

VIETNAM'S POLICY TOWARD MARRIAGE AND FAMILY RELATIONS RELATED TO FOREIGN ELEMENTS

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The phenomenon of Vietnamese women married foreigners happened along with a number of women going to work in foreign countries and foreign companies boost investment in Vietnam. Especially since the year of 2002, the increasing number of Korean men going to Vietnam to find wife made the number of Vietnamese women married foreigners increased rapidly. Therefore, the Vietnamese government has to create measures and policies to response this issue.

I. Elements influenced policy making

1. Trend of marriage and family related to foreign elements

In the process of economic globalization and international integration, both economically and culturally, marriage involving foreign element is becoming a growing tendency. In Vietnam, the Vietnamese citizen married foreigners has been long existed but just a in very small number. But for about two recent decades, Vietnamese women married foreigners has become a distinct trend.

From 1998 to 2010, there are over 272,000 Vietnamese women married to foreigners. The questions here are: What motive do Vietnamese women have when marrying a foreigner? They married foreigner due to economic factors or family love? In order to have effective management over this social phenomenon, policies and specific measures are required to handle the marriage brokers, not less, supporting the Vietnamese brides in their partner countries.

2. Problems arise from practice

In practice, there are several problems concerning the issue of the marriage related to foreign elements which demand a strictly management from the government. Some of the outstanding issues relating to marriage related to foreign elements in Vietnam in recent years can be summarized in the following points:

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First, marriage related to foreign elements has created a group of illicit marriage brokers who earn high profits from the marriages involving foreigners and made a lot of complicated problems occurred. Meanwhile, Vietnam's laws are not yet strong enough to handle the acts of illegal marriage brokers, especially to the foreigners. For instance, only administrative sanction is applied when a foreigner conducts acts of illegal marriage arranging, which in laws is quoted as conduction of acts that not suitable with the immigration purpose and the highest sanction is only 20 million Vietnam dong (about 1000 US dollars). On the other hand, Vietnamese citizens carry on an illicit marriage arrangement will not face any penalty due to criminal procedure in those cases are almost impossible, the law is not yet regulated regarding in this specific area. Furthermore, many individuals also commit perjury in the marriage procedure with foreigner.

Second, in recent years, due to various reasons, the number of Vietnamese women married foreigner are rising gradually, particularly with marriage involving Taiwan, Korean, and becoming one of the prominent issue of the society. Aside from the marriages in which are voluntary, there are also marriages involving self-seeking and illegal trading which have become a pressing social problems, lower the dignity and image of the Vietnamese ladies in the eyes of the international friends.

According to statistics of the Department of Justice of Can Tho city, Vietnam, from 2005 to 2010, this city had over 4,860 registered women married to foreigners and more than 8,170 cases noted to marry foreigners. The following years, the number of women married to foreigners do slightly reduced. Meanwhile, the case of marriage abroad, then register for marriage notes procedures in Vietnam is increasing, particularly marriage with Korean. For explanation of this issue, many experts in the field believe that legal provisions on the procedure of marriage in Vietnam are considered strict. Therefore, people who want to marry foreigners find a way to get married abroad and then registered for their marriages in Vietnam to avoid those strictly procedure.

Third, having got married, many Vietnamese brides have to face several difficulties in family life, not only different in culture, but also in local custom and language, due to the insufficient preparation before married. Also in many cases, the Vietnamese brides have no knowledge about the bloom country' language and the language different is a big obstacle for the bride to join her husband family in daily life, family custom, and child upbringing. Regarding career, in foreign working environment, the Vietnamese bride lack of communication skill and vocational training would greatly reduce chances in finding or maintaining jobs. Many people have been "disillusionment" or must return to

Vietnam or becoming “sex slave” in foreign land or even worst, be violated, beaten to death.

All of the above issues required the Government, ministries to take action and create policies to strictly govern marriage related to foreign elements. Making policy is necessary to make a legal framework for Vietnamese citizen (mainly ladies) to have their freedom of marriage and divorce, which is suitable with Vietnamese traditional custom and to prevent negative or unfortunate consequence to the society.

II. Main content of some executed policies

Since marriage and family related to foreign elements became a popular phenomenon, Vietnamese Government has issued quite a number of legal documents related to this aspect. In particular, one of those legal documents should be mentioned first is the country law on marriage and family, next are the Government's decrees, guidance documents of the ministries, of Vietnamese Women Union and Women Union in each provinces. The followings are only the main contents of some in many documents.

1. The Decree 184/CP of the Government

This Decree defines the procedures for registration and recognition of marriage. Decree 184/CP of the Government was signed on 30 November, 1994. This decree can be considered as lack of detail and many other contents, and

mainly regulated some administration procedures for "recognition of the marriage, recognition of the adoption of children by parents, registration and recognition of out-of-wedlock adoption of children, and recognition of tutorship of children between Vietnamese citizens and foreigners" (article 1).

2. The law on marriage and family

The law on marriage and family consists of 13 Chapters with 110 Articles which was approved by the Parliament on 9 of Jun, 2000. In particular, Chapter 11 (from Article 100 to article 106) refers to the marriage and family relations related to foreign elements

Article 100: Protection of the legitimate rights and interests of the parties to the marriage and family relations related to foreign elements

Article 101: Application of foreign laws to the marriage and family relations related to foreign elements

Article 103: Marriage related to foreign elements

Article 104: Divorce related to foreign elements

Article 105: Child adoption related to foreign elements

Article 106: Guardianship in the marriage and family relations related to foreign elements

This was the first time the issue of marriage and family involving foreign element was added to the law in the Vietnam.

3. Decree No. 68/2002

This Decree details the implementation of a number of articles of the Marriage and Family Law on the marriage and family relations involving foreign element, recognition of marriages, divorces, between Vietnamese citizens and foreigners, which have been carried out at competent foreign offices. The Decree includes 8 Chapters with 81 articles, including:

Chapter 2 (Articles 10 to article 27) regulates the marriage with foreigners;

Chapter 5 (Articles 65 to 69) regulates the registration of marriage related to foreign elements in the border regions

Chapter 6 (from 76 to 72 Articles) regulate the state management over marriage and family related to foreign elements

This Decree has detailed rules and more specifically about the conditions, etiquette, procedure, jurisdiction for all cases related to marriage related to foreign elements.

The Decree also regulates a number of content related to activities in support of marriage such as: operating principles in support of marriage; Conditions of establishing marriage supportive centre; Procedure for registration of marriage supportive centre; Change the content of the license form of marriage supportive centre; Termination of operation of the supportive centre.

The Decree also stipulated clearly the functions, duties and authority of some ministries and localities in managing the state of marriage and family related to

foreign elements such as: The Ministry of Justice, Ministry of Foreign Affairs, the Ministry of Public Security, and People's committees of provinces and cities.

4. Directive 03/2005 CT-TTG by the Prime Minister

Confronting the inadequacies and the complicated development of family and marriage problems related to foreign elements, the Prime Minister issued the Directive 03/2005 CT-TTG dated on 25 February 2005 in order to direct the ministries, and local authorities in further strengthening the state management on family and marriage related to foreign elements.

In this directive, not only the Ministry of Justice, Foreign Affairs, Public Security and the People' Committee of provinces and cities, had been mentioned in the Decree 68/2002, have functions, duties and powers of the management of marriage related to foreign elements, there are a number of other ministries such as the Ministry of Planning and Investment, Ministry of Culture and Information, and the Vietnamese Central Women Union also have been asked to participate actively in this work.

The Ministry of Justice was given the responsibility of supervising, examining, summarizing, reviewing the implementation of the Directive and promptly reported the Prime Minister on the implementation of the directive and the issues raised in the course of the implementation.

5. Decree No. 69/2006/ND-CP

Decree No. 69/2006/ND-CP, dated on 21 July 2006 amends, supplements a number of articles of Decree No. 68/2002/ND-CP dated on 10 July, 2002 in order to overcome the limitations of this Decree, as well as of the documents issued earlier.

The important additions, modification of this Decree are presented as follow:

Additional amendments clause 1 and clause 2 Article 13: In the profile registry, each side must have "The written certification granted by a Vietnamese or foreign competent health organization within 6 months to the date the dossier is received, stating that such applicant is currently unmarried. Where the law of the country of which the marriage applicant is a citizen does not prescribe the grant of written certification of marital status, such certification may be replaced by a certification of oath taken by the applicant that he or she is currently unmarried, in accordance with the law of the concerned country". In the Decree 68/2002, marital status of each side need only be confirmed on registration form.

Amendment and adding clause 1 of article 16: "The provincial/municipal Justice Services have the responsibility to conduct at their offices face-to-face interviews with the involved men and women in order to examine and clarify the voluntariness of their marriages, their capability of communicating with one another in a common language and

their understanding about each other. The interviews must be recorded in writing. Interviewers must state their opinions and suggestions and sign interview records". In the Decree 68/2002, interviewing the litigants has not been presented.

Amendment clause 2, article 18: " The marriage registration shall also be refused if the interview, inspection and verification results show that the marriage is conducted through illegal brokerage or not for the purpose of building a prosperous, equitable, progressive, happy and sustainable family; is not suitable with the fine traditions and customs of the nation; or aims at trafficking in women, sexually abusing women or other self-seeking purposes". Two added important points here are the "interview result" and "marriage through illegal brokers".

Modify, supplement Article 19: "the Vietnamese diplomatic missions and consular offices shall have the responsibility to conduct right at their offices face-to-face interviews with the involved men and women in order to examine and clarify the voluntariness of their marriages, their capability of communicating with one another in a common language and their understanding about each other. The interviews must be recorded in writing. Interviewers must state their opinions and suggestions and sign interview records. In the Decree 68/2002, interviewed the litigants have not been presented.

III. Limitations and deficiencies

After more than five years of implementing the resolutions and directives of the Government, the State management of family and marriage relations related to foreign elements have received the attention of the ministries, state department, especially the People's Committee of the central cities, and has achieved many positive results. However, many obstacles and difficulties are still existed that led to unexpected results, which in turn could affect the interests of people, the efficiency of State management on marriage related to foreign elements. The Government should summarize and reviews the achieved results and the obstacles, limitations, and shortcomings, and specify the cause. From that, proposed solutions to improve the quality and efficiency of the state management regarded to the marriage and family relations related to foreign elements in the coming period, contributed to a healthy culture of marital relations in general and of marital relations related to foreign elements in particular.

1. The limitations, shortcomings of the marriage between Vietnamese women and foreigners

In some provinces and big cities, many cases of marriages between Vietnamese women and foreigners were conducted hastily, does not guarantee the voluntary and progressive principle.

Marriage brokerage business activities for profiteering of some organizations

and individuals are still taking place in many forms of sophisticated, disguised and causing social disorder.

Before going abroad to live with husband, most Vietnamese women have not been consulted sufficiently to have the necessary knowledge about the law, languages, traditions, and customs of the destination country. Therefore, they have to face many difficulties in integrating with the new foreign community and in settle down their life. Even having abroad, some Vietnamese women were pushed into misery and couldn't be protected by the foreign country law in time.

The above situation occurs due to various causes, including the insufficient in state management regarding to marriage related to foreign elements. The state management for marital relations related to foreign elements have not been handled well, the handling of violation, the negative in this field yet not solved timely and strictly enough.

In the past five years, the system of legal documents on management of marriage with foreigners are becoming more refined and completed. However, presently, the illegal marriage brokerage business activities are still not eliminated; voluntary and progressive marriages related to foreign elements accordance with traditions, the country's customs still could not be achieved because these are the marriage of "Four no": no love; no understanding of the culture, customs, language; no knowledge of the health condition and

no knowledge of the family circumstances of their marriage partner.

Mr. Tung Trung Dinh, Vice Minister of the Minister of Justice, commended that the marriage has a tendency to “follow the social trend”, aiming for economic rather than the happy family purposes. Hence, many young girls agreed to marry foreigners who are old, disability, sickness, or loss of capacity for civil acts. Some women might be at risk, or abused.

These misbehaviour and cognitive distortions has pushed numerous girls born and raised in poverty rural areas to turns their marriage with foreign strangers as the sole way to help themselves and their family to escape from poverty. According to sociologists, there are about 31% of the brides would like to marry Taiwan partner to find employment and increase income, over 15% want to marry rich partner to help their the family.

2. Obstacles in the implementation of the Decree and Directives of the Government

In the context of globalization and integration of economy, and international culture, social relations are not restricted in one own country but also reaching out to the whole world. For instance, the martial relationship with foreigner is also constantly evolving and becoming more and more common in many places. Cultural barriers, language, customs as well as the conception of life are less considered for those who really understand their

marriage partner ... However, the marital relations related to foreign elements has always been a difficult problem in Vietnam where the implementing regulations could not follow up with the varied and quirky change in practice. From perspective of regulation, the laws of marriage related to foreign elements still have many inadequacies.

The Decree 68/2002/ND-CP, Decree No. 69/2006/ND-CP and Directive 03/2005/CT-TTg were issued with specific rules about marital relations related to foreign elements, however it does not mean there would be no more problems. In fact, a number of issued regulations are not yet really in line with the practices (especially the marriage immigration, interview, etc.) of which have, to some degree, influenced the efficient of the local practice.

IV. Some suggestions to resolve family conflicts in the South Korean - Vietnamese families

1. Improving the ability of using communicative language in family

In the Korean - Vietnamese families, due to disagreement over language, husband and wife could not share, understand each other and resolve conflicts. So, there should be regulations for the bride on the ability to use everyday life Korean language before going to Korea. This is the premise that they can gradually overcome language barriers and integrate into husband' family abroad.

2. The husband should understand the culture of his wife' homeland

By interviewing the counselors at marriage supportive centers about life of South Korea – Vietnam families, it has noticed that one of the main cause leading to conflicts in the family is the husband' lack of understanding Vietnamese culture, customs and habits. Thus, in order for the wife to successfully adapt to Korean society, and to live harmoniously with husband' family, culture of wife' home country should be understood and respected. For instance, the husband does not understand why his wife wanted to go to work and send money back to her family as he does not know that in Vietnam, women actively participate in the labor market almost equally with men and they are filial, have sense of caring, sharing responsibility for parents.

3. Promoting the signing and implementation of cooperation agreements on counseling, support, solving conflicts of Korean - Vietnamese families

Marriage migrants are more likely to settle down in the host country. Indeed marriage migration produces various problems as does not only involve the immigrants but also the children and family members and requires deeper understanding and cooperation between the sending and receiving countries. Therefore, to help Korean – Vietnamese families, the two countries need to further promote the signing of mutual cooperation agreements including information exchange and technical

assistance to nurture of sound international marriages between partners of the 2 countries. Also in the written agreements, some specific contents of cooperation, such as language teaching, customs and family culture of both countries introducing..., responsibilities and obligations of each party or both parties in support and resolve family conflicts of Korea - Vietnam should be clarified. It is also important task that public opinion should be focused.

In general, marriage to foreigner is an inevitable trend in the international integration process in Vietnam. The Government of Vietnam has taken appropriate measures and policies to help the Vietnamese brides married abroad to overcome difficulties, reduce the risk of marrying a foreigner. However, despite trying, difficulties and shortcomings still could not be avoided. Thus, the cooperation and assistance of international community and effort of each country, each multicultural family is needed to “pave the way to multicultural community” □

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