

# Why Hong Kong career women marry men from China ... and where to divorce them

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The number of Hong Kong women marrying Chinese men has risen fivefold in barely 20 years, but divorces are up too. What are the pros and cons of a Hong Kong divorce versus a China divorce?

Instead of Hong Kong men looking for brides in China, today it is Hong Kong career women who are marrying men from China.

Take, for example, Hong Kong actress and businesswoman Angelababy, who married Chinese husband Huan Xiaoming last year.

Educated Hong Kong women are attracted to the “three highs” in successful Chinese men: high education, high position at work and high income.

Official figures show women are marrying Chinese men later in life, suggesting that they have started a career. There is a steady trend of marriage postponement among women generally, from an average of age 26 in 1991 to 29 in 2013.

It is not surprising that there has been an increase in cross-border marriages: the closer relationship between Hong Kong and China since 1997 and the ease of travel has resulted in a significant increase in cross-border visits.

According to Census and Statistics Department figures, in 2013, 38 per cent of marriages in Hong Kong involved a bride or groom from China. The number of Hong Kong men marrying women from China fell from 21,220 in 1991 to 19,166 in 2013, but the number of Hong Kong women marrying men from China rose significantly, from 1,390 in 1991 to 7,444 in 2013: marriages between a Hongkonger and someone from China accounted for 28 per cent of all Hong Kong marriages in 2013, up from 6.1 per cent in 1991.

This is all well and good, of course, except that the divorce rate rose fourfold from 1991 to 2013 and cross-border divorces are fraught with difficulties. The couple will often have property in both jurisdictions, will hold ID cards and have a legal connection with both jurisdictions, and children who are born in Hong Kong often actually live in China, and vice versa. There are different rules relating to the division of property, disclosure of assets, and enforcement of legal rulings.

Hong Kong women who marry Chinese men should be wary of the potential pitfalls should their marriage founder. For example, in which jurisdiction to issue divorce papers requires careful consideration. Whereas Hong Kong has become known as the divorce capital of Asia because of the starting point that assets should be divided equally, it may not be the preferred venue for a wealthy wife, particularly one who's been in a long marriage to which both partners have contributed. In addition, all assets are “in the pot” for division, including premarital assets, so the chances of a woman's earnings prior to marriage being taken into account and shared is high.

In contrast, in China there is no equal division of property per se. There is a distinction between joint and separate property. Joint property is an asset (including bank accounts) which is owned by both parties and was acquired during the marriage; separate property includes premarital property and property gifted specifically to one party, and does not form part of the marital pot. The matrimonial home is regarded as joint property but contributions to the purchase prior to the marriage will be taken into account.

All of that sounds good for the wealthy wife pursuing a divorce in China, if she can, but there are issues in respect of disclosure of assets which could be troublesome if there is a suspicion that assets have been hidden. In Hong Kong there is a rigorous procedure to disclose all documents relevant to the combined wealth of the family. In China the only requirement is for each party to produce a schedule of assets which are relevant to their case.

Another consideration for the wealthy wife is that judgments regarding finances are not enforceable when they involve family matters. Neither are custody orders relating to children.

Such differences in approach have often led to forum disputes. The courts in Hong Kong take a dim view of “forum shopping” but are regularly forced to deal with the issue, even though preliminary applications are generally expensive. In addition, cross-border divorces often involve issues as to jurisdiction, with one party alleging that the other is not entitled to proceed in Hong Kong or in China. The courts will look at how the family have been living, where the children are at school, where the parties work, where the majority of the assets are, where they consider to be their home. Possession of an ID card is not determinative. A party may have a substantial connection to more than one jurisdiction, which may result in parallel proceedings - extremely expensive.

Such applications are made even before consideration can be given as to what to do with the assets and the children, and are best avoided.

Three things a wealthy Hong Kong career woman marrying a man from China should do

1. Make a prenuptial agreement: they are enforceable in China and increasingly in Hong Kong; make sure that you are clear on which jurisdiction you will use in the event of a divorce.
2. Decide where the family home is, where the children are schooled et cetera.
3. Think carefully about where the family assets are or should be located.

There are pros and cons to getting divorced in either jurisdiction, but one thing is certain, a cross- border dispute is an expensive way to resolve the problems arising from the breakdown of a marriage – something the rising number of Hong Kong women looking over the border for a partner should bear that in mind. Get a prenup in place before the wedding specifying which jurisdiction the parties will choose in the unhappy, and hopefully unlikely, event of their divorce.

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