

UCLA

Thinking Gender Papers

Title

The Role Replaced: Unmarried Taiwanese Women and the Foreign Brides

Permalink

<https://escholarship.org/uc/item/6kq0k6m1>

Authors

Chen, Yu Ning
Chin, Mong Hwa

Publication Date

2008-02-01

The Role Replaced: Unmarried Taiwanese Women and Foreign Brides

Yu-ning Chen ; Mong-hwa Chin

Index

I - Background

II - Previous Research

III - "Foreign Brides" in Taiwan

IV - Taiwanese Women and the Choices Brought by Economic Independence

V - Women with Different Faces

VI - Different Positions, Same Oppression

VII - Movements for Marriage Immigrants in Taiwan

VIII - Marriage, Autonomy, and Structural Reform

IX - Conclusion

I - Background

Taiwan, most of whose citizens are heir to Chinese culture and tradition, has undergone tremendous political and economic transformation in the past few decades. By the year 2004, the affluent economic status of Taiwan is evidenced by an average GDP that is up to 14,663 US dollars, compared with the less than 2,000 US dollar GDP in Vietnam, Indonesia and China¹. The prosperity draws not only capitalists, but candidates for marriage: women from South-East Asia and China come to Taiwan to marry men they barely know, mostly through intermediary agents. The cross-border marriage wave reached its height in 2004, during which almost one out of every four newly-wed brides was from China or South-East Asia². According to the official statistics in August, 2007, the population of marriage immigrants is close to 400,000³. If categorized as one, marriage immigrants are the fourth largest group in Taiwan. The so-called foreign brides, namely, the female characters in cross-border marriages, are often propagated by the mass media as heartless dealers who sell themselves for a material life; feminists, however, victimize them as preys to patriarchy. Being deprived of the power to voice, they live under the image portrayed by the dominant.

¹ World Bank <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf>

² Department of Statistics, Ministry of the Interior <http://sowf.moi.gov.tw/stat/gender/ps03-04.xls>

³ China Times, Sih Shih Wan Yin Sing Ren De Tai Wan Meng (The Invisible Taiwanese' Dreams), China Times, October 22, 2007, at T1.

On the other hand, 30 percent of Taiwanese women, those between the ages of 31 to 34, choose to remain single⁴. Women in Taiwan are responsible for 48.7 percent of the work force⁵. Despite the economic independence they are gaining, many women are anxious about the accusations of failing to fulfill their assigned obligations: getting married, having children, and fulfilling the filial piety to their father and mother in law. Some even tend to believe that their life will not be consummate without a marriage. Yet, they step away from it. What are their concerns? What are the reasons behind Taiwanese women's paradoxical attitude toward marriage? Is marriage really a stumbling block barring the path of a woman's career, or even to an autonomous life?

Many blame racism and sexism against the marriage immigrants for these unhappy cross-border marriages. However, since the society itself has been discriminating against women from the very beginning, thereby resulting in the foreign bride wave, condemnation from the end can do little to mend the asymmetric marriages. When many Taiwanese women refuse to place themselves in the delegated role that the whole social structure has conspired to create, a substitute is needed. Foreign brides happen to be the

⁴ National Statistics, Executive Yuan
<http://eng.stat.gov.tw/public/data/dgbas03/bs2/gender/yearbook/analysis/3.pdf>

⁵ National Statistics, Executive Yuan
<http://eng.stat.gov.tw/public/data/dgbas03/bs2/gender/yearbook/analysis/7.pdf>

best candidates to fill in the vacancy. Thus, we will attempt to deconstruct the discrimination, to see how it inflicts upon women with different life experiences distinct attitudes toward marrying Taiwanese men, and whether choice is made with complex contradictions. In order to scrutinize the issue, in the next part of this paper, we examine the previous research to see the lack of scholarship in this subject. In the third part of the paper, we interview women coming from Indonesia, Vietnam, Cambodia, Myanmar, and China to marry Taiwanese men. In contrast, the fourth part is about unmarried Taiwanese women and their various and contradictory reasons for being single. Both sides intrigued us with their similar and yet unique stories. By analyzing the life experiences of the two, we hope to draw a clearer picture of the inequality in Taiwan. In the fifth part, we provide the two sides' viewpoints toward each other and raise the long debated question: Are women "Women"? In the sixth part, we will trace back the oppression that each woman is confronted with in Taiwanese society. In the seventh part, we will introduce the feminist movement for marriage immigrants in Taiwan and its deficiency. In the eighth part, we elaborate on the essence of marriage, the imbalance of power between the contracting parties, the autonomy women are seeking, and the necessity for structural reform. We seek to provide new ideas regarding the

marriage market and to draw up suggestions for a society in which equality and autonomy can be something more than political language.

II - Previous Research

Most prior research regarding foreign brides in the legal aspect has campaigned for including foreigners into the protection of the Constitution. For example, Professor Liao Yuan-hao believes that the traditional division of “human rights”, with which every human being should be entitled, and “civil rights”, with which only citizens are warranted is now being challenged: in the past, we believed that a country provides Constitutional rights for its citizens. These provisions justify the country distributing the majority of resources to its own people, and in the process, limiting foreigners’ legal rights to primary ones such as personal freedom and free speech. As for other civil rights such as migration rights, political rights and property rights, the Constitution slams the door in their face. However, due to the increasing numbers of permanent residents and foreign brides, it is time to consider broadening the protection scope of the Taiwanese Constitution⁶. Professor Li Jhen-shan explains further that the right of marriage and family is derived

⁶ Liao Yuan-hao, *Wai Ren Zuo Tou Jia (Let Foreigner Make Decisions)*, 54 *Taiwan Law Review* 6, 6-7.

from human dignity and therefore recognized by the Constitution. The protection of such a right should be enjoyed by both nationals and foreigners⁷.

Professor Chen Chun-shen shares the view with the two, saying that it is an international trend to expand the recognition of foreigners' constitutional rights⁸.

In addition to the constitutional perspective, Professor Ho Ming-yu notices that the strict requirements in the permanent residence regime in Taiwanese Nationality Law and Immigration Law would stem the internationalization of Taiwan. He believes that the key factor for the country's future developments is human resources, hence, the Taiwanese government should consider loosening the restrictions to encourage brain gain⁹. Professor Shih Huei-ling thinks that we should embrace diversity when interpreting laws to respect each one's marriage and family rights¹⁰.

These prior studies remind us that we ought to respond to the needs of new immigrants who are brought in by the globalization of the marriage market. However, they share a certain inadequacy in seeing the problem as being able to be fixed by partial revision of the legal system to recognize

⁷ Li Jhen-shan, *Lun Yi Min Jih Du Yu Wai Guo Ren Ji Ben Cyuan Li* (Study on the Immigration System and the Fundamental Rights of Foreigners), 48 *Taiwan Law Journal* 51, 64.

⁸ Chen Chun-shen, *Tan Wai Guo Ren De Ji Ben Cyuan Li* (Study on the Fundamental Rights of Foreigners), 16 *Taiwan Jurist* 131, 132.

⁹ Ho Ming-yu, *Nationality and Naturalization*, 70 *Chenchi Law Review* 149, 183.

¹⁰ Shih Huei-ling, *She Wai Hun Yin Jia Ting* (Cross-border Marriages and Families), 85 *Taiwan Law Journal* 49, 68.

marriage immigrants' citizenship and basic rights. Indeed, legal revision will provide tools for minorities. However, the ability and the publicly accepted legitimacy to use the tools will be the hinge for them to access the resources. The requirement for formal equality is just a starting point. Hence, we will try to propose a macroscopic view of the issue by exploring the essence of marriage, the asymmetry of the contract, and the structural reform to undermine the inequality in later discussion.

III - "Foreign Brides" in Taiwan

Cross-border marriages which involve the movement of women from poor regions to wealthier ones are labeled "global hypergamy": women "marry up" into a higher socioeconomic group.¹¹ In Taiwan, these women are called "foreign brides". They enter a wealthier region in terms of geographical location; the social and economic status of the men they marry, however, is usually far from high. Being completely cut off from the social connections they used to have, the empowerment they yearn for may not be proportionate to the distance they have traveled.

We can't afford a servant, so I married one

¹¹ See NICOLE CONSTABLE, CROSS-BORDER MARRIAGES: GENDER AND MOBILITY IN TRANSNATIONAL ASIA, 10 (2004).

In Taiwan, the annual wages for a foreign domestic laborer is about 8,500 U.S. dollars; comparatively, it costs only 12,000 U.S. dollars to marry a foreign bride. For Taiwanese men who need a woman to take care of his family, marrying one is undoubtedly a more economical choice. A wife will provide extra services that a cleaning woman will not: sex and childbearing; what's more, she needs no days off.

Mrs. Mo is an Indonesian woman who has been married to her Taiwanese husband for four years. Besides playing the role of wife and mother-to-be, she is also an actress. Her last and only performance was in a film called "Nyonya's Taste of Life," which earned her the best actress of 2007 Golden Bell Award. The film is about foreign laborers and their sad stories in Taiwan. Mo's role is an Indonesian girl who is hired to take care of an old man suffering from Alzheimer's disease. Upon receiving the award, she said: "I'm not acting. The role I play is actually who I am in real life." Before Mo married her husband, she was a foreign laborer. Her job was to nurse aged people. After she married, things did not get any better. "I feel like I've marrying his whole family, and my status in the family is no more than a servant without payment. I'm responsible for cleaning, cooking, and taking care of my husband's parents." said Mo. Marriage in Taiwan, as it is in many

parts of Asia, often involves patrilocal postmarital residence patterns in which a bride is expected to relocate to her husband's home or community.¹² Inside the community, the bride's husband is usually not the one to decide the scope of her mobility. Rather, her in-laws and the family will play the determinant roles. "During the film shooting, I was required to participate in the shooting from day to night, and this is when the rumors started. People including my sister-in-law questioned my husband about why I was not staying at home, but fooling around all day. When they knew I was pregnant, they humiliated me by implying that the father of my child may not be my husband." The gossip Mo referred to is a reflection of the sexism and racism that marriage immigrants have to endure in their everyday life.

We need babies, unadulterated ones

According to the 2006 governmental statistics, the fertility rates of childbearing age women in Taiwan is 1.1¹³, which is the lowest in the world. During the time that government is busy persuading Taiwanese women to be mothers, they provide a certain group subsidy for ligation: foreign brides and their husbands¹⁴.

Taiwanese nationality law adopts the principle of *ius sanguinis*. Hence,

¹² Id. at 12.

¹³ Department of Statistics, Ministry of the Interior <http://sowf.moi.gov.tw/stat/gender/ps03-09.xls>

¹⁴ See http://care.yunlin.gov.tw/news/news01_01.asp?m2=39&id=22#top

regardless of the mothers' nationality, the Taiwanese citizenship of their descendents is without doubt. However, under the accusation that foreign brides are aliens with adulterine blood, the purity of the lineage is always queried. Their children are often reported as lacking learning ability at school, and thus will encumber the nation in the long term.

The repelling attitude toward marriage immigrants is viewed as the shaping of Taiwanese nativism¹⁵. Marriage immigrants are otherized as “the intermediary of disease”, “the laggard parasite”, and “the greedy intruder” by mass media and the public – even their next generation is indebted. The bias against immigrants and their children are not due to what they have done, but who they are. The economy, politics, and legislation in Taiwan have never recognized their existence, let alone embraced them into the system.

Same Threshold, Different height

Mrs. Tsai, an Indonesian who has been in Taiwan for 26 years, is one of our interviewees whose life experience again exemplifies the inequality imposed on these women. “I used to believe that I can get a job and start a new life after my child grows up. But the language barrier and the required degree block my way.” She explained further: “I have been here for 26 years,

¹⁵ Chen, Syue-huei, A New Look of Taiwan's Discourse on Nationalism — Discrimination and Exclusion of Marriage Migration in Immigration Laws (Jan. 1, 2007)(unpublished M.A. dissertation, Xihh Hsin University) (on file with National Central Library).

but I did not possess a driver's license until last month. For the driving test is written in Chinese, and there was no institution to learn Chinese in my neighborhood until last year. When I tried to find a job, even jobs requiring no professional skills, I was asked to offer a degree. Degrees got in Indonesia were not accepted." Yes, marriage immigrants who want to participate in the market have a seemingly equal access to do so, but without affirmative action regarding race and other backgrounds, the competition can not be called fair.

You've signed the contract, do your work

The role of the marriage immigrants used to be played by Taiwanese women: staying in the domestic sphere, doing household chores, taking care of their parents-in-law, and bearing child. Their marriages are constructed upon a biased gender stereotype. The phenomenon of foreign brides reinforces the already embedded sexism in Taiwan. Taiwanese men proclaim to Taiwanese women the only model accepted for marriage by marrying foreign brides. The marriage contract they sign is based upon the deprivation of women's autonomy, and it will be performed without any bargaining.

Don't blame him, blame the structure

What surprised us is that although marriage immigrants seem to be besieged in the role of wife, they tend to be grateful when talking about their

husbands. Mrs. Mo said during the interview: "He is a decent man, he never blames me for anything I do." Nevertheless, their husbands are indeed the accomplices of an unequal structure. Take Mrs. Mo for example, her mother-in-law is the one who controls the finances, she earns not even a penny for the domestic chores she does. Even though her husband treats her well, this is something in which he would not intervene.

Stay with me, or you will starve

Mrs. Hsieh, a Chinese woman in her fifties, married a veteran 20 years older than she and still relies on her husband financially. "He fears that I will leave if I have money", said Hsieh. Women's derivation of economic independence is not a new story in Taiwanese society. But when Taiwanese women finally walk outside the private sphere to make a living as an individual, another group of women come inside the household to carry on the vacated role. In the case of cross-border marriages, the situation gets worse. Since the Taiwanese men they married are often considered less-attractive candidates in the marriage market: the aged, uneducated, low-waged, or physically disabled, the distrust caused by the sense of inferiority makes them restrain their wives with more fetters.

Renounce your own nationality, manifest your loyalty

The inferiority complex reflects not only on Taiwanese men's controlling desire, but governmental regulations on naturalization. In Taiwan, when foreigners apply for naturalization, the process requires them to renounce the citizenship of their original countries. As a result, for a foreign bride, if the marriage fails before she acquires her new citizenship, she ends up stateless. According to the REFUGEES Magazines issued by UN High Commissioner for Refugees (UNHCR) in 2007, thousands of poor Vietnamese women who have married Taiwanese (or other foreign)men over the last 10 years have seen their dreams of a good life crumble. Some tell tales of alcoholic, abusive husbands, cruel mothers-in-law, linguistic confusion, cramped living quarters, deprivation, abuse and economic exploitation. When they arrive back to seek refuge in the land of their birth, they find that they – and often their children too – have become stateless.¹⁶ Women left their country with dreams, but return with a broken marriage, and no nationality.

IV - Taiwanese Women and the Choices Brought by Economic

Independence

The reasons for Taiwanese women's escaping from marriage vary: Some

¹⁶ See UNHCR Refugees Magazine, No. 147, 26 (Rupert Colville ed. 2007) <http://www.unhcr.org/publ/PUBL/46d2c7952.pdf>

see single status as a necessary sacrifice to fight for a position in a man's world; some doubt the trustworthiness of the marriage contract; some just cannot find the right partner; many believe that women are progressing, but men are not. Whatever the reason is, economic independence is the hinge for them to have the choice.

According to Yang, a forty five years old bank manager, marriage and work are two roads of a fork. "I have missed my opportunity to get married. When other girls were dating, I devoted myself to work. Women in our society have to work harder than men to get the same credit. A female superintendent is not so desirable in the marriage market." said Yang. When asked about men in Taiwan, she said: "They refuse to make any progress. Go visit any training program and you'll know what I'm saying. Most participants are women, women are consistently learning, men are not. But still, men want to be the boss." "I want to get married. It might be outdated, but I do believe that women have to bear some domestic chores once they get married. I am good at what I am doing, but I can also do the things that housewives do if I get married." Yang's words sound contradictory, but it reflects the typical discrimination in Taiwanese society: a woman has to sacrifice her marriage in exchange for a successful career, because her roles as

a wife, a daughter in law, and a mother will be her lifelong career; meanwhile, men can always have both. The refusal to marry may symbolize Taiwanese women's capability to reject traditional culture. However, the refusal is somehow accompanied by a certain guilt— the guilt of failing to meet society's expectations. They escape from marriage, but eventually find themselves still trapped in the stereotype of the society.

While some women stay away from marriage because of the conflict between marriage and career, others do not believe in marriage at all. A thirty five years old pharmacist Jhuang told us: "The marriage contract does not promise anything. Women today are as financially self-reliant as men are. We do not have to make any compromises to maintain a miserable marriage. The values of our society are changing. I don't think I am obliged to get married to give birth to a baby and take care of another person's parents. I feel just fine with the life I'm having right now."

V - Women with different faces

In recent feminist research, we are constantly reminded that the use of "universal woman" might be problematic. It assumes an historical, universal

unity between women based on a generalized notion of their subordination.¹⁷

The generalization of women's experiences provided feminists with a stronger stance to strike back the oppression in the beginning of the movement. However, it also mutes the dissents that women ought to voice as individuals. It erases the differences among women. "Women" are presented as a coherent, homogeneous group in which everyone has identical interests and desires.¹⁸ The concept of "universal women" meets its limit when the subordination of women is multiplied with other factors, since it is based on the assumption that the categories of race and class have to be invisible for gender to be visible.¹⁹ Therefore, it is proposed that instead of seeing only gender in the researched, we should see more identities that constitute each individual by asking "which women", in order to shed light upon social structures, institutions, and systems that might otherwise be difficult to see.²⁰ Gender must also be analyzed in relation to other factors such as nationality, race, and class in order to discern the multiple forms of human rights abuse that people suffer.²¹

¹⁷ Sharlene N. Hesse-Biber & Michelle L. Yaiser, *Difference Matters*, in *Feminist Perspectives on Social Research* 101, 101 (Sharlene N. Hesse-Biber & Michelle L. Yaiser eds., 2004).

¹⁸ *Id.* at 103-104.

¹⁹ CHANDRA TALPADE MOHANTY ET AL., *FEMINISM WITHOUT BORDERS* 107 (2004).

²⁰ Hesse-Biber & Yaiser, *supra* note 17, at 103.

²¹ Charlotte Bunch, *Transforming Human Rights from a Feminist Perspective*, in *Woman's Rights, Human Rights* 12, 11 (Julie Peters and Andrea Wolper eds., 1995).

Why would a woman sacrifice marriage for her success at work and still be so anxious to explain her loyalty to traditional obligations? Why would a woman lose her faith in marriage? Why would a woman abandon her hometown, travel such a great distance, and seek to be empowered by signing a marriage contract with a man she barely knows? How do they look at each other?

Taiwanese women: They can not replace me, we belong to different class.

“Foreign brides trade their freedom for money; it is a truth. They came here to bear child and take care of their parents-in law. I feel sorry for them. But still, I’m worried about the phenomenon. They are less-educated. They can not provide their children a good environment. It will be a burden for the country.” “I don’t think they are my competitors in the marriage market. Their husbands are not the ones I ever want to marry. We belong to different class.” “I do not ask much about my ideal husband. It’s just that women in Taiwan are always learning and progressing, but somehow, men never follow” said Yang.

Foreign brides: They do not appreciate what they have

In regard to this suspicion, Mo responded “It might be true that our children are not doing well at school, but it is not because they are stupid. It is

because their mother can not speak Mandarin, and hence is not able to communicate with the teachers and assist their children in doing school work.”

“Taiwanese women are more independent than us in many aspects. But it seems to me that they are never content with the life they have. They are way too fussy about their spouses. Maybe it’s because that they don’t have to rely on men, so they can afford waiting for the perfect guy” said Tsai.

Yes, women are not a group. Women are not one.

VI - Different Positions, Same Oppression

After the acknowledgement of the difference among women, a problem is left: seeing women not as one unity makes it difficult to engage in feminist analysis and politics.²² Without the essentialism to bind women as one, women’s movements are crippled. In dealing with the crisis, Gayatri Spivac suggested the idea of “strategic essentialism”.²³ According to Spivak, “If one is considering strategy, one has to look at where the group—the person, the persons, or the movement—is situated when one makes claims for or against essentialism. A strategy is not a theory”,²⁴ That is to say, even though we

²² LINDA NICHOLSON, *THE SECOND WAVE* 357 (1997).

²³ Gayatri Chakravorty Spivac, Address at the Center for Humanities, Wesleyan University (Spring 1985), cited in Vasuki Nesiah, *Toward a Feminist Internationality: A Critique of U.S. Feminist Legal Scholarship*, 16 Harv. Women’s L.J. 189, 203 (1993).

²⁴ NICHOLSON, *supra note* 22, at 358.

carry “multiple consciousness”²⁵ as an individual, the consciousness we share as a woman enable us to mobilize. The other consciousness that constitutes the unique women we are—no matter if it is nationality, race, class, or marital status—will envision us with more dimensions, not restrict us in our very own sight.

Applying the strategy to our view of marriage, we hope to see the problems with more dimensions, and thereby connect the obstacles women in different circumstances are confronted with to come up with more integral solutions. The admission of our difference does not necessarily means that we are not confronted with the same oppression. In the marriage market in Taiwan, the stereotype of women as domestic laborers is the shared oppression both Taiwanese women and foreign brides shoulder: Taiwanese women are repelled from marriage for their unwillingness to adapt to the assigned role; foreign brides come to Taiwan to fill in. The subordination of women never changed.

VII - Movements for Marriage Immigrants in Taiwan

The feminist movement in Taiwan, similar to the feminist development in

²⁵ Mari Matsuda, *When the First Quail Calls: Mutiple Consciousness as Jurisprudential Method*, 11 *Women’s Rts. L. Rep.* 7 (1989).

many western countries, began from the idea of universal humanity by denying the difference between men and women. “Be human, and then be men or women”²⁶ was the main appeal. However, the politic of assimilation sees its limitation when women with different life experiences come forward. Hence, feminist groups with diverse views emerge. The Alliance for Human Rights Legislation for Immigrants and Migrants’ (AHRLIM), for example, is an organization campaigning for the rights of foreign laborers and immigrants through legislative reform. AHRLIM pushed through the amendment of Immigration and Entry and Exit Law in November, 2007. Within which, four clauses regarding marriage immigrants are considered a success in pursuing their empowerment:

- (1) Anti-domestic violence clause: The grant of TOP (temporary order of protection) for marriage immigrants. The marriage immigrants will not lose the right of abode if the divorce is due to domestic violence.
- (2) Anti-discrimination clause: A general anti-discrimination provision for all people residing in Taiwan, including migrant workers and immigrant brides.
- (3) Due process in deportation: Removal orders can not be issued without

²⁶ Proposed by Lyu Siou-lian, the incumbent vice president.

hearing and other procedures are required.

- (4) Commercial marriage is prohibited: Commercialized matchmaking services will be banned.

Administrative Control and Marriage Freedom

According to the revised immigration law, commercialized marriage intermediaries are prohibited under the assumption that it commodifies women. It seeks to prevent women from being allured by the matchmaking agent, being picked by men like products, and eventually becoming a childbearing and housekeeping machine without the slightest autonomy. However, can the banning of commercialized marriage rescue foreign women from poverty or reallocate women's domestic burdens? If the answer is no, how can the legislation justify its restriction of marriage freedom? As Iris Young defined, autonomy refers to privacy, which emphasizes the right to prevent others from interfering, and empowerment is the institutionalized means of participating in decisions.²⁷ Can women be empowered by a legislation limiting men and foreign brides' private right of marriage? If we define marriage as pure love without the exchange of anything, we should include it into the condition of a legitimate marriage. However, since we

²⁷ IRIS M. YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE 251 (1990)

choose to grant marriage greatest freedom by leaving the contract vast void, the duties of the government should be ensuring the autonomy within it by providing facilities to maintain the equality of the two, not by eliminating the choice they should have. If we define marriage freedom as the right to enter, live in, and walk away from a marriage, what we should do is to stand by each choice people make by granting them an equal society to live with the choice they make, not by denying their rights to enter marriage.

Structural Reform

In *Justice and the Politics of Difference*, Iris Young pointed out the error of viewing social justice as the proper distribution of material resources: it fails to bring social structures and institutional contexts under evaluation.²⁸Such a predominant focus on the distribution of wealth, income, and position ignores and tends to obscure the institutional context within which those distributions take place.²⁹Young also questions the common thought of bringing power under the logic of distribution and hence regarding power as a possession. Rather, Young focuses the theory of justice on decision-making structure and procedures, division of labor, and culture. Hence, injustice should be defined as: oppression, the institutional constraint on self-development, and

²⁸ Id. at 20.

²⁹ Id. at 21.

domination, the institutional constraint on self-determination.³⁰

According to Young, power is a relation rather than a thing.³¹ One agent can have institutionalized power over another only if the actions of many third agents support and execute the will of the powerful.³² In this sense, oppression is structural, rather than the result of a few people's choices or policies.³³

“Oppression refers to the vast and deep injustices some groups suffer as a consequence of often unconscious assumptions and reactions of well-meaning people in ordinary interactions, media and cultural stereotypes, and structural features of bureaucratic hierarchies and market mechanisms—in short, the normal processes of everyday life. We cannot eliminate this structural oppression by getting rid of the rules or making some new laws, because oppressions are systematically reproduced in major economic, political, and cultural institutions.”³⁴

Applying Young's theory in women, we believe that the empowerment of foreign brides and Taiwanese women should not depend on the

³⁰ Id. at 37.

³¹ Id. at 31.

³² Id.

³³ Id. at 41.

³⁴ Id.

redistribution of “power,” but the deconstruction of the social structure. A legally granted right will be void without the validation of the members within the structure. Only if women are included and repositioned in the social structure can their empowerment in decision-making and thereby autonomy be possible.

Similarly, when we interpret Taiwanese women’s situations in marriage through the subordination theory, the limitation of law in dealing with the injustice is evident. Foreign or native, married or not, the injustice of the structure is shouldered by every woman in Taiwan.

VIII - Marriage, Autonomy, and Structural Reform

What is marriage?

Some may challenge the necessity of its existence, but still, the marital family has been and will continue to be the essential element in our society.

What is marriage? What causes women’s subordination in marriage? Is the intervention of legislation a workable solution to the imbalance of power within marriage? Martha Albertson Fineman deconstructs the meaning of marriage into two dimensions: First, what does the word “marriage” convey to us as an individual? Second, what does marriage convey to us

collectively—as a society?³⁵ From a personal perspective, the state establishes uniform standards for marriage through law. However, besides the formalities to be observed to enter and exit from the institution, individuals are free to fill the vacuum of the marriage contract. The doctrine of “marital privacy” shields us from direct state supervision. From a societal perspective, marriage may serve the function of assigning responsibilities and rights among persons, achieving public health objectives, reproduction, and constructing the relationship between the state and its citizen, etc.³⁶

Despite the significant role that marriage plays in social structure, owing to the idea that family is a “separate sphere”, a “private institution” in which autonomy is expected,³⁷ the content of the marriage contract is generally reserved for the individuals to decide. When government holds back from intervention, the negotiation of a marriage contract, identical to all other contracts, is a wrestling match between the power of the two. However, unlike usual business deals, a marriage contract is expected to exist to the end of one’s life. As long as the contract continues, the power wrestling between the two will go on. Thus, if the contract is based upon an asymmetry of power, the oppression of the inferior side is foreseeable. As far as the marriage

³⁵ MARTHA A. FINEMAN, *THE AUTONOMY MYTH* 96 (2005).

³⁶ *Id.* at 97-105.

³⁷ *Id.* at 21.

contract is concerned, a woman is usually the one with no bargaining power. She becomes, as J.S. Mill described, “the actual bond servant of her husband: no less so, as far as legal obligation goes, than slaves commonly so called. She vows a lifelong obedience to him at the altar, and is held to it all through her life by law.”³⁸

Autonomy and Feminist Movements for Autonomy

The concept of autonomy is in fact the core of feminist movements. If we see autonomy from the feminist perspective, there are three forms of contemporary legal feminist thought that draw our attention: Liberal feminists ask for formal equality.³⁹ Radical feminists remind us to shift the focus of attention from gender-based difference to the imbalance of power of men and women. ⁴⁰Post modern feminists call for the discarding of the essential characteristics of women to embrace women’s diversity, to value the diversity of women in the law.⁴¹ These three feminist standpoints are closely bound with free will and the capability to make choices, i.e. autonomy: formal and substantial equality ensures women’s autonomy, and the exercise of autonomy reflects the diversity of women.

³⁸ JOHN STUART MILL, THE SUBJECTION OF WOMEN (1869)<http://www.constitution.org/jsm/women.htm>

³⁹ Becker Mary, *Patriarchy and Inequality: Towards a Substantive Feminism*, 1999 U. Chi. Legal F. 21, 32-33.

⁴⁰ CATHARINE A. MACKINNON, FEMINISM UNMODIFIED 6 (1987)

⁴¹ Bridget J. Crawford, *Toward a Third-Wave Feminist Legal Theory: Young Women, Pornography and the Praxis of Pleasure*, 14 Mich. J. Gender & L. 99, 106 (2007)

The asymmetrical power between the two in marriage may partly be attributed to the inequality of legislation denounced by liberal feminists. However, in a society in which the imbalance of power between two groups is a general condition, equality would mean little to the minority if it merely guarantees formal equality and the freedom from governmental interference. We do not begin our lives in equal circumstances. We begin in unequal ones.⁴² A real equality will be reached only if the minorities are offered with affirmative governmental measures designed to raise the unequal to a more equal position. ⁴³For instance, even though spouses are entitled with the right to contract for a certain amount of money for free disposition, with little bargaining power, financially reliant marriage immigrants are not in a position to be able to resort to it. Therefore, the goal we should pursue is an autonomous society for all people, where the law provides us substantive equality. We also believe that since the right of marriage is a constitutional right of the people, and that the authority of a country is based upon marriages and families, the government should ensure autonomy in marriage means not only the right to enter marriage, but the mechanism to provide women the capability to live with whatever choice they make in marriage,

⁴² MARTHA, *supra note* 35, at 6.

⁴³ *Id.* at 20-22.

and a well-arranged mechanism to leave when the marriage is going to an end.

Education to envision an equal society

If the current established system can not be changed overnight, what means can we adopt to progressively undermine the inequality in our society? In considering reform of the social structure, education will be our chief concern. France, for example, is also facing protests for gender and racial equality of African women. France has created many tools to eliminate racism and sexism, not the least of which is its education system: the power to decide what each child in the country learns on any particular day about history and about people from different parts of the world.⁴⁴ Instead of focusing mainly on the children, the education plans we propose will aim at three dimensions: first, the vision of our future generations; second, the empowerment of the marriage immigrants; third, the overthrow of Taiwanese people's fixed stereotypes. We expect our next generation will be raised without the restraint of old values and foreign brides will step outside domesticity to find their capability. We also hope Taiwanese people can cross the borders of gender and race set by ourselves.

⁴⁴ ADRIEN WING, GLOBAL CRITICAL RACE FEMINISM: AN INTERNATIONAL READER 152 (2000).

Recently, there have been a number of learning centers for foreigners set up within elementary schools in Taiwan. The learning centers provide free courses such as Mandarin, dialects, computer skills, and driver's education for marriage immigrants. They also hold various activities for parents and their children to introduce them to different cultures. In addition, they design short-term courses for school teachers regarding gender and race equality. "Diversity and Equality is our main appeal. The increasing of cross-border marriages is a global issue. People get married, for many reasons. Foreign brides may not get married for love. But they deserve a better life in the society they once came to with hope." said Huang, an elementary school teacher and also the director of a learning center in Taoyuan, Taiwan.

The above-mentioned learning centers set a good model for the initiation of the education plan. However, it lacks sufficient support from the government, which has resulted in a financial predicament, difficulty in integration, and defective execution. For example, learning centers can only encourage marriage immigrants to participate in their programs by using passive methods such as hanging posters. However, for those who treat marriage immigrants as servants rather than as member of the families, allowing them to receive education is the last thing they will do. "I once tried

to persuade a foreign bride's mother-in-law to let her join our program. She asked me, 'What for? She needs not speak Mandarin for doing house chores.' " said director Huang. Therefore, instead of encouraging them to participate in the learning program, we should consider making it a nationwide and compulsory practice for the marriage immigrants. A learning center in the neighborhood will provide marriage immigrants with access to Taiwanese society, assisting them to find a stage for their capability to be seen, and gain trust from the Taiwanese people. What they need is not the resources granted by the power, but the ability to earn the resources, exercise their rights, make their own decisions, and live freely with the choices they make.

IX - Conclusion

Before we finished this paper, we want to mention that Taipei district court has made a breakthrough in a homicide case⁴⁵ involving a "foreign bride". Chao was a researcher in Chinese Science Institute. She married Jia, a Taiwanese veteran who was 23 years older than her in 1992, hoping to live a better life and pay the tuition for her daughter in the United States.

⁴⁵ Chao v. Taipei District Attorney, 2007 (Taipei District Court, Sep. 27 2007)

Thereafter, Chao was consistently abused by Jia, and subsequently suffered from melancholia for years. After cervical cancer surgery, Chao was locked up for four days without food during Chinese New Year. Chao then killed Jia with a hammer when he threatened to “chop her head off”. In the decision, the court reviewed many elements that were never considered in the precedents, including the distinct political convictions of the two sides, the chronic oppression the defendant suffered, the discrimination against marriage immigrants in the society, and the unequal status between the two in marriage. Due to these factors, the court held that Chao satisfied the elements of imperfect self-defense and therefore was only sentenced to one and a half year imprisonment. We believe that the verdict exemplifies the changing of social values in Taiwan. We are pleased to see our judiciary playing a leading role in the reform. Spreading awareness of these issues will be the primary task for feminists in Taiwan.