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## Intermarriages: Love and Law in European Countries

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### 1. Introduction

In Europe, policies and administrative practices concerning binational families constitute multidisciplinary topics that present excellent opportunities for revisiting the interaction between intimate and public spheres.

In this article I shall focus on how some European States, using legal-administrative means, interfere with the intimate life of *binational couples*. By this expression the author means here a couple uniting a European Union (EU) citizen and a “Third-Country National” (TCN): that is, a citizen of a *non-European country* who resides in a European Member State, and as such is subjected to specific regulations and administrative practices, for instance the obligation of periodically renewing his or her residence permit. In the context of increasing pressures to immigration, the legal status of TCN, the status of being resident but not-citizen, which is called “denizenship” or “quasi-citizenship” (Groenendijk, 2006b) is more and more frequent and common. Temporary migrants, settlers and other figures are entitled to a limited range of rights in Europe, with slight differences according to the kind of permit to stay they have got. The same situation seems to be happening worldwide, for instance in Asia.

The issue examined here is the following: what happens when a European citizen living in Europe decides to form a couple, then a family with a “denizen”?

For my PhD of sociology (Odasso, 2013b), I have studied ‘mixed couples’ in Alsace and Venetia, and more specifically the effects of *stigmatization* on Europeans and their Arab partner in Alsace and Venetia.

According to the findings of my PhD research and of other European researches (Maskens *et alii.*, 2014; Salcedo Robledo, 2011; Ferran, 2009; etc.), the shaky legal status and the inquisitor administrative practices concerning these couples tend to deeply destabilize their family life. The paradox comes from the fact that destabilization comes from the same national or supranational authorities that proclaim to consider the right to family life as a basic human right.

In practice, one might ask which kind of family is protected by national authorities; and how citizenship or denizenship, how sex, social class or (perceived) ethnicity bear upon the intimate life of binational families within the public sphere.

After a brief statistical frame, the author will present a review of international and European conventions protecting family life in the first section of the article. In the second section, the author will give examples of laws and administrative practices to show how references to ‘national security’ in official texts put in danger not only the family rights of TCNs (Third Country Nationals), but *also* those of EU citizens themselves. Finally the author will present a case study, that shows how binational family members can *resist* institutional constraints in order to build a stable family life.

### 2. Biographical Policy Evaluation

In order to study the issue of intimacy in binational families I have used Elias’s *figurational sociology*; this graphic method allows to grasp the relations of *interdependence* that necessarily connect families’ individual members and society structures at large. More precisely, Elias view of the interplay of ‘established’ and ‘outsider’ relationships (Elias and Scotson, 1997) with stigma

(Goffman, 1975) leads to deepen observation of social dynamics involving both EU *citizens* and *denizens* (TCN) in these family configurations.

Thus, so-called “tribal stigma” (nationality, religion and “race”) become operative tools to investigate differential treatment (Groenendijk, 2006a) towards binational couples and families in the public sphere. Moreover, the interactive notion proposed by Goffman allows considering differently the European spouse – the citizen – who as an “initiate” (Goffman, 1975, pp. 41-42) who is often in contact with stigmatized individuals – in this case denizens – runs the risk to see the stigma they have been burdened with be extended to her/him.

This has led us to wonder whether *both* members of a binational couple were experiencing a common experience of *migration*. For the TCN spouse who is coming from abroad, it is an obvious fact. But is not it so that the EU citizen spouse *also* experiences subjectively some process of “intimate migration” through sharing the life of an immigrant? I call this process as “inner migration” or migration of contact” (Odasso, 2013b & 2013c) by marrying a TCN, the EU citizen not only begins experiencing another culture, but moreover he/she starts sharing with her/his partner, quite concretely, the inner meaning of (the ‘how does it feel to’) being foreigner and migrant in another country.

As for the empirical methods the author has used for our fieldwork a combination of biographical interviewing (Bertaux, 1996; Delcroix, 1995), *multi-sited ethnography* (Marcus, 1995), and participant observation (Bastien, 2007 ; Tedlock, 1991) of binational family members, in particular their interactions with their immediate social surroundings, as well as with civil society organizations defending binational families and migrants’ rights. A lifelong perspective allows discovering how the *public* (entourage, laws, administrations, etc.) interferes with *private* family life, as well as how such interferences are being experienced by binational couples. On top of it, collecting life stories and family case studies greatly contributes to perceive the unintended effects that the implementation of a given particular policy may have on the situations and lives of those individuals and families it is applied to; which opens the way to the evaluation of such policies “from below”, from the effects it has on concrete cases. This is the method of “biographical policy evaluation” who has been put forward by some German colleagues (Apitzsch *et alii*. 2008; see also Delcroix, 2013).

### **3. Statistical Overview and Legal International Frame**

As result of large-scale mobility, the number of binational families in Europe has rapidly grown. For instance, in the period 2008-2010 one marriage out of twelve united individuals of different nationalities (about 8 %). In France the rate of binational marriages rose from about 10% in 1996 to 16% in 2009. In 2004, 20% out of all marriages in Belgium involved a foreign spouse; the rate had been 12% until 1997. In Germany, 16% of all marriages concluded in 2004 were binational. In Austria, these marriages rose from 14% in 1998 to 28% in 2004 [Lanzieri, 2012; Collet, 2012]. It seems that it is in Mediterranean countries that this rate is rising the fastest: in Italy these marriages accounted for less than 5% out of the total in 1995; by 2009 their share had reached 14% (ISTAT, 2012).

Those figures consider only the number of marriages, without considering others form of unions. As a consequence of the augmentation of these rates and after blocking other ways of legal entry in Europe (where nowadays family migration represents 44% of total entries) restrictive migration policies are more and more concentrated on family reunification and binational couples and marriages. For the couples formed by a TCN and a EU citizen, the institutional formalization of the union is *compulsory* if they plan a stable family life; while among European citizens, marriage is

making way for other forms of informal unions. Cohabitations *more uxorio* or Civil partnerships normally are not enough for a TCN to obtain rights as almost-citizen.

The right to marry, as well as the respect of private and family life, is included among universal human rights. The article 16 of the *Universal Declaration on Human Rights* states: “Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. And that they are entitled to equal rights as to marriage, during marriage and at its dissolution”; and point 3 states that every family “is entitled to protection by society and the State”. With similar expressions, the *International Covenant for Civil and Political Rights* (art. 23), the *European Convention on Human rights* (ECH, arts. 8 and 12) and the *Charter of Fundamental Rights of the European Union* (arts. 7 and 9) all state that *no public authority shall interfere with the exercise of the right to marry and to build a family*.

The ECH protects all EU residents, and this should mean TCNs too. However, article 12 underlines the exception to this norm: the case of non-genuine marriages to protect “(...)in a democratic society, the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” (ECH, art. 12). Among those marriages – forced, arranged or of convenience – the last have moved into core position within the socio-political debate on migration. No reliable statistics are available to estimate their rate in Europe. For instance, in Belgium, in 2011, 10,728 marriages of convenience were reported by media and politicians; but it was shown later on that this figure merely resulted in extrapolating the findings of a limited number of police inquiries on some marriages that had been indeed suspected to have been celebrated solely as a matter of convenience. In fact no data has been published on the conclusion of those inquiries (Langhendries, 2013).

Furthermore, even if the EU Council Resolution 97/C 382/01 of December 4<sup>th</sup>, 1997 has attempted to define what is a marriage of convenience, suggesting at the same time some indicators to identify one, as well as measures to fight against those marriages, there is still some confusion around what a marriage of convenience actually is. Different implementations have been adopted in different EU states (de Hart, 2006; Pöyry, 2010). Once again, at the end of 2013, a EU Commission’s Communication (COM 837 of November 25<sup>th</sup> 2013) on free movement of EU citizens and their families has outlined, among the five concrete policies it proposed to promote, the fight against marriages of convenience.

#### **4. Public Sphere: Laws and their Implementation**

Marriage is a conjugal institution legally defined at the national level. Thus, in the process of transposing EU guidelines in every EU state, a progressive erosion of the human rights mentioned above takes place, differentially within each national State. This is evident in the tightening of requirements for celebrating a binational wedding, for establishing (and verifying) domiciliation, in requested police inquiries (and the delay for celebrating the marriage they imply), and in the length of time necessary for the TCN to acquire a stable residence permit, and eventually full citizenship.

Differential treatments by authorities are frequently reported concerning binational families including one member of *some* categories of TCNs, but not only those corresponding to the indicators mentioned in the EU Council Resolution of 1997. After observing and comparing the situation in France, Italy, and Belgium (but also in other European member states and in the United Kingdom) (d’Aoust, 2012), it seems possible to confirm that restrictive migration policies – as well as their *unintended consequences* – affect not only the TCN spouse him/herself, but also, in some

cases and quite unexpectedly, the EU spouse her/himself, whose freedom of choice in family life is directly threatened.

Twelve years ago, a “pilot project” financed by the European Commission, the Project FABIENNE, had been comparing the situation of binational couples in Germany, France, Suisse, Austria, and the Netherlands. It had already denounced legal and administrative difficulties encountered by binational couples and families (Verband, 2001). However, the legal, political and historical frames changed deeply after 2001; and migration laws in EU Member States were considerably hardened, making it much more difficult for TCNs to stay, to get a legal job, and to begin a family life in the European Union. TCN status is more and more jeopardized, and the long-term residence permit is becoming an exception (Koopmans *et alii.*, 2012; Guild, 2004).

For a long time migration has been a hot *political* topic fully exploited by some political groups during electoral periods. In the present international context of economic and financial crises, after the turbulent changes and on-going civil wars in formerly dictatorial regimes in the Arab world, and in a European context where classic European values are criticized by new populisms, extremisms, and a general loss of faith in politicians, stronger and stronger is becoming every day the rejection of migrants perceived not only through their different nationality, but also their different religion, their different culture, and so on; to the point of questioning their fundamental rights.

In public discourses, migration for family reasons, or just out of love, is an issue that mixes national paternalism<sup>1</sup> (Jackman, 1994) and the construction of differences (Delphy, 2011). Migration for care<sup>2</sup>, highly qualified skilled migration or seasonal migration are welcomed and “selected” by European states; on the contrary, migrants who come to join their partner or decide to establish a family becoming settler migrants have to be contrasted as a form of “suffered” migration that the Union undergone as result (Salcedo Robledo, *in* Maskens, 2014, p. 95; Rodier and Therray, 2008)<sup>3</sup>. The strategies they developed to reach their goal vary depending of countries and national history, and they lead to different consequences. A comparison of the French and Italian situations is, from this point of view, quite impressive. The two countries have different migration histories (both of emigration and immigration), and different history as colonizing countries too, with consequences for the patterns of migrant communities installed. But in both countries, the migration laws have become tougher after 2000.

#### 4.1 Italy

In Italy, in 2002, the law known as the “Bossi-Fini law”<sup>4</sup> has linked the acquisition of a legal status for resident migrants to the condition of holding a regular job. That was a fundamental provision to get and to maintain a stable residence permit (art. 11 of the law). An unemployed migrant has six months to find a new job with a regular contract; the illegals must receive an administrative sanction and be expelled with by the Prefect. This new rule needs to be analysed in

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<sup>1</sup>Under the perspective of the sociologist Mary Jackman, paternalism is a “strong ideological frame” that offers efficient instruments for unequal inter-group social relations control (Jackman, 1994, pp. 9-10).

<sup>2</sup> The case of migrants employed for caring, so-called *badanti* in Italy, is emblematic: a special law for legalizing their status was promulgated in 2012.

<sup>3</sup> The expressions “selected” and “suffered migration” are currently used in the debate on migration in France since 2003.

<sup>4</sup>The name of the law is due to the two major rightist politicians who promoted it: the leader of the populist party, *Lega Nord*, Umberto Bossi, at that time Ministry of Institutional Reforms and Decentralization, and of the leader of the right party, *Alleanza Nazionale*, Gianfranco Fini, at that time vice-president of the Council.

the context of the Italian labour market (illegal employees; moonlighting; short-term contracts, etc.). In 2007, the European directives 2003/86/EC on family reunification, and the 2004/38/CE concerning the right of free movement for UE citizen's family members, have been transposed in a restrictive way in the Italian legislation.

Even if these norms did not concern only binational couples, they indirectly affected those migrants that were in couple with an Italian citizen. For planning a common future they were obliged to marry to obtain a more stable permit of stay. In August 2009, the situation for migrants and binational families became worse: the Security law<sup>5</sup> introduced the "crime of undocumented migration"<sup>6</sup> and the *obligation* for all public officers to *denounce* the undocumented TCNs they were meeting during their daily administrative work. Furthermore, the law modified the Civil Code (art. 116): to obtain the permission to marry, any TCN had to attest his legal condition showing a regular residence permit to the civil registry. The delay to ask for citizenship passed from six months to two years and the conditions changed (common life, a tax of 200 euros, original documents are compulsory for the dossier, etc.). A decree implementing this law stated that the citizenship norm has to be applied *retroactively* opening the new risk for the request presented by not legal TCNs at the moment of the wedding to get turned down for retroactive reasons and for the TCN to get expelled. y. National authorities justified this actions with the necessity to fight against marriages of convenience, even if some requirements were already enacted in the precedent law (art. 30.1-bis law of 1998). The controls over the marriages may vary according to cities and to police prefectures. Normally they were limited to indirect inquiries (with neighbor, etc.) but intimate controls at home are reported too. Just two years later, in 2011, however, the Constitutional Court abolished the provision of legal stay for a TCN to get the possibility to marry (Sentence n. 245) but the other conditions remain.

In the Italian situation characterized by a kind of anarchy in migration laws between 1970 and 1990 and extreme interdictions in 2009, the TCNs and EU spouses started to be affected by these laws differently according to the TCN's category and the attitudes of the public officers that partners met (e.g.: interviewees in Venetia reported officers' racist attitudes in Treviso more than in Venice) (Spire, 2010). During the interviews, Italian partner often underlined similar feelings:

*"It was really heavy to go to Treviso, each year to renew the permit. It was automatic; but the attitude there... they treat you as a beast! So racist! I proposed (my husband) to ask for citizenship, after two years he has got it!"*(Miriam)

*"Venice is another world! Here we have to go to Treviso prefecture, it's horrible!"*(Francesco)

*"They were waiting for giving us the OK for marring, thus her permit of stay will be expired!"* (Angelo)

#### 4.2 France

In France the situation seems worse than in Italy. The unconstitutionality of the interdiction to marry an undocumented migrant had been already debated in November 2003, after the emanation

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<sup>5</sup> The paper n. 19 of 07.08.2009 of the Minister of Interior summarizes a number of laws promulgated in 2008 and 2009: Law n. 125 of 24.07.2008 and law n. 94 of 15.07.2009.

<sup>6</sup> The foreigner that enters or stays in Italy irregularly will be punished with a fee that can vary between 5 000 to 10 000 euros (art. 10-bis). Furthermore, he/she may be detained in the centers of identification and expulsion (CIE) for at most 124 days; the draft of the project of law has also proposed the infraction to be punished with a reclusion period from 6 months to 4 years, imprisonment in flagrant and immediate judgment.

of the so-called “Sarkozy<sup>7</sup> law” (decision n. 2003-484 on November 20<sup>th</sup>). Even if the Constitutional Court sanctioned the unconstitutionality of that norm, but some attempts to introduce it has been recurrent, for instance the proposal of a new law including this norm has appeared again in July 2013.

In 2009, the suspicion, recurrent in rightist political discourses, weighting on binational marriages led to consider these kind of marriages the « *first source of immigration* » to quote M. Besson, Sarkozy Minister of Immigration, Integration, National Identity and Solidarity (Sarkozy had created a new Ministry with such a title). A new category of marriage was created, the “marriage of hidden convenience” called “grey marriage” (literary translation of the French expression: *mariage gris*) to contrast with the marriage of convenience commonly called “white marriage” (*mariage blanc*) (Salcedo, 2011). In this marriage, one partner “got ripped” by his/her foreign partner that wanted to marry him/her just to obtain the possibility to come and stay in France<sup>8</sup>. Out of the 278,600 marriages celebrated in France in 2004, 5,272 were transmitted to the Civil register officers to the police (1,9%) 737 were considered as not valid, out of which 444 were considered marriages of convenience. .

Controlling family reunifications and binational marriages is one of the priorities of the French migration policy since 2003, when the concession of a residence permit for a TCN married with a French citizen was conditioned to more than two years of common life after marrying. 2006 was the year of the law known as “Sarkozy II” and of the law n. 1376 November 14<sup>th</sup> 2006) on the control of marriage validity. To identify not-genuine marriages, the Civil register officer had to audit the future spouses together “*or, if necessary, separately*” (art. 63 Civil Code). If any indication of fraud existed, the officer could refuse to celebrate the wedding and ask to the Procurator to proceed with a deeper inquiry (Ferran, 2009). In practice, since 2004, if one of the spouses owns only a foreign document and not a regular French permit of residence, he/she is usually sent to the police for questioning, in order to provide further information to authorities about the planned marriage. These controls are not reserved to these particular cases of binational couples, but applied also often to couples formed by a regular documented TCN too.

Furthermore, after marrying, at each appointment for renewing TCN spouse’s residence permit, the French spouse – EU citizen – has to go along to the Prefecture in order to sign. Bills or common mails documents may be asked to certify the common family life. These procedures create everyday problems (*e.g.*: asking permission of absence from work, waiting in the prefecture for hours, etc.) and a relation of disapproval towards the French citizen that has decide to marry a TCN.

Moreover, the law states that when a TCN asks for citizenship by declaration, he has to justify of « *assimilation to the French community* » by showing a given level of language, some knowledge of rights and duties given by the nationality, and so on. Marriage by itself does not produce any automatic access to French nationality (art. 37 Code civil). The delay for asking for nationality after marrying has deeply changed: in 1984, it was of six months after wedding under the provision of communality of family life (art. 37.1 du Code civil); in 1993 it went up to two years

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<sup>7</sup> The name of the law is due to the Ministry of the Interior who promoted it, Nicolas Sarkozy.

<sup>8</sup> The expression “*mariage gris*” defines a marriage between a foreigner and a French where the latter is in a situation of weakness and is abused by his/her foreigner spouse. “Gray” is used to mark the difference with the marriage of convenience, called “white” (*mariage blanc*), meaning a merely formal but not real marriage where the French partner is fully aware of the real intentions of her/his partner, and helps him/her to fool authorities. *Association nationale des victimes de l’insécurité* (ANVI) has created a website specialised on this issue: *Mariage Gris. Protéger le mariage mixte, lutter contre le mariage gris* ; and the number of blogs and forums to denounce « *mariages gris* » have risen (*e.g.*: MaRiaGe GriS, Arnaque Sentimentale M19, etc.) Cf. for instance in the daily newspaper *Libération* « Après les “mariages blancs”, Besson lance l’offensive contre les “mariages gris” », 20.11.2009, etc.

(one year only if the couple has a child, three years if the couple lives abroad) and nowadays it is of four years.

In 2006, the residence permit is no more given systematically. It may be asked after three years of marriage, but authorities have no obligation of giving it; and if the TCN spouse is undocumented at the moment of the marriage, they may ask retroactive evidence of his/her presence for several years (a long stay visa). Visa are quite difficult to get from French Consulates (Infantino and Rea, 2012). Consequently, for marriages celebrated in France there is an intensification of controls before and after the ceremony; and for those marriages contracted outside France, spouses have now to ask for the deliverance of the “certificate to be able to marry” (literary translation of the French item: *certificat de capacité à mariage*) after audition and inquiry by the Consular authorities (art. 171-2 du Code civil).

French partners of a TCN have reported cases of verbal violence and pressures on them that occurred during interviews in French Consulates, or during police controls in their own home. A French woman married to a Moroccan man, who was pregnant, when policemen came to her flat for control, reported that they told her: “*How can we be sure that (the baby) is his child, you know if you have a child, he can get the nationality quicker!*”. They also asked others people how many times they were having sex with the future spouse and whether they were taking contraception (Ferran, 2011) Family members of the EU partner are questioned by the police, even if the EU spouse has already reached adult age and can legally decide of his/her life choices.

#### **4.3 After Marriage?**

The French situation is one of the most critical in Europe, even if Belgium, Holland, Denmark, Austria, Spain, Germany have also legal norms and administrative practices that are similar in that they also aim to discourage binational marriages by putting the two spouses in a limbo of uncertainty and waiting. A number of studies conducted by civil society associations and juridical organizations, such as *Association des Droits des Étrangers* in Belgium, *La Cimade* in France, *Associazione di Studi giuridici sull’immigrazione* in Italy, have reported how these legal constraints affect both binational family partners in the celebration of their marriage (e.g.: changing legal requirements, delays in administrative procedures, delays in providing the required visa, etc.) (Langhendries, 2013; D’Aoust, 2012; Infantino & Rea, 2012, Ferran, 2009, Lecucq *et al.*, 2009, etc.).

There is however less information about what the situation becomes *after* celebration of the wedding and acquisition of citizenship. So, not only the genesis of laws, but also administrative practices, political and media discourses on the “risk of migrants’ invasion” or “immigration emergency” (*emergenza immigrazione*, to use some of the most frequently used Italian expressions) create an atmosphere of constant suspicion of fraud around binational marriages. This leads to the stigmatisation of the migrant partner, and – sort of by extension or – to a similar stigmatisation of the EU partner, the French or the Italian ones in our examples: she/he is suspected attempting national identity for the simple reason of his/her choice of partner (Ferran, 2009).

Furthermore, and quite unexpectedly, even after marriage, the TCN spouse has to overcome many legal obstacles (acquisition of a stable residence permit, of a work permit and later of citizenship). It may take *several years* to get all these documents. The discretionary power of public officers and the attempt on intimacy complicate the life course of these couples. The Stockholm Program has reaffirmed the Member States’ obligation to guarantee TCN's rights and obligations “comparable” to those of EU citizens. But *institutional racism* (Charmichael and Hamilton, 1967) or *governmental xenophobia* (Valluy, 2010) reappeared to affect TCN categories that were until now protected. This is the case of spouses of EU citizens and their children: according to the art. 6.4 EU



*Convention on Nationality* they should be among those groups whose application for citizenship is facilitated. Instead of that, these couples have to certify of a stable existence, of a common life and/or a common household before and during the marriage for a specified minimum number of years (Bauböck & al., 2006).

## 5. A Case Study

Interviewing both partners of mixed couples in Italy and France – actually in Veneto and Alsace -, couples where one of the spouses was Arab, I found out that in order to deal with the tightening of requirements after 2000, the increased complexity and the drawing out of delays to “get papers in order”, members of the binational couples were developing legal skills to resist *institutional racism*. Many participated in activities of those associations that possess competences to solve juridical cases; and in some cases these associations explicitly used their cases to carry out political lobbying. These active associations, such as *Les Amoureux au ban public* in France or *Tutto Stranieri* or *Stranieri in Italia* in Italy, promote *de facto* a form of direct bottom-up *citizenship capacity building*.

Cross analysis of the life stories of Alice and Mourad, a young couple from a city in Alsace, is useful to introduce the core idea that I would like to develop here. Alice started to tell me her life history as follows:

« *I am Alice, I'm French, [ironic laugh and deep sigh], I've never been particularly proud of it but since a while I feel **ashamed** of it [...]. You know, my dad is a fan of the French Revolution, the Age of Enlightenment when the bourgeoisie has had social ideas, of justice and so on, “liberté égalité fraternité”! I grew up with this idea of France, the Déclaration des Droits de l'Homme and so on ... I was dumbfounded you know, because I have already seen racism before against my friends when I was young and then I discovered that France is also pro-slavery and Nazi, and so maybe France is not so perfect... then there was colonialism, but then at that moment I was really.... it was against **me**.* » [Alice].

And then, later:

« *[my parents] are legal experts, my father is notary and my mum is judge, but I didn't want to study law, because I didn't want to do the same as they have done, you know, but when I am thinking about it, if I had studied law I probably would have been **better able to aid the foreigners now, you know, ... but at that time, I've chosen a School of Management and Foreign Trade...***» (Alice)].

While listening to her history I discovered that she had to face many problems in order to get legally married with Mourad, a young Moroccan (and presently her husband). She got married in Morocco; but their request to get this marriage recognized by French authorities got completely blocked in the French administrative-bureaucratic system that suspected their marriage to be ‘de complaisance’ (of convenience). Such cases very frequently occur since in 2003 the new French migration law opened explicitly the fight against non-genuine marriages, redefining as a crime the marriage of convenience as well as participating in such a marriage (a norm to fight against marriages of convenience already exists in law n. 93-1417 December 30<sup>th</sup> 1993). Many mixed couples married in France, or abroad with a French partner, now fall under this suspicion. Once Alice and Mourad got married in Morocco, the problem arose to transcribe their marriage onto the French civil register in order to validate it in France. It was the only way for Mourad to get a visa and a permit of stay in France.

Again they were blocked in trying to do so. Such administrative process usually takes a ‘preventive delay’ of five months; but it can also last for years. After being interviewed several times

in Morocco by the Consular authorities, the young French woman, having come back to France, unexpectedly received at home the visit of the police and was interviewed for a long period as a criminal. Very intimate questions were asked to her. Alice actually remembered that already at the French consulate in Casablanca, she had been 'discriminated' for her physical appearance: *"They told me: "You are too skinny for a Moroccan!". And when I went out of the office, a woman was crying in the entrance. She told to me that the officer asked her "Are you are too fat to have a French husband?"* (Alice). She remembers that back in France the policeman asked her if there were really no Frenchman she could have married. Moreover he was insisting that the future Moroccan spouse had already tried to enter French territory with a job contract; and it is only after Alice repeatedly stated that it was not true, and that when Mourad has asked for a visa to France it was to visit his uncle, thus for tourism not for working and stay, that the policeman admitted that in fact, in the document he had got for preparing the audition, the reason for asking the visa years ago was not mentioned

When finally her husband arrived in France, Alice discovered the French association called *Les Amoureux au ban public*<sup>9</sup>. It was born in Montpellier in late 2007 and spread quickly and spontaneously everywhere in France. After some years of activism it got transformed in 2010 into a formal association, the aim of which is to fight for the rights of mixed couples (associating a French and a foreign partner). Some mixed couples who were victims of the restrictive and discriminative politics decided to join this movement. Their decision was motivated by their wish to assure their right of defense that was threatened by the reinforcement of migration laws and by the subsequent administrative practices<sup>10</sup>. After having experienced such an embarrassing and difficult situation in her couple, Alice became an active member of the movement, working voluntarily for the group in her own region of Alsace. She said:

*« I was online and I've read an urgent message of "Les Amoureux", this is the way I've discovered them and I thought it's cool that people group together, you see, and it has made me feel less isolated. I've seen that what happens to us, to my husband and me, was not just only one case, but also that others have experienced that as well. It has alleviated my pain, my sense of desperation, and suddenly I've decided to contact the responsible of the association and there wasn't a group in Mulhouse and so I have created one, that's it! »*  
(Alice)

Analyzing her history, the difficulties and also the successes in her family reunification procedure (she is now living with her husband in France, and they plan to move to Morocco) it becomes easier to understand how and why this young French woman acquired a strong consciousness of her inner "biographical resources" (Delcroix, 2013), how and why she became a active citizen. It was important for her to take part in the mobilization to defend the right of mixed couples and of foreigners *in general*. The life history of Alice is also the history of an active member of *Les Amoureux au ban public*. Following her reasoning, and her doing 'biographical

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<sup>9</sup> The movement defends the rights of binational couples informing by any means the members and supporting their actions in order to ensure the recognition of their right to have a family life in France. It acts for defending, promoting and reinforcing the recognition of these couples in the society. It fights against all forms of racism and discrimination, direct and indirect, and assists the victims of differential treatments. See the Internet website of the association: <http://amoureuxauban.net/>

<sup>10</sup> Complains against marriages' celebration, difficulties to transcribe marriages celebrated outside France, refusals of visa and of residence permits, expulsions of French partners, inquiries about the cohabitation that do not respect privacy, differences of treatment for married couples and couples that have chosen other forms of union, etc.

work' (Riemann and Schütze, 1991) on her life situation – as others person interviewed during my fieldwork are also doing – I could see how *emotions* and *love* can impulse and trigger individual actions, and how administrative and juridical challenges may lead to the development of forms of resistance to them.

Similar debates are spreading in Europe under the form of civil society events ; for instance through the *Coordination européenne pour le droit de vivre en famille*. Discrimination on the basis of *citizenship*, that is obviously where the binational marriage issue all begins, have led a group of Civil Society organizations in France to launch an appeal on behalf of universal citizenship, and of freedom of movement and settlement for everyone (*Organisation pour une citoyenneté universelle*).

## 6. Conclusion

Binational marriages are often presented without nuances; either as a (good) form of migrant integration – at least it has been so in some national discourses in the past –, or as a fraudulent form of love to be regarded with suspicion and to be punished (*e.g.*: strengthening national laws on binational marriages). Thus, even if respect for family life is among the fundamental rights safeguarded by international and European conventions, hardened national migration laws are resulting in the failure to fully protect binational family members: for instance, delaying and imposing strict conditions on the acquisition of citizenship by marriage, something that goes against the principles of *EU Convention on Nationality*.

Since 2000, European migration laws and consequent practices have hardened considerably, redefining the feeling of love that has led to these marriages as a pretence to be regarded with suspicion (*e.g.*: non-genuine marriages). The variability of applied norms according to governments, the discretionary power of public officers (*e.g.*: according to Registry Office, to Prefecture, to Consulate) resulting in attacks on intimacy, the development of corruption, all have been denounced by associations defending migrants' rights. Forms of *institutional racism* or *governmental xenophobia* seem to erode, in the lives of binational couples, the boundaries between the private and the public spheres. Planning their family life and future is thus put in jeopardy.

Furthermore, all these obstacles and requirements do *discriminate* in practice among different categories of TCNs on the basis of their country of origin or social status. Inevitably, these differential treatments impact on the EU citizen spouse too. Stigmatisation is addressed both to the TCN *and* to the European partner, who thus becomes a “stranger” in his/her own society. He/she is suspected of aggression to the national identity for his/her choice of a foreign partner (Varro, 2010; Ferran, 2009). The concept of “intimate migration” or “migration of contact” is particularly useful to define this situation.

Binational families with at least a TCN symbolize the fundamental contradiction that migration represents for the host country at a national and local level: Who is the “other”? (Bonjour *et alii.*, 2011; Delphy, 2011). Immigrants are “others”, but, paradoxically, EU citizens married to immigrants *become* “others” too. These attitudes create a lack of recognition of binational love that directly affects both spouses and, in the long-term, also their children. While these youths are part of the EU future, they are not considered as full UE citizens.

## References

- Apitzsch, U., Inowlocki, L. and Kontos, M. (2008). The method of biographical policies evaluation, in Apitzsch, U. and Kontos, M. (Eds.), *Self-employment Activities of Women and Minorities. Their success or Failure in Relation to Social Citizenship Policies*, Heidelberg: Vs Verlag, pp. 12-18.

- Bastien, S. (2007). Observation participante ou participation observante ? Usages et justifications de la notion de participation observante en sciences sociales, *Recherches Qualitatives*, Vol. 27 (1), pp. 127-140.
- Bertaux, D. (1997). *Les Récits de vie. Perspective ethnosociologique*, Paris: Nathan Université.
- Bonjour, S., Rea, A. and Jacobs, D. (Eds.) (2011). *The Others in Europe*, Brussels: Ed. de l'ULB, IEE.
- Carmichael, S. Hamilton, C. V. (1967), *Black Power : the politics of liberation of America*, New York: Vintage Book.
- Collet, B. (2012). Mixed Couples in France. Statistics Facts, Definitions and Social Reality, *Revista de Sociologia*, Vol. 97 (1), pp. 61-77.
- d'Aoust, A.M. (2012). Les couples mixtes sous haute surveillance, *Plein droit* (95), pp. 15-18.
- de Hart, B. (2006), The Marriage of Convenience in European Migration Law, *European Journal of Migration and Law*, Vol. 8, pp. 251-262.
- Delcroix, C. (2013a). Dynamiques conjugales et dynamiques intergénérationnelles dans l'immigration marocaine en France, *Migrations et Société*, Vol. 145, pp. 79-90.
- Delcroix, C. (2013b), *Ombres et lumières de la famille Nour. Comment certains résistent à la précarité*, Paris, Payot & Rivages (1<sup>st</sup> éd. 2001)
- Delcroix, C. (1995). Des Récits de vie croisés aux histoires de famille, *Current Sociology*, Vol. 43 (2-3), pp. 61-69.
- Delphy, C. (2011), La fabrication de l'“Autre” par le pouvoir. Entretiens avec Christine Delphy, in Bertaux, D., Delcroix, C., et Pfefferkorn, R., Migrations, racismes, résistances, Dossier in *Migrations Société*, Vol. 23 (133), pp. 57-77.
- Elias, N. et Scotson, J. L. (1997), *Logiques de l'exclusion*, Paris: Fayard (1<sup>re</sup> édition en anglais 1965).
- Ferran, N. (2011). *Les amoureux au ban public*, France, 117' (Movie).
- Ferran, N. (2009). La Politique d'immigration contre les couples mixtes, in Le Cour Grandmaison, O. (Ed.), *Douce France. Rafles, rétention, expulsions*, Paris: Seuil, coll. Essais, pp. 151-172.
- Groenendijk, K. (2006a). “Citizens and Third Country Nationals: differential treatment or discrimination?”, in Carlier, J. & Guild, E. (Eds.), *The Future of Free Movement of Persons in the UE*, Brussels, Bruylant, pp. 79-102.
- Groenendijk, K. (2006b). The Status of Quasi-Citizenship in EU member states: Why some states have “almost-citizens”?, in Bauböck, R., Ersbøll, E., Groenendijk, K. and Waldrauch, H. (Eds.), (2006). *Acquisition and Loss of Nationality. Policies and Trends in 15 European Countries*, Amsterdam: IMISCOE, Amsterdam University Press, pp. 411-429.
- Goffman, E. (1975, 1<sup>st</sup> ed. 1963). *Stigmaté. Les usages sociaux des handicaps*, Paris: Les éditions de Minuit.
- Guild, E. (2004). *The Legal Elements of European Identity. EU Citizenship and Migration Law*, The Hague: Kluwer Law International.
- Hajjat, A. (2010). Comment établir la preuve de discrimination en situation d'enquête sociologique: l'instruction des demandes de naturalisation en préfecture, in HALDE, *Les discriminations à l'épreuve des savoirs et des pratiques. Mieux connaître pour mieux combattre*, Paris, MiRe « Etudes & recherches », pp. 31-33
- Jackman, M.R. (1994). *The Velvet Glove. Paternalism and Conflict in Gender, Class and t Relations*, Berkeley: University of California Press.

- Infantino, F. & Rea, A. (2012). La mobilisation d'un savoir pratique local. Attribution des visas Schengen au Consulat Général de Belgique à Casablanca, *Sociologies pratiques*, Vol. 1 (24), pp. 67-78.
- ISTAT (2012). *Report 2011: Il matrimonio in Italia*, Roma: Istat. Available online at [www.istat.it/it/archivio/75517](http://www.istat.it/it/archivio/75517)
- Koopmans, R.; Michalowski, I. and Waibel, S. (2012). Citizenship rights for immigrants: National political processes and cross-national convergence in Western Europe, 1980-2008, *American Journal of Sociology*, Vol. 117 (4), pp. 1202-1245.
- Langhendries, B. (2013). La lutte contre les mariages de complaisance ou l'émotive course aux armements du gouvernement, *Newsletter* (89), Brussels: Association pour les Droits Des Etrangers.
- Lanzieri, G. (2012). Mixed marriages in Europe, 1990-2010, in Kim D. S. (Ed.), *Cross-Border Marriage: Global Trends and Diversity*, Seoul: Korea Institute for Health and Social Affairs, pp.81-121.
- Lecucq O. & Lemouland J. J. (2009). *La liberté fondamentale du mariage*, Aix-Marseille: PUAM.
- Marcus, G.E. (1995). Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography, *Annual Review of Anthropology*, Vol. 24, pp. 95-117.
- Maskens, M. coord. (2013). Mariages et migrations : l'amour et ses frontières, Dossier, in *Migrations Société*, Vol. 25 (150), pp. 42-152.
- Norbert, E. and Scotson, J. (1997, 1<sup>st</sup> ed. 65). *Logiques de l'exclusion*, Paris : Agorà Fayard.
- Odasso, L. (2013a). From "biographical work" to "multi-sited ethnography". From couple life history to the association Les Amoureux au Ban Public: a case study, *International Sociological Association Newsletter RC 38*, pp. 13-19.
- Odasso, L. (2013b). The *mixité conjugale*: an experience of migration. A comparative studies of the effects of the stigmatization on natives and their Arab partners in Veneto (Italy) and Alsace (France), *PhD dissertation*, Venice, Strasbourg : University Ca' Foscari of Venice and University of Strasbourg, supervisors: Profs. C. Delcroix and E. Trevisan Semi.
- Odasso, L. (2013c), Les chemins de la mixité conjugale, *Migration Société*, Vol. 25 (147-148), pp. 11-31.
- Pöyry (2010). *Marriage of convenience a comparative studies. Rules and practices in Norway, Sweden, Germany, Denmark and the Netherlands*, Norwegian Directorate of Immigration, Oslo: Econ Pöyry
- Riemann, G. and Schutze, F. (1991), Trajectory as a Basic Theoretical Concept for Suffering and Disorderly Processes, in Maines, D.R. (dir.), *Social organisation and social process. Essays in the honour of Anselm Strauss*, New York: De Gruyter, pp. 333-335.
- Rodier, C. et Terray, E. (dirs.) (2008), *Immigration : fantasmes et réalités. Pour une alternative à la fermeture de frontières*, Paris: La Découverte.
- Salcedo Robledo M., (2011). Bleu, blanc, gris... la couleur des mariages. Stratégies de normalisation et enjeux de pouvoir, *L'Espace Politique*, Vol. 13 (1), <http://espacepolitique.revues.org/1869>
- Spire, A. (2010). La discrimination des étrangers au guichet, *Regards-Sociologiques*, (39), pp. 21-30.
- Tedlock, B. (1991). From Participant Observation to the Observation of Participation: The Emergence of Narrative Ethnography, *Journal of Anthropological Research*, Vol. 47 (1), pp. 59-94.
- Valluy, J. (2010). L'exportation de la xénophobie de gouvernement. De la politique européenne des frontières à la répression dans les pays limitrophes, in Fassin, D. (dir.), *Les nouvelles frontières de la société française*, Paris: La Découverte, pp. 175-196.

Varro, G. (2010), Regards contradictoires sur la mixité, *in* De Tapia, S. et Muller, L. (dirs.), *Migrations et cultures de l'entre-deux*, Paris: L'Harmattan, coll. « Compétences Interculturelles », pp. 205-218.

Verband binationaler Familien und Partnerschaften (2001). *Report project Familles et couples binationaux en Europe FABIENNE*, Brussels-Berlin: DG Employment and Research.