Union in Dong Thap Province[829] on 28th July 2017.[830] The statistics provided by the Ministry of Public Security in the seminar showed that from early 2011 to June 2017, there were 2,748 human trafficking cases in Vietnam, with 5,984 victims. The worst affected areas were Ho Chi Minh City and Hai Phong City together with 13 provinces in the Mekong Delta region which registered 265 human trafficking cases, with 1,395 victims. Among these cases, there were 147 incidents involving women trafficking under the form of illegal brokering and sham marriages, with 1,294 victims.[831] More worryingly, some women became victims of human trafficking with the involvement of relatives who were themselves trafficked before. The majority of Vietnamese women who were trafficked come from poor family, and were unemployed with a low level of educational attainment. The women are trafficked through well-organised, but illegal matchmaking agencies. The agencies have even changed the way they operate by recruiting Vietnamese e-wives for foreign men through social networking platforms such as Facebook, YouTube, Instagram or KakaoStory.[832]

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[826] Alisa Tang, "Trafficking of Vietnamese Women for Sex and Marriage Expands Across Region: Expert" (*Reuters*, 18th May 2016) < https://es.reuters.com/article/idUSKCN0Y9180> accessed 4th October 2020.

[827] Weidi Liu, Geping Qiu and Sheldon X. Zhang, "Easy Prey: Illicit Enterprising Activities and The Trafficking of Vietnamese Women in China" (2020) Asian Journal of Criminology <https://doi-org.libaccess.hud.ac.uk/10.1007/s11417-020-09327-y > accessed 4th October 2020.

[828] Stöckl and others (n 58) 2.

[829] Dong Thap Province is one of 13 provinces in the Mekong Delta region of Vietnam.

[830] *See* Dinh Hung, "Nhiều Phụ Nữ Bị Mua Bán Bởi "Mác" Lấy Chồng Ngoại" *(Many Women Were Trafficked By Marrying Foreign Husbands)* (*BáoMới.Com*, 28 July 2017) < https://baomoi.com/nhieu-phu-nu-bi-mua-ban-boi-mac-lay-chong-ngoai/c/22871671.epi> accessed 08 January 2018.

[831] Ibid.

[832] Thuy Tien, "Khi Cô Dâu Việt Bị Coi Như "Món Hàng Còn Trinh" Ở Hàn Quốc" *(Vietnamese Brides Are Considered as "Virgin Commodity" in South Korea)* (*News Zing*, 11 August 2019) <https://news.zing.vn/khi-co-dau-viet-bi-coi-nhu-mon-hang-con-trinh-o-han-quoc-post977099.html> accessed 13 December 2019; Trong Thuan and Nghiem Ngoc, "Cô Dâu Việt Chịu Bất Công, Lừa Dối Bởi Các Công Ty Môi Giới Chồng Hàn" (*Vietnamese Brides Suffer Injustice and Deceit by Korean Marriage Brokerage Agencies)* (*News Zing*, 14 August 2019) <https://news.zing.vn/co-dau-viet-chiu-bat-cong-lua-doi-boi-cac-cong-ty-moi-gioi-chong-han-post978255.html> accessed 13 December 2019.

After wives have been selected by the client men, the agencies process immigration procedures to effectively sell the women abroad.

The question of how to provide better protection to these vulnerable women is becoming a concern only after a lot of women have already been trafficked through such cross-border marriages. It is clearly the case that some of the most fundamental rights of Vietnamese brides are being violated, and collective action need to be taken at the inter-governmental level to prevent this harmful phenomenon.

6.4 Discussion

Based on the findings of the research it can be argued that besides marriages for true love, the majority of cross-border marriages in the Mekong Delta between Vietnamese women (mostly in rural areas) and men from Taiwan, South Korea and China are related to *economic* purposes. As described, the combined factors of poverty, low educational attainment, low income and unsecured jobs prevented Vietnamese women from affording a comfortable life in their home country. Therefore, getting married with foreigners is one of the solutions that they simply thought could help to improve the family's financial circumstance and is the best way out of poverty.[833] These brides consider a cross-border marriage as a mean for financial empowerment, often as a consequence of family pressure.

The majority of cross-border marriages in the Mekong Delta region of Vietnam took place through commercial matchmaking agencies, with a well-organised cooperation between foreign-based transnational matchmaking agencies and their counterparts in Ho Chi Minh City. Illegal matchmaking agencies in HCMC always have recruitment sources for brides available for *supply* to foreign men due to its wide networks of local brokers located in remote parts of the Mekong Delta region. Vietnamese brides in such marriages are heavily dependent on arrangements of matchmaking agencies that normally make high profits from matchmaking practice.

Some of the brides admitted that they took a risk when they decided to get married with their husbands.[834] This is because Vietnamese brides get to know their foreign husband within a very

[833] "Vietnamese Women Wed Foreigners to Aid Family" *(Associated Press*, 08 October 2008) <http://www.nbcnews.com/id/26124698/ns/world_news-asia_pacific/t/vietnamese-women-wed-foreigners-aid-family/#.Xell3uj7SUk> accessed 05 December 2019.
[834] Interviews: 1 and 16.

short time as a result of an introduction arranged through match-making agencies, sisters, relatives, or friends. These marriages can quickly occur through brokerages as *instant* marriages; therefore, brides and grooms often face post-marriage difficulties relating to language, cultures and communication. *Vietnam Migration Profile 2016* indicated that human trafficking under the cover of illegal match-making activities or sham marriages to countries such as China, Malaysia, South Korea and Taiwan happened more frequently in southern part (including the Mekong Delta region) of Vietnam.[835] The pro-active involvement of commercial match making agencies increases the high risk associated with such cross-border marriages. Additionally, the poor preparation at pre-marital stage plus having no knowledge about their future husband's background make them more vulnerable to abuse and exploitation.

The majority of Vietnamese brides in the interviews believed that a "foreign" husband can bring to them a wealthier and leisurely life, enabling them to send money back to their home country to support their family. They were disappointed when they realised the reality of life in their husband's country. Additionally, a marriage which does not originally start from genuine love plus barriers in terms of languages, cultures and customs make it difficult to build a really happy marriage life. In fact, many Vietnamese brides end up facing a marital tragedy.

Ms Nguyen Thi Kim Thuy, Vice-President of Vietnam Women's Union stated that many young women chose to put their happiness and lives at risk in order to get married to foreigners without knowing about foreign languages, culture, customs and the laws in the foreign countries.[836] They lacked knowledge and information on legal policies. This placed them in a risky situation where they become exploited by criminals. Choosing to get married in the absence of genuine love with a foreigner from a different social and cultural background plus limited information about his background means that Vietnamese women are taking risks with their lives. These women with the lack of cultural knowledge and difficult economic situation become vulnerable. They can easily be exploited and become victims of trafficking, sexual exploitation and sexual slavery.

In the last two decades, there have been many cases involving Vietnamese brides who have suffered from unhappy marriages through brokerage agencies because they had no opportunity before the marriage to learn more about their foreign husbands' background as well as the

[835] International Organization for Migration (n xxx) 50.
[836] VNS, "Women with Foreigner Husbands Need Additional Marital Support" (*Việt nam News*, 28 May 2011) <https://vietnamnews.vn/opinion/211746/women-with-foreign-husbands-need-additional-marital-support.html> accessed 06 December 2019.

cultures and customs of the husband's country. One of the most interesting findings from primary data analysis is that the highest risk of divorce among cross-border marriages were those matched through commercial marriage agencies, followed by those marriages introduced by friends and then by relatives. Therefore, providing pre-marriage advisory and support services is extremely important. These services can help Vietnamese brides to minimise the possible risk, helping them to build a happier married life in the future. However, it is evident that the support from the Vietnamese government has not met the demand of the brides. Thus, a suggestion for policy reform aimed at providing more protection of Vietnamese women in cross-border marriages through pre-marital counselling will form part of the recommendation in the final chapter of this thesis.

6.5 Concluding Remarks

In the cross-border marriages which formed part of this research and for which primary data was collected and analysed, there were Vietnamese brides who had experienced difficulties stemming from language barrier and cultural differences to more serious problems such as domestic violence, sexual abuse, or human trafficking. Most of Vietnamese wives who married through commercial marriage brokers found themselves isolated in remote rural regions, vulnerable to abuse, and unable to communicate both within the adopted community and with the outside world. The lack of a system in Vietnam regarding languages and pre-marriage support makes it even more difficult for Vietnamese brides to establish a new social network in their husband's country. The language barrier, more than any other factor, seems to be the root cause of many other problems. Communication difficulties often contribute to unhealthy marital relationship which can manifest itself in disrespect, domestic violence and high divorce rates. [837] It can be argued that these brides were vulnerable and became victims of abuse and exploitation because they did not receive the support and pre-marital counselling that they needed in order to adequately prepare themselves for a cross-border marriage. Hidden information about husband's health problem can be a risk to Vietnamese brides which impact their decision to or not to marry somebody. Resolving this problem by providing accurate information before marriage can help to reduce or even prevent the rate of domestic violence in cross-border marriages. Other issues that need to be addressed include a crackdown on exploitative marriage brokers and a better social system for preventing domestic violence,

[837] Hung-Hao Chang and Pei-An Liao, "Are Immigrant Wives Happy in Taiwan? A Look at the Role of Bargaining Power Within the Married Couples" (2015) 16(2) Journal Happiness Studies 295, 296.

sexual abuse and trafficking, as well as better legal protection for Vietnamese brides. In the next and final chapter of the thesis, the researcher will use the findings of the research to make some recommendations which will include possible solutions to the main research problems.

CHAPTER 7
CONCLUSION: MAIN RESEARCH FINDINGS AND RECOMMENDATIONS

7.1 Summary

The discussion in the previous six chapters of this thesis identified several issues and problems regarding the nature of cross-border marriages in the Mekong Delta region of Vietnam. These include: the socio-economic impacts of cross-border marriages, how the law in Vietnam regulates issues related to cross-border marriages, as well as the gaps under current Vietnamese law on cross-border marriages. The research also examined how the issue of commercial marriage brokerage agencies are regulated in Vietnam and in other jurisdictions in the Southeast Asia region. The main aim of this final chapter is to outline proposals for law reform in Vietnam based on the findings of the research.

More importantly, using the findings of primary data analysis from **Chapter 6**, the suggested solutions in this chapter will be focused on providing better pre- and post-marriage support and protection to Vietnamese brides in cross-border marriages, and also at preventing fraudulent or scam cross-border marriages which are often used as a cover for women trafficking, sexual exploitation and forced labour. The suggested reforms, which aim to fill the gaps in current regulations on cross-border marriages in Vietnam (highlighted in the **Chapter 3** of this thesis), will mainly focus on two aspects: first, practical solutions with a support model (diagrammatically represented by a conceptual framework) for cross-border marriages centred on the pre-marital and pre-departure stages; and secondly, legal solutions related to reforming Vietnamese law on commercial marriage brokerage, consent and pre-marital interviews. Furthermore, this final chapter will also include brief comments on the following: the research contribution; the research limitations; and the identification of areas for future research on the subject of cross-border marriages in Vietnam.

7.2 Practical Solutions (Pre-Departure Stage Support)

The key findings from analysing the primary data result of 39 interviews with Vietnamese women who have experienced cross-border marriages and the current situation regarding such marriages clearly showed the need for more support to Vietnamese brides at the pre-marital or pre-departure stage. In order to provide better practical support to Vietnamese brides, one of the proposed solutions should be the launching of an official information website on cross-

border marriages by the government of Vietnam in collaboration with The Centres and the three main receiving countries (China, South Korea and Taiwan). The national website, administered and managed by the (reformed) Centres will aim at providing brides with access to online support, especially at the pre-departure stage. The will have three main effects: firstly, it will address the shortfall in the current operational capacity of The Centres by providing national coverage throughout the national territory of Vietnam; secondly, it will address the issue of lack of funding for physical office space as well as lack of funds to employ the required number of expert staff; and thirdly, it will provide access to information for brides in remote areas where there are no Centre offices, as well as for brides who for any reason do not wish to have face-to-face consultations at a Centre office. More details about this particular proposal are outlined in the sections below.

7.2.1 A National Website for Pre-Marital Support for Brides in Cross-Border Marriages

The interviews' result in **Chapter 6** indicated that Vietnamese brides do not always prepare themselves well enough for their cross-border marriages (especially at the pre-marital stage). This is partly due to the fact that they do not have sufficient pre-marriage information or because they were unable to access the information they required before making an informed decision on their marriages with a foreigner. This makes the mostly young and poorly educated women vulnerable as they become heavily dependent on illegal commercial marriage brokers, some of whom are very unscrupulous operators and may be involved in transnational crimes such as women trafficking and sexual exploitation. Therefore, providing the brides with as much information as they need, and giving better access to such information, will help them to have better preparation at the pre-marital stage.

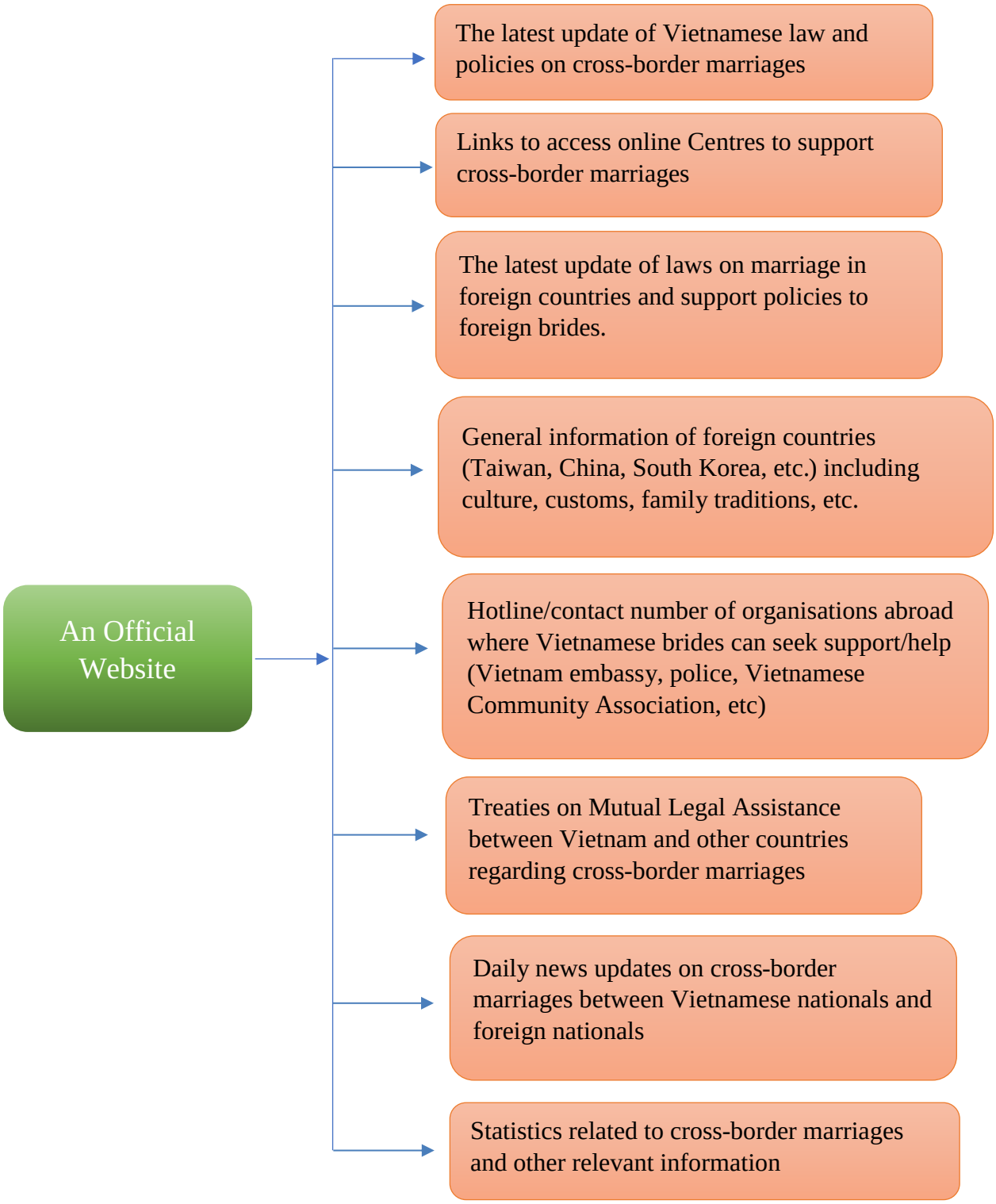
Unlike information from commercial marriage brokers which is often one sided and paints a very positive picture of marriage abroad, the information on the website will take a more balanced and objective approach by outlining both the *pros* and the *cons* of a cross-border marriage, including a standard '*frequently asked questions*' section. It will enable potential Vietnamese brides to simply access the website and get as much information as they need from the comfort and privacy of their own homes, without anyone pressurising them to make quick decisions as is often the case with illegal match-making agencies seeking financial gain from a successful match-making venture. Therefore, the researcher proposes the launching of an official national website as an *all-in-one* (or '*one-stop shop*') platform by Vietnamese authorities to meet the urgent and growing demand of future brides in cross-border marriages

for a reliable and trustworthy source of pre-marital information. This *all-in-one* website should be run by a governmental organisation such as The Centres and supervised by the Vietnam Women's Union and Ministry of Labour and Social Affairs. Another aim of this website will be to keep Vietnamese brides fully informed about the regulations, polices, and procedures related to cross-border marriages between Vietnamese citizens and foreign nationals.

So why is an official state-run website required as a matter of urgency? First, the Vietnamese government needs to strengthen educational publicity and clearly identify both the advantages and disadvantages of international marriages for young women in order to enable potential brides to make the right decisions concerning marriage to foreigners. Given the fact that some of the potential brides accessing the website may have low educational attainment, the information should be kept as simple and straightforward as possible, and some of the most important information should be uploaded to the website in audio or video format. The website will be a platform where the state can provide as much up-to-date and accurate information as possible in the most convenient way, whereas potential brides can be assured of the accuracy of the information provided. In this way, this will help young Vietnamese brides to prepare better for their future marriage to foreign nationals. Secondly, through the information on the website future brides will acquire more knowledge of the importance and implications of having a good understanding and awareness of the marriage/ civil status laws, immigration policies, lifestyle, and culture in the country of their intended husband. That information will help them plan for their marriages better, or at least they can equip themselves with better information. More importantly, the reliable information provided through the website will help to prevent Vietnamese brides from being exploited by traffickers or illegal marriage brokers by specifically warning them of the dangers involved in using illegal marriage brokers, and by using specific examples of previous victims' tragic stories to emphasise the warning.

The suggested model for the website and its key contents is illustrated in **Figure 7.1** below.

Figure 7.1 The content model of the proposed national website



(Source: The Researcher)

First of all, the website should include brief summaries of the regulations and policies of Vietnam regarding cross-border marriages so as to enable Vietnamese citizens who intend marry foreign nationals to know more about the procedures for cross-border marriages in their home country. Secondly, it should include information on Mutual Legal Assistance agreements between Vietnam and other countries regarding matters relating to cross-border marriages, as well as information sources for visa application for migrant brides to countries such as China, South Korea and Taiwan. Thirdly, the website should provide links to access the online version of The Centres where more support facilities can be found such as specific match-making advice and immigration support for brides. Through these links potential Vietnamese brides will know where or who they can contact to get support or counselling before they decide to get married with foreigners. The website should also include guidance relating to the cross-border marriage regulations and support policies of other countries, mainly focused on those countries that attract a relatively high proportion of Vietnamese migrant brides (such as China, South Korea, and Taiwan, and also Australia, Canada, Singapore).

Moreover, general information about each country should be listed on the website such as culture and traditions (including family traditions which may differ significantly from the extended family in Vietnam); employment prospects and working conditions for working, parents including any temporary restrictions for foreign nationals; acquisition of civil status, including requirements for permanent residence, naturalisation or acquiring nationality; and even weather conditions and general lifestyle. Such background information will enable Vietnamese brides to have an overall view about life in the country of their future husband, and help them to settle and adapt more easily, thus avoiding potential family tensions and disputes. To get the latest and accurate background information of each country as mentioned above, it is important that the Ministry of Culture, Sports and Tourism (Vietnam) should also contribute to the process of designing and constructing the website. More importantly, to provide better protection for overseas Vietnamese citizens, especially Vietnamese brides, it is suggested that hotlines or urgent contact numbers should be provided on the website such as the contact details of the Vietnam Embassy in each country, police number or hotline of any local authorities that they can contact for help or report any negative incidents they have encountered. Vietnamese contacts are particularly important as some migrant brides may not speak the language of their adopted country.

Last but not least, the website should update statistics related to cross-border marriages related to Vietnamese nationals, as well as the latest information on polices and regulations on cross-border marriages between the Vietnamese people and foreigners. This can also include the latest updates about issues related to immigration, naturalization, jobs, current situation of those marriages such as domestic violence cases, divorce rates, human trafficking through cross-border marriages, the contribution of those marriages to the community, and other relevant news relating to migrant brides' experiences or problems associated with cross-border marriages. This information will play a crucial role in educating a younger generation of Vietnamese with good online usage skills about the opportunities and dangers associated with the growing phenomenon of cross-border marriages, and could also integrate educational information on anti-trafficking programmes.

7.2.2 Proposal for Reform of the Centres

The Centres in their current form can be reformed in two ways: their form or organisational structure; and the range and scope of their support activities. Regarding their form, beside the current format based on physical infrastructure in the form of offices offering face-to-face match-making and consultancy services, the organisational structure of The Centres should be expanded to include an online platform (as discussed in the section above). Moreover, The Centres' main activities should also be expanded to include proper pre-departure orientation and educational programmes for potential brides. Such programmes can be offered mainly through an online video/ tutorial format on the national website.

7.2.2.1 Rationale for Virtual Online Centres for Consultancy and Support of Marriages and Families Involving Foreign Elements (Online Centres)

7.2.2.1.1 Why Online Platform?

There are a number of justifications for why virtual online Centres should be established. Firstly, as previously analysed in **Chapter 3** of this thesis, one of the reasons for the ineffectiveness of The Centres is that its network cannot at present guarantee full coverage for the national territory of Vietnam. In 2018, the whole country had only 18 Centres to provide both match-making and advisory/consultancy services for over 63 administrative units. The current limited number of Centres means that many actual or potential brides do not know about the existence and operations of these Centres. For this reason, many have not been able to access the support and consultancy services regarding cross-border marriages provided by

the Centres (as seen from the analysis of the interviews in **Chapter 6**). Therefore, the establishment of virtual or online Centres remains an urgent necessity.

Secondly, with the widespread use of new communications devices such as smartphones and social media platforms such as Facebook in Vietnam (including in the most remote rural areas), it is necessary to make more effective use of this new technology to improve social and living conditions for Vietnamese citizens. With the availability of online Centres, Vietnamese brides intending to marry foreign nationals do not have to pay an unnecessary visit to a physical office; instead they can easily and conveniently access these online Centres for the latest information, advice or support services. This also helps them to save their time and the cost for travelling for in-person appointments or consultation at physical Centre office. Moreover, brides can also use the online platform to report any concerns which they may have about potential foreign husbands (something which they may be afraid to do in a face-to-face consultation, or may not be able to do at all when using an illegal commercial match-making agency).

Thirdly, the support and consultation services should be done in the best interest of Vietnamese brides in cross-border marriages. One of the overriding interests of brides is maintaining privacy and confidentiality at the pre-marital stage. Psychologically, brides may prefer not to be seen in person, especially in situations they are looking for consultation services for sensitive issues such as making enquiries concerning suspicions which they may have about the nature of the marriage. Thus, virtual online support system is better in respect of privacy because they do not need to either be present or provide their personal details as required at in-person consultations. This helps to prevent brides from being embarrassed or feeling uncomfortable regarding sensitive matters. It is also important to note that in time, both in-person and online consultation services should aim to provide the same standard of consultation and support to Vietnamese brides.

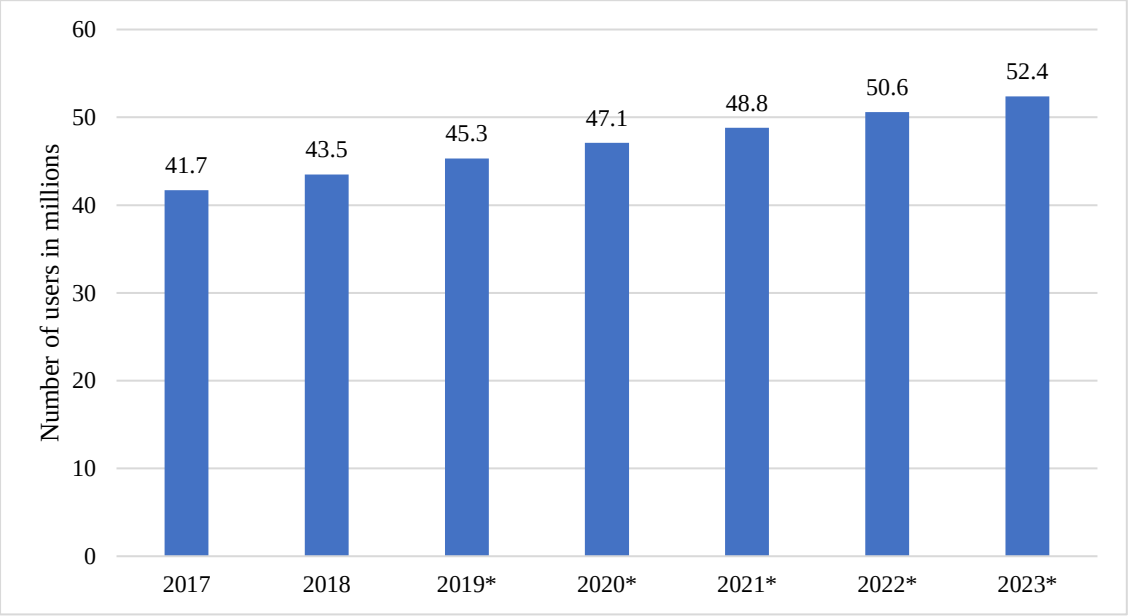
7.2.2.1.2 Feasibility of the Online Centre Format

The suggested online Centre platform should be one that can be accessible via a social media platform such as Facebook. Accessing the online Centre using Facebook would be the preferred social media platform due to its popularity in Vietnam.[838] In 2019, Vietnam had more than half

[838] Ulas Basar Gezgin, "Uses of Social Media to Promote Asean Socio-Cultural Community in Vietnam" (2017) 3(9) Journal of Media Critiques 51, 53.

of its 95 million people using Facebook for personal and professional purposes.[839] The government data showed that there were 58 million Facebook users in Vietnam as of August 2019.[840] The number of Facebook users in Vietnam is estimated to increase gradually in the years ahead (*see* **Figure 7.2,** below).

Figure 7.2 Number of Facebook users in Vietnam in millions (2017-2023)



(Source: https://www.statista.com/statistics/490478/number-of-vietnam-facebook-users/)

Vietnam has a 64 percent active social media penetration rate, and it ranked seventh in the table of countries with the highest number of Facebook users as of July 2019.[841] Among Vietnamese Facebook users, the dominant age group is the 15-24 age bracket, followed by the 25-34 and 35-49 age groups,[842] both of which correspond to the migrant bride age range. Vietnamese

[839] Anjala S. Krishen, Orie Berezan, Shaurya Agarwal, Pushkin Kachroo, "Social Media Networking Satisfaction in the US and Vietna: Content versus Connection" (2019) 101 Journal of Business Research 93, 93.
[840] Phuong Nguyen, "Vietnam's Social Media Crowd Swells With New Entrant to Take on Facebook, Google" (*Reuters*, 17 September 2019) <https://www.reuters.com/article/us-vietnam-cybersecurity/vietnams-social-media-crowd-swells-with-new-entrant-to-take-on-facebook-google-idUSKBN1W20NH> accessed 01 November 2019.
[841] Nguyen Nguyen, "Việt Nam Có Số Lượng Người Dùng Facebook Lớn Thứ 7 Trên Thế Giới" *(Vietnam Has The 7th Largest Number Of Facebook Users in The World)* (*Dân Trí*, 18 April 2018) <https://dantri.com.vn/suc-manh-so/viet-nam-co-so-luong-nguoi-dung-facebook-lon-thu-7-tren-the-gioi-20180418145327613.htm> accessed 01 November 2019.
[842] Ulas Basar Gezgin, "Uses of Social Media to Promote Asean Socio-Cultural Community in Vietnam" (2017) 3(9) Journal of Media Critiques 51, 53.

users primarily engage with video and photo posts[843], hence the use of videos format for providing information on the virtual online Centres is highly recommended.

Internet and Wi-Fi connections are widely available throughout Vietnam, which will make it much easier for Vietnamese women to access consultation services and support on an online platform. Therefore, the online platform will facilitate communication and the transfer of information between the virtual Centre staff and its real clients (Vietnamese brides).

While the use of online services may be more convenient for many clients, there may be some equally important concerns about the effectiveness of online Centres and the quality of services delivered by them. Unlike traditional Centres, online Centres do not cost much to maintain. However, to ensure that the quality or standard of support and consultation services is maintained, it is important to have professional and experienced consultants whose expertise can contribute to providing the best quality of service. Adopting online consultation systems will popularise the service while helping to better manage the workload by re-directing clients or brides to online self-service advice and information gathering. This will ensure that services delivered by online Centres are of a better quality. A final concern could be about the protection of personal data given the recent problems Facebook users have been having with breaches of data protection. The researcher believes that constant reviews of client's data by online Centre staff would be the best way of ensuring that there are no data protection breaches originating from the Facebook platform.

7.2.2.2 Pre-Departure Orientation Programmes for Vietnamese Brides

To equip Vietnamese brides with better preparation at the pre-departure stage, besides the information and knowledge they can obtain through the national website and Centres, brides should be provided with specific support, including real life testimonies based on the cross-border marriages experience of previous brides, at the pre-marital stage through pre-departure orientation programmes run by The Centre or NGOs in Vietnam.

7.2.2.2.1 The Necessity of Pre-Departure Orientation Programmes

Firstly, adapting to a new culture or a society can be a complex experience and current models such as the operation of the traditional Centres are not adequately equipped to support Vietnamese brides in cross-border marriages. Therefore, providing a variety of systems of

[843] The data can be found at <https://www.statista.com/statistics/490478/number-of-vietnam-facebook-users/> accessed 01 November 2019.

support including the pre-departure orientation programmes would be more appropriate and necessary.

Secondly, as seen in **Chapter 4** of this thesis, some of the receiving countries of Vietnamese migrant brides have endeavoured to promote positive adaptation programmes for foreign brides to help them integrate more easily into their society. For instance, the South Korean government provides support policies to marriage emigrants through funded programmes run by the Multicultural Family Support Centres[844] including Korean language schools, pregnancy and childbirth care, job education and counselling services, etc. These programmes aim not only to make foreign brides adapt positively into Korean society at the individual level[845]; they are also aimed at promoting societal harmony through cultural integration.[846] However, such post-marriage support tends to come too late for some brides who may already have experienced the culture shock of being in another country far away from their homes and their family and friends. This means that brides-sending countries like Vietnam also need to be doing more to provide better pre-marital support to its citizens in the form of pre-departure and orientation programmes.

Thirdly, pre-departure orientation programmes if introduced will benefit Vietnamese brides in cross-border marriages in many ways. The brides will be equipped with language skills and other skills before they travel abroad, which will enable them to better adapt into a new society and culture. The programmes can also provide them with basic knowledge about marriage laws, civil status regulations and immigration policies of their husband's country. More importantly, with these skills and knowledge gained from the programmes, Vietnamese brides can better prepare themselves to be ready for a new life in their husband's country, preventing them from being exploited by their husband's family or by commercial marriages brokers. Suggestions for the pre-marriage orientation programme are presented in more detail in the section below.

7.2.2.2.2 Pre-Departure Orientation Programmes Outline

With the aim of providing Vietnamese brides in cross-border marriages with better support and protection, there have been many pilot projects run in the Mekong Delta region of Vietnam in the last eight years. One of the most remarkable projects were programmes run by South

[844] *See* Chapter 4, Section 4.2.5 of this thesis.
[845] Misoon Jeon, Okhee Ahn and Minjeong An, "Immigrant Vietnamese Women's Adaptation to Culture and Society in Rural Areas of Korea (*PlusOne*, 14 February 2019 <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0212265> accessed 22rd December 2019.
[846] Dicolen and Sanchez (n 402) 57.

Korean NGOs together with the local Women's Union in the Mekong Delta region of Vietnam aimed at promoting happy Vietnamese-South Korean marriages. As seen in **Chapter 3**, some of these programmes and pilot projects were run in Can Tho City and Hau Giang Province. One of the findings of this research is that these programmes have so far brought some positive results. The researcher therefore recommends that such collaborative programmes should be made more widely available in future both in the Mekong Delta region and for the rest of Vietnam.

Furthermore, based on the lessons drawn from the operation of the pilot projects and programmes, the researcher would also suggest that a *free* pre-departure orientation programme should be offered to Vietnamese brides from the Mekong Delta region who are involved in a cross-border marriage. The suggested pre-departure orientation programme should be run jointly by Vietnam Women's Union and NGOs, and fully or partly funded by the Vietnamese government. More importantly, the programme should be *compulsory* to Vietnamese brides who get to know their foreign husband through a third-party introduction such as a marriage brokerage agency. A suggested design for the pre-departure orientation programme is presented in **Table 7.1** (below). Besides the programme, it is also important to establish and expand more Centres for Legal Assistance, especially in areas where many local women get married with foreigners.

In order to update latest information about the programme's activities, it is also recommended that there will be a Facebook platform used to update all information to Vietnamese brides. The Facebook page, containing illustrative images, can also send out notifications about any upcoming orientation courses or activities offered by the programme. The Facebook page should also provide contact number(s) (hotline) so that Vietnamese brides can contact the organisers for a course registration or for further enquires.

Table 7.1 The suggested Pre-departure Orientation Education Programmes details

Subjects	Aims	Activities	Expected Programme Outcomes
- Vietnamese women in the Mekong Delta region who *intend* to get married with men from South Korea, Taiwan or China; - Vietnamese women in the Mekong Delta region who get married with either Korean, Taiwanese or Chinese men *after the registration* of their cross-border marriages.	- Supporting Vietnamese brides at *pre-marital* stage by providing needed knowledge and skills along with support and education activities through information related to their husband's country; - *Pre-departure* orientation to help Vietnamese brides to reduce their fears and anxiety making them feel more secure, confident and ready before moving to their husband's country.	The programme contents should include: - Language classes to teach language skills at basic level; - Basic legal provisions on cross-border marriage relations of Vietnam and of their husband's country; - Basic information about the husband's country: + location, climate, means of transport; + immigration policies and visa information; + holidays, culture and cuisine (along with cultural experience); + daily life activities and residence culture; + social welfare regime; + Agencies that support marriage immigrants. - Educating them about sexuality, pregnancy and health care and reproductive health issues; - Understand marriage, strengths and the weakness of cross-border marriages; - How to organize a happy family life, measures to deal with conflicts in a family and family economic activities; - How to deal with domestic violence; - Learn about other cases of cross-border marriages, lessons and discussion; - Offering training in occupational skills and what they should know to look for a job.	- Be equipped with basic language skills, helping them to communicate by the language spoken in their husband's country. They are also awarded a language certificate for basic language skills; - Be equipped with knowledge of basic rules on cross-border marriages; - Be equipped with basic information about their husband's country; - Know more about health care system; - Prepare better for a marital and family relations in future; - Be equipped with skills to protect themselves from domestic violence; - Be able to find a job or improve their income after coming to their husband's country.

(Source: The Researcher)

7.3 Legal Solutions

The Vietnamese Government should take more measures to ensure the well-being of Vietnamese citizens married abroad, especially women. The fact that they are going abroad and their human rights are abused will undoubtedly cause adverse impacts on the country and status of Vietnam as a sovereign nation unable to protect its citizens. To ensure the well-being of Vietnamese brides, the reformed law on marriage and family should include salient features as following: legalising the operation of commercial marriage businesses, thus allowing for more effective regulation; review the question of *consent* as a legal requirement for marriage; adding a legal requirement for (foreign) language skills as part of cross-border marriage registration; making pre-marital interviews compulsory for all cross-border marriages; and being proactive in negotiating international or regional agreements (particularly with China, South Korea and Taiwan) on issues such as mutual legal assistance treaties and ensuring consistency and uniformity on marriages requirements so as to avoid possible conflict of laws (e.g. on the question concerning the legal age for marriage).

7.3.1 Legalisation and Regulating the Operation of Commercial Matchmaking Agencies

7.3.1.1 Why?

Regardless the fact that commercial marriage brokerage agencies have been banned under Vietnamese law, they still operate illegally in Vietnam under different forms due to the high profits they can make. The laws have been amended several times with an increasing level of punishment applied to illegal agencies.[847] However, these efforts seem not to have been effective in discouraging illegal marriage brokerage activities as agencies always look for new ways to bypass the ban.

One of the methods used by commercial matchmaking agencies in Vietnam to avoid detection has been by linking up and cooperating with legalised matchmaking agencies abroad. A ban therefore seems not to be the correct or most effective solution. So rather than constantly having to amend the law to increase the level of punishment, the question should be: why does the government not make commercial marriage brokerage agencies legal and place them under the regulatory control of the state?

[847] This issue was previously discussed in Chapter 3 at Section 3.4.2.

There are good reasons why commercial marriage brokerages should be legalised in Vietnam. Firstly, the failure of the current policies which regard commercial matchmaking services as an illegal activity. Therefore, legalising commercial marriage brokers means that the government can proactively bring them out into the open and place their operations under state control, rather than passively having to deal with the consequences of their illegal activities as happens under the current law. Legalisation and regulation will make it much easier for the state to monitor the operations of these agencies.

Secondly, by legally recognising the operation of commercial match-making agencies, the government will be able to promulgate detail regulations to guide the marriage brokerage business on a wholesome basis, contributing to creating a sound marriage culture in addition to traditional methods of match-making. This helps to protect the users (migrant brides in this case) of marriage brokerage services relating to cross-border marriages. This approach also ensures that brides will be protected from being exploited by illegal agencies or traffickers. This solution can also protect brides in case these agencies cause users to suffer a loss, either intentionally or through negligence acts when performing marriage brokerage duties. Under the current system, it is difficult for the users of illegal agencies to recover any financial loss as they fear coming under investigation themselves for using an illegal agency. Overall, legalisation will help to limit the risks to Vietnamese migrant brides.

Thirdly, matchmaking brokerage activities are after all a form of businesses which form part of the service industry. The nature of the service is not bad by its nature because it helps to connect or to match the two persons who both are in need of a cross-border marriage. Marriage brokerage agencies provide valuable matchmaking services to their clients and they should be entitled to some financial reward for the service they provide. Official recognition for the work that they do will make their services both "commercial" and "professional". Regulation can also ensure that they abide by a prescribed code of conduct, including a code of ethics. Therefore, commercial match-making businesses should be legally recognised in Vietnam just as other businesses. The real question is not about the nature of this service itself, or whether it should be a non-profit or for-profit service; it is more about *how* to regulate its operation more effectively.

7.3.1.2 How Can the Proposed Reform Be Actualised?

In order to be granted a legal status in Vietnam, it is suggested that a commercial match-making agency must register its business with the local government authority where its headquarters is

located. Performing match-making services is a specific type of business due to its special characteristics, and marriage brokerage agencies thus must fulfil strict legal requirements before being granted an operating license. These requirements must include a capital requirement as part of registration or incorporation; a surety in the form of a guarantee or insurance policy for compensating users in case they incur any loss (similar to the system in South Korea); and other registration requirements such as addresses/ locations of all agency offices and identification of training programmes for agency staff.

In respect of transparency in the operation of such these agencies, it is essential to disclose their brokerage fees publicly and to publish annual reports on their business, a copy of which should be submitted to the local government. To prevent Vietnamese brides from being exploited, these brokerage agencies should be liable for not disclosing authentic, accurate and full information on the grooms' background. The personal information of grooms must include their marital history, health conditions, occupation, and criminal records (especially where it concerns domestic abuse or other forms of violence such as sexual assault). To deter fake marriages and human trafficking, the groom's background has to be very carefully vetted, checked and certified by the agency in a sworn affidavit as a legal requirement. This is extremely important because this is related to the matter of consent as well. Brides should be able to know complete and accurate details about their husbands-to-be before they decide whether or not to marry them, otherwise their agreement to the marriage cannot be said to be based on genuine consent.

On the question of a penalty if the marriage brokerage business fails to perform their legal obligations, it can be a fine or imprisonment depending on the seriousness of the violation. The punishment prescribed should correspond to each level of violation with increasing levels of severity. One of the most important things is that if the marriage brokerage businesses fails to declare the groom's background accurately and fully, and this failure results in brides being exploited, they must be subject to a harsher punishment including closure of the agency and imprisonment for the staff involved. The brides who are victims should also be able to sue the brokerage for civil damages on the grounds of misrepresentation of the groom's background.

Overall, in order to manage the operation of commercial match-making businesses effectively, the state needs to issue specific guidance on the management of the match-making business, including a code of conduct or guidelines on ethical practices. Marriage brokerage agencies must meet all legal requirements and strictly comply with the ethical guidelines and regulations

in order to operate in Vietnam. If they fail to perform their obligations as prescribed by law, they must be liable for the relevant fine or even imprisonment. As part of these legal and institutional reforms, the Vietnamese Criminal Code also needs to be amended accordingly.

7.3.2. The Matter of Consent – A Key Condition

As previously discussed, Vietnamese laws on marriage and family over time require some legal conditions to be fulfilled by any person who wishes to enter a marital relationship.[848] These conditions mainly focus on the *age* and *consent* of the parties in a marriage.[849] The current Vietnamese Law on Marriage and Family of 2014 added another condition, which is the *civil capacity* of the person who intends to get married. It is stated that:

> **Article 8. Conditions for getting married**
>
> 1. A man and a woman wishing to marry each other must satisfy the following conditions:
>
> a/ The man is full 20 years or older, the woman is full 18 years or older;
>
> b/ The marriage is voluntarily decided by the man and the woman;
>
> c/ The man and the woman do not lose the civil act capacity;
>
> d/ The marriage does not fall into one of the cases prescribed at Points a, b, c and d, Clause 2, Article 5 of this Law.

Examining the Article 8(1)(b) above, it is clear that the free will and consent of both parties should be considered as one of the determinants of the legality (essential or material validity) of a marriage. This means that the involvement of any third person or third party in obtaining a party's consent, such as the use of force or coercion through family/ parental pressure should be considered as a violation of Article 8(1)(b). The effect could be to make the marriage invalid. This means that even parents are not allowed to force their daughters or in any way try to pressurise them into making a decision on marriage.

Notwithstanding the legal requirement for *consent*, there have been many cross-border marriages without consent in Vietnam in general, and in the Mekong Delta region in particular. From the interviews conducted with 39 Vietnamese brides in the Mekong Delta region, there is evidence pointing to the fact that many brides chose to get married with foreigners based on their parents' will, or due to other forms of pressure that their parents or family members

[848] This issue was deeply examined in Chapter 3 of this thesis.
[849] *See* Article 4 of the Vietnamese Law on Marriage and Family of 1959; Article 6 of the Vietnamese Law on Marriage and Family of 1986; Article 9 of the Vietnamese Law on Marriage and Family of 2000; Article 8 of the Vietnamese Law on Marriage and Family of 2014.

imposed on them.[850] Besides that, many other cases revealed that brides decided to get married because of the influence of family members, in particular older sisters who themselves are married to foreigners. Many brides asked their parents' opinion or their permission so as to get married to foreign men.[851]

A bride's mother with two daughters who are married to Taiwanese and South Korean men confirmed their influence on their daughters' marriages.

> If we hadn't agreed, they wouldn't have got married with foreigners. *(Interview 33)*

In order to provide better understanding about the influences and the involvement of parents on their marriages in Vietnam, the researcher previously provided an overview about the nature of *Families* and *Women* in Vietnam as well as factors having significant impacts on the law on marriage and family.[852] To recap, Vietnamese families, under the influence of Confucianism, were shaped by three fundamental values and customs embedded in the Vietnamese family ethos: filial piety *(hiếu)* moral debt or gratitude *(ơn)* and merit *(đức)*. Among them filial piety is considered as "the most heavily stressed value, encompassing the duties and obligations of children toward their parents. It bound the child in an unbreakable parental relationship because of the moral debt or gratitude that he or she owed that could never be fully repaid."[853]

The implementation of the policy regarding of *consent*, which constitutes one of decisive factors of a marriage, has not received sufficient attention from Vietnamese authorities. It is evident from some of the interviews conducted as part of this research that even brides who were not willing to get married to their foreign husbands, still had their marriages taken place. Although Vietnamese law also empowers the court to annul an illegal marriage (such as a forced marriage) due to violation of Article 8(1)(b) of the Law on Marriage and Family of 2014,[854] it can be argued (based on the findings of the primary data analysis in **Chapter 6**) that the law has not always been enforced effectively. While the court in Vietnam is able to declare a marriage to be void due to violation of free and consent, there is no evidence showing that there have been any illegal marriages annulled by court so far regarding the matter of consent. This is because of the absence of any reported cases in Vietnam on this use. What we know for

[850] *See* Interviews: 14, 16, 17, 21.
[851] *See* Interviews: 7, 10, 12, 13, 16, 20, 21, 25, 27, 31, 33, 34.
[852] Chapter 3 at 3.2.2.1.
[853] McLeod and Dieu (n 169) 136.
[854] *See* Article 10 of the Vietnamese Law on Marriage and Family of 2014.

sure (from the primary data analysis) is that not every cross-border marriage stemmed from the free consent of the brides involved.

In order to check and to scrutinise the matter of consent to ensure that cross-border marriages follow the legal requirements, it is essential to include individual pre-marriage interviews at the marriage registration stage as one of the mandatory procedures. The question of consent must be raised with each party separately during the individual interview. The necessity of such interviews is examined in the next section of this thesis.

7.3.3 Pre-Marital Interviews at A Marriage Registration Should Be Compulsory

As previously discussed in **Chapter 3** (Sub-heading **3.7.2)** of this thesis, the researcher is in favour of pre-marital interviews as a means for preventing sham marriages. The interview was repealed by the law without considering any alternative approaches. Therefore, it is suggested that there should be an interview panel (rather than just one interviewer as was the case before). In addition to the registrar of marriage, the panel should also include staff from different units such as from local Women's Union, and a Public Security Officer. This variety in the interview panel membership will make the interview's purpose transparent due to the cross-supervision among the panel members. This should prevent any of the panel members from involving themselves in any malpractice or wrongdoing such as bribery and corruption.

7.3.4 Basic Knowledge of Partner's Language as A Legal Requirement

As previously seen, before the Vietnamese Law on Civil Status of 2014, it was compulsory for all marriage couples who registered their marriage in Vietnam to experience face-to-face interview(s). One of the purposes of such an interview was to clarify the understanding of both parties about each other including checking their language proficiency.[855] However, such an interview is now not a compulsory procedure under the Law on Civil Status of 2014 and there is no alternative method stipulated for checking the language proficiency of the two parties.

From the experience of Vietnamese brides in cross-border marriages, it is evident that language is one of the biggest problems.[856] Without language skills, Vietnamese brides are exposed to a higher risk of being exploited and abused. They also found it very difficult to adjust well to the new environment in their husband's country. In order to encourage a healthy marital

[855] Article 23 of the Government's Decree No. 126/2014/ND-CP dated 31 December 2014 detailing a number of articles and measures for implementation of the law on marriage and family. This Decree took its effect on 15 February 2015.
[856] *See* Chapter 6, Section 6.3.5.4.2 of this thesis.

relationship and to provide better protection to Vietnamese brides-to-be in cross-border marriages, the reformed law in Vietnam should include a legal requirement for basic language skills from the marriage parties. Accordingly, the reformed law should require both the bride and the groom who engages in a cross-border marriage to provide evidence about their basic language skills to make sure that they can communicate effectively with each other. The bride can obtain a language certificate after successfully completing the pre-departure orientation programme proposed in the first part of this chapter.

Past experience shows that pre-marital interviews seemed to require Vietnamese brides to know the language of their foreign husbands, but did not require the foreign husband to speak Vietnamese. Therefore, the reformed law should also require foreign grooms to provide certificates as evidence of having completed a basic Vietnamese language course, which can be undertaken in the form of an online course. Why is it necessary to require the foreign grooms to have a basic knowledge of Vietnamese? First, it will enable them to communicate with his wife flexibly by either their language or in Vietnamese. More importantly, it will enable them to be able to communicate with their in-laws and family members of the bride, which can lead to a more inclusive family relationship. In respect of gender equality, the effort of learning a new language should be made by both parties, the bride and the groom (rather than merely making it a requirement for women only). Secondly, if the husband can speak Vietnamese, it will facilitate them in educating their children within a multicultural and bilingual environment. This is very important in achieving successful multicultural family policies that many countries (South Korea and Taiwan included) are currently promoting.

7.3.5 The Demand for Deeper International Cooperation in Legislation to Avoid the Potential for Conflict of Laws

As stated in Chapter 3 of this thesis, Vietnam has yet not signed any Mutual Legal Assistance Treaty for legal assistance specifically relating to cross-border family matters with either China, South Korea or Taiwan - although these three countries are the main receiving nations of Vietnamese brides. In order to deal effectively with matters such as recognition of marriage, nullity, divorce, matrimonial property and civil status for children in failed cross-border marriages, the Vietnamese government should negotiate and sign with these countries either bilateral or regional agreements on the harmonisation of family law and mutual legal assistance on family matters.

A particular example is the question concerning the legal age for marriage, which differs from country to another. Although there have not been any reported court cases which the researcher could find (Vietnamese women from failed cross-border marriages tend not to go to court for divorce proceedings), clarifying the question of marital age could help to prevent any conflicts of law when such cases do come to court. The matter cannot be left to be determined on the basis of the law of the place of marriage celebration (*lex loci celebrationis*) alone, as the *lex loci celebrationis* applies only to matters relating to the formal validity of marriage. The question of age, on the other hand, is an aspect of material or essential validity which in Southeast Asian countries is governed by the law of each parties' nationality (the *lex patriae*). Take, for example, a Vietnamese bride in a cross-border marriage who at 18 years old is married to a Chinese man who is 22 years old. The marriage meets the age requirements under Vietnamese law, but not under Chinese law which requires that the brides must be at least 20 years of age. This means that the marriage could be legally recognised in Vietnam, but not in China. This example clearly demonstrates the need for harmonisation of the family laws in the region in the context of cross-border marriages.

Mutual legal assistance treaties will create a legal basis for resolving disputes and other matters arising from the marriage and family relationship, such as providing citizenship for children from cross-border marriages in their country of residence after marriage breakdown. Such agreements can also lay the foundation for closer and more effective regional cooperation in finding solutions to the problems of women trafficking, sexual exploitation and forced labour.

7.4 The Feasibility of the Suggested Solutions

As previously suggested, there are possible two solutions (practical and legal) aimed at providing better support and protection to Vietnamese brides in cross-border marriages. As a way of testing the feasibility of the suggested solutions, the researcher is going to apply them to some of the interviews which formed the basis for primary data collection for this thesis.

As previously seen in Chapter 6, most of the interviewed brides revealed that they hardly received any information or support from the Vietnamese government regarding their cross-border marriages.[857] Therefore, if the official state-run website had been introduced sooner, these brides would have had as much information as they needed. From the statistics updated on the website, they could have had a better understanding about the issues involved in a cross-

[857] *See* Chapter 6, Section 6.3.5.7 of this thesis.

border marriage and they could therefore have been able to make a better decision regarding their marriage. Brides who have experienced exploitation by marriage brokerage agencies[858], domestic violence[859], sexual abuse[860] or human trafficking[861] could also have known who and where to contact for help, or could have reported such incidents through the hotlines provided on the website.

If online Centres had been established long ago, their existence would have been known due to online publicity and they would also have been popular because of the easy access. The interviewed brides could have found it easy to access the online support and consultation services through social media at the pre-departure stage. This would have been much more convenient for them as compared to the in-person at physical Centre offices. The same can be said for pre-departure orientation programmes. Equipped with language skills, occupational skills, basic knowledge on marriage and family law, immigration policies and health issues, the interviewees could have prepared themselves better at the pre-departure stage. Such kind of support could also have helped in preventing some of the interviewed brides from being exploited by illegal marriage brokers.

In terms of legal solutions, if commercial marriage brokerage businesses were legally recognised in Vietnam sooner (rather than being banned in 2003), their operations could have been controlled better by the government. This is because these agencies would have been subject to regulation under Vietnamese law. They would have been required to provide reliable information about the grooms' backgrounds as part of mandatory legal procedures. Therefore, these agencies could not have lied to the brides about their husband's background as happened to the brides in the Mekong Delta region of Vietnam who participated in ***Interviews 16, 18*** **and** ***19***.[862] Also, if commercial match-making agencies were legalised earlier in Vietnam, this should have created the legal basis for some of these brides to claim contractual or civil damages for the harm they suffered.

Moving to language skills, if foreign language proficiency was one of compulsory requirements under Vietnamese law on marriage and family, the interviewed brides would certainly have considered more carefully before making decisions about their cross-border marriages. They

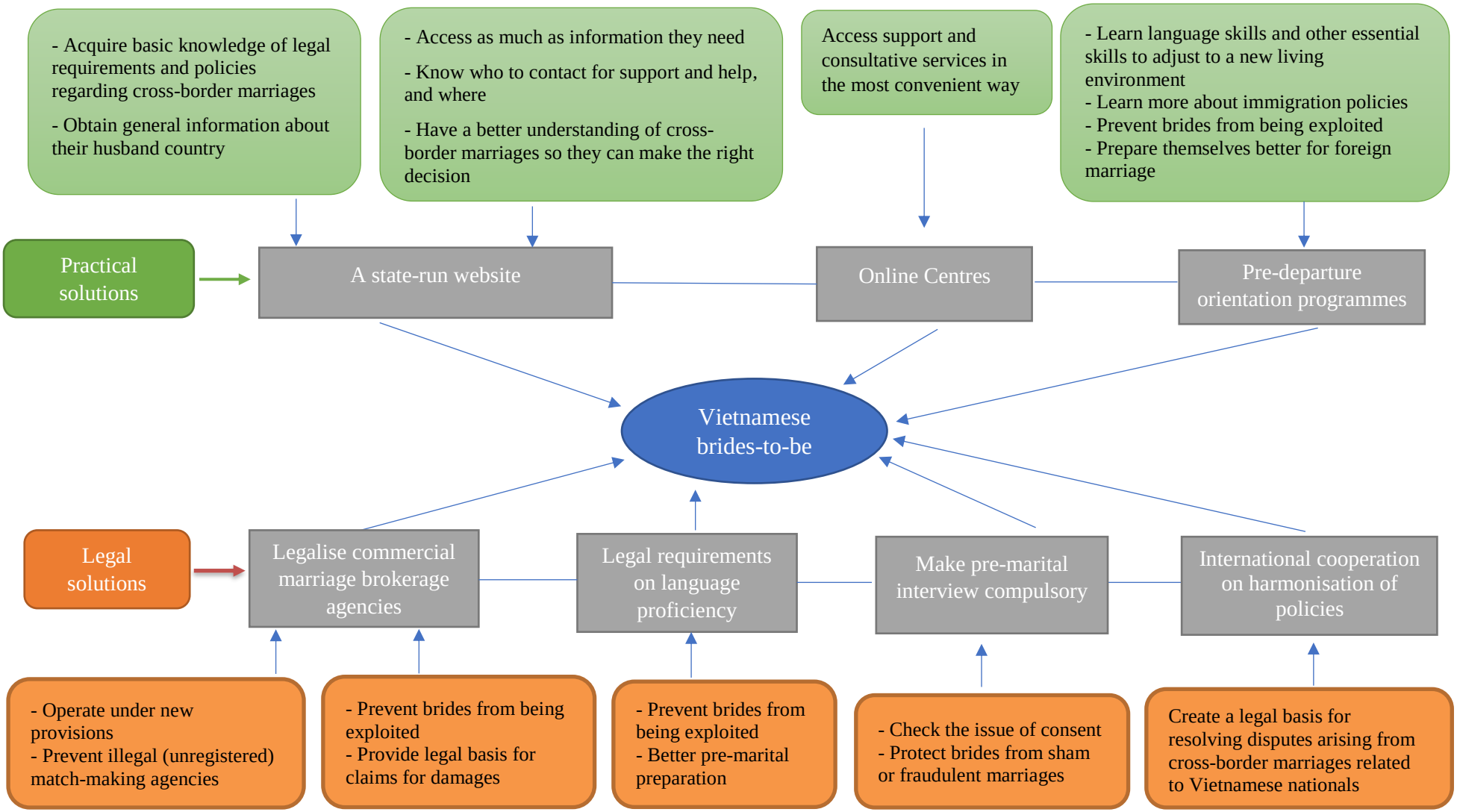
[858] Interviews: 10, 16, 18, 19, 20.
[859] Interviews: 3, 16, 18, 19, 20, 22, 24, 27, 31, 33, 35, 36.
[860] Interviews: 36 and 39.
[861] Interview 39.
[862] *See also* interviews: 10, 20, 23, and 24.

would have prepared themselves and got to know their future husbands better, rather than having to heavily depend on the illegal marriage brokers which had exploited them for profits.

Regarding pre-marital interviews conducted by a panel, rather than a single individual, this will increase the chances of discovering any misconduct. More importantly, the question of consent would be discussed properly. This can lead to any suspected cases of sham marriages or trafficking being properly investigated and stopped if need be. Applying this to the case of ***Interviewee 17*** (who was forced by her parents to get married to a Taiwanese husband against her will despite the fact that she had a Vietnamese boyfriend at the time), had the interview taken place and if the issue of consent had been properly discussed and investigated, the marriage could have been stopped since the bride had no intention of marrying the Taiwanese man. By interviewing, the interview panel can also learn more about the operations of commercial marriage brokerage agencies, and whether or not they are compliance with legal requirements and with the code of conduct and ethics.

The conceptual framework developed by the researcher and presented in **Figure 7.3** (below) illustrates more clearly how suggested solutions can provide better support and protection to Vietnamese brides in cross-border marriages.

Figure 7.3 The conceptual framework on how suggested solutions can support Vietnamese brides in cross-border marriages



(Source: The Researcher)

7.5 Research Limitations and Identification of Areas for Future Research

Given the regional focus of the research topic, which concentrated mainly on problems related to cross-border marriages in the Mekong Delta region of Vietnam, it was not possible to extend the enquiry to the whole of Vietnam. This represents a limitation in the scope of the research. My intention is to continue conducting more socio-legal/ empirical research on this topic by examining the situation in the country as whole.

A second limitation is the absence of primary data collection for the Philippines which has had similar experiences with migrant brides. In view of time limitation, it was not possible for this researcher to extend the primary data collection to the Philippines, but this is something which could be done as part of future work.

The third and final limitation is the absence of the black letter law approach (case law analysis), which this researcher intended to include as part of the methodology for the research. However, by the end of the second year of the research it had become apparent that there were no published or reported cases in Vietnam on cross-border marriages as many women from failed international marriages simply seek administrative measures to annul the marriages rather than petition for a divorce in court. This is because a formal divorce petition may require some form of cooperation or input from their foreign partners, who are often uncooperative and do not tend to respond to a divorce petition filed in a court in Vietnam. It may be the case that in future some judicial cases on the subject could come to light which can provide the researcher with the basis for expanding the methodological scope of future research and publication to include the black letter law approach. It should then be possible to explore in more detail the issue concerning the conflict of laws resulting from the different approaches adopted by bride-sending and bride-receiving countries in the Southeast Asia region on issues such as the legal age for marriage.

7.6 Research Contribution (table)

Table 7.2 represents the mapping of original contribution to particular chapters in the thesis.

Table 7.2 Contribution of the thesis

Main Contributions	Chapter	Comment
Identification of problems relating to cross-border marriages	Chapter 1 and 6	Secondary and primary data analysis on problems relating to cross-border marriages **with specific reference to the Mekong Delta region of Vietnam**.
Exploration of the link between cross-border marirages and forced marriages / women trafficking	Chapter 6	Primary data analysis and recommendations with specific examples drawn from the Mekong Delta region of Vietnam.
Proposals for law reform	Chapter 7	Proposal for reform of marriage and family law provisions of Vietnam on cross-border marriages, with specific reference to the need for a requirement for pre-marriage interviews. Proposal for the harmonisation of family law in Southeast Asian countries on issues such as the legal age of marriage with a view to avoiding possible conflict of laws.
Proposal for policy reform	Chapter 7	New suggestions relating to pre-marital and pre-departure support services such as orientation programmes. Establishment of virtual online Centres.
Proposal for reform of the institutional framework	Chapter 7	Recommendation relating to the legalisation of commercial match-making agencies. Establishment of virtual online Centres.

(Source: The Researcher)

7.7 Conclusion

In the effort to identify measures aimed at providing better support and protection for Vietnamese brides in the Mekong Delta region of Vietnam who plan to get married to men from China, South Korea, or Taiwan in the future, the researcher proposed two possible solutions (practical and legal). Putting these recommendations into practice will require a review and reform of Vietnam's current legal framework on cross-border marriages. The solutions are also expected to help to curb the international trafficking of Vietnamese women through the cover of cross-border marriages. If properly implemented, these research recommendations should be able to contribute towards giving better protection to Vietnamese brides in cross-border marriages from being exploited in utter disregard of their human rights and dignity. Moreover, to ensure their effectiveness, the suggested solutions should be implemented alongside socio-economic development programmes in the Mekong Delta region of Vietnam. Such socio-economic programmes should include those aimed at improving the levels of educational attainment of young girls in rural areas, poverty reduction, promoting gender equality and social inclusion, and priority policies aimed at creating more job opportunities and vocational training for rural female workers in the Mekong Delta region of Vietnam.

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APPENDICES

Appendix 1: Participant Information Sheet

Title of Project: **Cross-Border Marriages in the Mekong Delta Region of Vietnam: Current Legal Problems and Proposed Solutions**

Đề tài nghiên cứu: Kết Hôn Nước Ngoài tại Vùng ĐBSCL của Việt Nam: Các Vấn Đề Pháp Lý Hiện Hành và Các Giải Pháp Được Đề Xuất

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INFORMATION SHEET
(THÔNG TIN THAM GIA)

You are being invited to take part in a study about "Cross-Border Marriages in the Mekong Delta Region of Vietnam: Current Legal Problems and Proposed Solutions". Before you decide to take part in, it is important that you understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it me if you wish. Please do not hesitate to ask if there is anything that is not clear or if you would like more information.

Bạn đang được mời tham gia vào một nghiên cứu về " Kết hôn nước ngoài tại vùng ĐBSCL của Việt Nam: Các vấn đề pháp lý hiện hành và các giải pháp được đề xuất". Trước khi bạn quyết định tham gia vào nghiên cứu này, bạn cần hiểu rõ lý do tại sao nghiên cứu này được thực hiện và nó sẽ liên quan đến những vấn đề gì. Hãy dành thời gian để đọc các thông tin sau một cách cẩn thận và thảo luận với tôi nếu bạn muốn. Xin đừng ngần ngại hỏi nếu có điều gì mà bạn chưa rõ hoặc nếu bạn muốn biết thêm thông tin.

What is the study about?

The purpose of this study is to understand individual experiences of Vietnamese women in the Mekong Delta region of Vietnam who get married with either Taiwanese, Chinese or Korean men. The study will focus on difficulties and circumstances Vietnamese women faced through cross-border marriages, especially focusing on legal issues such as discrimination, domestic violence, sexual abuse, human trafficking or divorce, etc. From the information collected through this interview, researcher will outline a proposal for law reform which can support and protect Vietnamese women in such marriages better.

Vấn đề nghiên cứu là gì?

Mục đích của nghiên cứu này là tìm hiểu những kinh nghiệm cá nhân của những phụ nữ Việt Nam tại khu vực ĐBSCL của Việt Nam, kết hôn với người Đài Loan, Trung Quốc hay Hàn Quốc. Nghiên cứu này sẽ tập trung vào những khó khăn và những hoàn cảnh mà phụ nữ Việt Nam phải đối mặt qua cuộc hôn nhân xuyên biên giới, đặc biệt là tập trung vào các vấn đề pháp lý như việc phân biệt đối xử, bạo lực gia đình, lạm dụng tình dục, buôn bán người, ly hôn, v.v. Từ đó, người nghiên cứu sẽ phác thảo một đề xuất về cải cách pháp luật có thể hỗ trợ và bảo vệ phụ nữ Việt Nam trong các cuộc hôn nhân tương tự tốt hơn.

Why I have been approached?

You have been asked to participate because you are a Vietnamese woman in the Mekong Delta region and experienced getting married with a foreign husband, which falls within the scope of this research.

Tại sao tôi được tiếp cận?

Bạn được đề nghị để tham gia nghiên cứu này vì bạn là người phụ nữ Việt Nam sống tại trong khu vực ĐBSCL và có trải nghiệm kết hôn với người chồng nước ngoài, phù hợp với đối tượng nghiên cứu trong nghiên cứu này.

Do I have to take part?

It is your decision whether or not you take part. If you decide to take part you will be asked to sign a Research Consent Form, and you will be free to withdraw at any time and without giving an explanation to the researcher. A decision to withdraw at any time, or a decision not to take part, will involve no penalty whatsoever.

Tôi có cần phải tham gia không?

Tham gia hay không tham gia là do bạn quyết định. Nếu bạn quyết định tham gia, bạn sẽ được yêu cầu ký vào Phiếu Đồng Ý Tham Gia Nghiên Cứu, và bạn có quyền tự do rút khỏi nghiên cứu bất cứ khi nào mà không cần đưa ra một lời giải thích với người nghiên cứu. Bạn cũng sẽ không bị phạt nếu bạn quyết định rút khỏi nghiên cứu hay không tham gia nghiên cứu nữa.

Are there any disadvantages to taking part?

There should be no foreseeable disadvantages to your participation. If you are unhappy or have further questions at any stage in the process, please address your concerns initially to the researcher if this is appropriate.

Có bất kỳ ảnh hưởng bất lợi nào nếu tôi tham gia?

Sẽ không có ảnh hưởng bất lợi gì đối với việc tham gia của bạn. Nếu bạn không hài lòng hoặc có bất kỳ câu hỏi gì tại bất kỳ thời điểm nào, xin vui lòng nói ra với người nghiên cứu về những gì bạn quan tâm nếu thích hợp.

What will I need to do?

If you agree to take part in the research you will be asked to take part in an interview. This should take at least 30 minutes. The interview will be recorded if agreed by you.

Tôi sẽ cần phải làm gì?

Nếu bạn đồng ý tham gia vào nghiên cứu này, bạn sẽ được yêu cầu tham gia một cuộc phỏng vấn. Điều này sẽ mất không quá 30 phút thời gian của bạn. Các cuộc phỏng vấn sẽ được ghi âm lại nếu bạn đồng ý.

Will my identity be disclosed?

All information disclosed within the interview will be kept confidential and anonymised before the data is presented in any work, in compliance with the Data Protection Act and ethical guidelines and principles.

Danh tính của tôi có bị tiết lộ không?

Tất cả các thông tin được cung cấp trong cuộc phỏng vấn sẽ được giữ bí mật và ẩn danh trước khi dữ liệu được trình bày trong bất kỳ công việc gì, phù hợp với Luật Bảo Vệ Dữ Liệu và các hướng dẫn và các nguyên tắc đạo đức.

What will happen to the information?

All information collected from you during this research will be kept secure and confidential and any identifying material, such as names will be removed in order to ensure anonymity. It is anticipated that the research may, at some point, be published in a journal or report. However, should this happen, your anonymity will be ensured, although it may be necessary to use your words in the presentation of the findings and your permission for this is included in the Research Consent Form.

Điều gì sẽ xảy ra với các thông tin?

Tất cả các thông tin thu thập từ bạn trong nghiên cứu này sẽ được giữ an toàn và bất kỳ tài liệu nào mà có ghi tên sẽ được loại bỏ tên để đảm bảo nặc danh. Theo dự đoán, nghiên cứu này có thể, tại một thời điểm nào đó sẽ được công bố trên một tạp chí hoặc báo cáo. Tuy nhiên, nếu điều này xảy ra, danh tính của bạn vẫn sẽ được đảm bảo bí mật, mặc dù đôi khi cần thiết để trích dẫn những từ ngữ của bạn cho việc thuyết trình kết quả nghiên cứu, trong trường hợp đó cũng cần có ý kiến đồng ý của bạn. Sự cho phép này được thể hiện trong Phiếu Đồng Ý Tham Gia Nghiên Cứu.

What happens to the data collected?

The data collected will be treated confidentially and ONLY used for research purposes.

Điều gì sẽ xảy ra với các dự liệu được thu thập?

Các dữ liệu được thu thập được sẽ được bảo mật và CHỈ được sử dụng cho mục đích nghiên cứu.

Will I be paid for participating in the research?

Your participation in this research is voluntary and unpaid. However, you are provided a drink during the interview.

Tôi sẽ được trả tiền khi tham gia vào nghiên cứu này?

Sự tham gia của bạn vào nghiên cứu này là tự nguyện và không được trả lương. Tuy nhiên, bạn được cung cấp một thức uống trong buổi phỏng vấn.

Where will the research be conducted?

The interview will be conducted at participants' most convenient place where they feel most comfortable.

Nghiên cứu sẽ được tiến hành ở đâu?

Các cuộc phỏng vấn sẽ được tiến hành tại nơi thuận tiện nhất và thoải mái nhất đối với bạn.

Who can I contact for further information?

If you require any further information about the research, please contact me on:

Name: Thuy Le Tran

E-mail: Thuy.Tran@hud.ac.uk

Tôi có thể liên lạc với ai để biết thêm thông tin?

Nếu bạn muốn biết thêm thông tin về nghiên cứu này, xin vui lòng liên hệ với tôi:

Tên: Trần Lệ Thủy

E-mail: Thuy.Tran@hud.ac.uk

Appendix 2: Research Consent Form

RESEARCH CONSENT FORM

(PHIẾU ĐỒNG Ý THAM GIA NGHIÊN CỨU)

Title of Research: Cross-Border Marriages in the Mekong Delta Region of Vietnam: Current Legal Problems and Proposed Solutions
Đề tài nghiên cứu: Kết Hôn Nước Ngoài tại Vùng ĐBSCL của Việt Nam: Các Vấn Đề Pháp Lý Hiện Hành và Các Giải Pháp Được Đề Xuất

Please read and complete this form carefully. If you are willing to participate in this study, circle the appropriate responses and sign and date the declaration at the end. If you do not understand anything and would like more information, please ask.

(Xin vui lòng đọc và điền vào mẫu này một cách cẩn thận. Nếu bạn sẵn sàng tham gia vào nghiên cứu này, vui lòng chọn câu trả lời thích hợp và ký tên và ghi ngày tháng năm ở phần cuối. Nếu bạn không hiểu bất cứ điều gì và muốn biết thêm thông tin, vui lòng đặt câu hỏi.)

- I have read and fully understood the Participant Information Sheet related to this research, and have had the opportunity to ask questions. **YES / NO** *ĐỒNG Ý/ KHÔNG*

  (Tôi đã đọc và hiểu đầy đủ Thông Tin Tham Gia liên quan đến nghiên cứu này, và đã có cơ hội để đặt câu hỏi.) **YES / NO**

- I understand that my participation is voluntary and that I am free to withdraw from this study at any time, without giving a reason. *ĐỒNG Ý/ KHÔNG*

  (Tôi hiểu rằng sự tham gia của tôi là tự nguyện và tôi được quyền tự do rút khỏi nghiên cứu này bất cứ khi nào, mà không cần đưa ra lý do.)

- I understand that all information about me will be treated in strict confidentiality and that I will not be named in any written work arising from this study. **YES / NO** *ĐỒNG Ý/ KHÔNG*

  (Tôi hiểu rằng tất cả các thông tin về tôi sẽ được giữ bí mật và tôi sẽ không bị nêu tên trong bất kỳ các tài liệu văn bản nào phát sinh từ nghiên cứu này.)

- I agree that the interview will be recorded **YES / NO** *ĐỒNG Ý/ KHÔNG*

  (Tôi đồng ý rằng cuộc phỏng vấn này sẽ được ghi âm lại)

- I understand that anything I say will be treated confidentially and ONLY used for research purposes. No person other than the researcher and her facilitator will have access to the information provided. **YES / NO** *ĐỒNG Ý/ KHÔNG*

(Tôi hiểu rằng bất cứ điều gì tôi nói sẽ được bảo mật và CHỈ được sử dụng cho mục đích nghiên cứu. Không ai khác hơn là người nghiên cứu và người hỗ trợ của người nghiên cứu sẽ có quyền truy cập vào các thông tin được cung cấp.)

- I give permission for my words to be quoted (by use of pseudonym) **YES / NO**

  ĐỒNG Ý/ KHÔNG

  (Tôi cho phép những lời của tôi được trích dẫn lại (bằng cách sử dụng bút danh)

I freely give my consent to participate in this research study and have been given a copy of this form for my own information.

(Tôi tự nguyện đồng ý để tham gia vào nghiên cứu này và đã nhận được một bản sao của giấy này cho thông tin của riêng tôi.)

Name of participant	Date	Signature
(Họ và tên người tham gia)	*(Ngày, tháng, năm)*	*(Chữ ký)*
Name of researcher	Date	Signature
(Họ và tên người nghiên cứu)	*(Ngày, tháng, năm)*	*(Chữ ký)*

Appendix 3: Translator Qualification

Appendix 4: Interview Guide

The interviews are designed under semi-structured interview form by which researcher relies on an interview question guide, which is a set of prepared questions that cover several aspects of the topic and themes for the Vietnamese female respondents to address. Semi-structured interviewing is flexible enough to allow questions to be substantially modified for different individuals and thus it is possible for the researcher to improvise follow-up questions as interview takes place. It will take at least 30 minutes for each interview either in-person interview or Skype-via interview.

1. Before the Interview (Introduction)

- Researcher: Make an introduction about herself and provide Participant Information Sheet to a participant. If the participant is happy to take part in the study, then the researcher will give the Research Consent Form to the participant to sign before the interview.

- Participant: Give their consent to participate in the interview and also consent to the interview to be recorded (if agreed).

- Researcher asks the participant: Are you ready? If the participant says YES, the interview commences.

2. Interview

Before marriage:

1/ When did you get married? What was your job at that time?

2/ Which country does your husband come from? (Taiwan/China/South Korea)

3/ Why did you choose to get married with a foreign man rather than a Vietnamese man? What was the main factor which influenced your choice of a foreign partner?

4/ How did you get to know your husband? (by yourself, by introduction of someone else or by a commercial matchmaking agency?)

5/ How long had you known your partner before getting married?

6/ How did you get information about your future husband and do you think that you got enough information about him that you needed to know or not? If not, do you think that you took a risk?

7/ Before getting married, did you do any research about the culture, customs, law, language, etc. in the country of your future husband?

8/ What is the most important thing you needed to know before getting married?

9/ How did you prepare yourself before marriage? (language, law, culture, custom)

10/ Are there any individuals, organisation or support services in Vietnam from which you learnt about how and what to do in order to prepare before marriage?

11/ Could you speak the language of your future husband and could he speak Vietnamese? How did you communicate with him?

12/ Was decision to get married with a foreigner made by you or someone else? (your parents/relatives)

During marriage:

1/ After marriage, did you move to live in your husband's country or still live in Vietnam?

2/ Do you live with your husband only or with his family?

3/ Do you have any Vietnamese friends or relatives living in your husband's country?

4/ What are the difficulties facing you after marriage/migrating? How did you address them? Can you tell me more details about that?

5/ Have you ever suffered one of these issues: discrimination, domestic violence, sexual abuse, etc.? How often? How did you cope with it?

6/ Do you know whom you can contact with if there is something wrong happen? (E.g: police, Vietnamese Embassy, Vietnamese society?) Did you get their contact details?

7/ Do (did) you often contact your family in Vietnam and do (did) they give you moral support?

8/ Did you find any job in your husband's country?

9/ How many children do you have now?

10/ Do you think the government in your husband's country supports foreign brides? And if so, in what way?

11/ How about Vietnamese government? Is there any action the Vietnamese government took to support you after marriage?

12/ If you have a choice between living in Vietnam and living in your husband's country, which country will you prefer to live in? And why?

13/ Do you think that you have had a happy marriage? Do you feel satisfy with your choice? Why?

14/ Is there anything else you will like to share?

After divorce (if any)

1/ What was the reason which made you decide to get separated/ divorced?

2/ What difficulties have you encountered as a single mum?

3/ After separating/ divorce, did you return to Vietnam or still stay in Taiwan/China/South Korea? Why?

4/ Did you and your children face any problems after coming back to Vietnam? (language, culture, law, living environment, education, job, nationality difference, etc)

5/ Is there any support from the government to deal with these problems?

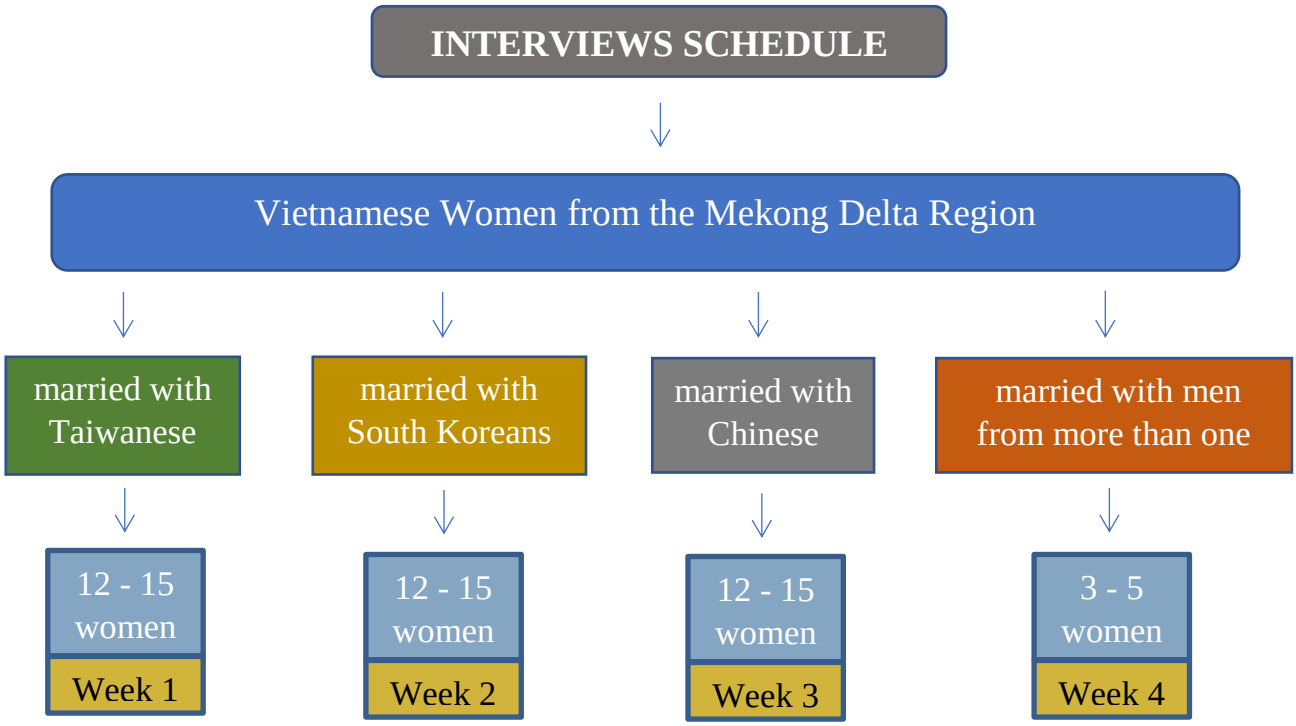
6/ Is there anything else you will like to share?

3. After the Interview

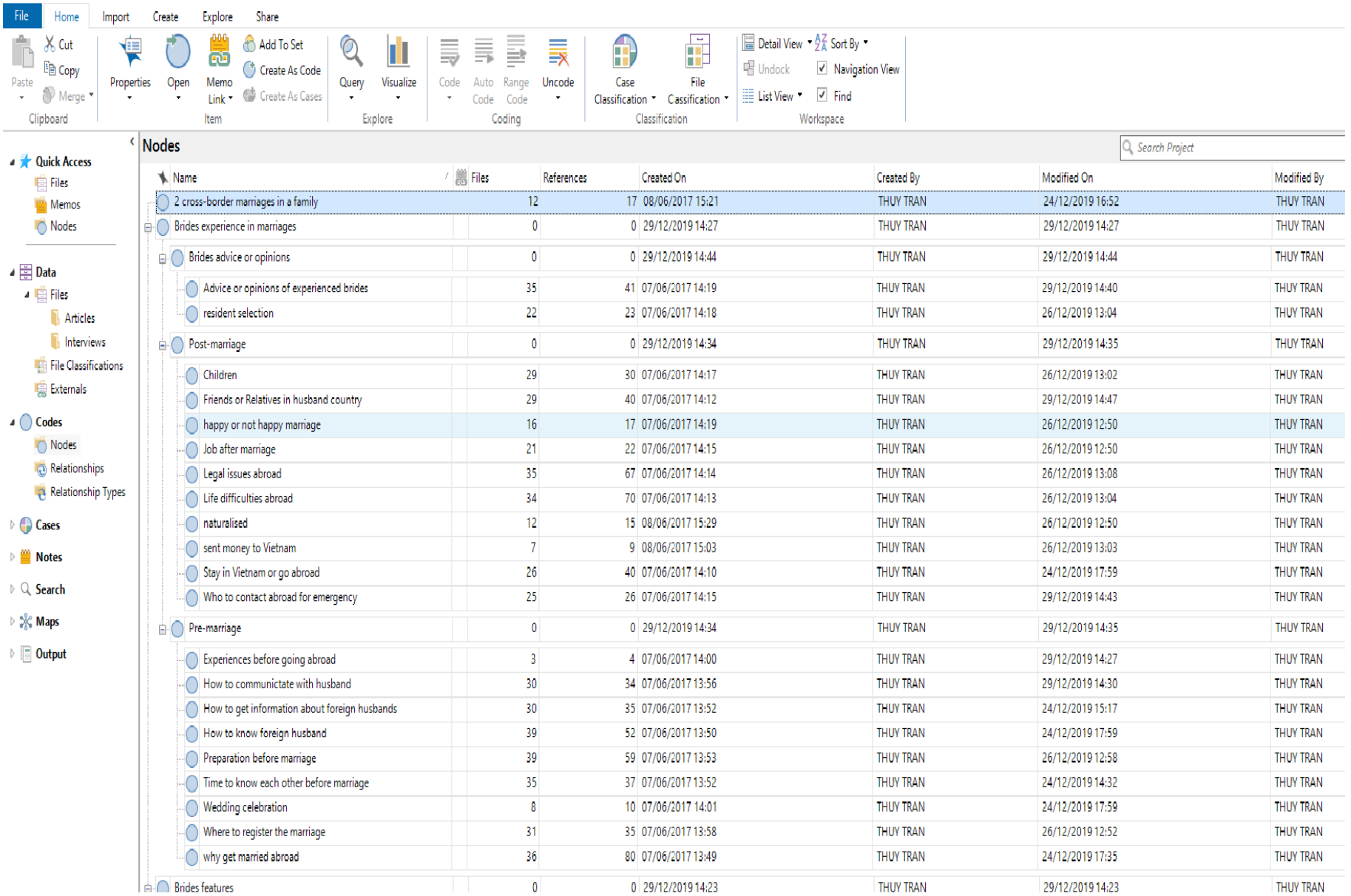
Researcher: Thank you very much for spending time for the interview today. I really appreciate your time and the experiences you shared with me and they are really useful to my research. I really wish you and your family all the best!

Thank you very much!

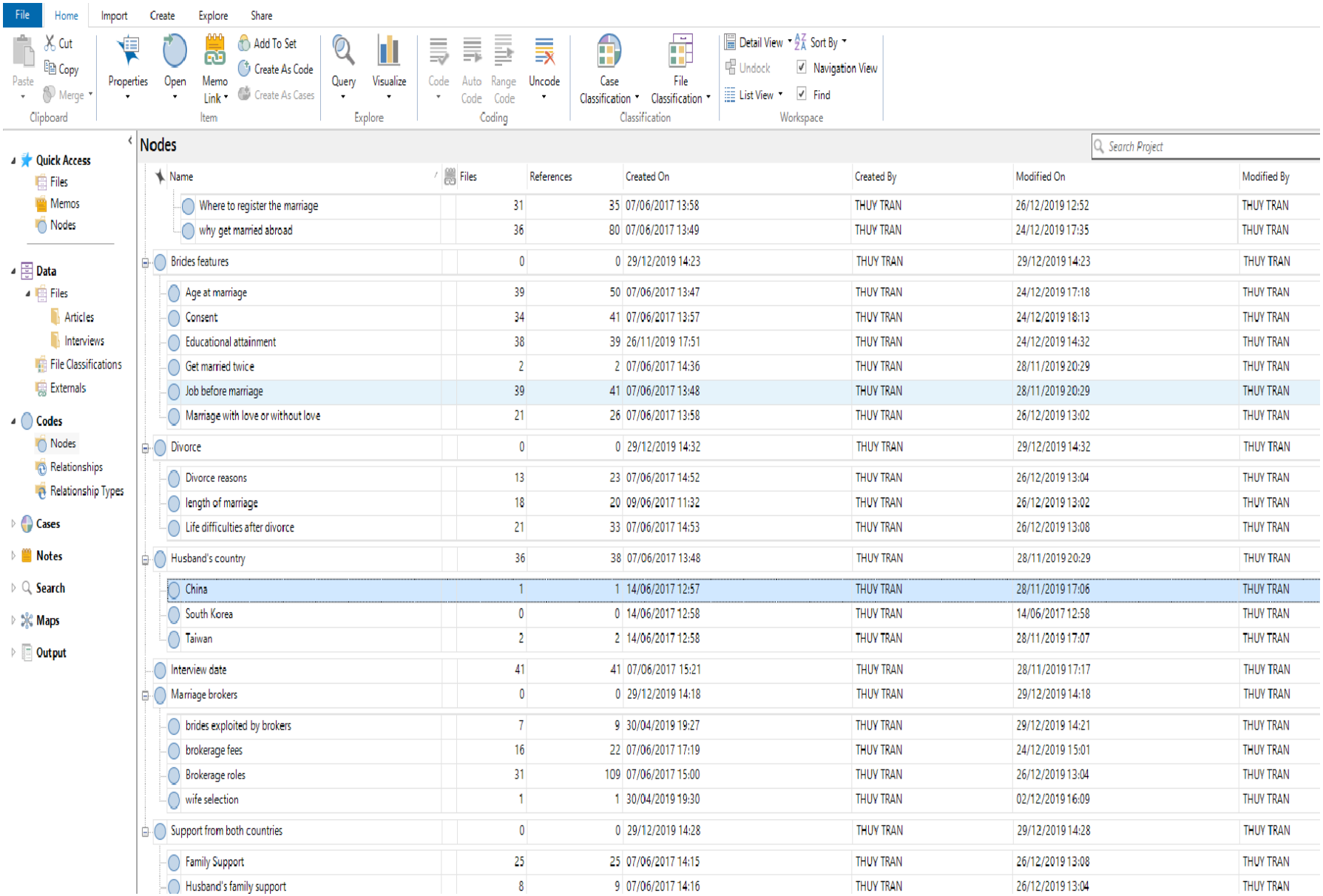
Appendix 5: Interview Schedule



Appendix 6: NVivo Screenshots



Name	Files	References	Created On	Created By	Modified On	Modified By
2 cross-border marriages in a family	12	17	08/06/2017 15:21	THUY TRAN	24/12/2019 16:52	THUY TRAN
Brides experience in marriages	0	0	29/12/2019 14:27	THUY TRAN	29/12/2019 14:27	THUY TRAN
Brides advice or opinions	0	0	29/12/2019 14:44	THUY TRAN	29/12/2019 14:44	THUY TRAN
Advice or opinions of experienced brides	35	41	07/06/2017 14:19	THUY TRAN	29/12/2019 14:40	THUY TRAN
resident selection	22	23	07/06/2017 14:18	THUY TRAN	26/12/2019 13:04	THUY TRAN
Post-marriage	0	0	29/12/2019 14:34	THUY TRAN	29/12/2019 14:35	THUY TRAN
Children	29	30	07/06/2017 14:17	THUY TRAN	26/12/2019 13:02	THUY TRAN
Friends or Relatives in husband country	29	40	07/06/2017 14:12	THUY TRAN	29/12/2019 14:47	THUY TRAN
happy or not happy marriage	16	17	07/06/2017 14:19	THUY TRAN	26/12/2019 12:50	THUY TRAN
Job after marriage	21	22	07/06/2017 14:15	THUY TRAN	26/12/2019 12:50	THUY TRAN
Legal issues abroad	35	67	07/06/2017 14:14	THUY TRAN	26/12/2019 13:08	THUY TRAN
Life difficulties abroad	34	70	07/06/2017 14:13	THUY TRAN	26/12/2019 13:04	THUY TRAN
naturalised	12	15	08/06/2017 15:29	THUY TRAN	26/12/2019 12:50	THUY TRAN
sent money to Vietnam	7	9	08/06/2017 15:03	THUY TRAN	26/12/2019 13:03	THUY TRAN
Stay in Vietnam or go abroad	26	40	07/06/2017 14:10	THUY TRAN	24/12/2019 17:59	THUY TRAN
Who to contact abroad for emergency	25	26	07/06/2017 14:15	THUY TRAN	29/12/2019 14:43	THUY TRAN
Pre-marriage	0	0	29/12/2019 14:34	THUY TRAN	29/12/2019 14:35	THUY TRAN
Experiences before going abroad	3	4	07/06/2017 14:00	THUY TRAN	29/12/2019 14:27	THUY TRAN
How to communictate with husband	30	34	07/06/2017 13:56	THUY TRAN	29/12/2019 14:30	THUY TRAN
How to get information about foreign husbands	30	35	07/06/2017 13:52	THUY TRAN	24/12/2019 15:17	THUY TRAN
How to know foreign husband	39	52	07/06/2017 13:50	THUY TRAN	24/12/2019 17:59	THUY TRAN
Preparation before marriage	39	59	07/06/2017 13:53	THUY TRAN	26/12/2019 12:58	THUY TRAN
Time to know each other before marriage	35	37	07/06/2017 13:52	THUY TRAN	24/12/2019 14:32	THUY TRAN
Wedding celebration	8	10	07/06/2017 14:01	THUY TRAN	24/12/2019 17:59	THUY TRAN
Where to register the marriage	31	35	07/06/2017 13:58	THUY TRAN	26/12/2019 12:52	THUY TRAN
why get married abroad	36	80	07/06/2017 13:49	THUY TRAN	24/12/2019 17:35	THUY TRAN
Brides features	0	0	29/12/2019 14:23	THUY TRAN	29/12/2019 14:23	THUY TRAN



Name	Files	References	Created On	Created By	Modified On	Modified By
Where to register the marriage	31	35	07/06/2017 13:58	THUY TRAN	26/12/2019 12:52	THUY TRAN
why get married abroad	36	80	07/06/2017 13:49	THUY TRAN	24/12/2019 17:35	THUY TRAN
Brides features	0	0	29/12/2019 14:23	THUY TRAN	29/12/2019 14:23	THUY TRAN
Age at marriage	39	50	07/06/2017 13:47	THUY TRAN	24/12/2019 17:18	THUY TRAN
Consent	34	41	07/06/2017 13:57	THUY TRAN	24/12/2019 18:13	THUY TRAN
Educational attainment	38	39	26/11/2019 17:51	THUY TRAN	24/12/2019 14:32	THUY TRAN
Get married twice	2	2	07/06/2017 14:36	THUY TRAN	28/11/2019 20:29	THUY TRAN
Job before marriage	39	41	07/06/2017 13:48	THUY TRAN	28/11/2019 20:29	THUY TRAN
Marriage with love or without love	21	26	07/06/2017 13:58	THUY TRAN	26/12/2019 13:02	THUY TRAN
Divorce	0	0	29/12/2019 14:32	THUY TRAN	29/12/2019 14:32	THUY TRAN
Divorce reasons	13	23	07/06/2017 14:52	THUY TRAN	26/12/2019 13:04	THUY TRAN
length of marriage	18	20	09/06/2017 11:32	THUY TRAN	26/12/2019 13:02	THUY TRAN
Life difficulties after divorce	21	33	07/06/2017 14:53	THUY TRAN	26/12/2019 13:08	THUY TRAN
Husband's country	36	38	07/06/2017 13:48	THUY TRAN	28/11/2019 20:29	THUY TRAN
China	1	1	14/06/2017 12:57	THUY TRAN	28/11/2019 17:06	THUY TRAN
South Korea	0	0	14/06/2017 12:58	THUY TRAN	14/06/2017 12:58	THUY TRAN
Taiwan	2	2	14/06/2017 12:58	THUY TRAN	28/11/2019 17:07	THUY TRAN
Interview date	41	41	07/06/2017 15:21	THUY TRAN	28/11/2019 17:17	THUY TRAN
Marriage brokers	0	0	29/12/2019 14:18	THUY TRAN	29/12/2019 14:18	THUY TRAN
brides exploited by brokers	7	9	30/04/2019 19:27	THUY TRAN	29/12/2019 14:21	THUY TRAN
brokerage fees	16	22	07/06/2017 17:19	THUY TRAN	24/12/2019 15:01	THUY TRAN
Brokerage roles	31	109	07/06/2017 15:00	THUY TRAN	26/12/2019 13:04	THUY TRAN
wife selection	1	1	30/04/2019 19:30	THUY TRAN	02/12/2019 16:09	THUY TRAN
Support from both countries	0	0	29/12/2019 14:28	THUY TRAN	29/12/2019 14:28	THUY TRAN
Family Support	25	25	07/06/2017 14:15	THUY TRAN	26/12/2019 13:08	THUY TRAN
Husband's family support	8	9	07/06/2017 14:16	THUY TRAN	26/12/2019 13:04	THUY TRAN

Appendix 7: Interview sample with a bride married to a Chinese man

Interview 1

(conducted in Hau Giang Province, Vietnam on 05 February 2017)

A: The researcher

B: The participant

Before marriage:

A: When did you get married? What was your job at that time?

B: *I got married in 2015 when I was 23. I had just graduated from a college at that time.*

A: Which country does your husband come from?

B: *He is from China.*

A: Why did you choose to get married with a foreign man rather than a Vietnamese man? What was the main factor which influenced your choice of a foreign partner?

B: *The main factor was about my family's financial problem. Secondly, at that time I had no lover in Vietnam. Love is less important than my financial issues and life. My parents afforded my tuition fees at schools and then I had a student loan. After graduation, I was unemployed. Thus, I wanted to get married abroad so that I could pay my loans and earn some capital for my future business.*

A: How did you get to know your husband?

B: *My aunt has a friend who introduced me to my husband. The friend is working for a match-making agency.*

A: How long had you known your partner before getting married?

B: *After the first meeting, we agreed to get married and did it within a short time.*

A: How did you get information about your future husband and do you think that you got enough information about him that you needed to know or not? If not, do you think that you took a risk?

B: *All information about my husband was from the broker. She told me that my husband was 34 years old and was working for a shoes company in China. He has a proper house. He has an older brother. In general, I just got to know my husband through what the broker told me. I had no knowledge about his personal background.*

A: Before getting married, did you any do research about the culture, customs, law, or language in China?

B: *Before getting married, I couldn't speak Chinese. About Chinese culture, I learnt from news and television. I found Chinese and Vietnamese cultures have something in common. So, I felt fine. There is not a big difference.*

A: How did you prepare yourself before marriage?

B: *Regarding language, I bought a book and I studied by myself.*

A: Did you attend any Chinese course before getting married?

B: *No. Just self-studied. I didn't attend any Chinese course.*

A: Are there any individuals, organisation or support services in Vietnam from which you learnt about how and what to do in order to prepare before marriage?

B: *No. There is no support from the local government.*

A: Could your husband speak Vietnamese? How did you communicate with him?

B: *No, he couldn't. I had a bilingual book which has on one side Vietnamese and the other is in Chinese. If I want to express something, say something, I look up the book, show what I mean and my husband then look at the other side to see what it means.*

A: Was decision to get married with a foreigner made by you or someone else?

B: *I made the decision, only me.*

A: Did your parents have any opinions about your marriage?

B: *My parents said that I was then mature enough to make my own decision. They let me make my own decision.*

A: Did you love your husband at that time?

B: *No, not at first. I had no feelings for him. But later on, he treats me well and I love him.*

A: Did you register your marriage in Vietnam or China?

B: *When I arrived in China, I went to Fuzhou City to register my marriage. At that time my Chinese is still not good. I also submitted my confirmation letter about my marital status issued by Vietnamese authority.*

A: During the time when you came to China but not registered for the marriage yet, did you worry about anything that may happen?

B: *I was worried, very much.*

A: What made you feel worried?

B: *I was worried because I did hear from other people that in China, there are many victims of human trafficking. I heard about that but because of my family's poor financial situation, I decided to go to China, taking the risk of my life. I remember at that time; a broker took me to a hotel and told me that they were going to send me to China with my husband. That night, I couldn't sleep, thinking about what might happen. I tried to stay awake that night to make sure that they would not harm me, not sell me. I prayed for the whole night that they would not sell me.*

A: How is about your wedding party? Was it held in Vietnam or China?

B: *The wedding was organised in Vietnam. But we have another wedding party in China after the marriage registration.*

A: Could you tell me more details about the party and who paid for the cost?

B: *In Vietnam, my husband gave an amount of money to the broker who kept all the money, I had no idea about how much it was. The broker gave my parents more than 10 million Dong (around £350) for travel expenses. The weeding party was held in Ho Chi Minh City, thus my parents had to travel from my hometown to the City. In China, my husband and his family bear the party cost.*

A: You mentioned about your aunt who introduced you to your husband?

B: *My aunt is the first person who introduced me to a marriage brokerage agency in Ho Chi Minh City which is a professional match-making agency. The woman working for this agency introduced me to my husband.*

A: How?

B: *When I came to meet the agency, they introduced to me to some information such as which country the husband comes from, how old he is. If I like, they will arrange a first meeting, if not, it is fine. No pressure. It is about my choice.*

A: So, you mean the agency provides basic information about the husband and then you will decide whether you want to meet him or not?

B: *Yes.*

A: What happened at the first meeting?

B: *At the meeting, a female interpreter appointed by the brokerage agency helped us to communicate. She asked if I and him like each other. Both of us agreed to get married. Then we had a photo taken together for memory. Then we started preparing paper documents for marriage registration.*

A: Is the interpreter working for the brokerage agency?

B: *Actually, the interpreter is the woman, the broker I did mention.*

A: In the meeting, did you see other Vietnamese brides or just only you?

B: *Only me.*

During marriage:

A: Ok now we will move to the time after you got married. So, after marriage, did you move to live with your husband or still live in Vietnam?

B: *After the wedding party, I moved to live in China.*

A: Do you live with your husband only or with his family?

B: *I am living with my in-laws including my parents-in-law and an older brother.*

A: Do you have any Vietnamese friends or relatives living in China?

B: *In my area where I am living, I saw many Vietnamese women.*

A: Do they come from the Mekong Delta region like you?

B: *Yes.*

A: What were the difficulties facing you after marriage? How did you address them?

B: *First, it was about language. I couldn't speak Chinese much and then I studied by myself. Sometimes, I could not understand or pronounce wrongly, my in-laws help to correct me. I made a lot of efforts to improve my langue skills.*

A: Did you attend any language course in China?

B: *No, just self-studied.*

A: Besides language, what else made you concerned? Have you ever suffered one of these issues: discrimination, domestic violence, sexual abuse? How often? How did you cope with it?

B: *None. I think Chinese policies are good at protecting foreign women.*

A: Do you know who to contact if there is something wrong happen? Example: police, Vietnamese Embassy, Vietnamese society in China? Do you have their contact details?

B: *At first, I will contact to the nearest local police station. If they cannot solve the issue, I may need to contact the Embassy of Vietnam in China. I know how to contact them.*

A: Do (did) you often contact your family in Vietnam and do (did) they give you moral support?

B: *Yes. Very frequently. Before, I used WeChat to make calls, I called almost every day whenever I misses my family in Vietnam.*

A: Do you find any job in your husband's country?

B: *Yes, I found a part-time job in a shoes company. The job is part-time and the working time is flexible.*

A: Does your husband's family support you when you work out?

B: *Yes, they supported me.*

A: How many children do you have now?

B: *Not yet.*

A: Do you think the government in China have any support to foreign brides? And if so, in what way?

B: *Yes. I have no idea about Chinese laws. But I found that Vietnamese brides who suffered domestic violence always get support and help from local policemen. They may help to take these brides back home to Vietnam in a safe way. If not, they may use social network to look for relatives of these brides for help.*

A: In China, is there any language training course for foreign brides?

B: *I don't know.*

A: How about Vietnamese government? Is there any action the Vietnamese government took to support you after marriage?

B: *None.*

A: If you have a choice between living in Vietnam and living in China, which country will you prefer to live in? And why?

B: *I prefer living in China. If my husband is Vietnamese, I will live in Vietnam otherwise, I will live where he is living. All of what my husband did is for me, he takes care of me and I can feel that.*

A: Do you think that you have a happy marriage? Do you feel satisfied with your choice? Why?

B: *Yes. I am happy and satisfied with my marriage.*

A: Is there anything else you would like to share?

B: *If you want to get married with a foreigner, it is important that you know the broker well. I will not recommend marriages via match-making agency. The broker should be honest with the brides and should not hide facts about the husbands. When they are honest about husbands' information, the brides won't be disappointed. I know some Vietnamese brides who are so innocent that they could be cheated. Agencies often talk about life abroad like a heaven though the fact is not. These brides will end up being disappointed. Regarding Vietnamese brides, I have advice for them. If you decide to get married abroad, you should be decisive and loyal. Love your husband! If you don't love your husband, your marriage life will be more difficult.*

A: Thank you very much for spending your time!

Appendix 8: Interview sample with a bride married to a Korean man

Interview 14

(conducted in Can Tho City, Vietnam on 10 February 2017)

A: The researcher

B: The participant

Before marriage:

A: When did you get married?

B: *I got married around the end of 2012 when I was 20 years old.*

A: What was your job at that time?

B: *At that time, I was a worker in a clothing company.*

A: Which country does your husband come from?

B: *South Korea.*

A: Why did you choose to get married with a foreign man rather than a Vietnamese man? What was the main factor which influenced your choice of a foreign partner?

B: *My mother asked me to stop working in the clothing company and get married to a foreigner. I wanted to improve my family's finance so I decided to get married to a foreigner, following my mother's advice.*

A: How did you get to know your husband?

B: *Through a marriage brokerage agency in Ho Chi Minh City. There was a group of Vietnamese women around 3-4 or 5-6 for each group who will go to "greet" a foreign delegation. A foreign man then selects one among the women in each group. At first, I didn't intend to get married with a Korean man. I wanted to get married with a Taiwanese man instead because I have an aunt in Taiwan. But when greeting the foreign delegation, there was no Taiwanese delegation, just Korean one. So, then I called my mum to ask for her opinion. She said that it was alright to get married with a Korean man.*

A: How did they select a wife?

B: *They looked at the brides' body, physical appearance and selected one. They I mean Vietnamese women and foreign men couldn't communicate because of language barrier.*

A: Do you know why your husband wants to get married with a Vietnamese woman, but not a Korean woman?

B: *He said that South Korean women prefer getting married with American men. Many Korean women when they are young they do plastic surgery to become more beautiful. They have high*

demands. Thus, Korean men can't meet their demands. So, they have to come to Vietnam to look for Vietnamese brides.

A: How long had you known your husband before getting married?

B: *2 days after the first meeting, we had a weeding party. After that, it took 2 more months for marriage registration and visa application before I could go to South Korea.*

A: Did you register your marriage in Vietnam?

B: *Yes. At the Department of Justice.*

A: How did you get information about your future husband and do you think that you got enough information about him that you needed or not? If not, do you think that took a risk?

B: *All of information about my husband was provided by the interpreter appointed by the brokerage agency. It was out of my control. But after I came to South Korea, I found that I was lied to. For instance, the broker told me that he was living in Gangneung, a big city in South Korea and he earns thousands of dollars monthly. But he didn't earn that much. Moreover, they hid from me information about his health problems. I was told that he was healthy. There was nothing to be concerned about his health. But after I came to South Korea, I found that he is unhealthy because he has to go to check his health monthly. But I don't know what is wrong with him.*

A: Do you know how much your husband pay for the brokerage fees to marry you?

B: *He said that the broker got from 300-400 million VND per bride. However, after that the broker gave my parents $200 only (around 4 million VND). At that time, I didn't know Korean, so I just received the amount they gave.*

A: Before getting married, did you do any research about the culture, customs, law, or language in South Korea?

B: *I know a bit Korean culture through movies. I had learnt Korean for 2 months before greeting the Korean delegation. Most of the time, I self-studied until I came to South Korea.*

A: Are there any individuals, organisation or support services in Vietnam from which you learnt about how and what to do in order to prepare before marriage?

B: *There was no support neither from the local government nor the local women's union.*

A: Was decision to get married with a foreigner made by you or someone else?

B: *By my mother's opinions, but I also agreed to do that.*

A: Did you have love for that man before marriage?

B: *No. We got to know each other within a short period of time, so there was no love at all.*

During marriage:

A: Ok now let's talk about your life after marriage. Do you have any Vietnamese friends or relatives living in your husband's country?

B: *I have no friend in South Korea. But after coming there, I joined in a Multicultural Family Support Centre where I met many Vietnamese women. Besides that, I met many brides from China and the Philippines.*

A: What are the difficulties facing you after marriage? How did you address them? Can you tell me more details about that?

B: *I first came to South Korea in winter time so it was difficult for me because of the weather. I also encountered a language barrier.*

A: Have you ever suffered one of these issues: discrimination, domestic violence, sexual abuse? How often? How did you cope with it?

B: *I didn't suffer these problems. However, 2 months after going to South Korea, I decided to get divorced. After that, I returned Vietnam to live with my parents. At present, I have a divorce certificate.*

A: What is the main reason behind the divorce?

B: *I think partly because we have a 10-year age gap and language barrier which resulted in misunderstandings. My-ex couldn't speak Vietnamese and he didn't trust me. He didn't allow me to use my mobile phone, or contact anyone outside. Besides that, because of living in a new country, I underwent stress.*

A: Do you know why your-ex didn't trust you?

B: *He said that he read news and knew that many Vietnamese women, after going to South Korea through marriage, left their husbands. So, he doesn't want that to happen to him.*

A: Can you tell me more details about the stress that you suffered?

B: *Partly because I couldn't speak Korean and because I couldn't eat Korean food. Moreover, when coming to South Korea, I went together with 4 other Vietnamese brides. After coming to South Korea, their lives in South Korea were happy and they share their happiness on Facebook while my life was not so happy as theirs. Like one of them posted on Facebook that her Korean husband bought a new mobile phone for her. I was afraid to be compared with other brides. So, it was so stressful. I contacted the interpreter who interpreted for me when I first met my-ex. I told her about my stress then she told me I should talk to my husband. Conflicts happened and we argued with each other a lot. So, I decided to get divorced and returned Vietnam. It was about early of 2013.*

A: Do you know who to you contact if there is something wrong happen? (E.g: police, Vietnamese Embassy, Vietnamese society?) Did you get their contact details?

B: *I don't know.*

A: Did you find any job in your husband's country?

B: *No. I had been there for 2 months only. Normally, Vietnamese women, especially those who have unhappy marriage life in South Korea often leave their husband, move out and escape to look for a job after their visa expired. They try to earn as much as possible and then send money back to Vietnam. But if they are arrested, it means there is no chance to return to South*

Korea again. I am aware of that so, I decided not to escape. Instead, I got divorced legally so that I still have the possibility to come back South Korea if I wish.

A: Do you think the South Korea government supports foreign brides? If so, in what way?

B: *I just had been there 2 months and got divorced after that, so I don't know. However, after getting divorced, my-ex gave me 10,000 Won to buy a flight ticket back to Vietnam because I even couldn't afford the flight ticket. Actually, I felt sorry for myself. When I got divorced, the broker asked my-ex to take back all of the jewelleries he gave me in the wedding party. Actually, at first, I didn't want to get divorced. Just because I got stressful, so I wanted to return Vietnam for a while to release stress. But my-ex's family did not allow me to go. They even didn't allow me to go out. I felt controlled, no freedom. So, I decided to get divorced.*

A: How about Vietnamese government? Is there any action Vietnamese government made to support you after marriage?

B: *There is no support.*

A: If you have a choice between living in Vietnam and living in South Korea, which country will you prefer to live in? And why?

B: *I prefer living in Vietnam because life in Vietnam is less stressful than life in South Korea.*

A: At present, do you plan to get married with a foreigner again?

B: *Yes. But if any, I want to get married with a Taiwanese man rather than a Korean.*

A: Is there anything else you would like to share?

B: *I think I got married when I was still very young, so my thoughts were not matured enough. And I couldn't handle the pressure that I suffered in South Korea, so it was easy to give up. But now when thinking about what happened, I feel a bit regretful because I was not patient enough. My advice to other Vietnamese women who are going to get married abroad is please be mentally prepared before getting married because you may encounter a lot of pressure.*

A: Thank you very much for the interview! I hope you have a better and happier life in future!

Appendix 9: Interview sample with a bride married to a Taiwanese man

Interview 16

(conducted in Hau Giang Province, Vietnam on 11 February 2017)

A: The researcher

B: The participant

Before marriage:

A: When did you get married?

B: *I got married in 2004 when I was 18 years old.*

A: What was your job at that time?

B: *At that time, I was jobless. After graduating from secondary school, I stayed at home with my parents and helped them some housework.*

A: Can you tell me a bit about why you stopped going to school early?

B: *My parents have 5 children, 4 daughters and 1 son. I am the first child. My parents were very poor and they couldn't afford having me go to school. They had no official jobs. They did any job if people hired them. So, I decided to stop studying to give the chance to my younger sisters.*

A: Why did you choose to get married with a foreign man rather than a Vietnamese man? What was the main factor which influenced your choice of a foreign partner?

B: *At that time, I was very young and people said that I was beautiful. My family was very poor and we didn't have enough food to eat. I wanted to marry a foreign husband because I wanted to help my parents escape from poverty. You know, I just finished secondary school and it was very difficult for me to find a job. I knew my Taiwanese husband through a commercial marriage brokerage agency in Ho Chi Minh City (HCMC). You know, in Ho Chi Minh City, there are many match-making agencies. They often send their staff to the countryside in the Mekong Delta area to look for virgins who want to marry to foreigners. Before I got married with my husband, I had loved a Vietnamese man. I cried a lot to decide to end the relationship with him just because I wanted to help my family. In my home town, there were some young women getting married with Taiwanese before and they sent money back to help their parents. So, I thought I should sacrifice my happiness to help my family.*

A: How did you get to know your husband and how long had you known him before getting married?

B: *There was a woman working for a marriage brokerage agency in HCMC who knew my parents. She promised them that she would help me find a Taiwanese husband. Then, she took me to HCMC to buy clothes, shoes and cosmetics. At that time, I even didn't know how to make up. She helped me make up and I wore a new dress that she bought for me. She took me to a*

hotel in HCMC to meet my husband. We came to a room in hotel and I met 12 other girls who dressed very beautifully and 2 men, one Vietnamese, one Taiwanese. We (all of candidates) were told that the Vietnamese man was an interpreter and the Taiwanese man was our future husband. We had a beauty contest. We were asked to step forward a bit like what a model does. After the 'first round', four of us were selected to come to the 'second round'. Of course, I was one of the four. At that round, we were asked to take off dress, leaving underwear only so that the Taiwanese man can see body of each candidate. I felt so ashamed because I felt we (Vietnamese women) were just like commodities. But thinking about my parents and my siblings, I followed what I was told. Then the Taiwanese man pointed towards me and said something but I didn't understand. The woman who took me to the hotel told me that I was selected and that, the marriage brokerage agency and the Taiwanese man which is my husband now, would arrange a wedding party next week. The woman then gave me 10 million VND and said that, I should give it to my parents to prepare for the wedding. She said she would give us more at the wedding party. She said the money was from my Taiwanese husband. But I didn't know how much he gave her. So, since the day when I first met my husband, we got married only one week after that.

A: Did your in-laws attend your weeding party in Vietnam? Could you tell me more about the wedding?

B: *At the wedding party, just my husband, my family members and some people from the agency including an interpreter. All of money for wedding party was paid by the agency and my husband. At my wedding party, the woman gave my parents 30 million VND more. Years later, my husband told me that he gave the agency much more than that amount.*

A: How did you get information about your Taiwanese husband and do you think that you got enough information about him that you needed? If not, do you think that you took a risk?

B: *The woman (broker) told me some basic information about my husband. She said that my husband has a construction company in Taiwan and he was living with his mother in Taipei. She also said that he had never been married before and that because he was relatively old, so it was difficult for him to find a Taiwanese wife. I asked her about his age and learnt that my husband was 30 years older than me. He was even older than my parents. Actually, I had no love for him at that time because we didn't know each other. But after the beauty contest, he came to me to ask my name and asked about my family. He said 'I like you because you look very beautiful'. I didn't know if what the broker told me was right or wrong. But because I needed money to help my family, I didn't mind. It was not until after I came to Taiwan that I learnt that she told a lie. The reason why my husband couldn't find a wife in Taiwan because he was imprisoned twice and he was a worker, not a company director.*

A: Before getting married, did you do any research about the culture, customs, law, or language in Taiwan?

B: *After my wedding party, the agency arranged a Taiwanese class for me to study the language. I studied for 6 months before moving to live with my husband in Taiwan. I knew about Taiwanese culture and custom from my friends whose husbands are also Taiwanese and from movies I watched. I didn't know the law in Taiwan. After 6 months of study, I acquired*

basic communication skills. I can talk a bit to my husband. After coming to Taiwan, he sent me to a centre where I learnt more about language skills.

A: How did you prepare yourself before marriage: language, law, culture, custom?

B: *In the 6-month language class, besides studying about language, I was taught some things about culture and life and Taiwan. I thought I understood a bit better about Taiwanese culture. I don't think that I had a good preparation before marriage. At that time, I was very nervous because I had never lived far from my parents or lived abroad. I hoped that I might find a job, any job, in Taiwan and work and send money to my parents.*

A: Are there any individuals, organisation or support services in Vietnam from which you learnt about how and what to do in order to prepare before marriage?

B: *I don't know. The marriage brokerage agency arranged everything for me from meeting my husband, organising the wedding party, to sending me to language class. All of those things the agency did and arranged for me.*

A: Could your husband speak any Vietnamese? How did you communicate with him?

B: *He didn't know Vietnamese. The interpreter helped me to communicate with him. But we didn't talk much.*

A: Was the decision to get married with a foreigner made by you or someone else?

B: *It was made by me and my parents' consent as well. I told my parents about my intention of getting married with a foreigner to escape the poverty of my family and my parents didn't oppose that. If they had disagreed about with my idea, I wouldn't get married with a foreigner. I love my parents and I always respect and listen to them.*

During marriage:

A: Ok so far, we have talked about your life in Vietnam. How has it changed after marriage? Did you move to live in Taiwan with him or still live in Vietnam? Do you live with your husband only or with his family?

B: *I left for Taiwan after I had completed the 6-month language class. I lived with my husband and my mother-in-law in Taipei.*

A: What are the difficulties facing you after marriage? Can you tell something more about your life in Taiwan?

B: *I think the most difficult thing for me after coming to Taiwan was language and culture. My husband left me at home with his mother and I had to take care of her. She was 82 years old at that time and she was a very hard woman. She didn't like the food that I made and she didn't want to talk to me. I can't communicate much with her due to language difficulty. Two weeks after I arrived my husband took me to a language centre in Taiwan to study language. I met many Vietnamese women in that centre and I learnt many things.*

A: Have you ever suffered one of these issues: discrimination, domestic violence, sexual abuse? How often?

B: *I think my husband loves me and I felt blessed for that. He treated me properly but his mother was very aggressive. She seemed not to like me. Once she got angry with me and didn't talk to me for 2 weeks. But the thing that really shocked me was that my husband was imprisoned twice because of smuggling.*

A: Do you have any Vietnamese friends or relatives living in Taiwan?

B: *Yes, I have. I have a cousin whose husband is in Taiwan. But she was living very far from me. Most of my Vietnamese friends who I often talked to were Vietnamese women I met at that language centre.*

A: Do you know whom you can contact if there is something wrong? Example: Embassy or Vietnamese society?

B: *As I mentioned previously. I have some friends from the language centre and we keep in touch with each other very often. Until, when I returned Vietnam, I sometimes contact them. My husband also showed which number to call when emergency happens.*

A: Did you often contact your family in Vietnam and did they give you moral support?

B: *I felt really homesick in some first months in Taiwan because I had never left my parents before. I called them often and talked to them about my life in Taiwan. My parents told me to be strong and positive. They said that the money they got from my wedding party helped them to pay the loan. I felt very happy for that and this encouraged me very much. Then I thought about finding a job and to earn money to support my parents more.*

A: Did you find any job in Taiwan? What job?

B: *It was very difficult for me to find a job in Taiwan because at that time my mother-in-law didn't want me to work and my husband wanted me to stay at home, look after his mum and have children. One year after I moved to Taiwan, I was pregnant and I had to stay at home. I found a job when my daughter was 3 years old. This was my first job. I worked as a packager in a company near my house. Thanks to this, I made a lot of money and sent it to my parents.*

A: So, was it the first time you sent money to your parents?

B: *No, I sent money to my parents several times before. My husband gave me money monthly to buy food and items in house that I needed. I saved money every month and sent some to my parents. Or in every New Year, I sent money to my parents to celebrate New Year. After I found a job, I earned more money and I helped my parents to build a new house. Now, they have a proper house and their living standard has been much improved.*

A: How many children do you have now?

B: *I have 2 children, one daughter with my Taiwanese husband and one boy with my current husband, a Vietnamese man.*

A: So, you meant you got divorced with the Taiwanese husband?

B: *No. He passed away! He had an accident when he drove and that was a very difficult time to me.*

A: I am sorry to hear that! I am sorry! It must be a very tough time for you. Can I ask, how about your mother-in-law in Taiwan? I meant how was your life after your husband's death? Did you still live with his mother?

B: *After my husband died, my mother-in-law wanted to have all of his property, insurance and even my daughter. She wanted my daughter to live with her. I disagreed and argued with her and then she sued me before a court. The final decision made by the court was that I can inherit part of my husband's property. I that decided I wanted to take my daughter back to Vietnam to live near my parents. But my mother-in-law prevented me from being close to my daughter. She didn't allow me to take my daughter out. She was a very aggressive woman. One day, I told her that my daughter wanted to go to her friend's birthday party and I promised my mother-in-law that I would take her home before 9 pm. But actually, I bought flight tickets to go back to Vietnam. Then she said no. But my daughter cried a lot and finally she said yes. I took my daughter by a motorbike to an airport without taking anything else. The only thing I had was my credit card, my passport and a jacket. Then I left my motorbike at the airport and came back to Vietnam. But after my mother-in-law found out she sued me again for taking her grand-daughter who holds Taiwanese nationality. However, after 8 years living in Taiwan, I also got Taiwanese nationality already.*

A: If you have a choice between living in Vietnam and living in Taiwan, which country will you prefer to live in? And why?

B: *I will choose Vietnam definitely. I decided to leave my country due to the circumstances of my family at that time. But I prefer living in Vietnam. I like to live near my parents so that I can spend time with them, take care of them.*

A: You said your daughter holds a Taiwanese nationality, not Vietnamese. Is there any difficulty when she attends school in Vietnam?

B: *My daughter was 7 years old when we returned to Vietnam. At that time, she can't speak Vietnamese and thus she can't go to school in Vietnam because in Vietnam, at school, pupils learn in Vietnamese. It took 1 year for my daughter to learn Vietnamese. But she gets along well and she is now studying in a primary school in Vietnam. 2 years after that I got married with my current husband and we have a son. I opened my own shop now and I am happy with my current life.*

A: Is there anything else you would like to share?

B: *Young Vietnamese women in Mekong Delta may think that they can change their life if they get married with a foreigner who can afford what they need. However, the fact is often far more than what we expect. Don't dream about such a dream like that! I don't mean that cross-border marriages are bad or good but you need to prepare very carefully if you decided to marry a foreign husband.*

A: Thank you very much for spending time today. I really appreciate the time and experiences you shared with me and they are really useful to my research. I really hope that best things in life will come to you and your family in future. Thank you very much!