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Do You Truly Love Your Partner Genuinely and Unconditionally?'

A Critical Discourse Analysis of the Australian Partner Migration Booklet

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CONTENTS

ABSTRACT

As a nation of immigrants, Australia is well known for its migration regulations regarding the four main visa streams incorporating more than 120 different visa subclasses; all guided by principles of humanity, equity and compassion. Partner visas form a part of Australia's Family Migration stream and allow 'noncitizens to enter and remain in Australia on the basis of their spouse or de facto relationship (both opposite and same-sex) with an Australian citizen or permanent resident'. There is an increasing trend of Australians sponsoring overseas partners for the purpose of marriage. This trend amounts to nearly 80% of the Family Migration stream. The Department of Immigration and Border Protection produced the Partner Migration Booklet, which is a part of a series of Booklets that assists people to apply for visas to Australia. Employing Bacchi's six-question discourse analysis method, this thesis aims to analyse and critique the ways in which cross-border couples are assessed through the requirements in the Partner Migration Booklet and the six additional Factsheets referred to in the Booklet. The thesis will identify *marriage of convenience* as the problem represented in the Booklet. An analysis of the presuppositions or assumptions underlying the representations of the 'problem' of sham marriage will be subsequently provided. From these assumptions, I will actually be able to highlight the way that the representations of sham marriage have come about. Then, I will explore the issues and perspectives on the genuineness of cross-border relationships that are "silenced" in the Booklet. The next step of data analysis includes a discussion about the effects of the representations of the sham marriage problem on cross-border couples. The five steps of analysis above will help me demonstrate the uniform immigration standard with many conditions for genuine relationships that all cross-border couples must meet. Therefore, the ability of the Department of Immigration and Border Protection to determine and clarify fake and genuine marriages will be questioned. Finally, recommendations are provided for marriage migration policy, practice and further studies.

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DECLARATION

I certify that this thesis does not incorporate without acknowledgment any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Signed..

Date..

INTRODUCTION

As a nation of immigrants, Australia is well known for its migration regulations regarding the four main visa streams incorporating more than 120 different visa subclasses; all guided by principles of humanity, equity and compassion (Australian Government, 2015c; Phillips, Klapdor, & Simon-Davies, 2010). Partner visas form a part of Australia's Family Migration stream and allow 'noncitizens to enter and remain in Australia on the basis of their spouse or de facto relationship (both opposite and same-sex) with an Australian citizen or permanent resident' (Australian Government, 2015b, p. 490). There is an increasing trend of Australians sponsoring overseas partners for the purpose of marriage (Iredale, 1994). This trend amounts to nearly 80% of the Family Migration stream (Khoo, 2004). Specifically, the number of partner migrants has gone from 41,994 in the years 2010-11, to 45,150 in 2011-12. This number increased to 46,325 in 2012-13 and reached 47,700 in 2013-2014, representing the equivalent of 78.1% of the Family stream visas (DIBP, 2015g; Australian Government, 2014a, p. 1).

As 'Australia's trusted global gateway' with the mission 'to protect Australia's border and manage the movement of people and goods', the Department of Immigration and Border Protection (DIBP) has designed a series of Booklets in order to assist people to apply for their desired visas to Australia (Australian Government, 2015a). The Partner Migration Booklet is one of those Booklets. The present study is a discourse analysis that aims to analyse and critique the ways in which cross-border couples are assessed through the Partner Migration Booklet.

The study uses Bacchi's 'what's the problem represented to be?' (WPR) approach, also called 'the six-step approach', in order to interrogate the Partner Migration Booklet and the six additional Factsheets referred to in the Booklet. Bacchi's WPR approach is considered an innovative approach in Critical Discourse Analysis (CDA) due to offering new methods and techniques for the examination of the meanings of situations where social actors are involved (Fairclough, 2010). Moreover, it is an approach to investigate the gathering of knowledge through history, societies and cultures (Wetherell, Taylor, & Yates, 2001). Weiss and Wodak (2003) noted that a progenitor of the discourse analysis is the work of Michel Foucault that is used as a strategy that focuses on the discourse as a form of social practice. Another, also hotly debated, perspective on discourse analysis is that of Haberma's (M. Kelly, 1994; King, 2009; Stahl, 2008; Wall, Stahl, & Salam, 2015) seven-step

CDA that focuses on the communicative exchange between actors (Stahl, 2008; Wall et al., 2015), rather than on the history of discourse and power imbalances explored by the Foucauldian perspective (Foucault, 1988; Wall et al., 2015). The critical discourse analysts most influenced by the Foucauldian perspective is Norman Fairclough who introduced the CDA five-stage approach (Fairclough, 2001) and Carol Lee Bacchi who presented a new approach to policy analysis.

In her WPR model, Bacchi (2009) introduced a set of six interrelated questions as a practical way to analyse policy. Bacchi's six-question approach is the clearest guide and most fitting method for this study. In particular, questions 5 fits with the main goals of this paper regarding the investigation of the effects of the marriage migration process to cross-border couples, while question 6 challenges the Partner Migration Booklet and questions the capability of authorities to distinguish between real and sham marriages.

The most common goal among migrants is to provide a better life for themselves and their families as well as to gain the benefits of the change in their immigration status and socio-economic security (Eggebø, 2013; Steele & Burn, 2013). In exploiting these advantages, many deviant forms of migrations occur, with marriages of convenience being one of them (Beck & Beck-Gernsheim, 2010). This phenomenon has become one of the central concerns of political debates on immigration policies around the world and a hotly debated topic in the media, thus influencing the public attitude (Eggebø, 2013). These debates and attitude result in additional criteria added in immigration principles in order to prevent fake marriages and other fraudulent forms of family migration. In fact, immigration regulations implement strict measures and additional administrative processes for the applicants with the aim to identify and prevent sham marriage (Bonjour & Kraler, 2014). However, it is reported that these regulations greatly affect genuine cross-border relationships worldwide (Belanger, Linh, & Duong, 2011; D'Aoust, 2014; Digruber & Messinger, 2006; Eggebø, 2013; Gaucher, 2014; Kim, Edwards, Sweeney, & Wetchler, 2012; Lyons & Ford, 2008; Sirriyeh, 2015; Steele & Burn, 2013; Williams, 2010).

This thesis aims to study the marriage migration regulations in Australia through analysing and critiquing the Partner Migration Booklet that challenges cross-border couple relationships rather than only supporting and assisting them. This study particularly aims to provide a critical lens on the ways in which relationships are tested and people are scrutinised for veracity on marriage migration. Since relationship testing is a complex, time

consuming and a without-certainty issue, attention will be paid on the ways in which the DIBP determines and clarifies fake and genuine marriages via the requirements included in the Partner Migration Booklet. In that way, recommendations will be offered on possible changes in policy and practice.

The thesis will be divided into three main parts, starting with background information and continuing with the presentation of methodology and data analysis. In the background chapter, important and relevant terms will be defined, and the phenomenon of marriage of convenience will be presented through the lens of mass media and the relevant literature. The effects of international immigration policies on cross-border couples, analysed by scholars worldwide, will be explored. The methodology chapter will present the research method. It includes outlining the methods of the critical discourse analysis, followed by the introduction of a set of six questions in Bacchi's approach to analysing policy and the reason why it is employed in this research. This chapter will also specify the data collection and data analysis methods.

The data analysis chapter will be the main focus of this study. This chapter will be developed by Bacchi's six steps of analysis. It will identify marriage of convenience as the problem represented to be in the Partner Migration Booklet. An analysis of the presuppositions or assumptions that underlie the representations of the 'problem' of sham marriage will then be presented. From here, I will highlight the way these representations of sham marriage have come about and explore the silence of how the genuineness of cross-border relationships is questioned and excluded. Brought to the discussion will be the three interconnected kinds of effects that are produced by the representations of the problem of sham marriage in the Booklet. Attention will be paid to the inadequacy of the DIBP in determining and clarifying fake from genuine marriages, shown through the Booklet. Moreover, recommendations on policy implementation, practice approaches as well as further studies will be given. These main chapters will be followed by the conclusion chapter. The final part will be the reflection chapter, containing my motivation for this research and critical thinking after completing it.

Chapter 1: BACKGROUND OF THE ISSUE

Intending to explore the contextual background of the issue, this chapter will discuss marriage migration policies and the history of the phenomenon of marriage of convenience. The first part attempts to define important and relevant marriage migration terms. The issues and challenges of marriage of convenience through the lens of mass media and the literature are subsequently explored. The third part focuses on the effects of marriage migration regulations on cross-border couples, worldwide.

1.1   Defining the terms

As the world globalises and the number of migrants increases (Yeoh, Leng, & Dung, 2013), Australia is becoming more and more multicultural. As a result, *cross-border marriages* where spouses 'migrate across national borders to marry', are becoming more common (Chang, 2015, p. 1). These marriages involve couples that are from different nationalities, with diverse cultures, races and beliefs. Meanwhile, a significant number of migrants seeks 'international marriage as a way out of impoverished homelands and into a better life in a wealthier destination' (MacLean, 2012, p. 68). In such cases, one spouse, already living in the destination country, *sponsors* the other to migrate over. DIBP (2015h) requires the sponsor to be an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen partner who has to undertake sponsorship obligations.

In an earlier study examining the characteristics of the sponsors and *sponsored migrants* in the Australian Family visa stream, '70% of sponsors were overseas-born and most were sponsoring marriage partner from the same country or region of origin' (Khoo 1997, cited in Khoo, 2004, p. 28). However, the large source of partners sponsored by Australian-born men was Filipino (Chuah, 1987; Lee, 1998; Ordonez, 1997). Later, the statistics showed that nearly half of the sponsors of partners in the Family migration stream were Australian-born, while the majority of them had sponsored partners from European, South East Asian and North American countries (Australian DIBP, 2015g; Government, 2014a).

Other relevant terms have been introduced by DIBP (2015h) in the Partner Migration Booklet. One of these is *de facto partner,* who is a partner of another person (whether of the same sex or a different sex) and are both in a de facto relationship. They

can be *de jure* couple who are either legally married or have a *fiancé(e)* relationship, meaning a relationship where a couple is engaged to be married or betrothed. In the context of partner migration, the term *fiancé(e)* is used to mean a man and a woman who intend to marry each other. They can be *long–term partners* in a married relationship or de facto relationship that has a continued relationship for 3 years or more, or for 2 years or more if there is a dependent child in the relationship.

In contrast to the legal marriage mentioned above, *sham marriage* or *marriage of convenience* is a criminal phenomenon where people marry for the benefit of a legal status for the sponsored and money for the sponsor without arranging a family life together (Digruber & Messinger, 2006; Eggebø, 2013). Moreover, marriage of convenience is a phenomenon on the rise that resulted in immigration controls in many countries (Digruber & Messinger, 2006). These marriages are also called *fake marriage,* used by one spouse to enter the country and gain permanent residency or citizenship. This type of marriage aims to avoid immigration laws and take legal advantages of the married status (Wray, 2006). A formal definition of the marriages of convenience was provided in 1997 by the Council of Ministers of the European Union, describing them as '*a marriage concluded with the sole aim of circumventing the rules on entry and residence*' (Wray, 2006, p. 303).

1.2 Marriage of convenience through the mass media and the literature

Before reviewing scholarly studies on marriage migration, it is necessary to review a hotly popular topic in the media called 'sham marriage'. This phenomenon influences the public attitude and results in additional criteria added by the authorities, in order to prevent the marriages of convenience.

The types of sham marriage include (1) the marriage of 'fake partners' where one holds the student visa and studies by the payment of the other who gets, in return, the temporary spouse dependent visa in order to illegally stay in the country after the 'fake partner' finish their study (Lane, 2011), and (2) the marriage in which the migrant has to pay their contracted Australian spouse an excessive amount of money until they get their citizenship (C. C. M. Barclay, 2012; Editorial, 2012; J. Kelly & Casciani, 2010; Phan, 2012; Russell, 2013). In Phan's news article (2012), the bride had to pay her Australian husband around $65,000 including $5,000 after the agreement for the sham marriage, $20,000 prior to the wedding and a final $40,000 when she gets her permanent resident visa. The money

will also pay for participants in a fake engagement and wedding, photos, arranging agencies with training sessions to deal with the immigration test to ensure that she obtains a permanent visa and any other procedures. Similarly, Kelly & Casciani (2010) also discuss in details the procedures needed to find a suitable spouse with the appropriate amount of money, such as a spouse originated from the same culture because the migrant would be paid much more money compared to those of a different race.

The matchmaking industry apparently utilises this opportunity to thrive. In fake marriages, the partners normally would not meet until the actual wedding ceremonies start, mainly due to distance or financial problems (Belanger et al., 2011). Furthermore, filling out migration forms can be especially difficult as the language is not the spouse's first language, resulting in difficulties for the two families and raising suspicions in the immigration officers. Therefore, families ask the matchmaking agencies to organise tours, wedding ceremonies and paperwork for the couples (Belanger et al., 2011).

On the other hand, the literature focuses on the international matchmaking industry involving enormous benefits for matrimonial agencies through illicit and fraudulent forms of immigration (Beck-Gernsheim, 2011; Friedman, 2010). Moreover, the negative effects of sham marriages on social norms and public life have received the greatest amount of attention from scholars in the last few decades. Accordingly, many studies have actually investigated the global patterns of bride migration called mail-*order brides* (Chuah, 1987; Elson, 1997; Glodava & Onizuka, 1994; Julag-Ay, 1997; Lee, 1998; Lin, 1990; Lloyd, 2000; Ordonez, 1997). Numerous studies similarly identified a worldwide connection between the international marriage market and the global feminism (Simons, 2001), focused on Filipino brides in Australia, (Bélanger, Lee, & Wang, 2010; Chuah, 1987; Larsen, 1991; Lee, 1998; Ordonez, 1997), and studied third world spouse-migrants in the US (Kim et al., 2012), Norway (Eggebø, 2013) or in other wealthy nations like Japan, South Korea or Singapore (Belanger et al., 2011; Constable, 2005; Graeme & Nguyen, 2007; Toyota, 2008). The common themes in the media are organised around the effects of the migrant status, acculturation, differentiation and language barriers in international-couple relationships. Other issues that are greatly popular among literature include the high rate of marital breakdown, domestic violence and the discrimination and exclusion from the host societies (Belanger et al., 2011; Chuah, 1987; Iredale, 1994; Lyons & Ford, 2008; Simons, 2001; Tang, Bélanger, & Wang, 2011).

1.3 The effects of marriage migration policies worldwide on cross-border couples

The role of immigration regulations, policies and administrative practices are analysed as a component of transnational marriages (Breger & Hill, 1998; Charsley, 2006; Schmidt, 2011; Strasser, Kraler, Bonjour, & Bilger, 2009). Many governments are making the marriage sponsoring process harder as in the United Kingdom where the minimum income threshold for the sponsor has been sharply increased (Sirriyeh, 2015). Denmark has implemented strict immigration laws since 2000, including language tests or immigration interviews in order to prevent the rise of fake marriages (Friedman, 2010; Myong & Bissenbakker, 2014). Additionally, Austria legislated in 2005 the 'Alien Law Package' that restricts marriages involving non-European Union citizen partners (Digruber & Messinger, 2006). Similar regulations are found in the US, Canada, Norway, the Netherlands, Germany and France, as well as in wealthy Asian countries like Japan, Singapore and South Korea (Beck & Beck-Gernsheim, 2010; Bélanger et al., 2010; Bonjour & Kraler, 2014; Y. E. Cheng, Yeoh, & Zhang, 2014; Eggebø, 2013; Engbersen, Van San, & Leerkes, 2006; Friedman, 2010; Gaucher, 2014; Hou & Myles, 2013; Liversage, 2012; Toyota, 2008).

Accordingly, many studies examine the effects of marriage migration policies on individuals, on the relationship of the couple, on families and on the attitudes of the couple towards the host countries.

1.3.1 The effects on individuals

According to the literature, the effects of the marriage migration process on the individuals consist of feelings of stress, anxiety and pressure, of being discriminated and of being judged.

1.3.1.1 *Feeling stressed and anxious*

Immigration authorities have been implementing strict measures and processes for all mixed marriage applicants from different races as well as for their sponsors (R. W. Cox, 2000; Eggebø, 2013; Williams, 2010). These measures aim to discern a marriage of choice from a genuine marriage, including marriage of convenience or sham marriage in order to prevent fraudulent family migration. Moreover, these measures aim to respond to the business of marriage brokering and to protect marriage, family and social life (A. B. Cox &

Posner, 2007). However, sponsored migrants and their partners frequently endure negative experiences in the immigration process.

In her study about the marriage migration process in Norway, Eggebø (2013) found out that migration officers made couples feel uncomfortable, nervous and stressed by asking private and intrusive questions. The first type of questions was about the meeting and wedding events including when, where and how they had first met, the number and duration of visits, who proposed, the name and number of wedding guests, the food that was served, the price of the wedding ring and who paid for it. The second type of question concerned the couple's life such as describing the flat they lived in together, the colour of their partner's socks and toothbrush, who slept on which side of the bed, how the partner took their tea and where they kept the vacuum cleaner (Eggebø, 2013, p. 780). Similarly, these types of questions are employed in marriage migration procedures in the UK, Germany, Austria, Canada, Taiwan and Singapore (Bonjour & Kraler, 2014; Digruber & Messinger, 2006; Friedman, 2010; Gaucher, 2014; Jongwilaiwan & Thompson, 2013; Messinger, 2013; Meurrens, 2011). However, these interviews are perceived to be very humiliating, highly distressing and to produce feelings of low self-esteem in migrants who often find themselves in an extremely vulnerable position (Gaucher, 2014; Messinger, 2013).

In order to assess a real marriage, Norwegian immigration officers pay great attention to practical details instead of assessing the couple's intimacy, interaction, equality, power balance and mutual sexual pleasure, which are seen as important elements of the pure relationship (Eggebø, 2013). Direct questioning about sexual practices, including the frequency of sexual intercourse, can be provocative for the couples as different couples have different sexual habits while others regard intimacy as a far more important issue in a pure love relationship (Digruber & Messinger, 2006; Eggebø, 2013, p. 782; Luibhéid, 2002).

Moreover, studies from Canada, the UK, Northern European countries, Italy, Greece, South Korea, Taiwan and Singapore found that during the assessment process, immigration and police officers can visit the couple's residence to check for shoes, clothes, toothbrushes, razorblades and other personal items that can determine whether the couple is living together (Bonjour & De Hart, 2013; Broeders & Engbersen, 2007; Fair, 2010; Fulias-Souroulla, 2010; Gaucher, 2014; Hong, Song, & Park, 2013; Liversage & Jakobsen, 2010; Parisi, 2014; Ter Wal, De Munnik, & Andriessen, 2008; Wang & Bélanger, 2008; Wray,

2011). They also have the right to check on actual proof including emails, phone records, photos, witnesses and investigate with the 'sponsor-said/sponsored-said battle' (Gaucher, 2014; Pöyry, 2010). In all studies, the informants emphasise that both marriage migrants and sponsors should be treated and judged with respect, and that their relationship is appropriately recognised.

1.3.1.2   Being discriminated

The language used in the migration regulations as well as in the immigration procedure is the most significant reason that makes the spouse migrants feel discriminated. Terms used such as 'outsiders', 'insiders', 'desirable/undesirable migrants', 'good/bad citizens' and 'foreign spouses' instead of 'new citizens' are considered as discriminating control practices and a strategic tool that aim to exclude, to maintain inequalities and to enforce hierarchies (Bélanger et al., 2010; Eggebø, 2013; Tan, 2008).

Countries of origin can affect the status and the living conditions of marriage migrants. Non-European spouse migrants experience restrictive immigration laws in Cyprus, Austria, Norway, Denmark, Finland and in the UK (Eggebø, 2010; Flemmen, 2008; Fulias-Souroulla, 2010; Messinger, 2013; Pellander, 2014; Sirriyeh, 2015; Wray, 2006), or the ban on marriage for irregular immigrants in Italy (Parisi, 2014). Interestingly enough, even in the same country, like Austria, the Third country spouse of an EU or EEC citizen enjoys greater freedom than the spouse of an Austrian in the same situation (Messinger, 2013). In regards to residency statues, health care, work permits and other benefits, spouses from poorer countries are treated differently from spouses in other parts of the world (Jones & Shen, 2008; Tan, 2008; Wang & Bélanger, 2008; Yeoh, Leng, et al., 2013).

1.3.1.3   Being judged

The prejudices and the suspicion of authorities are the attitudes that marriage migrants need to confront systematically (Flemmen, 2008; Fulias-Souroulla, 2010; Wang & Bélanger, 2008). In almost all host countries, cross-border couples are primarily seen as being involved in fake relationships and they are treated negatively from officers at consulates and embassies (Bonjour & Kraler, 2014; Strasser et al., 2009; Wray, 2006). In particular, spouse migrants from poorer countries are frequently scrutinised by the authorities and host societies. Also, before and during the assessing process, they are seen as fake partners wishing to use marriage as the one-way ticket to migrate to the country (Alexander, 2013;

Charsley, 2006; Eggebø, 2013; Flemmen, 2008; Gaucher, 2014; Jongwilaiwan & Thompson, 2013; Yeoh, Leng, et al., 2013).

1.3.2 The effects on couples

Dependency, separation from partners and negative feelings about partners are the noticeable effects of the marriage migration process on cross-border married couples.

1.3.2.1   Dependency

As the result of the marriage migration law, migrant spouses often live in the fear of their residence permit being withdrawn if the marriage breaks up (Liversage, 2012; Strasser et al., 2009). Therefore, they rely on their partner's attitude toward them; put themselves in a vulnerable situation of being exploited or abused; and endure violent relationships for years (Liversage, 2012; Strasser et al., 2009). Women holding temporary partner visas are especially vulnerable to domestic violence. Fearing expulsion also prevents them from reporting to the police or leaving their intrusive and tragic situation (Constable, 2012; Jongwilaiwan & Thompson, 2013; Steele & Burn, 2013; Yeoh, Leng, et al., 2013).

Along with this, marriage migrants, especially female, are more likely to be recognised as a 'sponsorship debt' as they feel that they owe to their husband and to his families for bringing them to the country and for applying for a citizenship (Flemmen, 2008; Gaucher, 2014; Yeoh, Leng, et al., 2013). Furthermore, the prohibited, restricted or delayed access to the labour market for the sponsored migrants as well as the income requirements in the migration policies, create great dependency of the migrants on their partners (Eggebø, 2010; Strasser et al., 2009).

1.3.2.2   Separation from partners

Marriage migration rules that require a significant amount of time for assessment can cause the plight for couples living apart. Numerous studies show that dealing with the authorities represents one of the major obstacles in postponing couples' lives or even in bringing their lives together to a successful end (Constable, 2012; Eggebø, 2013; Reynolds, 2012; Strasser et al., 2009). Such a postponement results in feelings of severe emotional pain and loss (Sirriyeh, 2015).

On the other hand, cross-border marriage migrants who decide to maintain separate households while still having commitment in genuinely being together with their sponsors, find it hard to satisfy immigration requirements (Sirriyeh, 2015; Wray, 2006). By

relying on the common norms of marriage as the marker of a genuine marriage, the immigration regulations risk excluding couples whose marriages do not conform to the majority norms. As a result, the cross-border couple's 'living apart together' life style and relationship often comes to an end and the visa application is subsequently rejected (Wray, 2006, p. 311).

1.3.2.3   Negative feelings about partners

Many scholars demonstrated that due to the popular belief that migration usually flows from lower-income countries to the developed world, migrant officers are suspicious of a marriage for economic, practical and strategic purposes (A. B. Cox & Posner, 2007; Williams, 2010; Wray, 2006). Consequently, the sponsor in a mixed marriage may also question themselves about their partner's motivation to get married (Eggebø, 2013). In the same vein, Constable (2012, p. 1143) researched cross-border marriages in the US and found that 'The process involved trust and mistrust on both sides. Men worried that women were insincere gold-diggers seeking a Green Card, and women worried that men misrepresented themselves and their motives. Both worried the other might not seek a 'life partner'.

1.3.3 The effects on the family and children

The three main effects of the marriage migration regulations on family life include tearing families apart, changing the structure of the family and pushing family members to undertake unfavourable employment strategies.

1.3.3.1   Tearing families apart

Factors that are tearing families apart under the marriage migration policies include income requirement, lengthy waiting time for granting independent rights and the spouses' age limits. In the UK, Canada and Northern European countries, the new migration laws require a minimum annual income for the sponsors and prohibit the sponsored migrant to work throughout the period of temporary spoused visa. Some migration families, as a result, fail to meet the financial requirements and their couple relationship is negatively affected (Bonjour & Kraler, 2014; Digruber & Messinger, 2006; Eggebø, 2013; Meurrens, 2011). Waiting time for the residence permit grant puts families' life 'on hold' as separation is hard, especially for couples who already have children (Messinger, 2013). The emotional development of children in families is distracted and their language skills or integration process is delayed (Strik, Hart, & Nissen, 2013). Furthermore, the age limit of 21 years

imposed on migrant spouses under the new laws (24, in Denmark) breaches the right of couples to family life under the Human Rights Act (Alexander, 2013; Schmidt, 2011; Strasser et al., 2009).

1.3.3.2   Changing the structure of the family

Strict migration laws break up traditional family structures, decrease family support networks, and limit the connection between generations (Gopalkrishnan & Babacan, 2007). As marriage alone does not guarantee the residence status for the spouse migrants, families need to focus energy and spend time on applying for citizenship for the migrant family member instead of building the couple's relationship and having an ordinary family life (Messinger, 2013; Strasser et al., 2009; Strik et al., 2013). The family therefore becomes a place where freedom restrictions are contested and new citizenship rights are requested by the state (Parisi, 2014). Therefore, the sense of belonging and the emotional wellbeing of these migrant families are affected by the restrictive family migration policies. Furthermore, the experience of insecurity and uncertainty in the migrants' everyday lives leads to a lack of recognition and the feeling of not belonging in the world (Rytter, 2013).

1.3.3.3   Pushing family members to undertake unfavourable employment strategies

Again, the need to meet income requirements can challenge the family's life and postpone its education and employment plans. Family migrants as well as sponsors may need to work overtime, to undertake jobs below their qualifications or to stay in undesirable and unsatisfying jobs (Kraler, Kofman, Kohli, & Schmoll, 2011a; Liversage, 2012). This can lead family members to adapt their life course in absolutely undesired ways; particularly in the Netherlands where the increase of income requirement to 120% of the minimum wage, has been applied to family migration (Leerkes & Kulu-Glasgow, 2011).

1.3.4 The effects on the marriage migrants' attitude towards their host countries

Worldwide, marriage migration policies have produced strong reactions to the spouse migrants as well as to their sponsors. In Denmark, the family reactions were recognised by the activist campaign 'Love without Borders' in 2010. There were also some protests in the UK since the introduction of family migration rules that came into force in 2012 (Myong & Bissenbakker, 2014; Sirriyeh, 2015).

Cross-border couples apparently compare the freedom in choosing partners (valued by Western societies) with the limited choices that people have when they get married in the migration context. These couples experience such a difference as a 'mock of the legislation' (Schmidt, 2011) and they complain about how their rights to freely choose their life partners are controlled by the regulations about family migration (Sirriyeh, 2015). In many cases, the couples regard the host country with the strictest family migration law as 'racist country' (i.e. Denmark) (Fernandez & Jensen, 2014) or as 'not an immigration country' (i.e. Germany) (Aybek, 2012).

Chapter 2: METHODOLOGY

2.1   Research method

2.1.1 Critical Discourse Analysis

Numerous scholars agree that discourse analysis has been increasingly important in social sciences (Fairclough, 2013; Wall et al., 2015; Wetherell et al., 2001). Discourse analysis offers new methods and techniques for social researchers who are interested in meanings of situations that social actors play in. Moreover, discourse analysis investigates the gathering of knowledge through history, society and culture (Wetherell et al., 2001).

In discussing the evolution and developments of discourse analysis, Hallahan (2015) and Fairclough (Fairclough, 2010) focus on the ways an issue is spoken of as contradictory or even dialectical. However, discourse analysis is also a layered approach involving numerous ideas that produce a social and political understanding of a problem (Carabine, 2001, cited in Hallahan, 2015). According to Weiss and Wodak (2003), CDA is a widely recognised progenitor of discourse analysis that was developed by Michel Foucault, and is used as a methodological and theoretical strategy focusing on the discourse as a form of social practice. Numerous scholars regard the perspectives of Foucault and Habermas as two hotly debated viewpoints (M. Kelly, 1994; King, 2009; Stahl, 2008; Wall et al., 2015).

The Foucauldian perspective explores the history of discourse and imbalances in power (Foucault, 1988; Wall et al., 2015) in order to identify power and challenge it by examining the context of the communicative utterances (King, 2009; Stahl, 2008). An author most influenced by the Foucauldian perspective is Norman Fairclough who introduced the CDA five-stage approach (Fairclough, 2001). According to Fairclough, the stages of CDA include focusing on a social issue, tackling any complications regarding this issue, deciding whether the problem is "needed" in society, stating the unaddressed possibilities for change and critically analysing the previous four stages. If Foucauldian CDA examines the history of discourse, Habermasian CDA focuses on the communicative exchange between actors (Stahl, 2008; Wall et al., 2015). The seven analytical steps used in Habermas' approach are detecting the problem, stating the literature, developing coding scheme to analyse four validity claims, studying content and codes, reading texts for analysis, explaining the results and critically reviewing reflexive statements that include biases or interests (Forchtner, 2010; Hallahan, 2015; Wall et al., 2015).

2.1.2 About Bacchi's "What's the Problem Represented to be" (WPR) approach

Another analyst inspired by Michel Foucault's idea and presented a new approach to policy analysis is Carol Lee Bacchi. She has developed her approach in two books: *Women, Policy and Politics* (C. L. Bacchi, 1999) and *Analysing Policy: What's the problem represented to be?* (C. Bacchi, 2009). Her approach can also be seen as a distinctive and clear methodology to study and question problematisations 'that are often taken for granted' (C. Bacchi, 2009, p. xv). In their book *Engaging with Carol Bacchi*, Goodwin, Bietsas, & Beasley (2012, p. 2) provide a crucial insight on the development of Bacchi's body of work:

> In the process Bacchi moved from the shorthand 'What's the Problem' to an expanded abbreviation 'WPR' to describe the 'What's the Problem Represented to be?' approach. This expanded acronym emphasised that her concern was not merely to query how social questions become named and shaped as social problems but to consider more thoroughly the process of problematisation in research, policy and practical applications, as well as the impact of that problematising process. [...] Bacchi draws attention to how policy solutions are constituted by the assumptions entailed in the problematising process, rather than being self-evidently responsive to objective social 'problems'.

According to Bacchi (2009), WPR is a critical mode of analysis. A WPR approach to policy analysis provides a systematic methodology and creates the opportunity to question 'taken-for-granted' assumptions lodged in government policies (C. Bacchi, 2009, p. xv). Moreover, this approach is grounded in the concept of problematisation that examines the problem represented and implied in the policies and, therefore, help us understand and study social problems (Ritzer, 2003). More specifically, public policy refers to government programs, in which there is an assumption that policy is 'a good thing that fixes things up' (C. Bacchi, 2009, p. ix). However, as the 'notion of *fixing* carries with it an understanding that something need to be fixed', a *problem* is also created (C. Bacchi, 2009, p. ix). According to Borchorst (C. Bacchi, 2009, 2010), inspired by Michel Foucault's ideas about problematisations, Bacchi's approach offers an innovative way to explore public policy areas, including welfare, health, criminal justice, immigration and population (C. Bacchi, 2009).

In the WPR model, Bacchi (2009) introduces a set of six interrelated questions as a practical way to analyse the policies:

1. *What's the 'problem' represented to be in a specific policy?*

2. *What pre-suppositions or assumptions underline this representation of the 'problem'?*

3. *How has this representation of the 'problem' come about?*

4. *What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?*

5. *What effects are produced by this representation of the 'problem'?*

6. *How/Where has this representation of the 'problem' been produced, disseminated and defended? How could it be questioned, disrupted and replaced?*

With this six-question approach, Bacchi has made one of her 'most crucial and insightful contributions to the field of [...] critical policy studies' and 'to intellectual inquiry'; and represents one of the most innovative analytical frameworks developed in recent times' (Goodwin et al., 2012, p. 1).

2.1.3 Why is the WPR approach adopted in this study?

As discussed above, all the approaches to CDA that are influenced by Foucault's and Haberma's perspectives try to explore problematisations and to identity 'obstacles to the social problem being tackled' (Fairclough, 2001, p. 236). This coincides with Bacchi's first four questions. In the fifth question however, Bacchi additionally offers a way to identify the effects of a specific problem representation and to critically assess these effects. This approach especially fits with the one of the main goals of the present study, which is to investigate the effects of the marriage migration process on cross-border couples. In other words, by elaborating and clarifying each of Bacchi's six questions and also demonstrating how they interconnect, I will try to explore the ways in which the sham marriage problem is constituted in the Partner Migration Booklet and its effects on the cross-border couples who are governed by the Booklet (Dean, cited in C. Bacchi, 2009).

The second reason that I am employing Bacchi's approach is because her sixth question aligns with the main aim of the present study, which is to challenge the Partner Migration Booklet. By finding out how this legal document with its numerous effects (question 5), can still be legitimised and defended, I will be able to question the capability of the authorities in distinguishing between real and sham marriages. I will subsequently

recommend improvements for the marriage migration assessment process and suggestions for further studies.

Indeed, Bacchi's six-question approach is the clearest guide and most fitting method for this research, out of all of the critical discourse analysis methods introduced above.

2.2   Data collection method

The study focuses on the effects of the marriage migration process on cross-border couples. Since the Booklet and the subsequent Factsheets guide and assist couples to understand the steps in applying for a partner visa, both the Booklet and the Factsheets became the data of my study. Adopting Bacchi's (2009) recommendations for the collection of data in policy discourse analysis I will follow the steps of text selection, complexity, context and nesting.

In the first step, the specific piece of legislation chosen is the Partner Migration Booklet that was introduced in 2015 by the DIBP. The Booklet clearly indicates that it is designed in order for migration applicants to understand the steps in applying for Partner Migration to Australia and complete the application form (DIBP, 2015h). The choice of the Booklet reflects my 'particular interest in topical concern' (C. Bacchi, 2009, p. 20) about the challenges cross-border couples face in their application process. In other words, the Booklet is the focus of the study. However, in order to 'build up a fuller picture of the problem representation' (C. Bacchi, 2009, p. 20), and 'to go beyond and beneath the obviousness of the topic' (Fairclough, 2010, p. 236), it is also necessary to examine the Factsheets related to the Booklet. Therefore, the six Factsheets that were introduced by the National Communications Branch, DIBP, will also be analysed.

In the second step of data collection, called complexity, I will keep in mind that policies often contain tensions and contradictions and 'there is seldom a single voice lying behind them' (C. Bacchi, 2009, p. 20). I will therefore try to acknowledge contesting positions and recognise the interpretive dimension of this Booklet as a significant component of the data collection activity.

Bacchi's (2009) third step, called context, requires an in-depth knowledge of the historical background of the issue and fitting the issue into wider conversation. Accordingly, my background chapter will provide the context of my data. This can be seen as my 'solid

understanding' about marriage migration that will assist me in the task of 'filling in context' and paying attention to how the context itself is represented (C. Bacchi, 2009, pp. 20, 21).

The fourth step in data collection, called nesting, involves the problem representation nest which is one of the most important tasks of Bacchi's approach on data collection (2009, p. 21), as it checks the keys terms requiring reflection and interrogation. I accordingly defined the key terms within the context of marriage migration.

2.3   The data of the study

My data include (1) the Australian Partner Migration Booklet and (2) the six Factsheets referring to the interpretation of the Booklet.

The Booklet is an essential guide for all cross-border couples who want to apply for a Partner Category Visa (DIBP, 2015h). This Booklet consists of nine main parts and sub-parts. Part 1 introduces the two types of partner category visas, Prospective Marriage visa and Partner visa, which are a part of Australia's family migration stream. These visas allow the married partner and de facto partner of Australian citizens and Australian permanent residents to enter and remain in Australia initially temporary and then later permanently, after they apply for a permanent visa and are assessed again. The point that is emphasised in part 1 is that the one who wants to apply for a partner category visa has to be sponsored by an Australian citizen or permanent resident and they have to meet health and character criteria. Furthermore, in part 1, the application stages for Partner visas from both inside and outside Australia are also explained in clear steps. Instructions on how and where to apply are also provided (DIBP, 2015h, pp. 7-12). Part 2 of the Booklet helps applicants check whether they are eligible to apply for or be granted a visa (DIBP, 2015h, p. 13). Part 3 contains important information for sponsors including sponsorship eligibility, limitations on sponsorship and a range of legal criteria to be met (DIBP, 2015h, pp. 14-18).

In part 4, specific requirements for partner visa applicants are presented. This includes the 12-month relationship requirements for de facto partners, distinctions between forced marriage and arranged marriage, health and character requirements, requirements for the dependants, costs and charges, certified copies, statutory declarations, and English translations (DIBP, 2015h, pp. 19-30). More specific criteria for the application for a Prospective Marriage visa and Partner visa are listed in parts 5 and 6 (DIBP, 2015h, pp. 31-38). Subsequently, part 7 describes the types of evidence that need to be

provided with the application, including proof of identity/personal documents and evidence proving that the relationship is genuine (DIBP, 2015h, pp. 39-42). Part 8 includes essential information about personal information and about ways of communication with the Department of Immigration and Border Protection (DIBP, 2015h, pp. 43-45). Lastly, part 9 describes what the applicants must do in situations that might happen after the visa application process (DIBP, 2015h, pp. 46-55).

The six Factsheets that are referred to in the Partner Migration Booklet will also be analysed. These Factsheets include Factsheet *22 – Health requirement, Factsheet 30 – Family Stream Migration: Partners, Factsheet 35 – One-Year Relationship requirement for De Facto Partners, Factsheet 37 – Processing priorities for family stream migration, Factsheet 38 – Family Violence Provisions* and *Factsheet 79 – The Character Requirements.* Similar to the Booklet, I will now introduce the main components of each Factsheet in order to discuss the themes included in them.

Factsheet 22 – Health requirement aims to safeguard the health standards of Australia. Applicants therefore wanting to permanently or temporarily enter Australia as well as their partner and dependants, whether or not included in the visa application, must meet the health requirement. Tuberculosis, hepatitis and HIV/AIDS are three specific diseases that are mentioned, requiring applicants and dependents who are considered to be at risk to undergo a range of checks such as x-rays and blood tests (DIBP, 2015a).

Factsheet 30 – Family Stream Migration: Partners explains the differences between the two types of Partner category visa. Partner visa is for those who are already married or in a de facto relationship for at least 12 months; and Prospective Marriage visa is for the applicant who is outside Australia and wishes to marry or enter a de facto relationship with an Australian citizen or permanent resident. Information about requirements and limitations for sponsorship, about dependent children and protection of children, about limits on further visa application in Australia, and about processing priorities are also listed (DIBP, 2015b).

Factsheet 35 – One-Year Relationship Requirement for De Facto Partners includes clear explanations about what a one-year relationship is required to be. Definitions of living together as well as of the evidence to be considered are also provided. Moreover, frequent questions asked by previous applicants are shown in order to help future partners to judge their eligibility by themselves (DIBP, 2015c).

Factsheet 37 – Processing priorities for family stream migration gives emphasis on prioritising primary applicants for the family stream visas. Priority is given first to the partner or the child, then the orphan relatives, the contributory parents, the carers, the remaining relative, and lastly to the aged dependent relative who has entered Australia as an illegal maritime arrival. Special circumstances that change the priority order are also provided (DIBP, 2015d).

Factsheet 38 – Family Violence Provisions concerns those who enter Australia through the partner category visa and are forced to leave the relationship due to experiencing family violence by their partner. It allows these people to continue with their application for permanent residence in Australia even when they are no longer in a relationship, provided that they meet the requirements of having the appropriate visa and of having suffered violence defined as family violence. If these requirements are not adequately met, an independent assessor might be referred to by the Department to make an appropriate decision (DIBP, 2015e).

Finally, *Factsheet 79 – The Character Requirements* elaborates on what a 'good character' is in order to enter Australia. A list of criteria for the assessment of character is provided, as well as a list of the factors that can jeopardise the result. Police certificates from different places are also required by those applicants who are over the age of 16 and have stayed in those places for more than one year (DIBP, 2015f).

2.4   Methodology of data analysis

The data analysis method will adopt Bacchi's six-question approach, which contains six steps that are closely integrated with each other (C. Bacchi, 2009). These six steps will be followed systematically, but will be addressed separately.

The first step is the question "*What's the 'problem' represented to be in the Australian marriage migration policy?".* Bacchi (2009, p. 2) proposes that 'since all policies are problematizing activities, they contain implicit problem representations' and that the methodology of working backwards from the Partner Migration Booklet reveals what is represented to be the problem. Through the Booklet, I will therefore challenge the Australian regulations proposed to fix the phenomenon of sham marriage. In another words, I will start with the policy – Partner Migration Booklet, and then work backwards to expose the problem representation. The aim of this first task, therefore, is to identify the

implied problem representations (C. Bacchi, 2009) in the Australian marriage migration policy.

The next task is to uncover the assumptions about how sponsored partners from lower-income countries could use partner visa as the one-way ticket to get into Australia; this assumption lies behind the specific problem represented which is uncovered in the first step. This is actually the goal of question (step) 2: "*What pre-suppositions or assumptions underline this representation of the 'problem'?*" Here, Bacchi (2009, p. 275) explains the term 'episteme' that Foucault (1973) proposes to refer to 'the set of relations in a specific epoch that grounds specific knowledges'. Additionally, Wright and Shore (1997) contend (and Bacchi (2009) insists) that policy has an undeniable cultural dimension and takes shape within historical and national as well as international contexts. The goal of question 2 is to identify and analyse the conceptual logic that underpins the problem of sham marriage. There are two forms of discourse analysis including 'binaries' and 'people categories' that rest on the assumptions of the problem of sham marriage represented in the Partner Migration Booklet (C. Bacchi, 2009, pp. 7,9). A discourse analysis encompassing two binary assumptions about citizens' and marriage migrants' skills and motivation of marriage, as well as the assumption about the category 'marriage migrants' (C. Bacchi, 2009; Foucault, 1973) will be accordingly performed.

Question 3 (H*ow has this representation of the 'problem' come about?*) guides the understanding on how the issues are represented and operated in the policies as well as how governing takes place. Foucault's genealogical theory (C. Bacchi, 2009, p. 10) will be adopted at this point in order to trace the history of the sham marriage problem represented in the Booklet. This step also has the purpose to highlight the conditions allowing this problem to take shape and assume dominance. The conditions discussed here include marriage of convenience as a public discourse and political concern, marriage of convenience as a state contradictory, and marriage of convenience as a contemporary policy perspective.

Subsequently, I will explore the limitations in the way the problem of sham marriage is represented in step four (*What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently*?) that aims to 'raise for reflection and consideration issues and perspectives silenced in the

problem representations' (C. Bacchi, 2009, p. 13). My intent here is to bring into discussion the silenced issue of the genuineness of the cross-border couples being scrutinised.

Furthermore, question 5 (*What effects are produced by this representation of the 'problem'*?) will become the tool to explore the effects of the Booklet on cross-border married couples in Australia. Bacchi (2009, p. 15) suggests that the 'very reason we need to interrogate the problematisations on offer [...] is to see where and how they function to benefit some and harm others'. Also, by studying the language employed in the Booklet, I will find out its hidden effects (Fairclough, 2001) on cross-border relationships. There will be three main effects discussed here, including 'discursive effect, subjectification effect and lived effects' (C. Bacchi, 2009, p. 15). The discursive effect will be seen when the policy closes off the possibility for those cross-border marriage migrants lacking adequate wealth, health, good character and social networks. The subjectification effect occurs when the policy creates targeted group of marriage migrants as the problem. Finally, the lived effect involves both the material and emotional effects on the cross-border couples.

As a result, question 6 (*How/Where has this representation of the 'problem' been produced, disseminated and defended? How could it be questioned, disrupted and replaced?*) will draw out key ideas from previous steps in order to discuss the way the problem of sham marriage is legitimised and defended. I will then question the inability of Australian migration regulations to determine and clarify marriages of convenience and genuine marriages. Accordingly, this step will highlight the need for changes in both policy and practice, and include the proposal for further research studies.

Similarly, the Factsheets (20, 21, 30, 35, 37 and 38) will be examined through Bacchi's WPR approach in order to provide an in-depth understanding of Australian Migration Regulations, to explore possible silences in the understanding of what needs to be prevented, and to examine the effects that are likely to accompany the understanding of the fight against the sham marriage problem (C. Bacchi, 2009, p. 10).

Chapter 3: DATA ANALYSIS

Adopting Bacchi's six-question approach, this chapter will analyse the Partner Visa Booklet in the following six steps: (1) marriage of convenience represented as the problem in the Partner Migration Booklet, (2) the assumptions underlying the sham marriage problem representation, (3) the way the sham marriage problem representation have come about, (4) the way genuine relationships are questioned, (5) the three interconnected kinds of effects produced and (6) the ability of the authorities to identify marriages of convenience.

3.1 Marriage of convenience/sham marriage is the problem represented to be in the Australian Partner Migration Booklet.

The marriage migration process introduced in the Australian Partner Migration Booklet describes the application stages, application forms, legal criteria for the sponsor, health and character requirements for the sponsored, evidence that needs to be provided with the application and other necessary requirements to obtain Prospective Marriage and Partner visas (DIBP, 2015h). It is essential therefore for couples to undertake the necessary visa legal steps in order to start their cross-cultural relationship in Australia. In this step, I will concurrently respond to the questions of which problems are conceptualised and represented in the Booklet that need to be put under critical scrutiny (C. Bacchi, 2009).

For a start, I need to briefly explore Foucault's terms of *governmentality* that Bacchi (2009) has analysed. Governmentality refers to the way in which the state exercises control over the body of its populace. Through governmentality, rules are imagined and rationalised (C. Bacchi, 2009). To critically analyse modes of governing, problematisations must be observed, that is the way problems are perceived and dealt with. As there are diverse ways of governing people, discerning and assessing governmentalities includes paying attention to the way problems are represented, which in turn leads to the identification of specific logics of governance that can be put under critical examination (C. Bacchi, 2009, p. 155).

Returning to the Booklet, it is clear that to successfully apply for the desired visa, applicants must undertake the required application stages, demonstrating the importance of satisfying the rules set out by migrant policies. By pointing out this necessity, attention

will be particularly paid to the way the problems in the Partner Migration visa application process are represented and conceptualised.

3.1.1 Proof of a genuine marriage/relationship

The requirements that prove the genuineness of the relationship between sponsor and sponsored are described in different parts of the Booklet and include supplying information about the history and continuity of the couple's relationship, the sponsor's ability to assist the sponsored, the sponsorship limitations, the age limits, the nature of the couple's commitment, the nature of the couple's household and the social aspects of their relationship. The criteria set for the couples' dependents are also presented in different parts of the Booklet.

3.1.1.1   Information about the history and continuity of the relationship between sponsor and their fiancé(e) or partner

This requirement is emphasised mostly in parts 3 and 7 of the Booklet and in Factsheet 35. Part 3 includes information for sponsors and emphasise that as part of the application process, the sponsor's relationship with their fiancé(e) or partner will be assessed. This means that they will be asked to provide personal information and documents to the DIBP. They may also be asked personal questions about their relationship in the interview. Similarly, the evidence needed in the application is listed in part 7 of the Booklet and Factsheet 35, in which proof of identity and other personal documents are required for the applicant, their sponsor and all their dependents. The proof of identification requires a birth certificate, a Baptism certificate/passport/family book with both parents' names/identity, documents from the government or court, evidence of name changes, current and previous passport or travel document and copies of military service or discharge papers if applicable. If the couple is married, the DIBP requires a certified copy of the registry with exact details of the marriage (DIBP, 2015c, 2015h).

Additionally, information about the history of the couple's relationship needs to be provided in separate statements by the sponsor and sponsored. In these statements, they need to express how, when and where they first met, how their relationship developed, when they decided to marry or commence a de facto relationship, their domestic arrangements and when this level of commitment began. They also need to clarify any periods of separation, when and why the separation occurred, for how long, how the couple maintained their relationship during the period of separation and their future plans.

The statements need to be written by the sponsor and sponsored themselves, and in case a statutory declaration form is used, a witness prescribed by the Statutory Declarations Act 1959 and Regulations must verify the content of the couple's statements. The witness must be included in the prescribed persons list of the Booklet that includes Justice of the Peace, medical practitioner, legal practitioner, civil marriage celebrant or registered minister of religion, dentist, nurse, optometrist, pharmacist, physiotherapist, full-time teacher, police officer, bank manager or officer, public servant, postal manager or permanent employee of the Australian Postal Commission with five or more continuous years of service. If the applicants are outside Australia, their statements must be certified according to the legal practices of the relevant country or be witnessed by a person whose occupation or qualification is comparable to a person included in the prescribed persons list mentioned above (DIBP, 2015h).

The Booklet also notes that in case applicants intentionally make a false statement about their relationship in a statutory declaration, they are liable for punishment of up to four years imprisonment. For the same issue, the Migration Act 1958 provides penalties of up to twelve months imprisonment or a fine of up to AUD 12,000 (Australian Government, 2007).

3.1.1.2 Sponsor's financial abilities and limitations

The information about the sponsor's financial abilities and limitations is provided in parts 3 and 7 of the Booklet as well as in the Factsheet 30. Accordingly, the sponsor has to undertake responsibility for all financial obligations by providing evidence of their employment, financial status and by declaring that they undertake the sponsorship. For example, when the sponsored applies to obtain a Partner visa, the sponsor must prove that they have the ability to provide adequate accommodation and financial assistance to meet the sponsored's reasonable living needs. If the application is made onshore, this assistance has to cover the 2 years following the grant of their temporary Partner visa. The sponsor is also required to provide financial and other support, such as childcare or English classes (DIBP, 2015b, 2015h).

Moreover, the sponsor needs to meet other strict criteria such as not being a sponsor for two or more persons (as a fiancé(e) or partner) for migration to Australia, not sponsoring another fiancé(e) or partner within the last five years, and not being sponsored as a fiancé(e) or partner themselves within the last five years (DIBP, 2015h).

3.1.1.3   Age criteria

The criteria for age in the Booklet are described in parts 3, 4, 5, 6 and 7 as well as in Factsheet 30. The first section of part 4 describes specific criteria for the 12-month relationship required between the de facto partners. It is stated in particular that the sponsor and their partner must be aged 18 years and have been in the relationship for at least the entire 12 months before the date they lodge their Partner visa application. In the next section of part 4, a legal definition of 'forced marriage' is provided, together with the legal consequences involving at least four years imprisonment as forced marriage is treated as a criminal offence. Part 5 of the Booklet describes the eligibility requirements for the Prospective Marriage visa applicants, including the earliest age of 18 when they met their sponsor. Focusing on Partner visa, part 6 lists the requirements for a de facto partner to apply for the same visa, including being sponsored by an eligible person, not being related by family and being at least 18 years of age at the time the application is made. Parts 3 and 7 similarly emphasise that the sponsor for the Partner and Prospective Marriage visas applicant must be aged 18 years and over when informing about sponsorship eligibility (DIBP, 2015b, 2015h).

3.1.1.4   The nature of the couples' commitment and household arrangements

In combination with the terms 'commitment', 'living together' and 'relationship', the word 'genuine' is particularly stressed as it is actually referred fifteen times in parts 5, 6 and 7 as well as in Factsheets 30 and 35. When requiring applicants to provide information to apply for the Partner visas, parts 5 and 6 together with Factsheets 30 and 35 clearly indicate that applicants must genuinely intend to marry and live with their intended spouses, have mutual commitment to a shared life to the exclusion of all others with the partner, have a genuine and continuing relationship with the partner, being in the relationship for at least 12 months immediately prior to applying for the visa and live together with the partner including the temporary separations (DIBP, 2015b, 2015c, 2015h).

Similarly, a major point is made in part 7 regarding the evidence to prove to the DIBP that the relationship is genuine. The evidence refers mainly to nature of household and the nature of the commitment. In particular, the couples will be asked to provide evidence that they share responsibilities within their household, including living arrangements; joint ownership or joint rental of the residence; joint utilities accounts (for example, electricity, gas and telephone); joint responsibility for bills for day-to-day living expenses; joint responsibility for children; or correspondence addressed to both partners at

the same address. They also need to provide a statement outlining the basis on which responsibility for housework is distributed. There are several factors that could assist in evidencing mutual commitment between sponsor and their partner. These include knowledge of each other's personal circumstances (for example, background and family situation, which could be established during interviews); intention that their relationship will be long-term (for example, the extent to which they have combined their affairs); the terms of their wills; or correspondence and itemised phone accounts to show that contact was maintained during any period of separation (DIBP, 2015h). In additional, the Factsheet 30 on Partner visas indicates that the Partner visa applicants (both sponsor and sponsored) must show that their marriage is valid under the Australian law (DIBP, 2015b).

3.1.1.5   *Social aspect of the relationship*

Part 7 of the Booklet requests applicants to give criteria to prove that their relationship is socially recognised. This includes evidence that they are generally accepted as a couple socially (for example, joint invitations, going out together, friends and acquaintances in common); evidence that the couple have declared their relationship to government bodies, commercial/public institutions or authorities; information provided in statutory declarations made by your or your partner's parents, family members, relatives, friends or acquaintances; joint membership of organisations or groups; evidence of joint participation in sporting, cultural or social activities; or joint travel (DIBP, 2015h).

3.1.2 Marriage of convenience

The Booklet emphasises that 'when you apply for a Partner visa, you must provide evidence that supports your claims of a genuine and continuing relationship with your partner' (DIBP, 2015h, p. 40). Indeed, all the requirements stated in the Booklet reflect the Migration Regulation 1994 (Cth) reg 1.15A that outlines the factors that must be considered in determining whether a spouse or de facto relationship is genuine (Commonwealth of Australia, 1994). According to Eggebø (2013, p. 773), a real or genuine marriage is the complete opposite of a marriage of convenience.

Many studies use different terms to describe marriage of convenience and sham or fake marriage (Digruber & Messinger, 2006; Wray, 2006). Sham marriage is considered a crime because the marriage is conducted for the sole benefits of legal status and money (Digruber & Messinger, 2006, p. 282). Fake marriage is the other term to describe the sham marriage phenomenon where someone uses marriage to gain entry into a country and

permanent residency or citizenship (Wray, 2006). The Council of Ministers of the European Union in 1997, provided the formal definition of marriage of convenience, which is in fact, a marriage to solely gain entry and residence (Wray, 2006, p. 303). Therefore, the requirement in the Booklet for the proof of the genuineness of the cross-border couple's relationship represents the need for the DIBP to discover and prevent the marriage of convenience. Bacchi (2009, p. 2) pointed out that since policies actually problematise events, the policies themselves are representing the problem. Hence, marriage of convenience that the migration regulations aim to prevent is really the main problem represented to be in this Booklet.

3.2 Assumptions underlying the representations of the sham marriage 'problem'

Based on the 'binaries' and 'people categories' forms of discourse analysis (C. Bacchi, 2009, pp. 7, 9), this section will discuss the assumptions of the negative stereotype of cross-border marriage. These assumptions emerge from the historical phenomenon of mail-order brides and other options of transnational matchmaking. The binary assumptions imply that partner migrants normally come from lower-income countries and have a desire to improve their lives. Accordingly, the assumption about the category of 'partner migrants' is that they use marriage as one-way ticket to obtain legal citizenship.

3.2.1 The phenomenon of mail-order brides of the early 1980s and other options of transnational matchmaking

Chang (2015) states that the negative stereotype of cross-border marriage emerges from the historical phenomenon of mail-order brides in the 80s. The label of mail-order bride refers to young women from poor societies delivered to men from richer countries similar to goods, actually profiting matrimonial agencies (Lloyd, 2000, p. 341). When first started, this form of business was performed through catalogues including images and text about the personality, the cultural background, the abilities and the attractiveness of these girls. With the development of internet sites and widespread internet access, people could easily seek out suitable women to be delivered to them (Elson, 1997, pp. 368, 369). The majority of women involved in the mail-order bride industry come from South and Southeast Asia, the Philippines, Thailand, Sri Lanka, India, Taiwan, Macao and China.

Moreover, brides from Mexico, Eastern Europe, and in recent years particularly the former Soviet Union, are becoming increasingly common. The women are described to be

young, pretty, feminine, caring for family more than their own career and full of potential to become a good housewife. Bride seekers, on the other hand, primarily reside in developed countries such as the US, Australia and Western Europe. They usually introduce themselves as strong, successful and wealthy men who are looking for a wife that would fit the traditional role (Elson, 1997; Lloyd, 2000; Sahib, Koning, & van Witteloostuijn, 2006; Shunnaq, 2009; Simons, 2001). Echoing the mail-order bride phenomenon, the 'Filipina brides problem' (Chuah, 1987, p. 573) were a rising public concern for Australia in the 80's. It was argued that Australian men who married Philippine women were 'male-chauvinists seeking meek, obedient housekeepers and mistresses'. On the other hand, Philippine women were seeking Australian husbands as a convenient way to get into the country (Chuah, 1987, p. 573). There is a concern about the possibility that mail-order brides may be seeking husbands not for love and companionship, but for an easy immigration route (Elson, 1997).

Furthermore, other options of transnational matchmaking are widespread. Beck and Beck-Gernshem (2010) indicate that the basic option open to anyone is the commercially arranged marriage. This form of marriage involves marriage agencies, marriage tours, marriage advertisements and migrants as matchmakers for migrants.

Marriage agencies and tours usually arrange marriages for brides from poor countries looking for Western spouses who are mainly farmers. This occurs because the ratio of men and women in the countryside is very unbalanced, as women move to the city in order to make a living, while men become farmers. As a result, male farmers find it difficult to get married. Taking advantage of this opportunity, marriage agencies and marriage tours unify women from the third world with these men (Beck & Beck-Gernsheim, 2010). Being another form of transnational matchmaking, marriage advertisements have 'added a new dimension in the business of identifying compatible partners' (Kalpagam, 2008, p. 100). Marriage advertisements are used by women from developing countries in Asia to announce their availability to eligible men in the US and Canada, through newspapers, television or the internet. Migrants being matchmakers for other migrants is another popular method of finding new spouses, in which migrants settling into a Western country bring over female friends or relatives and help them find suitable Western men to marry. 'Depending on the circumstances, this kind of matchmaking is done as a favour, to help relations and acquaintances, or for financial reasons' (Beck & Beck-Gernsheim, 2010, p. 405). In the same vein, the' kinship-based marriage arrangements' for migrants focus

more on family and kinship networks to find suitable spouses. Not being a commercial route but a 'special option', these kinship-based marriage arrangements strengthen family relationships, as it is sometimes a custom to marry a close relative (Beck & Beck-Gernsheim, 2010, p. 406).

All the above trends of marriage migration that Beck and Beck-Gernsheim nominate as the 'passage of hope' (Beck & Beck-Gernsheim, 2010, p. 401), are the premises for the binary and people category assumptions that will be analysed below.

3.2.2 A binary assumption that partner migrants normally come from lower-income countries

Numerous scholars indicate that the assumption about partner migrants coming from poorer countries can be seen as one of the main indicators that immigration officers rely on in their assessments and decisions (Beck & Beck-Gernsheim, 2010; Belanger et al., 2011; Chang, 2015; Eggebø, 2013; Graeme & Nguyen, 2007; Pellander, 2014; Satzewich, 2015; Simons, 2001). Such assumption appears to happen worldwide, from lower-income countries in one continent to wealthier countries in another continent. However, even within the same continent, the idea of marriage migration to 'seek social and economic mobility in a relatively wealthier country' is also regarded widespread (Chang, 2015, pp. 5, 6; Fulias-Souroulla, 2010).

In the context of Asian cross-border marriage, developed countries like Japan, Hong Kong, Singapore, South Korea and Taiwan have become the most popular destinations for women coming from developing countries, such as Philippines, China, Vietnam, Thailand and Cambodia (Bélanger et al., 2010; Belanger et al., 2011; I. Cheng, 2014; Y. E. Cheng et al., 2014; Hong et al., 2013; MacLean, 2012; Tang et al., 2011). Vietnamese brides in a qualitative study of Belanger et al. (2011, p. 101) appear to make significant financial contributions to their families 'rapidly after their migration' to Singapore and Taiwan. There are many reasons behind their remittance sending. They remit to pay family members to take care of their children that are left behind, to pay debt and alleviate poverty, to build up assets, and to plan insurance against risks in the event of a divorce. More importantly, they want to express their gratitude and respect toward their parents for raising them by fulfilling their obligations through material and emotional support. They also want to contribute to their communities. These traditional obligations are what a dutiful Asian

daughter must undertake. Marriage with a husband from a wealthy world helps them to complete these duties quickly (Belanger et al., 2011).

Similar to Vietnamese brides, many Thai brides who are married to Singaporean husbands in Jongwilaiwan & Thompson's study (2013) also remit every month back to their family. They describe their feelings and practices involved in marriage migration as organised around 'filial obligations toward parents as well as fulfilling their mother-nurturer role in providing for children' (Jongwilaiwan & Thompson, 2013, p. 371). This remittance sending has apparently affected the assumptions about marriage migrants coming from lower-income countries. Not different to the situation of the brides mentioned above, brides from Northeast China, Southeast Asia, (a few) from central Asia and a small portion from East Asia marrying South Koreans, are assumed by the Korean immigration policies that they are inferior because they come from poorer Asian countries (Chang, 2015; Hsia, 2007).

In Europe, the assumption about marriage migrants coming from lower-income countries normally occurs to those who are sponsored from Eastern Europe like Russia, Ukraine, Poland and Hungary migrating to England, Germany, Austria, the Netherlands, Finland and Demark (Bonjour & De Hart, 2013; Digruber & Messinger, 2006; Eggebø, 2013; Messinger, 2013; Myong & Bissenbakker, 2014; Strasser et al., 2009). Cooke (2003, p. 2) asserts that 'the major causes of migration are economic'. According to Beck-Gernsheim (2011) and Timmerman & Wets (2011), marriage migrants in Europe usually hope for a better life in terms of economic, politic and social security as well as to become a bridge for the migration of other family members. Additionally, marriage migration may increase the migrant's contribution to the household which is expected to raise their own and the family's social standing and economic security (Williams, 2010, p. 5).

3.2.3 A binary assumption that partner migrants are normally less educated, less skilled and unable to integrate in the new society

This binary assumption is often seen in a wide range of European and other Western developed countries (Bonjour & Kraler, 2014; Gaucher, 2014). These states assume that partner migrants are less likely to have understanding about the wider community and social cohesion. Therefore they often face difficulties in assimilating and establishing relationships in the society (Kraler, Kofman, Kohli, & Schmoll, 2011b). In particular, female marriage migrants are usually assumed to be less educated, less skilled and not be able to

perform their roles as mothers appropriately (Bonjour & De Hart, 2013; Kofman, Saharso, & Vacchelli, 2013). Also, research in the UK and Denmark shows that female spouse migrants' language skills are judged as lower than other migrant categories' language skills and they are hard to improve (Gaucher, 2014; Liversage, 2009). In reverse, however, there are many instances where white men from developed countries seek partners from Asian and Eastern Europe because they assume that the women from these regions are normally more docile, more feminine, more patient, and less emancipated (Bonjour & De Hart, 2013; Bonjour & Kraler, 2014; Charsley, 2012; Patico, 2009). To some extent, however, these assumptions confirm that sponsored spouses from poorer countries are chosen not for their education or professional skills (Bonjour, 2010). In the eyes of the policy makers and of the country of settlement, the marriage migrant's status is always that of a 'spouse' and 'dependent' and also that their rights as individuals are understood through 'their social status as wife, husband or partner' (Williams, 2010, pp. 5,6).

3.2.4 The assumption about the category of 'partner migrants' using marriage as one-way ticket to obtain legal citizenship

These stereotypes mentioned above about migrants in general and marriage migrants, in particular, are strengthened by the assumption that they often use marriage as a one-way ticket to obtain citizenship. Toyota (2008) argues that obtaining citizenship can allow someone to demand rights, to access education, employment, public welfare services and custody of children. Therefore, 'international marriage has become an arena of contention over rights, privileges and access to citizenship' (Toyota, 2008, p. 3). Marriage migrants are often deemed 'others', 'outsiders', 'aliens', 'bad migrants', 'undesirables', 'acrobats of the border', 'border artistes', 'trespassers', 'evil foreign queue jumpers' and 'system cheaters' (Beck-Gernsheim, 2011; Bonjour & Kraler, 2014; Gaucher, 2014; Hou & Myles, 2013; Messinger, 2013; Simmons, 2010; Wray, 2011). A prominent example of such assumption about the category of partner migrants can be seen in the Canadian government's anti-marriage fraud campaign (Gaucher, 2014). The marriage migrants in this campaign are put into the category of non-citizen queue jumpers, who see marriage as a one-way ticket to Canada and will abandon their sponsor partners once they obtain their citizenship. Accordingly, Canadian citizens who are involved in a cross-border marriage for love are seen as victims. In such a situation, the entrance of bad immigrants is regarded 'a threat to Canada's national interests' (Gaucher, 2014, p. 189).

Similarly, in Austria, where the strictest immigration regulations were introduced, partner migrants from third-world nationals are often considered to be 'the alien citizen[s] [that represent] a danger for public order' (Digruber & Messinger, 2006, p. 284). In the UK, this threat is expressed through the assumption that a vast increase in the number of sham marriages involves organised criminal gangs (HC Hansard 2004, cited in Wray, 2006). Unofficial estimates raise the number of ''bogus''/sham marriages to 8,000 per year in London and to 10,000-15,000 per year in the whole of the UK. Government reports however, state that there are about 3,000 to 4,000 cases every year and this number is increasing (Wray, 2006, p. 314). In the general worldwide context, marriage migration flows can be seen to pose a threat to the social order and the national identity (Bonjour & Kraler, 2014; Gedalof, 2007; Schmidt, 2011).

3.3   How did the representations of sham marriage come about in the Booklet?

Such assumptions underlying the phenomenon of sham marriage play a crucial role in shaping policies and affect the way the problem of sham marriage is represented in the Booklet. In this part, I will initially examine the problem representation of sham marriage in the mass media and then in the marriage migration policies worldwide as both of them are interconnected with the Australian immigration regulations and particularly with the Partner Migration Booklet. A final step in tracing the history of this problem representation is the employment of Foucault's genealogical theory (C. Bacchi, 2009, p. 10). The genealogy produced is expected to reveal the way the Booklet with the problem representations has been shaped.

3.3.1 Marriage of convenience, a public discourse in the mass media

As analysed in step 1 (identification of the problem representation), marriage of convenience is the problem represented in the Partner Migration Booklet with assumptions underlying and playing a crucial role in shaping policies. To explore how marriage of convenience is conceptualised in public discourse, it is necessary to examine how sham marriage has been presented by the mass media, over the time. In the last few decades, the phenomenon of sham marriage has become popular in the mass media. Generally, 'marriage migration has a negative image' in media, as it is believed that the new criterion for a suitable spouse needs to fit to the purpose of migration (Beck & Beck-Gernsheim, 2010, p. 406).

Worldwide, the language used by the newsmakers in this topic may be regarded as modern racism, because it reinforces the normalisation of whiteness (Fleras, 2011). Specifically, newspapers often use 'us' to relate to the norms, assumptions and beliefs of the dominant culture, and 'them' to identify those that challenge those norms and beliefs (Flera, 2011; Henry and Tator 2001, cited in Gaucher, 2014, p. 189). News about sham marriages normally attracts readers with their shocking and scandalous events and they are presented with an accusative tone and themes. These news topics usually focus on the enormous amount of money spent on a sham marriage as well as on the *techniques* employed to cope with the intimidating questions in the challenging migration process for those who can afford a short way of immigration (C. Barclay & Marcus, 2011; Cowan, 2015; Fontaine, 2015; J. Kelly & Casciani, 2010; Lane, 2011; Mall, 2015; Phan, 2012; Russell, 2013; Slack, 2015).

Recently, a British TV show named 'My Online Bride' on Channel 9 paid attention to cross-border relationships through the matchmaking industry (Young, 2015). The show focuses on white, Western men searching for wives in foreign countries through the internet, namely Thailand and Ukraine. Using dating agencies and websites such as 'A Foreign Affair', these men spend thousands of euros to search for love overseas. The dating agencies arrange for them to meet many girls at once to help them make an informed decision as to who would be the best person to date. Obstacles such as language and culture differences can make this process difficult. However, as seen in the case of one of the men, the woman he found was just looking for money to support her extended family rather than for love and companionship. Overall, the relationships of the three men documented did not work out well. By being different, marriage migrants are particularly vulnerable to the media as they are depicted as a threat to the society (Gaucher, 2014). The media is seen to be one of the most effective communication tools to convey messages about fake marriage and marriage migration laws, but also their effects on family life. After being broadcasted on Channel 4 News in the UK, the case of Bailey's family has become a prominent story in talking about the negative emotional impact on children of the family separation due to migration regulations. The son of this family started his first day of school without his mother. She was still living in the US waiting for a visa to join the family in the UK (News, 9 September 2013).

On the other hand, marriage migration attracts positive attention in public debates through public campaigns. In particular, the Love Without Borders protest in the fall of

2010, resulted from the Danish family reunification laws (Bonjour & Kraler, 2014; Myong & Bissenbakker, 2014). The intention of this campaign was to support marriage migration, and to configure love affected by political impacts with the slogans: *"Love knows no borders. We say NO to the attachment requirements, housing requirements and point systems that assign a value to people"* and *"Love must be set free of legal limitations"*. However, this activist campaign ended up supporting whiteness and raised discussion in newspapers as well as scholar debates (Myong & Bissenbakker, 2014).

Another campaign that had the attention of the public was the Valentine's Day Heartbroken Brides protest at St Paul's Cathedral, London 2014. In this protest, brides separated from their partners by the migration rules dressed in wedding gowns and expressed their emotional pain and sense of lost (Sirriyeh, 2015). Organised under the We Are Family initiative, the protest is famous because of its slogans: *"All you need is love and £18,600"*, *"Family life is a right, not a privilege"* and *"United by love, divided by the Home Office"* (Brulc, 2014). Also started in the UK, the 'Divided Families' campaign was coordinated by the Migrants Rights Network, Joint Council for the Welfare and Immigrants, and Britcits. The campaign highlights the plight of families affected by the family migration rule changes that were introduced in 2012 as a part of the wider Divided Families campaign against the new tough rules on family migration that brings together affected families, charities, MPs and other supporters (Brulc, 2014).

3.3.2 Marriage of convenience, a state contradictory

One of the state campaigns having the aim to crackdown on marriage of convenience is the 'Anti-Marriage Fraud' campaign launched by the Harper Government in Canada, in 2011. Claiming a rise in marriage fraud, this campaign aimed to prevent and stigmatise the formation of relationships in order to migrate to Canada (Gaucher, 2014). This campaign was the result of a House debate about marriage fraud being brought up in 2008. However, the New Democratic Party MP Chow criticised the way government was misguided in preventing marriage fraud. She also called for a reform to the State's approach to the marriage of convenience. Even though her suggestions opposed many ideas of the Minister of Citizenship and Immigration, her proposals were supported by the former Liberal MP Andrew Telegdi. Nonetheless, the lack of the accurate number of marriage frauds in Canada together with the differentiation in priorities between Citizenship and Immigration Canada (CIC) and Canada Border Service Agency (CBSA) enabled fraud marriage to be left 'off the bureaucratic radar' (Gaucher, 2014, p. 193). As a result, the Canadian government realised

that additional tools are required in order to attack the issue of marriage fraud and led to the 'Anti-Marriage Fraud' campaign.

Similar political debates and approaches to tackle sham marriage have been taken in numerous countries, worldwide. Politicians and the press in Europe and the US described the marriage migration laws as a loophole for sham marriage (Wray, 2006), whereas others questioned the way these countries attempted to promote multiculturalism (Gill & Engeland, 2014, p. 241). Generally, the state campaigns on marriage of convenience are often criticised by the public and scholars. The critics focus on the conflict between macro policy decisions and the interests of the sponsors and their partners (Gaucher, 2014; Gill & Engeland, 2014; Wray, 2011).

Preventing immigration that is based on marriage of convenience, arranged marriages and forced marriages are also taken into account by governments. However, each state adopts a different approach to the problem. According to Eggebø (2010) and Wray (2009), arranged marriages in the UK and Norway can be seen as unproblematic and they are recognised as legitimate. Australia shares the same view about arranged marriages and recognises them as legal for as long as both parties provide full and free consent (DIBP, 2015h, p. 20). Other countries, including the Netherlands and Denmark, perceive arranged marriage as a form of the forced marriage which is not based on true and romantic love, and therefore is not a valid marriage (Bonjour & Kraler, 2014; Fair, 2010). Nevertheless, France has no specific laws tackling forced marriages as the Government does not acknowledge the problem of false marriage as an issue (Gill & Engeland, 2014).

Attacking sham marriage in the broad picture of marriage migration has been highly contested. Up until this century, there is only the Portuguese government as one of the very few states in Europe as well as of the world that shares with the International Labour Organisation (ILO) and the European Union (EU) a perspective about marriage migration and family reunification. This perspective, developed from the 60s and 70s, promotes family migrants' well-being as well as integration in receiving countries (Block & Bonjour, 2013; Bonjour & Kraler, 2014; Gaucher, 2014; Strik et al., 2013). Most other countries adopt an opposite view and set restrictive measures in the process of assessing family visa applications in order to identify and prevent sham marriage (Bonjour & Kraler, 2014; Gaucher, 2014; Messinger, 2013). In addition, family migration policies in general and marriage migration regulations in particular 'form a part of a broader debate attempting to

preserve identity, social cohesion, welfare, and diversity' (Bonjour & Kraler, 2014, p. 3). This phenomenon is actually regarded a global contradictory as it is apparent in Finland, Norway, the Netherlands, France, Denmark, Belgium, Austria, Germany, Italy, Greece, the US, the UK, Singapore, Taiwan and South Korea (Chang & Wallace, 2014; Constable, 2005; Eggebø, 2013; Flemmen, 2008; Gaucher, 2014; Hou & Myles, 2013; Tan, 2008; Ter Wal et al., 2008; Van Kerckem, Van der Bracht, Stevens, & Van de Putte, 2013; Yeoh, Chee, & Baey, 2013). Overall, marriage migration invokes numerous anxieties, strategies and ambitions and is regarded a problematic and controversial issue (Wray, 2011, p. 1).

3.3.3 Marriage of convenience, a contemporary policy perspective

This section focuses on similar contemporary Western policy perspectives on preventing sham marriage, as it has received increased attention since the 2000s (Eggebø, 2013).

The framework of moral gate keeping is a characteristic of immigration control and of the decision-making process in the UK and Finland. Wray (2006, p. 313) named the marriage migration regulations in the UK in the period after 2005 'the Hunting of the Sham Marriage'. Since February 2005, the rights of immigrants to marry within the UK have been severely restricted by laws. Since then, migration applicants and their partners need to show the genuineness of their relationship through many attached requirements. In July 2012, a new set of family migration rules was put in place. One of these rules imposed a raise of minimum income threshold for the sponsors from £5,500 per annum to £18,600. This is actually the highest minimum income threshold requirement in Europe, followed by Norway (Sirriyeh, 2015, p. 6). Additional requirements about language skills, age and waiting time have also been extended. Migration partners must prove that their English is at an intermediate level rather than at the basic level, like before. The age for sponsorship and marriage has also been raised from 18 to 21 years of age. Furthermore, the period in which applicants have to wait to be eligible to apply for a permanent resident visa has gone from one year before 2003, to two years in 2007 and to five years after 2012 (Chantler, Gangoli, & Hester, 2009; Gaucher, 2014; Sirriyeh, 2015).

Likewise, the Finnish immigration bureaucrats apply a similar approach to those in the UK moral gate-keeping framework. According to Pellander (2014), the Finnish Aliens Act became effective in 2004, recognising that couples living together as being eligible for family reunification. The act also emphasised the role of police officers, the embassy and the immigration office in the assessment process (Pellander, 2014). Even though the Act

does not specifically mention the problem of marriage of convenience, there is a section providing guidelines for immigration officers in their decision-making. The guidelines developed by the Finnish Immigration Service include indicators of a fraudulent marriage as well as moral conceptions of what a good and acceptable marriage is. However, practical requirements about the marriage timeframe and the minimum income were also put into place. In terms of the timeframe, the couple needs to prove that they have lived together for at least two years before lodging the application. Furthermore, the monthly income required to sponsor spouse and children must be €2,600 monthly (Pellander, 2014, p. 5).

In the worldwide debate about marriage of convenience, the Austrian Alien Law Act 2005 and the Alien Law Package in 2006 adopted the term 'residence marriage' instead (Messinger, 2013, p. 379). The aim of these Austrian regulations is to tighten measures to prevent residence marriages that are subjected to the criminal code. New requirements for non-EU spouses include a compulsory minimum income and more residence requirements for those outside Austria. Similar to Finland, police involvement in detecting marriages of residence is also emphasised in Austria (Digruber & Messinger, 2006). Practices in the couple's shared residence are the main focus for the police to investigate the genuineness of the relationship. The minimum income criterion is more than the regular income of €1,200 per month, and an extra €120 for every child. The non-Austrian spouse, not being allowed to work, cannot contribute to this minimum income and so the Austrian partner has to provide for the whole family alone (Messinger, 2013, pp. 382-383). These requirements have strongly affected many partner migrants from third-world countries, since 2006. What is controversial is that these rules in the UK, Finland and Austria only apply to their citizens who wish to sponsor their partners from the non-European Economic Area (non-EEA) to enter the country (Digruber & Messinger, 2006; Pellander, 2014; Sirriyeh, 2015).

Sharing similar views on restricting marriages with non-European Union citizen partners, the Danish are among the most negative and sceptical towards immigration within Europe despite the relatively low percentage of immigrants in the country (Andersen 2002, cited in Fernandez & Jensen, 2014). In 2002, the Danish government adopted new legislations on family unification, regarded as the strictest in the world (Schmidt, 2011). The new legislations explicitly seek to alter immigration patterns and to prohibit forced marriages as well as marriages between cousins (Myong & Bissenbakker, 2014). Moreover, the reforms set out significant age and financial requirements. In terms of the age
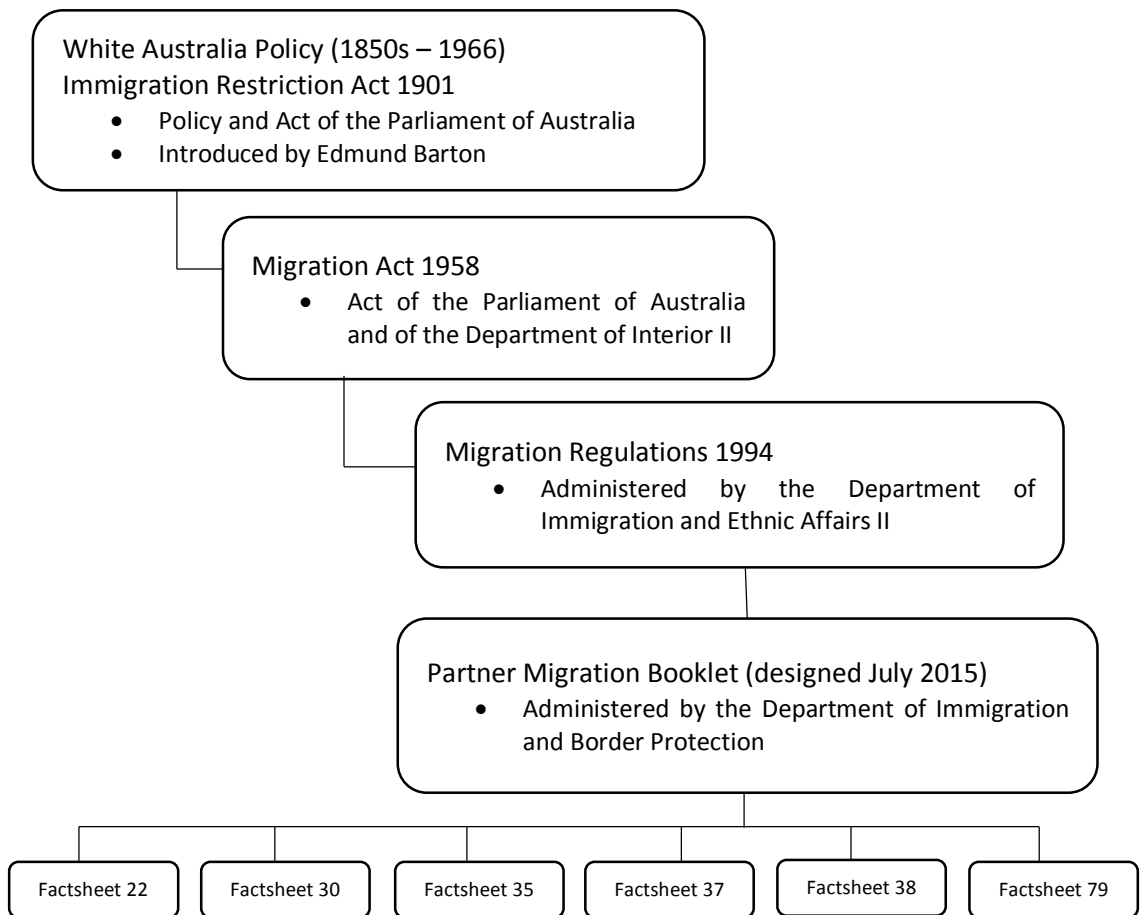
limitation, the 24-year law indicates that both partners must be over 24 years old at the time the application forms are lodged. In addition, the partner in Denmark must have adequate housing of a reasonable size and with a long-term lease, must be able to provide for their spouse and must not have received public assistance for one year prior to submitting the application. The Danish sponsor must post a specified sum of money as collateral to cover any possible public assistance the municipality may have to pay during the first seven years the foreign spouse is in Denmark (Schmidt, 2011). On top of that, the couple's attachment to Denmark must be greater than to any other country (Myong & Bissenbakker, 2014).

These countries have been particularly examined in this section because of the ways they regulate immigration practices, including a compulsory income minimum, an age requirement and a specific timeframe. The regulations these countries impose on the marriages of convenience are similar to other Western countries such as the US, Canada, Norway, the Netherlands, Germany and France, as well as to the wealthy countries in Asia including Japan, Singapore and South Korea. These countries implement increasingly restrictive marriage migration policies to defend themselves against undesirable migrants through sham marriage (Beck & Beck-Gernsheim, 2010; Bélanger et al., 2010; Bonjour & Kraler, 2014; Y. E. Cheng et al., 2014; Eggebø, 2013; Engbersen et al., 2006; Friedman, 2010; Gaucher, 2014; Hou & Myles, 2013; Liversage, 2012; Toyota, 2008).

3.3.4 A genealogy of the Partner Migration Booklet

Australia is a country with a large number of migrants from its very early history, with the spouse/fiancé sponsorship playing a major component in the marriage migration program (Iredale, 1994). Evidently, marriages of convenience drew the attention of the Australian authorities due to the fraudulent forms of family migration, and resulted to the development of the existing regulations. I will therefore summarise, in the form of Foucault's genealogy theory (C. Bacchi, 2009, p. 10), the past and current Australian immigration regulations that produced the Partner Migration Booklet, as presented in Figure 1 below.

Figure 1: The genealogy of the Partner Migration Booklet (Australian Government, 2007; Commonwealth of Australia, 1994; DIBP, 2015f; National Archives of Australia, n.d.)

White Australia Policy (1850s – 1966)
Immigration Restriction Act 1901
- Policy and Act of the Parliament of Australia
- Introduced by Edmund Barton

Migration Act 1958
- Act of the Parliament of Australia and of the Department of Interior II

Migration Regulations 1994
- Administered by the Department of Immigration and Ethnic Affairs II

Partner Migration Booklet (designed July 2015)
- Administered by the Department of Immigration and Border Protection

| Factsheet 22 | Factsheet 30 | Factsheet 35 | Factsheet 37 | Factsheet 38 | Factsheet 79 |

The past and current Australian immigration regulations, depicted by the genealogy of the Partner Migration Booklet in Figure 1, begin with the *Immigration Restriction Act 1901* which is commonly known as the *White Australia Policy* (Australian Government, n.d.-b). This Act of the Parliament of Australia was introduced by Edmund Barton in 5 June 1901 and approved in 23 December 1901. The Act was one of the first pieces of legislation passed in the new Federal Government and aimed to prevent migration of non-Europeans including Pacific Islanders and Asians, especially Chinese, to Australia. It was used by the British Australians to assert power and authority – preserving Australia as a white outpost of Britain (Migration Heritage Centre, 2010). Minister for Trade and Customs, Charles Kingston, who was primarily responsible for the policy, asserted that it was necessary to 'protect Australia against the influx of aliens, Asiatics, criminals, paupers and other undesirable classes' (Day, 2000, para.3). To achieve this, immigration officers administered dictation tests to people who wanted to migrate to Australia. The test required them to

write out fifty words dictated to them in any European language. Realistically, the test was not testing the language skill of the person but was excluding people that were undesirable. In fact, most Asian people failed the tests and were not allowed to migrate to Australia (Day, 2000). The Act did not only restrict all non-European citizens, but mainly preferred northern Europeans (Australian Government, n.d.-b). It was not until March 1966 that the White Australia policy was abolished (Australian Government, n.d.-a).

In replacement, the *Migration Act 1958* of the Parliament of Australia was approved on 8 October 1958. This Act has a longer title: *An Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons* (Australian Government, 2007).

The *Migration Regulations 1994* administered by the Department of Immigration and Ethnic Affairs II were developed under the *Migration Act 1958.* The dictation test was removed and the universal visa system came into effect (Australia, 1994). The Partner Migration Booklet is one of a series of Booklets that extract exact parts of the *Migration Regulations 1994*. Those Booklets are (1) Partner Migration, (2) Child Migration, (3) Parent Migration, (4) Other Family Migration, (5) Employer Sponsored Migration, (6) General Skilled Migration, (7) Business Skills Entry, (8) Special Migration (DIBP, 2015h).

It can be seen therefore, that all past and current regulations aim to exclude undesirable migrants involving potential sham marriage participants. Being the culmination and the outcome of all the regulations mentioned above, the Booklet is one of the most essential improvements to effectively identify and prevent deviant partner sponsorship and marriage of convenience in Australia (Iredale, 1994).

3.4 The genuineness of relationships is questioned and excluded

On one hand, the Partner Migration Booklet is regarded as a guide for partner migrants to apply for partner visas, but on the other, it shows the substantial effort of the government to successfully attack and prevent marriage of convenience through criteria that require couples to prove the genuineness of their relationships. In this section, I will analyse the issues that are silenced in this Booklet. In particular I will question whether the Booklet with its requirements and restrictive measures is an effective tool to determine and clarify sham and real marriages, or forces couples to be involved in marriages of convenience.

From there, I will point out that the authorities, instead of attacking fraud marriages, scrutinise and challenge genuine cross-border couples. I will now analyse why this is an unproblematic issue that is left silent (C. Bacchi, 2009). The analysis will include an examination of the dominant notion of real/genuine relationships and the contradictions between these norms about genuine relationships and the requirements for the proof of the genuine relationship stated in the Booklet.

3.4.1 The dominant notion of real/genuine relationship

As indicated in the Australian marriage migration regulations, the right of cross-border couples to be granted a partner visa applies only to genuine marriages and real relationships (Australia, 1994). There is one strong norm and belief about the genuine relationship, true love, or pure love and the deviant couple is seen to be opposing this. Therefore, sham marriage needs to be put under immigration suspicion or will be reported as a suspicious marriage (De Hart, 2009; Messinger, 2013; Sirriyeh, 2015). The dominant norm about genuine marriage indicates that 'marriages should be based on love between two equal and autonomous individuals' (Bonjour & Kraler, 2014, p. 6). Giddens' work on the notion of genuine love or pure relationship conceptualised this term as 'a relationship of sexual and emotional equality' (Giddens, 2013). Similarly, Myong (2014, p. 4) defines a genuine relationship as the free choice of a partner, the mutual sexual attraction and the relative gender equality. Genuine love can also be identified through the value of unconditional love which is love without limitations, restraints or suspending judgments (Welwood, 1985).

3.4.2 Contradicting points between the dominant norms of the genuine relationship and the requirements presented in the Booklet

A genuine relationship is seen to be the ideal and immigration officers usually impose this dominant understanding about what a genuine marriage should look like in their assessments and decisions (Wray, 2006). However, the tools used to decide whether a relationship is genuine or not, seem to disagree with those norms of what unconditional love is. The contradictory points that will be analysed below include the legal dependency, the financial dependence, the health, the character, the time-frame and the social aspect of the relationship. Also, both the dominant norms and the Partner Migration Booklet emphasise that relationships have to be genuine and based on true love. Therefore, in order to analyse their contradictories, I will repeat the term 'genuine' in each title of the next few sub-sections.

3.4.2.1   The genuine partner migrant must be dependent on a sponsoring partner

In the very first part of the introduction of the Booklet, it is stated that the partner migrant must be sponsored by their fiancé(e) who must also be an Australia citizen, permanent resident or eligible New Zealand citizen. What is more, the sponsor themselves must meet numerous legal requirements set out in the Booklet. Between the period on a temporary visa and applying for a permanent visa, a breakdown of the relationship would mean that most partner migrants would no longer be eligible to continue the application. Therefore, the partner migrant from the first steps of setting up their life in Australia must immediately be in the legal position of the dependence of their sponsoring partner. As a result, this marriage migration regulation contradicts the very idea of the genuine marriage being between 'two equal, autonomous individuals' (Bonjour & Kraler, 2014, p. 6).

3.4.2.2   The genuine cross-border relationship requires significant finance

Even though the Australian marriage migration regulations do not have specific requirements about the minimum income, unlike in several European countries (as in the UK, Denmark and Austria), the Australian Partner Migration Booklet states that the sponsor must ensure an adequate amount of money to cover their sponsored for their first two years in Australia. Additionally, support such as accommodation, living needs, childcare or English lessons must also be provided by the sponsor (DIBP, 2015h, p. 17).

Similarly, when lodging their partner visa application, applicants must pay for the Visa Application Charge, which cannot be refunded under any circumstances. Additional charges are required for each member of the family that is included in the application. The significant amount of money required is discernible in Table 1 below, which illustrates the costs involved for applicants in order to apply for Partner Visas.

Table 1: Fees for Partner Visa Applications
(Bupa Medical Visa Services, 2015; DIBP, 2015e; Australia Federal Police, 2015)

	Type	Cost	Total
Application outside Australia (3 step process)	Prospective Marriage (Subclass 300)	$6,865.00	$29,103.90 (with dependents) $16,197.80 (without dependents)
	Temporary Partner (Subclass 820)	$6,865.00	
	Permanent Partner (Subclass 801)	$1,450.00	
	Dependent charge 18 and over	$7,595.00	
	Dependent charge under 18	$3,805.00	
	Medical examination and x-ray	$291.90	
	HIV blood test	$46.00	
	National Police Certificate	$42.00	
	Translation fees	$200.00-$400.00	
Application outside Australia (2 step process)	Temporary Partner (Subclass 309)	$6,865.00	$26,563.90 (with dependents) $14,797.10 (without dependents)
	Permanent Partner (Subclass 100)	$6,865.00	
	Dependent charge 18 and over	$6,870.00	
	Dependent charge under 18	$3,440.00	
	Medical examination and x-ray	$291.90	
	HIV blood test	$46.00	
	National Police Certificate	$42.00	
	Translation fees	$200.00-$400.00	
Application inside Australia (2 step process)	Temporary Partner (Subclass 820)	$6,865.00	$26,416 (with dependents) $14,797.10 (without dependents)
	Permanent Partner (Subclass 801)	$6,865.00	
	Dependent charge 18 and over	$6,870.00	
	Dependent charge under 18	$3,440.00	
	Medical examination and x-ray	$291.90	
	HIV blood test	$46.00	
	National Police Certificate	$42.00	
	Translation fees	$200.00-$400.00	

Additionally, the partner migrant in Australia with a temporary visa has the right to access education. However, they have to pay their study fees as international students (which are four times higher than the fees local students pay) because they are not allowed to access government funding (DIBP, 2015h; Osborne, 2015). The cross-border couple can also face other charges in terms of travelling in and out of Australia during the visa application process, because certain visas can only be granted onshore, like Partner Visa Subclass 820, 801 and 100 (DIBP, 2015h). Lastly, the couple is required to provide evidence of the financial aspects of their day-to-day living. This includes a joint ownership of real estate or major assets, joint liabilities, financial sharing, joint bank accounts for a reasonable amount of time, and household bill and living expenses sharing (DIBP, 2015h, p. 41).

It is apparent, therefore, that with the burden of all these fees, a genuine cross-border relationship is not simply required to have true love, but also a significant amount of money to cover the expenses involved.

3.4.2.3 The genuine partner and their family are required to have good health

It is not just the partner migrant, but also all children under the age of 18 and all the dependent relatives in the application have to undergo health examinations. The health check includes a medical examination, chest x-ray and some laboratory and specialist tests. Note that the results of the health examinations are generally valid for twelve months. Therefore, if the visa assessment process is extended beyond one year, the applicant must take further health examinations. If the applicant or any of their relatives fail the medical check, the Partner visas may not be granted. Specific health conditions that can result in the application being refused include tuberculosis and illnesses requiring treatment, support and assistance that are in short supply or have high cost for the Australian state (DIBP, 2015a, pp. 20,21; 2015h).

Hence, marriage migration requires a healthy partner with a healthy family.

3.4.2.4 The genuine partner needs to be of good character

Similar to the health requirement, the partner visa applicant and their family must also be of good character. The visa application is usually assessed in two stages that are two years apart, with the second stage sometimes requiring additional police certificates from any countries the applicant resided in for more than two months (including Australia). The partner visa applicant would fail the character test if they have been in prison for more than twelve months and have had any association with a person, group or organisation suspected in involving in a criminal conduct. Applicants who are reasonably suspected to have been involved in serious crimes, have been convicted or found guilty of sexual offences, involving a child, and are subject to an adverse security assessment in an Interpol notice, will also not pass the character test. Note that penal clearance certificates must be provided from every country that the applicant has spent more than ninety days in, from the age of 18 years and over. If any member of the family does not satisfy these criteria, the partner visa might not be granted (DIBP, 2015h, pp. 22-26).

It seems that within the boundaries of marriage migration, partners in a genuine relationship do not just have to meet each other's expectations, but also the law's expectations of being a good character.

3.4.2.5   True love requires acceptable timeframes

There are many different timeframes required for each particular visa category and visa subclass, stated in the Booklet and the relevant Factsheets.

Two-stage visa (temporary visa and permanent partner visa) is required for most Partner Visa applicants that usually takes up to two years (DIBP, 2015h, p. 22). With the three-step process, where a Prospective Marriage visa (subclass 300) is obtained, the partner migrant is allowed to temporarily enter Australia for 9 months (DIBP, 2015h, p. 31). When this visa is granted, the partner migrant must marry their Australian partner while the visa is still valid, in order to apply for the Temporary Partner visa (subclass 820). After obtaining this visa, the couple has to ensure that they live together continuously for two years without being apart, before being able to apply for a Permanent Resident Partner visa (subclass 801). An alternative option for the couple is to follow the two-step process, where the partner migrant holding a Temporary Provisional Partner visa (subclass 309) has to live with their Australian partner for two years before applying for a Permanent Partner visa (subclass 100). This option applies to the couple whether they are already legally married, intending to marry or have been in a de facto relationship (DIBP, 2015h, p. 8). With de facto partners, the couple must have lived together in the ongoing relationship for at least twelve months before they apply for a Partner visa (DIBP, 2015h, p. 19).

In order to apply for a Prospective Marriage visa, both partners must have met each other in person since they both turn 18 years of age (DIBP, 2015h, p. 15). Time restrictions are also placed on the sponsor, who is not allowed to have sponsored someone else or have been sponsored themselves 5 years prior to the application.

These time criteria force the couples in a genuine relationship to plan and frame their time in a way that the DIBP requires, creating a uniform arrangement for every other couple to follow. In other words, in the context of marriage migration, all couples that are in love ought to get married, or live together, according to a compulsory timeframe stated in the Booklet.

3.4.2.6   Genuine partners required to be sociable

One of the important evidences to prove that the relationship is genuine is the partners' commitment to each other. The history of the relationship must be demonstrated and this includes the time and places the couple first met, development of the relationship, decision to commence a long-term relationship, domestic arrangements, legal commitments, separation periods and future plans. Information about how the household is organised must also be provided, including living arrangements, responsibility distribution, joint ownership or rental of the residence, joint utilities accounts, joint bill responsibilities, joint children responsibility and same address for both partners. How well the partners know about each other's personal circumstances such as background situation is also assessed. In addition, the couple must provide evidence in the form of phone messages and calls when they were separated. Lastly, an officer assesses the genuine marriage according to whether the couple intends their relationship to be long-term or not as well as according to the content of their wills. Statutory declarations and interviews will be conducted during the assessment process. The statutory declarations are statements written by the couple about their relationship history and its social aspects. Furthermore, extra statements from someone who knows the couple must also be provided, with strict guidelines as to who this person can be. The interview is conducted with an immigration officer and in most cases, personal questions are asked to ensure that the relationship is genuine (DIBP, 2015h, pp. 28, 40-42).

Together with the couple's commitment to each other, making sure of the relationship's social aspect is important in terms of proving that it is genuine. This includes showing that the relationship is accepted socially due to having friends in common and receiving invitations together. Declaring the relationship to government, institutions or authorities and being recognised by parents and family members are also important in the process of gathering evidence of a genuine relationship. Furthermore, the couple are required to be quite sociable as they must be involved together in organisations, groups, sports, cultural and social activities, or travels (DIBP, 2015h, p. 41).

The idea that underpins marriage migration regulations is that marriages that are not formed out of romantic love between two equal, autonomous individuals are not accepted because they do not comply with national values (Bonjour & De Hart, 2013; Fair, 2010). In reality, the relationship and its intimacy and genuineness are judged through a very practical and materialistic dimension, rather than through the norms of pure love that

are widely accepted. As mentioned above, genuine love should be between two equal people who freely choose each other with sexual and emotional equality, and without any limitations or judgements (Giddens, 2013; Jamieson, 1999; Myong & Bissenbakker, 2014; Welwood, 1985). In the context of marriage migration, however, one cannot freely choose their partner, but instead, they must choose someone to satisfy the requirements set out by the DIBP. For a couple to defend the genuineness of their relationship, they must provide practical evidence while the partner migrants are strictly judged. Therefore, to prove that their relationship is genuine, 'practical intimacy and realistic love seem to be more important than what pure love should be' (Eggebø, 2013). In defence for the realness of a relationship, whether fake or real, there is no other way for the couple than to function according to the relationship criteria set by the Booklet. Thus, it is actually impossible for someone to verify whether the relationship is genuine. Therefore, the issue *silenced* here is that genuine relationships are being unnecessarily questioned and challenged in the process of Partner visa application.

3.5 Three interconnected kinds of effects that are produced by the representations of the problem of sham marriage in the Booklet

The efforts of authorities in identifying and preventing sham marriage, which is the problem represented in the Booklet, can produce severe effects on cross-border couples including subjectification, discursive effects as well as lived effects that will be discussed below.

3.5.1 Subjectification effects

By stigmatising all cross-border marriages as sham marriages, a useful purpose for the government is served, because the phenomenon of marriage of convenience is discouraged (Foucault 1982 cited in C. Bacchi, 2009). Furthermore, social hierarchies are reinforced by this subjectification as the applicants are socially controlled. Because of the financial, health, good character and social networks requirements imposed, marriage migrants are perceived as potential problems and threats to the 'security and the Australian way of life' (C. Bacchi, 2009, p. 168). Authorities subsequently believe that they need to control and manage these potential threats. As a result, marriage migrants have to prove that they are able to meet the requirements and that they are not in the threat category, in order for them to be able to enter the country. In terms of health, for example, they have to show

evidence of adequate health so that they do not pose risks to the Australian public health and safety, and they do not need expensive treatment and services for their illness once they have entered Australia. In the case of the applicant having a specific disease, such as tuberculosis, they are required to go through effective treatment, which can last between 6 to 9 months, until they are declared free of the disease (DIBP, 2015a). This treatment period can have great effects on the relationship of the couple as it might result in them having to live separately.

Similar to the health requirement, evidence needs to be shown in order for the applicants to meet the character criteria. Partner visa applicants need to provide police checks from every country they have been to for more than twelve months since 16 years of age (DIBP, 2015f). The reason for this is drawn from the notion of the 'security of home', in which marriage migrants are controlled by security measures that are set up (Walters, 2004, p. 241). Bacchi in her discussion about the phenomenon of temporary migrants in Australia, critiques the imagery and slogan in John Howard's 2001 campaign that named migrants as guests who are outsiders, to be considered and assessed whether they are deserving enough to enter the country permanently (C. Bacchi, 2009, p. 168). The preventative measures imposed in the Partner Migration Booklet are further emphasised when the language used includes 'you must', 'you do not', 'you need to' or 'you have to'. Such a use of language clearly shows that if these instructions are not followed, the consequence would be not being granted a visa. Therefore, the imbalance in power between the authorities and migrants is clear.

Moreover, by creating a fear for the nation of the 'other', marriage migrants have been put under the category of 'social exclusion' according to the analysis of Fairclough (2000) who stated that addressing social exclusion 'x' is not just about 'x', but it goes beyond to 'y' and 'z'. Hence, by tackling the issue of marriage of convenience, the authorities actually damage the migrants' prospects, networks and life chances, as implied by the British Prime Minister Tony Blair in 1997 in a speech for the launch of the Social Exclusion Unit (Fairclough, 2000, pp. 52-53).

When Governments reject the unwanted stranger, they create negative effects for both partners, whether they are citizens or spouse migrants (Wray, 2011).

3.5.2 Discursive effects

In the marriage migration context, if the migrant spouse does not satisfy even one of the criteria like finance, health, good character and social aspects, their visa application is rejected. This results in the couple having to continue their relationship over long distance. The other possibility is that the relationship will come to an end and, perhaps, each person has to find someone else who might meet all of the partner requirements set out by the Booklet. Either way, the intimate couple's relationship is put under severe strain, which might not let it flourish in finding happiness (Sirriyeh, 2015).

The *Marriage Act 1961* states that a marriage is a 'union between a man and a woman [...], voluntarily entered into' (Australian Government, 2014b, para 46). There is no mention of finance, health, character or social requirements, as they potentially interfere with genuine love. Furthermore, it is understandable that people can freely choose their partners as they wish, without any restrictions (Australian Government, 2014b). With marriage migration, however, the opposite is implied, because strict regulations limit the choices of cross-border couples. In the marriage migration context, it is not just a union between a man and a woman, but a union between a man and a woman who are financially capable, healthy, sociable and good people. Therefore, the choice in life partners for those involved in cross-border relationships is much more limited than those who marry within the same nationality. In other words, for any migrant who lacks adequate finance, health and social networks and is not a good character, the restrictive measures close off possibilities to enter a cross-border relationship.

3.5.3 Lived effects

The need for a sponsor with legal and financial responsibilities during the waiting period for a permanent visa brings about the issue of power imbalance. This is because the migrant partner has fewer rights and privileges either legal, economic, political or social compared to the sponsor (Bonjour & Kraler, 2014; Eggebø, 2013; Liversage, 2012). Furthermore, marriage migrants have less opportunities to access education and employment. This is because these migrants do not have the rights to access government funding to participate in tertiary education (DIBP, 2015h). The power imbalance can cause tensions between the couple, as a power negotiating process might need to take place that might be emotionally difficult and painful (Liversage, 2012). As stated in the Booklet, if a breakup occurs during the two-year period, the migrant partner will not be granted a visa, unless evidence of

being a victim of domestic violence is provided (DIBP, 2015b, 2015e). Therefore, this fear of deportation puts some migrants into a vulnerable position as they constantly try to stay in the relationship.

This power imbalance is also reinforced by the partner migrant's financial dependence, resulting from the income requirement set out by the DIBP. This income requirement creates extra pressure for the sponsor partner. Being required to be financially responsible for the sponsored during the first two years in Australia (DIBP, 2015h, p. 17), the sponsor might have to work much harder. This presupposition is backed up by studies demonstrating that in order to satisfy the income requirement in a marriage migration, the sponsor is forced to change their life in unwanted ways such as working extra hours, ignoring education opportunities and undertaking undesirable jobs (Chauvin, Garcés-Mascareñas, & Kraler, 2013; Leerkes & Kulu-Glasgow, 2011; Liversage, 2009).

Another pressure can be created from the long waiting period between the grant of the two types of partner visas. Even when the partners love each other genuinely or they are already married legally, the spouse migrant might not be able to enter Australia and obtain a permanent resident visa that leads to the acquisition of citizenship. The sponsored partner still have to go through two periods of temporary and then permanent visa, whether the application has been lodged onshore or offshore (DIBP, 2015h, p. 15). Therefore, even when the couple overcomes the first period where the marriage migrant is granted a temporary visa subclass 300, subclass 820 or subclass 309, the couple's life is left on hold. Instead of developing a life together, the couple needs to focus their time and effort on the admission and residence procedures to achieve the final steps of obtaining a permanent visa and then citizenship. These hardships have been demonstrated in previous studies, according to which couples have to live in a state of uncertainty and insecurity during these two periods, resulting in great stress. Furthermore, a normal family life is prevented by these restrictive measures (Rytter, 2013; Strasser et al., 2009).

Additionally, not just the couple but also children, who are considered to be prioritised dependents in the Partner visa assessment, can be greatly affected by the marriage migration restrictions in Booklet (DIBP, 2015d). Due to parents mostly spending time on work necessitated by the migration procedures, the children are deprived of adequate quality time with their parents or they are even separated from them. The separation from parents can have negative effects on the emotional and social

development of children (Perry & Sullivan, 2014). Moreover, child learning and integrating skills are impacted without the appropriate guidance from the parents (Bonjour & Kraler, 2014; Sirriyeh, 2015).

3.6 Is the DIBP able to determine and clarify fake from genuine marriages?

So far, I have demonstrated that the problem of 'sham marriage' is produced through stereotypes of the public, media and campaigns around the world. These stereotypes influence the migration policy, with marriage of convenience being at the centre of the concern. As this type of marriage is believed to be widespread, great efforts have been put to preventing it. Tracing Australia's migration history, the Partner Migration Booklet has been created from a series of concise immigration acts and regulations, and is continuing the fight against marriages of convenience. The legal requirements in the Booklet have 'become the yardstick from which [...] [applicants] take their orientation' (Beck & Beck-Gernsheim, 2010, p. 403) in order to obtain the desired visa. However, even when the Booklet, with its guidance to defend the realness of relationships, is legitimised by the DIBP, genuine couples are judged and challenged. Various challenges for the cross-border couples and the unproblematised aspects have been identified and analysed in this thesis. The unproblematised aspects lead to questioning the ability of the authorities to effectively distinguish between real and fake cross-border couples' relationships.

Step 4 of the current discourse analysis concluded that an ideal relationship entails pure love without any ulterior and instrumental motives (Beck & Beck-Gernsheim, 2010). Long time ago, the idea of love was quite simple, as it was believed that marriages were simply made out of true love (Berger, 1963). Later, however, this idea has developed into a more complex one with four different components including voluntariness in involvement of both partners into the relationship, emotional and intimate involvement of both partners, power balance, equality and autonomy, and sexual equality (Giddens, 1993). Supporting Giddens' argument, D'Aoust (2014) and Hardt (Schwartz, 2009) agree that love greatly relies on the ignorance and oblivion of politics and materials. 'The West [is believed to be] the noble part [of love], marriage based on love and intimacy, and the non-Western regions [is] associated with materialistic, backward, or even barbaric motives' (Beck & Beck-Gernsheim, 2010, p. 409). Marriage migration is often perceived to be a calculated and deceptive phenomenon, solely for the purpose of economic gain and general life

improvement. Therefore, the Western belief is that that marriage of convenience is a violation of romantic love that is widely adopted (Beck & Beck-Gernsheim, 2010; D'Aoust, 2014, p. 323).

According to Jamieson (1999) however, intimate relationships are related to economic and social structures. She argues that partners get involved in a relationship based on love but also on materialistic pursuits, shown through house sharing and other practical activities (Jamieson, 1998, 1999). Through pragmatic concerns and sharing, the couple can understand each other on a deeper level.

These two ideas about love appear to be opposite to each other but with the following exception. Similar to the power balance component of Giddens's 'romantic' ideal of love, Jamieson insists that equality and intimacy are important in a good relationship, as both partners live in an equal and autonomous environment even with social inequalities (Beck & Beck-Gernsheim, 2010; Giddens, 1993; Jamieson, 1999). Nonetheless, the Partner Migration Booklet requires a sponsor in a cross-border relationship to promote implicitly power imbalance, financial and legal inequalities between the two partners.

The Booklet strives for the ideal of love adopted in the Western world. However, its practical measures seem to be under the influence of economic and materialistic pursuits of love. The legal requirements in the Booklet are compulsory and therefore, the partner visa applicants have to accept and shape themselves according to these rules. Beck (2010) regarded migrants as educated and skilful 'border artistes', ranging from the most basic to most sophisticated levels of the immigration process. In this sense, partner visa applicants have the ability to provide more than sufficient proofs of their genuine relationships. Moreover, a relationship needs to follow a uniform mould set out by the regulations, where even a slight deviation would result in the visa not being granted. Entering the phrase *proving genuineness of a relationship* into the search engine on the Internet, there is a wide range of marriage migration agencies providing guidelines for the partner visa applicants. These guidelines include evidence of a wedding ceremony (for example, photographs, guests, gifts and menu of the party), cohabitation (for example, letter sent to the same address, shared bills, joint credit cards and investment account statements), and communication (for example, emails, letters, phone calls and text messages). Such techniques to show that marriage has been made in good faith further demonstrate how practical the marriage migration requirements are.

Sham and genuine marriages are initially different in their purposes and motives. However, the Booklet with its strict regulations provides the opportunity for both kinds of marriages to be similar, if not uniform during the partner visa application and assessment process. Therefore, the issue silenced in the problem representation is that the fight against sham marriage is outside the ability of immigration authorities when practical controls in the Booklet are applied. In other words, the capability of authorities to effectively identify the two types of marriages is considerably questioned. How then is it possible to distinguish between real and fake marriages through strict and rigid restrictions requiring all applicants to follow the same route?

A recommendation for the improvement of the marriage migration assessment process is the introduction of human science professionals, including social workers and psychologists, and a change in the attitude towards cross-border couples. It is suggested, in particular, that at the beginning of the assessment process, the cross-border couples should be treated as genuine, instead of being stigmatised as fake. The social workers and psychologists will be professionally trained to observe the way the couple integrates with each other as well as with other people around them. Scenarios can be given to the couple in order for the professionals to assess their love under different conditions. Additionally, separate interviews for each partner can be conducted but this should not be the only indication of the nature of the relationship. A social worker or psychologist can ask for permission to join in social activities that the couple partakes in, appropriate private activities and in different times and circumstances. Through systematic observations conducted by professionals, the couple's interaction with each other and with other people/the environment can be used to determine whether the relationship is genuine. The Booklet therefore can still be used, however, the two visa stages and the long waiting period should be removed. There should not be such stark inequalities between the sponsor and sponsored in terms of finance, as the two-year financial capability of the sponsor appears to create many problems. By removing the two-year waiting period, the financial requirement is no longer needed because the power imbalance between the couple is created by these financial requirements.

Furthermore, there is a need for further studies examining the experiences and perspectives of marriage migrants in Australia on the marriage immigration process. Further studies will enhance the understanding of the pros and cons of the migration interview and of migration officers' attitudes towards the applicants. These attitudes are

able to either disadvantage or benefit the cross-border couples on their way to become wives and husbands and significantly affect their future lives. Moreover, further studies will increase the understanding of cross-border marriage couples for therapists and practitioners working to improve marital and family lives. More importantly, research will empower cross-border couples by giving them voices on the way to defend their true love.

Chapter 4: CONCLUSION

The aim of this thesis was to critically analyse how cross-border couples are assessed through the Australian Partner Migration Booklet and the six Factsheets referring to the interpretation of the Booklet. To achieve this aim, this study identified specific assessment of the geniuses of the relationship *problem representations* in the Booklet, the assumptions that underlie these representations and the way the representations have taken place.

The study adopted Bacchi's 'What's the problem represented to be?' discourse analysis approach, also known as Bacchi's six-step discourse analysis method. Examining the marriage migration *problem represented* and implied in the policies, this method was used to critically challenge the marriage migration policy and to understand the social problems produced by the policy.

I have particularly questioned the capability of the immigration authorities to clarify real and sham marriages and I have identified 'marriage of convenience' as the *problem represented* in the Partner Migration Booklet, which is the guide for cross-border couples to prove the genuineness of their relationships in order to obtain Partner visas. The contradictories between the dominant notion of unconditional love in real relationships and the pragmatic requirements set out by the regulations in the Booklet show that genuine marriage migration couples are scrutinised in a way that potentially affects their relationship as well as the wellbeing of their dependants. Therefore, the ability of the DIBP to determine and clarify fake and genuine marriages was questioned.

In order to improve the marriage migration assessment process, a change in attitude towards couples at the start of the visa application process is suggested. Healthcare professionals may be introduced to judge the realness of relationships, based on the couples' interactions with each other. The professionals can observe, understand and analyse behaviours and attitudes of the couples during the marriage migration assessment process instead of relying on administrative and restrictive measures currently used by immigration authorities. Another recommendation is the removal of the two visa stages involving a long waiting period for the couple to obtain the visa, so that power imbalances between the sponsor and the sponsored due to their different financial and legal status created by the Booklet regulations are removed. Finally, further studies are

needed in order to examine the experiences and perspectives of the partner migrants in Australia regarding the marriage migration process.

Chapter 5: REFLECTION

While finishing this thesis, I had the need to say goodbye to my friends – all the authors of the readings that I gathered during the one year it took to write the thesis. It felt as if we were having many discussions and sometimes even disagreements over the contentious issue of 'marriage migration'. One of these first "friends" was Helga Eggebø, with her study about marriage migration policies in Norway and the discussion about the ideal of pure relationship used for marriage migrants and their partners in questioning immigration regulations. Then, it was Helena Wray with the focus on the moral gate-keeping approach of the UK marriage migration regulations. Throughout my readings, I came across almost 500 "friends" with differing ideas helping me gain knowledge about the history of marriage migration worldwide, the history of Australian multiculturalism, the issues around marriage of convenience in the eye of the law, the media and the public. Carol Bacchi was someone I "met" during the second half of my journey. However, she was someone who definitely helped me understand rather quickly the new method for the critical discourse analysis – What's the problem represented to be? Her book has been a compass throughout this whole process, always pointing me in the right direction in analysing policies. I found myself getting familiar with many of the Australian migration acts, laws, Booklets and Factsheets that I have never had thought about as an international student who came from Vietnam and never had the opportunity to study in such a depth.

In regards to the motivations that lead me to do this research, I believe that we are all romantics, even those who do not want to admit it. We all like to think that we deserve true love with that one person out there who will sweep us off our feet with their true and genuine feelings. Love has no boundaries and of course it cannot be limited to border, regulations of countries, cultural differences, language barriers or wealth distributions. Is that true?

I have come to realise that the modern day reality of love is quite different to what is portrayed in those Hollywood movies or Disney animations. Yes, love can happen anywhere and to anyone, no matter whether they are half a world away from each other and, of course, thanks to the fluidity of movements around the globe. The marriage across border phenomenon is not something my family is unfamiliar to, as both my sister and brother married people from foreign countries. However, to be together as genuine lovers, cross-border couples need to endure a gruelling application process period to comply with

the immigration regulators. Both the sponsor and the sponsored partner have different responsibilities and requirements, and their personal intimate lives are observed and examined; all in the name of love.

My sister left our home at the age of sixteen to pursue her education in Australia. Her relationship with a man from Finland was announced, not to anyone's surprise, and a marriage followed soon after with our family's full support. They then moved to Sweden to pursue their career and actually had a baby afterwards. My brother and his Japanese partner fell in love in Vietnam and a fully traditional Japanese wedding took place; much to our happiness. He is now happily residing in Tokyo with his wife and two sons. Looking at both of them now, no one would think that they have had to go through so many hardships to finally be together.

To become a Finnish citizen, my sister was sponsored by her partner. The wedding was almost called off because what was required of them seemed quite impossible. The Finnish Immigration Department wanted a Police Check on the couple and all went well for my brother-in-law as he only needed to scan his citizen card to get his background checked. However, my sister was required to get a Police Check from everywhere she had lived at and this was a momentous task as we moved around quite a lot, as a family. Just one application requirement has cost my sister and family a lot of time, finance and effort, tracking down all the places we have been to.

My brother moved to Japan with his wife after they lived together for four years in Vietnam, and he applied for a Japanese citizenship. It was another several years of waiting and hoping that citizenship would be finally granted to him. My brother never felt like he belonged there because he did not have the citizenship privileges and he was actually treated as an "outsider".

In my family, genuine love was tested in these two cases, and who knows how many more couples have gone through, and are going through, the same process?

My daughter turned eighteen and started university just recently, entering the adult world. Not long after, I received a heartfelt letter by a young man of her age, expressing his genuine feelings for her. My daughter entering a cross-culture relationship was not a surprise to my husband and me. I do not doubt the genuineness of the letter, but what I question is whether he knows about the marriage migration policy requirements and

how it challenges what should ideally be celebrated, true love. This situation made me think about how this young man would have to face all the challenges presented to him by the immigration authorities. At times I wonder, after all they have to go through, will love stay the same? Perhaps, my daughter's situation is one of the greatest incentives for me to research whether the marriage migration policy regulating immigrants protects the interests of the couples, or challenges the idea of unconditional love with its many conditions that couples have to prove instead.

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