



State Policies and Practices around Transnational Marriages in the Philippines

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Introduction

Transnational families and states are constantly negotiating over issues of citizenship, right to travel, right to residence, property rights, or labor rights. By their very nature, transnational couples and families always find themselves wedged against two or more states, having to negotiate various state policies in order to maintain their family existence. Simply choosing to reside in one country or the other, finding work, or naming their children, entails submitting themselves to the state's surveillance through immigration and civil law policies and practices.

This paper seeks to present Philippine laws and policies with regards to transnational marriages. It also gives a brief outline of the procedures and the government agencies that Filipinos and their foreign spouses need to deal with before, during and after their marriage. It then briefly presents how these policies are put into practice from the viewpoint of foreigners who underwent processing. It tries to illustrate the gaps between policies and practices, as well as their underlying biases.

Finally, as an exploratory paper, it encourages further research in this field by asking and discussing questions as to how the Philippine state constructs citizenship, otherness and family. Finally, it suggests possible directions future research can take.

Transnational Marriages in the Philippines

The term “transnational marriages” is often interchanged with terms like “international marriages”, “cross-border marriages”¹ or “inter-marriages”². For the purpose of this paper, a “transnational marriage” is marriage between a Philippine citizen and a non-Philippine citizen.

Below is a summary of the number and percentage of transnational marriages compared to the total number of marriages in the Philippines. Note that the number for transnational marriages also include engaged partners.

Year	Transnational Marriages	Total Marriages	% of Total Marriages
1991	18,003	445,526	4%
1992	18,340	454,155	4%
1993	19,353	474,407	4%
1994	16,848	490,164	3.44%
1995	17,449	504,120	3.46%
1996	18,576	525,555	3.53%
1997	16,845	562,808	2.99%
1998	14,488	549,262	2.64%
1999	15,319	551,445	2.78%
2000	15,168	577,387	2.63%

* Source: National Statistics Office (2003) and Commission on Filipinos Overseas (2005)

As we can see from the table, annually transnational marriages do not exceed 4% of the total number of marriages recorded in the Philippines. Of these marriages, 91% are between Filipino women and foreign men. The countries from whom the bulk of foreign spouses come from are the United States, Japan, Australia, Germany, Canada and Taiwan. The average age of the foreign spouses is 38 while the average age for Filipinos is 29. This seems to indicate that many Filipinos and the foreigners they

marry are older than their local counterparts (median age for marriage is 27 for Filipino men and 24 for Filipino women³). Most of the Filipinos (91%) and majority of foreign spouses (61%) were single before they got married. When it comes to educational attainment, 31% of Filipino spouses and 30% of foreign spouses finished college or postgraduate degrees while 43% of Filipino spouses and 40% of foreign spouses finished high school or vocational courses. As to how these couples met, 37% met through personal introduction while 27% met at work. Thirty-six percent met through pen pal clubs, marriage bureaus, personal ads, or through the internet.⁴ It is interesting to note that Filipino women are disproportionately represented in these transnational marriages. It also is worth noting that some of these foreign spouses might actually be ethnic Filipinos who had become foreign nationals and then returned to get married. However, there is no available data that will indicate what percentage of foreign spouses are former Filipinos. Also, it is assumed that many of the transnational couples settle outside the Philippines. However, a sizable community of foreigners resides in the Philippines, many of them spouses of Filipinos.

In the stream of research on migration issues, transnational marriages do not attract as much attention as other issues like labor migration.⁵ This is perhaps partly attributable to their small numbers. Cahill quoting other researchers says that transnational marriages are often seen in various societies as “taboo” and inherently “problematic”.⁶ Marrying outside one’s group is frequently seen as a repudiation of the group’s values and an expression of dissatisfaction with one’s place within the group. Also, it is viewed as problematic in terms of the clashing values, traditions and identities among the spouses and their children. These problems sometimes surfaces in the form of domestic abuse and family break-up.⁷

This bias is echoed in the way transnational marriages, in particular the so-called “mail-order” marriages as depicted in the media.⁸ Filipinos, often women, who met their foreign spouses through pen pal services, matching services, or the Internet are characterized as “poor” and “desperate” in their desire to escape poverty through marriage to foreigners.

They are also said to be rural folk who are uneducated and demure. The implication is that they are either gullible, or choose to ignore the dangers behind mail-order marriages because of their desperation. In cases where they are portrayed as being abused, they are said to prefer continuing with their dysfunctional relationship rather than return to the Philippines.⁹ Other commentators compare these women as part of the country's "exports".¹⁰

On the other hand, the foreign men are characterized as abusive husbands who take advantage of Filipino women's poverty and ignorance, disrespectful of Filipino women's dignity by using them as sex objects, are often from poor or working class backgrounds who are unable to get women in their own country to be their spouses, chronic alcohol or drug dependents, and exploiters of their wives' domestic or economic labor. They are said to favor Filipino women thinking that such women are conservative, submissive and ingratiated to them for rescuing them from their impoverished lot in the Philippines. Such women would therefore easily accede to being objects of their authority. Some of these men are also described as physically or mentally impaired, recipients of public welfare, and at the slightest sign of dissatisfaction, immediately divorce their foreign spouse her and then go on and marry other foreign women. Some are also said to have used marriage as a pretext to bring Filipino women over in order to sell them as sex slaves.

The stories are filled with accounts of Filipino women in distress while abroad. They generally involve varying degrees of physical or mental abuse such as foreign spouses disallowing their Filipino wives from leaving the house or refusing to give money to them, beatings, or scalding them with hot water, forcing sex, or threatening to divorce them and sending them back to the Philippines, among other things.

Some articles reflect criticism of Filipinos who go abroad; especially those who get to do so through marriage. One editorial said that despite the tragedies that befell some Filipinos abroad, "there is no slackening in the seeming national obsession to go abroad." It further adds that "For better pay, Filipinas work abroad as maids, nannies, even prostitutes. Either that, or they find a foreigner to marry – someone they hope can take them away from poverty and despair in the Philippines."¹¹

Indeed, most accounts would suggest that such marriages are essentially not genuine, that they involve exploitation by foreigners of Filipino women, and that these marriages are an insult to the accepted notions of marriage, and as such, an insult to the reputation of the Philippine nation.

It is partly due to these images and perceptions of transnational marriages that attract the disciplinary gaze of states. States affirm their control over these marriages by requiring more documentation to prove the genuine nature of their marital bond; limiting their rights to residence, property, or labor; or by controlling their movements through immigration policies.

On the other hand, despite the negative images, some states see transnational marriages as a way to help keep their population from further declining. Developed countries in particular have, for various reasons, been suffering from declining births in recent decades, threatening not only their economic viability, but also social and cultural stability. While some of these states persist in discouraging in-migration, some have started to loosen regulations, if not encourage transnational marriages. Whether such marriages are seen as a threat or part of the solution varies in degree of control across states.

Philippine Laws and Policies on Transnational Marriages

The Philippine constitution defines a Philippine citizen as:

1. Those who are citizens of the Philippines at the time of the adoption of this Constitution;
2. Those whose fathers or mothers are citizens of the Philippines;
3. Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and
4. Those who are naturalized in accordance with law.¹²

It further mentions that citizens who marry foreigners are deemed to not have lost their citizenship unless they renounce it through acts defined by law. Therefore, children born from transnational marriages can also claim Philippine citizenship. Also, a law passed in 2003 now allows former Filipino citizens and Filipinos who migrated abroad and who become naturalized citizens to retain their citizenship if they follow certain procedures set by the law.¹³ It effectively allows natural-born Filipinos to have dual-citizenship.

Previously, there were a number of complications if the marriage is between a foreign male and a Filipino female. The constitution of 1935, the constitution through which the present state took shape, stated that if a child is born to a foreign male and a Filipino female, the child must elect to be a Filipino when he or she reaches the age of majority.¹⁴ On the other hand, when the father of the child is a Filipino male, there is no further need for the child to perfect his or her Philippine citizenship.¹⁵

The same constitution also regarded Filipino women who marry foreigners as having lost their citizenship if the law of the foreign spouse's country regards the female spouse as having acquired her husband's citizenship upon marriage.¹⁶ If the female spouse did lose her citizenship, it is understood that children from such marriages have no claim to Philippine citizenship. Those women who do lose their citizenship in this manner are entitled settle in the Philippines as resident foreigners along with their children and their foreign spouse.¹⁷ Should the mother wish, she and her minor children may also request to be "repatriated" and reacquire Philippine citizenship.¹⁸ These laws have already been superseded by the law introduced in 2003 that allows dual citizenship.

How a foreigner can marry a Filipino

Prior to marriage, there are a number of procedures that a foreigner must undergo. If he or she intends to marry a Filipino in the Philippines, he or she must first secure documents that will be required in processing

his or her marriage and stay in the Philippines (if that is the couple's intention after marriage).

All legal documents produced abroad must be authenticated by the Philippine embassy or consulate in the country where the document was produced. Typically, for the purpose of marriage, the foreigner needs to secure a certified copy of his or her birth certificate. If the document is not in English, in addition to having it authenticated, the foreigner must also provide a certified translation of the document in English.¹⁹

Interestingly, the Philippines does not have a visa category for foreigners intending to marry in the country. Instead, they technically arrive in the country as "tourist" since there is no mention of a "fiancée" visa in the immigration law.²⁰ However, under current immigration rules, a tourist must be able to produce a valid return ticket or onward journey ticket if he or she is asked to do so by the immigration authorities in the Philippines or the airline staff. Failure to do so could result in a hefty penalty for the airline and could be a reason to bar the foreigner from entering the country. It needs to be said that this rule is applied erratically. Often, this rule does not pose problems because this is only sporadically checked. When foreigners do come up against this rule, the quickest solution is to buy a return ticket at the airport as "proof" of their intention to enter as "tourists".

Citizens from certain countries (normally passport holders of developed countries and member countries of the Association of South East Asian Nations) are given tourist visas upon entry. However, other foreigners of countries that fall under the Department of Foreign Affairs' "restricted list" must first apply for a visa before entering the country. Furthermore, such foreigners must submit various documents proving their intentions in the country and their means of supporting themselves here.

When they arrive, they must then deal with the requirements for marriage as set by the Family Code of the Philippines. Prior to solemnizing the marriage, the couple must secure a marriage license from the city or town where one of the parties normally lives in. At the city registrar's office, they will fill out a form asking for biographical information of the

couple and then they must present their birth certificates. Lately, government agencies no longer accept photocopies or even the original birth certificate. For Filipinos, they now require a “certified copy” printed on security paper which can only be issued by the National Statistics Office. For foreigners, they must submit their birth certificate certified by the Philippine diplomatic post where the certificate is from.

If they indicated any previous marriages, they must also show proof that such marriages have been dissolved (i.e. death of the previous spouse, divorce papers, or annulment papers).²¹ They must also present a certificate of attendance at the government-sponsored family planning seminar conducted by the city government where the couple applies for a license.

If one or both of the parties are between the ages of 22 and 25, they are required to show proof that they sought their parent’s advice before getting married. If one or both of the parties involved are aged 18 to 21, they must seek their parents’ permission before being allowed to marry. When one or both partners need consent or advice from their parents, they are required to attend a number of pre-marriage counseling sessions on top of the pre-marriage family planning seminar required for all couples.²² These age requirements and counseling sessions apply to all marriages conducted in the Philippines.

When one or both parties are foreigners, the foreigner is required to prove that he or she is legally capable of marriage. The foreigner must go to his or her country’s embassy or consulate and secure a “Certificate of No Impediment” stating that the foreigner has no previous marriage or if he or she does, that the previous marriage has been dissolved.²³ Procedures vary between embassies and how they may be able to issue such certificates to their citizens. In the case of the American embassy, they cannot issue such a certificate. They can only issue a certificate stating that their citizen can legally declare that he or she is capable of marriage.

When all the documentary and procedural requirements are satisfied, the registrar’s office will then issue a notice of marriage which they will display on their bulletin board for 10 days prior to the issuance of a marriage

license. Once the marriage license is issued, it is valid for a period of 120 days and valid for marriage in any locality in the Philippines.²⁴

Marriages need not be solemnized by a priest or religious leader. Any mayor, judge, or justice of the courts may solemnize the marriage provided that the marriage takes place within their jurisdiction. It is required however that there be at least two witnesses present when the marriage is solemnized. If the marriage is to be solemnized by a religious leader, each religion has their own sets of requirements apart from what the state requires (i.e. pre-marriage counseling sessions with a priest or pastor, dispensation for mixed marriages, etc.).

At this point, it is worth pointing out that the government outlaws certain modes of introducing would-be couples. Matching services and other related activities such as putting out advertisements that aims to match Filipino women and foreigners are illegal in the Philippines, punishable by 6 to 8 years in prison plus fine.²⁵ Recent legislation further added that foreigners that contract marriage for the purpose of enslaving or selling to slavery Filipino women can be punished with 6 to 20 years in prison.²⁶

How foreign spouses can live in the Philippines

A foreigner married to a Filipino is allowed to reside in the Philippines provided that regulations governing their stay are followed. Prior to their application with the Bureau of Immigration, they must gather a series of documents from a number of government agencies in the Philippines and their country of citizenship.

The applicant must first secure a certified true copy of their marriage certificate and the Filipino spouse's birth certificate. If they were married in the Philippines, these certified true copies can only be issued by the National Statistics Office. Then, the applicant must also provide a certified copy of his or her own birth certificate. As mentioned previously, all documents issued by foreign governments must be authenticated by the Philippine embassy or consulate in that particular country. Documents other than English need to come with an official translation.

The applicant also needs to submit the “Certificate of No Impediment” that was issued to him by his or her embassy or consulate. If the applicant has had any previous marriage, he or she must also submit documents indicating that the previous marriage has been dissolved. Aside from these documents, both Filipino and foreign spouse must execute a joint sworn statement saying that at the time of their marriage, they were legally capable of doing so. They must also state in the sworn statement their previous marriage, if any, and that they have been dissolved. If the couple has children of minor age and unmarried, they must also provide certified true copies of birth for each child.

The applicant and the Filipino spouse also need to prove that they are financially capable of supporting themselves. To prove this, they must execute another joint sworn statement indicating their sources of income and that they are financially capable of living in the Philippines. Attached to this sworn statement are documents proving the couples’ financial background such as bank certificates, copies of land titles, income tax return of the Filipino spouse, or other such similar documents.

Finally, the applicant needs to secure clearances from the National Bureau of Investigation, the Bureau of Quarantine, and the Bureau of Immigration. In order to get clearance from the National Bureau of Investigation, the applicant must go to one of their offices, fill out a form, submit a copy of his or her passport, and be fingerprinted and photographed. After a few days and if no criminal record is found, a certificate will be issued stating that there is no known criminal record on file involving the applicant.

The Bureau of Quarantine requires the applicant to undergo a series of medical tests and a checkup. They screen for dangerous contagious diseases or serious mental or physical disorders. If none of these conditions are found, they will issue a certificate stating that no diseases or disorders afflict the applicant and they will affix their stamp on the applicant’s passport.

As for the Bureau of Immigration, the applicant needs to fill out a form requesting for a clearance certificate and supply a copy of his or her

passport. They will then check their records if the applicant has any outstanding criminal records with their bureau or if the applicant appears in any of their watch lists. If the applicant's name does not appear in their records, they will then issue a clearance certificate.

Once all these procedures and documents are accomplished, the applicant and the Filipino spouse will then issue a letter addressed to the Commissioner of Immigration asking that the applicant's tourist visa be converted to permanent resident. They will also fill out an application form. They will then submit the form and letter along with all the documents at the Bureau of Immigration office in Manila. While the application is being considered, the foreign spouse still needs to keep renewing his or her tourist visa.

Once the application is approved, the applicant receives a copy of the decision granting him or her "temporary" residence for one year. Before the end of the first year, the foreign spouse must again apply to change his or her status from probationary to permanent resident and provide further documentation proving that they are living together and that they are still financially capable of staying in the Philippines.

With the copy of the decision, the foreign spouse may then have the change of status stamped into his or her passport. Once this is accomplished, the foreign spouse is then required to register with the Bureau of Immigration as a resident foreigner. The registration process is different from the process of changing one's visa. Registration entails filling out a form, attach copies of his or her passport, a copy of the decision granting him or her residence, and ID pictures. The foreigner will also be required to be fingerprinted and photographed. At the end of the registration process, the foreign spouse is issued an "Alien Certificate of Registration" or ACR which serves as his or her official identification card while in the Philippines. Foreigners are required to present this to authorities when asked to.²⁷ The ACR must also be produced when transacting with government or other private institutions when requested.

If the couple decides to stay in the Philippines, they will find out that the state does not treat foreign residents at par with its own natural

born or even its former citizens. Aside from not being able to vote or hold public office (which is the case in most countries) they are also not allowed to own land for any purpose including building a house²⁸. In order to get around this, real-estate property is put under the name of the Filipino spouse. Or, they purchase a condominium or a townhouse which foreigners are allowed to own. Foreigners may also acquire land through inheritance.

Despite their resident status in the country, if they intend to open a business, their investment is classified as a “foreign investment” and therefore restricted to only certain types of business, mainly export-oriented. They are not permitted to own small to medium size business (businesses with paid-up capital of less than US\$200,000). They are also barred from engaging in most businesses or practices which are reserved for natural-born citizens. Again, to get around this restriction, businesses by foreigners are registered under the name of the Filipino spouse to avoid legal complications.

Of course these obstacles can be circumvented if the foreigner becomes a naturalized citizen. However, the basic requirements set for naturalization for foreigners married to Filipinos are high and prove almost impractical to meet.²⁹

Case Studies: Experiencing Policy Outcomes and Shortcomings

Government policies by themselves do not make practices. It is important to look at how these policies are actually carried out and look at what the outcomes are. Below are some typical examples that illustrate how state policies on transnational marriages are experienced. These cases are not exhaustive but they represent prototypical instances.

Aiko

Aiko (not her real name) is Japanese who married her Filipino husband in 1987. Since then, they have two children. Other than living in Japan for half a year, they settled in the Philippines with occasional

visits to Japan. They first met in the Philippines when she was an exchange student.

When they decided to get married, she was not too concerned about the hassles of going about getting their marriage done. She was more concerned about the objections of her parents. Her parents did not support her decision to marry a Filipino. Her husband's family on the other hand had no problem with their soon to be daughter-in-law being a foreigner. Still despite their objections, Aiko went ahead with marrying her husband. After the marriage, they planned to settle in the Philippines because her husband already has a job there and he was not interested in moving elsewhere.

For their marriage, they decided to have a civil wedding in the Philippines and in Japan. In Japan, they went to her local government office in Japan and registered their wedding. This involved filling out a form and presenting her "koseki tohon" (household registration) which serves as her birth certificate, and her husband's birth certificate. No ceremony or solemnizing of the marriage was required.

After their marriage, she then sought to convert her visa to permanent resident. At the immigration office in Manila, she was told that in order to process her papers, she needs the assistance of a lawyer. After having said that, the immigration employee she was speaking to showed her a list of lawyers and she was expected to pick one. She found it odd that she needed to have a lawyer and she knew it would be very expensive to hire one. Upon learning this, her husband's friend who is also a lawyer volunteered his services for free.

From here, the process for converting her visa was handled by the lawyer. She still needed to sign documents and get fingerprinted, but otherwise, submitting the documents and following up on applications was handled by the lawyer. Even when it was time to petition the immigration bureau to change her status from probationary to permanent resident, the lawyer had handled everything. She felt that the process itself was not so slow and she did not feel any need to pay more than the required fees to hasten the process of her papers.

Aside from having to pay for all the processing fees for regularizing her stay in the Philippines, she also pays for re-entry and clearance fees every time she leaves the Philippines. Lately, she and other foreigners are always assessed for “express lane” fee. It is suppose to be an optional charge if foreigners want their papers processed faster. Nowadays, she says that that the immigration bureau makes her and other foreigners pay for it all the time.

Lately, they are switching to a new alien registration ID card, more commonly known as an “ACR I-Card”³⁰. When Aiko applied, the people she approached at immigration did not know how to go about the process. Eventually she did find out how to go about it. The first step is that she was supposed to turn in her old paper alien registration document. The document was about to expire anyway so she thought it was good timing that there are replacing them with new cards. However, they would not accept her nearly expired ACR and instead, they made her apply for a new paper ACR. Only after she renewed her paper-based ACR was she able to turn that in so that she can start the process for applying for the new ACR I-Card.

Aside from having to transact with immigration, she also has to deal with other government agencies such as the tax bureau and social security because she is formally employed. When she registered with social security, they would not accept that she does not have a middle name. So they made her use her Japanese last name as her middle name and then her husband’s last name as her new last name. Since she wanted all her documents to be consistent in the Philippines, she felt that she needed to follow the same format. In day-to-day matters however, she feels that she is free to use either her Japanese last name or her husband’s last name.

Aside from the Philippine government, Aiko had to deal with the Japanese government as well. When she and her husband had children, she registered them with the Japanese embassy. There was no need to register them with immigration bureau because one of their parents is Filipino, so they too are Philippine citizens as well as Japanese citizens. Their being dual nationals proved to be cumbersome.

At first she found it easier for their family to travel to Japan as Philippine citizens and she the only Japanese. Her children along with her husband would apply for tourist visas and her father in Japan would “sponsor” their application. She could not sponsor her own family because she does not have a “residence certificate”, a document proving she is living in Japan. A copy of a sponsor’s residence certificate is required for a foreigner’s visa application.

When they traveled as a family, she also brought with her the children’s birth certificates. This is because the Philippine government does not allow minor children to travel by themselves or with one parent, or with adults other than both parents present, unless the parents had applied for permission from the Department of Social Welfare and Development before the children travel. If the passports were the only basis for establishing their family relationship, the relationship would not be so obvious and would raise questions at the airport in the Philippines.

Following the Japanese system of family registration, the Japanese government does not allow a foreigner to be “head” of the household. They also do not allow Japanese women married to foreigners or their children to use the father’s name on their Japanese official documents unless they go through a rather complicated procedure. So, on her and her children’s passports, it is Aiko’s Japanese last name that appears as her children’s official last names.

Also, the Japanese government does not accept two first names for its citizens (e.g. “Joseph Ryan” would not be acceptable; it has to be either Joseph or Ryan as the first name). They also discourage the use of names that are hard to write in Japanese. Here children have two first names and for some reason, the Japanese embassy had overlooked their own policy and issued passports to her children with their first names intact. She does know of a case where a Japanese local government would not register the two first names given by their parents because government only wanted to accept one of them. The case was brought to court and the court allowed the parents to register both names as first names but stipulated that this ruling only applied to them.

On the whole, she describes her experience with the Philippine state as a “matter of pain”. She says that “there are many small things...” that seem to test her patience, such as having to deal with immigration personnel who on one occasion lost her papers. Fortunately they were able to find it. It is also apparent to her that the Philippine government is out to charge foreigners as much money as they can. She feels however that her problems with the Philippine government are not as bad as having to deal with the Japanese government.

Kyoko

Kyoko (not her real name) is Japanese who first met her spouse in Japan while she was in college around 1991. He was a graduate student and they met in “prayer meetings” in their campus. They are both devout Catholics. After graduating, she got a job in Japan for a couple of years while he was completing his graduate degree. After finishing his degree, they decided to get married and they did so in a Catholic ceremony in the Philippines in 1995. They decided to settle in the Philippines because her husband wants to stay and establish his career there. They presently have no children.

When she was considering marriage, she wanted to marry someone who shared her religion but Catholic men in Japan are few. “For me, it was not such difficult choice, we are not from the same country but we have the same religion.” She knows of other women who are Catholic who rather date Catholic foreigners than go out with Japanese.

One of the requirements for her marriages is she needed to seek marriage counseling with a Japanese Catholic priest in Philippines. She was also required to attend a marriage seminar required by the Catholic Church in the Philippines. She however was able to fulfill that by attending a similar seminar in Japan. She does not remember much about who required these things of her (it was probably either Japanese embassy, Catholic Church or both).

After their wedding, she went back to Japan to inform her local government where she is registered that she is now married. She also attached a copy of her marriage certificate and provided details about her husband. This was necessary for her to start her own independent *koseki tohon* (household registration) apart from her parents. In her *koseki* however, she is considered the “head” of her household. Normally, her husband’s name would appear as prominently as hers. Instead, her husband’s name and details are written at the bottom of her registration paper, which looks like a footnote.

During the first year of her stay in the Philippines, she traveled back and forth to Japan frequently and did not start processing her resident visa because the immigration bureau kept stamping “*balikbayan*”³¹ or “tourist” on her passport. She only started to apply for resident visa a year later when she was applying to work in a Japanese bank in Makati.

Kyoko’s brother-in-law, a lawyer working for a law and accounting firm, volunteered to work on getting her resident visa. It took probably three to six months to process her documents. On occasion, she would go to immigration and to the lawyer’s office to sign documents or get fingerprinted. Beyond that, she did not do much more.

Aside from processing fees, she needs to pay for a re-entry permit and exit clearance every time she leaves. When she applies for a re-entry permit, it is only valid for one year even though she is already a permanent resident. Aside from having to pay every time she leaves, after one year she needs to renew her re-entry permit by going to immigration office. She also needs to pay an annual report fee every year. “In a real sense, I didn’t have any problem (dealing with immigration matters) but I have to keep paying, have to keep going to immigration.”

Aside from immigration, she also needed to transact with social security, tax bureau, and government-sponsored housing loan association, all of which are compulsory for regular employees. In all her documents, she used only her Japanese name. She did not specify a middle name and no one made an issue of it. She suspects that when she registered with

these government agencies through the Japanese company, some of the other employees who are Japanese also did not have middle names and so the social security and tax bureau probably guessed it was normal for Japanese to not have middle names and did not pursue it any further.

She also needed to transact business with Japan embassy, registering her presence with them so that the embassy can reach her in case of emergency, and to get a visa for her husband when they visit Japan. The embassy informed her that she could include her husband's family name as her "nickname" on her passport. The nickname is written within parenthesis next to her official name. It is not considered an official name and it does not affect any of her documents. She opted to have this "nickname" anyway in order to make it easier for her to prove that her husband is her husband when they travel together.

When asked for her general impression of her experience with the Philippine bureaucracy, Kyoko responded with a candid observation. "Basically, I don't understand why I have to do this" like getting re-entry permit or annual report or why does it have to be done only in Manila. In short, she wonders why dealing with the government has to be so inconvenient. "For foreigners, there are so many things that the Philippine government can do to ease the process but so far there's nothing."

Amy

Amy (not her real name) is Chinese British who met her spouse in Japan when they were both exchange students. They have been married since 2005 and they have no children. Previously, she lived in Hong Kong, UK, and Japan. Since getting married, she moved in with her husband and her in-laws in Manila. They decided to settle in the Philippines because her husband was still finishing graduate school and she heard that some jobs in Manila are available to people with foreign language skills. She also planned to enroll in graduate school in Manila.

Before coming to Manila, they met in Hong Kong in order for her husband to meet her family who still live there. When they were about to leave Hong Kong for the Philippines, the airline staff at the check-in counter wanted to see her return ticket or her visa to remain in the Philippines. Her husband explained that they were about to get married in the Philippines which is why she has no return ticket or no spouse visa yet. The staff would not accept that explanation and would not allow her to check in unless they purchase an outbound ticket out of Manila. Grudgingly, they did. "It was one of the most stressful moments during our run-up to the wedding" she says.

After the marriage was solemnized, the marriage document needed to be submitted to City Hall of Manila where the marriage took place. After a few weeks, they needed to go back and get a copy of the marriage certificate printed on NSO security paper.

When they started the process of converting her visa, her husband considered getting a lawyer to help them process the papers but after finding out how expensive it was to hire a lawyer, they decided to do the processing of her papers themselves.

Aside from the marriage certificate, sworn statements from both spouses, bank documents of the husband, and a copy of the certificate from the UK embassy stating she's single and not previously married, she needed to get a medical exam at Bureau of Quarantine. She also needed to get clearance certificates from National Bureau of Investigation and from Bureau of Immigration. At the Bureau of Quarantine, they checked her X-ray, blood test results, and her heartbeat. Then, at the NBI, she needed to fill out a form, present her form and passport to a supervisor, who then signed off on her application. She was then fingerprinted and photographed. A couple of days later, she picked up a document with her picture on it stating that she had no criminal record on file. At the immigration bureau, she filled out a form and presented her passport. Later in the day, she received a document saying there is no criminal

record in their file. In all three instances, she had to pay fees. The immigration bureau charged the highest fee, she says.

Once all the documents and sworn statements were collected, these were submitted to the immigration bureau. The person who received told them to follow up on their application in two months even though they paid for “express lane” fee aside from the regular fees for filling the application.

When she got her visa, she then needed to apply for alien registration. To do that, she went to the immigration office to fill out another form and was then fingerprinted and photographed. Throughout the process, she noticed the long lines of people and how some of them are being marshaled around by people with IDs hanging around their necks. Her husband explained that the persons with IDs are not really immigration employees; they are from travel agencies or law firms that assist foreigners with their papers. She noted that “If some foreigners get ‘fixers’, then the process slows down for the foreigners who don’t use ‘fixers.’”

When she leaves the country she needs to pay for reentry permit and exit clearance. This amounts to more than two thousand pesos every time she applies she says, on top of the other travel taxes the government imposes on all travelers. During the first time, she went to immigration office in Manila but during subsequent trips, she just paid at the airport. “Every time I leave, I keep paying this fee. It seems like the government wants to make a lot of money from people like me.”

After one year, she and her husband had to petition immigration to change her status from temporary to permanent resident. To do that, they had to gather again documents such as bank certificate of their joint account, certified copy of their marriage certificate, sworn statement stating they were married and living together, and a letter from the village head (Barangay Captain) of their neighborhood stating they are living together as husband and wife.

After filing their application, they received a letter two weeks later telling them to appear before a legal officer to be interviewed. The legal

officer just wanted to ask questions such as how they met, when was their last trip out of the country, how long have they been married. At the end of the process, the secretary of the legal officer was charging them a fee. This was odd because normally payments are made at the cashier. They said that they will pay the fee for them and would attach a receipt to the documents later. Later on, she or her husband could not find any receipt from immigration explaining this fee. Her husband suspects it was probably a bribe that the legal officer solicited from them.

Aside from paying processing fees and for re-entry permits, she also needs to pay an annual report fee. Her alien card also needs to be reissued every year, which costs US\$50.00. She heard though from her husband that they might extend the validity of I-cards for permanent residents to 5 years.

Aside from graduate school, Amy works at a company requiring Japanese language skills. For this job, she didn't have to apply for a work permit since her visa status as a spouse allows her to work. She however needed to register with government agencies like the tax bureau, social security, health insurance, and housing loan association. On the insistence of her husband, she also got a local driver's license to serve as her back-up ID. On all her Philippine documents except immigration, her last name appears as her and her husband's last name attached by a hyphen. When she tried registering at social security, they insisted that she have a middle name. Only when she explained that Chinese don't have middle names and showed her Philippine drivers license did the social security staff relented.

Analysis and Possible Research Directions

When compared to other countries, Philippine policies towards immigration, in particular on the issue of transnational couples and families, are outdated and inefficient. Foreign spouses living in the Philippines need to contend with the various processes required to keep their stay valid. They must deal with the various means of state surveillance; alien

registration, application for clearances, photographing, fingerprinting, health check, annual reports, re-entry permits, and others. While the intended policy seems to be to keep foreigners under control, due to the complexity and inefficiency of the system, it in fact encourages non-formal ways to negotiate the system. As we can see through the interviewees' stories, foreigners utilize the services of lawyers, fixers, relatives and friends in order to get things done.

As Amy pointed out, the system's inefficiency breeds even more inefficiency. Since the processes are unclear and slow, some foreigners use fixers, which, then makes process for others slower. This then encourages more and more foreigners to resort to informal methods to keep their papers in order. Kyoko echoes the acceptance of most foreigners of these inefficiencies, resigning herself to the situation. It would seem that foreigners in the Philippines do not represent a powerful enough force that could compel the Philippine state to reform its policies and practices.

There is no incentive on the part of the state to reform its immigration policies, except perhaps if it increases their revenues. An example of this is the I-card system. It was touted as a way for the government to make immigration processes more transparent and documents tamper-proof. It was also hailed as an attempt to make immigration process more convenient for foreigners. However, all this remains to be seen. What was clear was that foreigners are regularly required to pay expensive fees. This is on top of having to pay taxes. If there is any consistency between state policy and actual practice, it would probably be the view that immigration is a source of income. In 2005, the immigration bureau collected over 1.3 billion pesos in gross revenue, a record for the bureau. They also registered a 14 percent increase in their collection for the first quarter of 2006 compared to the previous year.³²

It does not help transnational couples that their popular image is rather negative. The nature of their relationship is always suspect as something other than love. They need to prove the genuineness of their relationship, more often than translocal couples. Such a policy discourse

fits stereotypical images of transnational marriages in general, and “mail-order” brides in particular, that Constable noted in her own analysis of US media and immigration policy.³³ Suzuki on the other hand points out that the negative image of Filipino women and their foreign spouses do not hold true throughout the rest of society. Among Filipino families with daughters married to Japanese that she studied, they saw the relationship as a step up for their daughter. This positive image is reinforced by their notion that Japan is a rich country with rich people. They also benefit from this move by their daughter especially when she fulfills their filial duty to assist her natal family financially.³⁴

At its core, what motivates states to have policies towards foreigners is their desire to create their idealized notion of what a citizen is. It rewards individuals who meet these criteria through rights and privileges. By default, they must also withhold these rights and privileges from people it considers foreigners. Aguilar examined how Philippine citizenship as a distinct notion developed during American occupation and into early days of the post-colonial Philippine state. In 1902, as a way to deny American citizenship to the inhabitants of their newly acquired territory, the American government invented “Philippine citizen” as a legal category for all residents of the Philippines from the time it took possession of it (never mind that there was no “Philippine state” at that time). Eventually, Philippine nationalists who helped form the post-colonial state, informed by their own imagination of a “Filipino race”, harboring their own racial biases, and concerned with ethnic Chinese and Japanese dominating sectors like trade and agriculture, enacted laws that barred foreigners from fully participating in the public sphere. They also raised the bar for resident foreigners wanting to become naturalized citizens.³⁵

At the same time, as Castles (2001) argues, Asian states have yet to fully develop a multicultural approach at the policy level regarding citizenship. States still adhere to notions of a monocultural nation-state where membership is only achievable through blood and ethnic ties. Castles points out however that many Asian states are at an early stage of their

development as democracies. It is necessary to develop democratic institutions, as well the development of liberal approaches to in-migration before multiculturalism can take place. He does not discount the possibility that Asian states can develop into multicultural societies. Neither does he say that this outcome is inevitable. It is still inconclusive at this stage if states will keep their current policies despite migration trends or if it will reform them.³⁶

At the outset, the Philippine state's policies seem to be restrictive, but in practice, there are numerous ways that couples could negotiate with it as long as they can pay and find the proper agents to assist them. On the other hand, there are other countries, such as Japan, that are more restrictive in policy and in practice than the Philippines when it comes to transnational couples and families. In Aiko's case, the dual nationality of her children seems to be a point of particular irritation to the Japanese state to compel its citizens to be only Japanese through the use of the Japanese passport.

To its credit, the Philippines had since changed its jealous approach to nationality by allowing dual citizenship. It had also changed its gender bias when it comes to taking away citizenship from Filipino women who married foreigners. It is in fact moving towards allowing its people to preserve their citizenship through the dual nationality law. This typifies Ong's theory that states are responding to transnationality by seeking to refashion national identities to make them more inclusive of transnational subjects. Her example is that of overseas Chinese. The Chinese state idealizes overseas Chinese as still "Chinese", still part of the nation, and in fact, are crucial to the development of China because of their expertise in negotiating different cultural backgrounds.³⁷ One way then to see this shift in policy is that the Philippine state's desire to re-include former Filipinos as part of the Philippine nation, hoping that this will be an incentive for them to employ their physical, cultural and knowledge capital that they accumulated overseas in the service of the state's goals.

Another site of contention and negotiation between transnational couples and states is names; names of spouses and their children. For the

Philippine state, the interviewees kept having problems with regards to their official names, whether they adopted their husband's name or not and whether or not they have middle names. As far as the Philippines is concerned, there is no legal impediment to women retaining their name after marriage. There is also no requirement to have a middle name if there really is none. Still, this seems to be a point of argument between two of the interviewees and the government agencies they transacted with. The Japanese state however is more emphatic about its name preferences. It disallows Japanese spouses and their children to adopt their foreign spouses' name on any of their official documents. The status of the foreign spouse in the household registry is that of a footnote rather than a legitimate entry.

Despite its inflexibility, transnational couples still can negotiate with the Japanese state. In the case of Kyoko for example, she was able to add her husband's name to her passport as a nickname. For the Japanese state, the addition means nothing because it is not part of her official name. For Kyoko however, it serves her purpose; to help identify herself to immigration authorities as her husband's spouse. In Aiko's case, it was perhaps a bureaucratic oversight that allowed her children to retain their first names intact. From the story that she related, it is apparent that some couples can resort to Japanese courts for some redress.

The state is not the only actor that transnational couples need to deal with. In the case of Kyoko, the Catholic Church played a big role in her negotiating the marriage and migration process. It is also worth noting that the CFO had subcontracted their counseling seminars to a church-based organization. This points to the church as an actor in this issue as well. It would be interesting to find out how the church imagines transnational marriages given that it participates in counseling these couples while at same time, as reflected in the press reports, its leaders seem to possess a negative image of transnational marriages.

Another possible direction is to examine how social class comes into the picture. The discourse reflected in one of the articles deriding

Filipinos who migrate, and in particular women who do so through marriage, seems to indicate an elitist undertone. Taking a moralistic tenor, they are derided because they so easily would abandon their country for a comfortable life or material gain abroad. This further justifies the low regard with which these women are held. Such patriotic fervor however underscores Aguilar's point about "Philippine citizenship", that it took full shape under the auspices of mainly rich, landed and educated politicians. In the interest of protecting its citizenship discourse, the elite must put down those that are "unpatriotic" in its eyes.³⁸

Gender is another issue that cannot be ignored in discussing transnational marriages. As reflected in previous state policies towards marriage and citizenship, it followed a male-bias approach. Although this is no longer the case on the issue of citizenship, this is still an issue especially when most of the Filipino spouses in transnational marriages are women. Do state policies respond to this gender reality, or do they serve to contribute to more problems? Even as the state claims to be protecting Filipino women from foreign spouses, the same level of concern for women does not seem to be as evident when problems arise between them and Filipino men, such as spousal abuse or marital infidelity.

As illustrated by data provided by CFO, the spouses seem to be relatively older than their translocal compatriots. Furthermore, in percentage terms, there are few transnational marriages in the Philippines (as is probably the case in most countries). Although inconclusive, these characteristics seem to indicate that these spouses are socially unique compared to most people. Beyond the negative images, it is interesting to find out what motivates these individuals get married despite the oddities and problems associated with it. Constable points out those negative stereotypes often ignore the "agency" of these individuals, especially the women.³⁹

Conclusion

In this paper, the researcher used primary and secondary data to illustrate the Philippine state's policies towards transnational couples and families, as well as how they are put into practice. It is apparent that there are gaps between policy and practice. Compared to other states, the Philippines still holds a conservative view towards marriage migration. To some degree, this conservative view has moved away from punitive punishment against its citizens, in particular, Filipino women who marry foreigners. What remains however is an outdated and inefficient immigration system that supposedly discourages in-migration but is in practice porous due to corrupt practices.

Where there is no gap between policy and practice is the state's desire to generate revenue from foreign residents, in particular transnational couples and families, through the levying of various immigration fees. Their disempowered position is further bolstered by the negative images of transnational couples that circulate in the public mind.

Nonetheless, despite numerous impediments and obstacles, transnational couples and families continue to carry on by negotiating with state policies in order to arrive at outcomes acceptable to them. They also employ other actors in order to help them weave through the bureaucratic entanglements they find themselves in.

Although exploratory, some broad observations and suggestions can be made with regards to the formation of state policies. Given the reality of transnational marriages, it is best that the state refrain from responding to stereotypes and rely more on hard data. The CFO and the Bureau of Immigration, through its registration process, collects useful data. It could do more to apply this data in reforming policies and regulations, making them more responsive, more efficient, more transparent and less intimidating to their "clients".

In the interest of equal treatment and fairness, the state should review its policies towards foreign residents, in particular spouses of Filipinos. It would seem contradictory for a state to lobby for equal treatment and

respect for its citizens overseas, bemoaning how ill-treated they are in the hands of non-Filipinos, while denying equal treatment to foreigners in its jurisdiction. Perhaps revision of outdated immigration laws in conjunction with making the bureaucracy more transparent might encourage more of these transnational couples and families to settle in the Philippines and invest in businesses, big or small.

Finally, Cahill, quoting Sussman, says that “marriages across racial and cultural boundaries have been studied usually from a problem stance.”⁴⁰ In doing so, the starting point of most research endeavors, policies and practices is to focus on the problems transnational marriages create while ignoring its positive aspects. Transnational marriages are often associated with a number of social problems like female exploitation, family breakdown, or identity problems for the children or the spouses. Equally so, they can also be associated with social benefits like intercultural exchange, breaking down racial or ethnic boundaries, or expanding the cultural knowledge and literacy of children and spouses in these families.⁴¹ It seems unfortunate that like many other states, the Philippine state chooses to gear its policies towards treating these marriages as problems. Without discounting the real problems generated by transnational marriages, the state should be aware of this policy bias and undertake changes that will include, rather than exclude, transnational marriages into the public realm.

Notes

- 1 Constable, 2005.
- 2 Cahill, 1990.
- 3 2003 Philippine Year Book. Manila: National Statistics Office, 2003. P. 178.
- 4 Valencia, 2004.
- 5 Cahill, 1990 P. 1 and Castles, 2001 P. 186.
- 6 Cahill, 1990 P. 1.
- 7 Cahill also notes in the same instance that transnational marriages can also be viewed as “liberating”. It can open up individuals to new values and experiences, introduce new ideas and break down barriers in their respective societies, and form richer cultural identities among spouses and especially their children.
- 8 See complete list of reviewed newspaper/magazine articles in reference section.
- 9 “Filipinas Prefer Abusive Spouses to Deportation.” *Philippine Daily Inquirer*, January 4, 1992. P.9.

- 10 After bananas and shrimps. *Philippine Agenda*, November 15, 1988, P. 4-5.
- 11 Mail-order brides or domestic helpers? *Philippine Star*, January 27, 1996, P. 6.
- 12 Article 4, Section 1, No. 1-4. Constitution of the Republic of the Philippines, 1987.
- 13 Republic Act 9225, Citizenship Retention and Re-acquisition Act of 2003.
- 14 Article 4, Section 1, No. 4. Constitution of the Republic of the Philippines, 1935.
- 15 Article 4, Section 1, No. 3. Constitution of the Republic of the Philippines, 1935
- 16 Section 1, No. 7. Commonwealth Act No. 63, Republic of the Philippines, 1936.
- 17 Commonwealth Act No. 613, Philippine Immigration Act of 1940.
- 18 Republic Act 8171, 1995.
- 19 Guidelines on Authentication, Department of Foreign Affairs. <http://www.dfa.gov.ph/consular/authen.htm>
- 20 Commonwealth Act No. 613, Philippine Immigration Act of 1940.
- 21 Article 11 and 12, Family Code of the Philippines, 1987.
- 22 Article 16, Family Code of the Philippines, 1987.
- 23 Article 21, Family Code of the Philippines, 1987.
- 24 Article 17 and 20, Family Code of the Philippines, 1987.
- 25 Section 2 and 4, Republic Act 6955, 1990.
- 26 Republic Act 9208, Anti-Trafficking in Persons Act 2003.
- 27 As of this time, only foreigners are required to carry identification. There is no national ID system in the Philippines.
- 28 Section 2 and Section 7, Article 12, and Article 5, Section 1, 1987 Philippine Constitution.
- 29 Commonwealth Act No. 473, Revised Naturalization Law, 1939.
- 30 Since 2004, the Immigration Bureau launched a program to replace all paper-based alien registration documents and re-entry permits with a tamper-proof plastic ID card which contains a magnetic strip and chip, aside from the usual biometric information printed on alien registration documents. The process of replacing these cards however has been slow and the cards are valid only for one year and costs US\$50.00. This as oppose to the old paper equivalent which was valid for 10 years and costs 1,000 Pesos.
- 31 A Balikbayan stamp is usually given to former Filipinos and their dependents who are accompanying them when they enter the Philippines. This allows the receiver to stay in the Philippines for one year.
- 32 *Manila Bulletin*, April 12, 2006 < <http://www.mba.com.ph/MTNN2006041261261.html>>
- 33 Constable, 2005, P. 167.
- 34 Suzuki, 2005, P. 131.
- 35 Aguilar, 2004.
- 36 Castles, 2001.
- 37 Ong, 1999, P. 43.
- 38 Aguilar, 2004.
- 39 Constable, 2005, P. 13.
- 40 Sussman, 1982 in Cahill, 1990, P. 1.
- 41 Cahill, 1990, P. 2

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