Negotiating Legitimacy: Binational Couples in the face of Immigration Bureaucracy in Belgium and Italy

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Abstract: Drawing from ethnographic research conducted with binational heterosexual couples negotiating their legitimacy in the face of immigration bureaucracy in Belgium and Italy, I explore the interplay between marriage migration governmentality and personal subjectivities. In a context of increased political scrutiny, I illustrate how binational couples wield their intimacy to become and stay legal; and how their experiences of the bureaucratic encounters impact on both partners' agency, producing swinging emotions and improving their legal culture. In Belgium and Italy, marriage to a citizen remains a pathway towards securing residence for the migrant partner. Hence, in both countries these formalities, that I frame as a network of bordering practices, are increasingly – but differently – policed defining divergent marriage migration regimes but similar shared migratory careers for the couples. The potency of the legal-bureaucratic culture fashions the couples' journey through immigration law and its street-level implementation. Nevertheless, beyond the opportunity structures and nationally anchored constraints, the analysis demonstrates that the partners' agency similarly emerges from the migration management at large, their personal legal status and biographical resources, and interactions with intermediaries at the margin of immigration bureaucracy. Such agency – triggered by intimate intentions and expectations – is contingent and relational.

Keywords: binational couples; bureaucracy; agency; paperwork; bordering practices; Belgium; Italy

Résumé : Sur la base d'un travail de terrain ethnographique auprès de couples hétérosexuels binationaux négociant leur légitimité face à la bureaucratie de l'immigration en Belgique et en Italie, j'explore l'interaction entre la gouvernementalité de la migration de mariage et les subjectivités individuelles. Dans

un contexte de surveillance politique accrue, je montre comment les couples binationaux utilisent leur intimité pour entrer et rester dans la légalité et comment l'expérience des rencontres bureaucratiques influe sur l'agentivité des deux partenaires, produisant en eux des émotions changeantes et améliorant leur culture juridique. En Belgique comme en Italie, le mariage avec un citoyen reste pour le partenaire migrant un moyen d'obtenir le statut de résident. Par conséquent, dans les deux pays, ces formalités, que je décris comme une frontière-réseau, sont de plus en plus contrôlées, bien que de manières différentes. Ce contrôle définit des régimes de migration de mariage divergents, mais des carrières migratoires communes pour les couples. La force de la culture juridico-bureaucratique façonne la manière dont les couples composent avec la loi sur l'immigration et son application sur le terrain. Néanmoins, au-delà des structures d'opportunités et des contraintes nationales, l'analyse démontre que l'agentivité des partenaires émerge à la fois de la gestion de la migration en général, de leur statut juridique personnel et leurs ressources biographiques, et de leurs interactions avec des intermédiaires en marge de la bureaucratie de l'immigration. Une telle agentivité – déclenchée par des intentions et des attentes intimes – est contingente et relationnelle.

Mots-clés : couples binationaux ; bureaucratie ; agentivité ; papiers ; pratiques frontalières ; Belgique ; Italie

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When I met Sandrine[1] – a 37-year-old Belgian teacher – she had almost completed bureaucratic formalities for the recognition of her marriage to Mohasin, her Moroccan spouse, which would allow him to join her in Belgium. After months of waiting and producing documents, she was excited: "Following my lawyer's advice, we have prepared the visa application with extreme accuracy, checked document by document, binding everything well to facilitate the work of the agents, they appreciate it!" The strategy worked out: a few weeks later, Mohasin was in Belgium. But some days after his arrival, when Mohasin had already started formalities of converting the visa into a marriage residence permit, Sandrine received a letter concerning her marriage. The letter asked her to contact the local marriage control police hub (the Cellule Mariage Blanc) to set an appointment. "They didn't seem to be aware that Mohasin was already here [...]. After making the appointment by phone, they sent me an official summons that mentioned clearly that I was suspected of a sham marriage. I was stressed to death!" Confused by the bureaucratic incongruity, the frightened couple turned again to their lawyer who confirmed that an investigation was

being opened. After this event, Sandrine called me, curious as to whether I had encountered similar stories during my research. She was seething in anger:

> I thought we were done with bureaucracy! No one at the Consulate or at the immigration service here warned us that our file was problematic and that Mohasin's residence permit could be revoked! It's a lack of respect! I'm Belgian, these are my fundamental rights! It annoys me that the police searched my private life. I haven't done anything wrong… We have spent time and money, filled out forms, produced certificates and evidence! I wonder if they systematically send everything to the public prosecutor because Mohasin comes from Morocco!

Having nothing to hide, Sandrine decided to play the game of bureaucracy and took all the documents produced since the marriage application to the police, including Mohasin's visa, to prove their legitimacy as a couple.

Sandrine and Mohasin's narrative takes us to the heart of this paper, a journey through the lived experiences of the marriage-related migration formalities foisted on binational couples–relationships between a citizen and a foreign national from the global South–in Belgium and in Italy during the 2000s. The bureaucratic vicissitudes encountered by these couples afford insight into the intersection between marriage migration governmentality and private relationships, and brings into the fore the agency and (swinging) emotions of both partners, in the broader context of increased scrutiny of such relationships, and restrictions on migration in general.

Since the mid-1990s and throughout the 2000s, the rights afforded a migrant through marriage to a citizen have featured prominently in political and public discourses about immigration and citizenship in Europe (Kraler 2010). At a time when migration law "make[s] people illegal" (Dauvergne 2008, 15), pushing them into a precarious existence, marriage has become a pathway towards legal security. Furthermore, beyond what is too often considered a juridical ruse, such migration questions the reproduction of the nation, muddling issues of ethnicity, membership, and civil rights (Bonjour and Block 2016; Turner 2008). For all these reasons, this form of migration is increasingly policed.

This article draws from ethnographic and biographical research conducted since 2009 with couples negotiating their legitimacy, in the face of tough immigration restrictions directed toward binational unions. Relying on scholarship that depicts the governmentality of immigration[2] (Fassin 2011) and subjectivity as dialogically constituted (for example, Cabot 2012; Coutin 2003; Menjívar and

Lakhani 2016), I appraise marriage migration formalities as specific cross-border experiences that impact on the life and agency of both partners.

Andersen et al. (2012) have shown that borders are multiple and mobile, constituted by a set of performed practices and actors which contribute to the way in which border controls are enacted, and thus creating boundaries in everyday life. Following this, Rea (2017; see also Crosby and Rea 2016) invites us to understand the "border" as a network made of human (that is, administrators, policemen) and non-human (that is, law, documents) nodal points, that epitomize encounters and objects through which individuals face the sovereignty of the state and, conversely, the state regulates human movement. A shift has occurred in migration policing practices: beyond physical borders and cross-border controls, "the border is moving inward: it is lived, embodied, and assessed at different points and by different actors" (D'Aoust 2018, 49). In line with this literature, I propose the consideration of bureaucratic encounters and their ancillary requirements – permitting binational couples' legal status in the country they have chosen to call home – as a specific network of bordering practices that select (un)desirable foreign partners while producing inequalities among citizens, on the basis of their intimate choices. Due to their emotional commitment, the citizens are dragged into migration-related processes usually the preserve of migrants alone, thus making them objects of the governmentality of migration (D'Aoust 2013).

Studies have depicted how migrants "navigate" the uncertainty of bureaucratic encounters (Tuckett 2015), and how the understanding of legal rules can influence their legal culture and agency (Kubal 2013). However, relatively little is known about what is at stake when migrants and citizens are lumped *together* in the labyrinth that is the bureaucracy of migration.

Also, many studies concerning marriage migration focus on what happens when technical and juridical administrative logic (Mascia 2020; Satzewich 2013), and a moral economy of suspicion based on a supposed "true, believable love" (D'Aoust 2018, 49), feed into the bureaucratic assessments of the suitability of couples for integrating into the nation (Eggebø 2013b; Fernandez 2013; Pellander 2015). A small number of them engage with the couples' perspective (Andrikopoulos 2021; Eggebø 2013a); they often privilege the perspective of the citizen partner (Odasso 2020b; and especially the women, for example, de Hart and Besselsen 2021; Geoffrion 2017; 2018; Griffiths 2021). The nexus between governmentality, bureaucratic encounters, and the intersubjective experiences

of both partners in different national contexts remain underexplored. To unpack this, I investigate how couples in Italy and Belgium use the facts of their intimate life to acquire the right to live legally in these countries, and how their apprehension of the migration bureaucracy and its materiality influences their agency across the process to become "legal."

After introducing the fieldwork and methodology, I outline some necessary contextual detail useful for understanding the choice of an Italo-Belgian analysis. Then, using vignettes from my fieldwork, I describe encounters between binational couples and the law, and in dealing with immigration bureaucracy. Articulating the literature on migrant agency, legality, and bureaucracy that informs my analysis, I highlight the agency and emotions expressed by both partners, as reflected in their strategies of bargaining intimate private life and institutional public legitimacy.

Doing Ethnography, Following the Biographies

For the purpose of this paper, I draw on the narratives of heterosexual couples, and on participant observations within associations and law firms providing legal services for migrants and their families, in Italy and in Belgium.[3] The primary data consists of thirty interviews with couples in Italy, and twenty-five with couples in Belgium, all at different stages of immigration procedures. The migrant partner was still abroad, or undocumented, or with an expiring legal status, at the time of marriage. All the couples include at least one Arab or sub-Saharan migrant partner. This specific group of foreign nationals occupies a high profile in the political-media discourses regarding marriage migration and the identity of the national community, along with an underscored position in the statistics on marriage-related residency applications. The choice of this sample permits the articulation of preconceptions linked to ethnicity, religious affiliation, and the gender of the partners, extending beyond nationality. I recruited my respondents through observations within the associations, through social contacts running Middle Eastern and African restaurants and grocery shops, and through word-of-mouth connections in my university research institutes, with further connections developed through snowball sampling. This multiplicity of entry points for the research enabled me to approach couples from diverse family and educational backgrounds, professions, social class, and relationship narratives. The partners were mainly in their thirties and forties. The national partner often possessed a higher level of education than the non-national partner, with access to deeper reserves of economic and

social capital. This hypogamy runs alongside the fact that two-thirds of the citizen partners interviewed were women in relationships with migrant men.

To build trust in a calm and pleasant setting, interviews were mostly conducted at either my or the respondent's home, or at the premises of the relevant migrant advice association – rarely at my office or in cafes. The interviews ran for one to four hours, accompanied by contemporaneous notetaking. Recorded and transcribed, the interviews were analyzed employing the "biographical policy evaluation" method (Apitzsch et al. 2008). Informed by the Grounded Theory, this permits the juxtaposition of individual experiences with the meso (that is, bureaucratic practices) and macro structures (that is, legal frame), and covers both behavioural and cognitive issues. The analysis elaborates on the partners' *récits* of experience, encompassing the sequences of their relationship, their intimate and institutional expectations, and the reality of bureaucratic encounters (that is, documentation requirements, interactions) and the transformative power of this on personal and relationship intentions and choices. Through the partners' narratives and their chosen courses of action, this bottom-up method sheds light on the consequences of policies and practices on personal agency and, conversely, on how their reception of public policy regarding migration may impact on the agency of bureaucratic institutions.[4]

Moreover, to better track the intersections between partners' agency and the migration bureaucracy, I accompanied some of my respondents whilst they engaged with these procedures in associations and administrative offices. This way, I could track their legal socialization, and the constitution (and evaluation) of their immigration files. To tease out specific features of these processes, I also researched legal texts and policy documents, and followed public debates about migration in the chosen countries.

By combining these methods in different national contexts, I realized how, despite being part of the same pan-European frame, Belgium and Italy represent two divergent examples of marriage migration regimes – not only with regard to the migrant partner, but also to the national one! – and the extent to which the marriage-migration legal frame produces unique bordering practices with an impact on the agency of the binational couples.

Two Divergent Marriage Migration Regimes

Since the mid-1990s, Belgium and Italy have overhauled legislation relating to marriage migration, delineating the degree to which European Union legal

provisions (Guild and Niessen 1996) are applied with regard to binational marriage formalization, partner reunification, and granting residency and citizenship rights to foreign spouses. Marriage has become another means of controlling family migration, with additional bureaucratic obstacles separating the spouses from the marriage and from the conjugal legal stability that otherwise would be bestowed by the foreign spouse's residence and/or nationality rights. Both states try to deter – differently, as explained below – what they consider to be loopholes in their immigration regimes. In so doing, they jeopardize the rights of foreign nationals, with consequences for their national partners.

This happens differently in each state, with distinct legal changes marking this changeover.

Pivotal Legal Changes

Since 1999, municipal councillors in Belgium have controlled marriage celebrations, ostensibly to prevent sham marriages and upstream abusive access to residence via marriage. Beside controlling celebrations, following a 2011 reform, Belgium has drastically restricted rights to residence for foreign nationals. Ever since, Belgium has treated the Belgian partners of binational relationships as migrants, by imposing on them the same requirements that it demands of migrants requesting reunification with their foreign spouses. The citizen, in fact, is obliged to prove "a stable, regular and sufficient source of income"[5] (art. 40ter 2.1, Belgian Migration Law), as well as satisfying accommodation and health insurance. The spouse economic contribution is mostly disregarded; residency hangs on the continued fulfilment of these conditions and the marital ties. Verified through administrative and social security database checks, a 2013 reform states that these conditions must be satisfied for five years. These provisions also discriminate against Belgians with an extra-European foreign spouse, compared to European citizens with similar family configurations living in Belgium. The latter do not have to satisfy any income requirement (Sarolea and Merla 2020). In concrete terms, the bureaucratic burden has shifted from the migrant seeking to regularise their status to the citizen partner, creating circumstances of reverse discrimination between Belgian and European citizens (Mascia and Odasso 2015). Instead, no conditions are required if a child is born of the union. At the time of applying for nationality – permissible after five years of regular residence and three of marriage – it is the foreign partner who must prove social integration and language proficiency, as is the case with other categories of migrants.

In a contrary vein, in Italy, no specific requirements exist for citizens in binational unions. The foreign partner is granted residence on the basis of evidence of common marital life alone. Sanctions for fake marriages have existed since 1998, but it was the 2002 migration law that explicitly permitted the withdrawal of residency right if it was proven that the marriage was contracted out of convenience. Nevertheless, a 2009 security law considerably reduced the benefits originating from such marriages. Firstly, it banned marriage for irregular migrants, and criminalized irregular immigration. This introduced the obligation for migrants to present a valid residence permit before contracting a marriage; and for civil servants the duty to report non-regular migrants whom they encountered in the course of fulfilling their professional duties. Secondly, it extended the timespan for accessing citizenship by marriage from six months without conditions to two years with evidence of common marital life before the decree granting nationality. This period is halved to one year if the couple have children. This nationality law was applied retroactively on applications still in process. In July 2011, the ban was declared unconstitutional (as the regulation of migratory flows cannot be linked to public matrimonial order), but the threat of imprisonment and fines for irregular immigration remained in place until 2014. And the fear of denunciation fuelled the irregularity long afterwards. All the while, the new nationality law's requirements, directed at restricting access to citizenship, remained advantageous in comparison to those demanded of other categories of migrants – specifically, ten years of legal residence in Italy.

Binational Marriage Migration Replaced in the Frame of Migration Management

In Italy, marriage migration remains an issue relegated to a few legal reforms, and to controversies created by crime news reports (that is, networks for fake marriages), the latter often bound to ethnic, religious, and gendered stereotypes (Odasso 2020a). Furthermore, the main concern is with regard to the marriages of undocumented migrants, and those of caregivers – mostly women, in roles compensating for the lack of social protection afforded the elderly – getting married to the person being cared for (Bonizzoni 2015). Unlike Belgium, Italy is characterized by a "legal familism" (Zincone 2006); a co-ethnic legal benefit originally aimed at maintaining Italian emigrants' ties with their homeland, extended to the Italian citizen and their foreign family members living in Italy. This benefit frames marriage with a citizen[6] in a way that challenges the "institutionalized irregularity" (Calavita 2005, 45) of the legal permit regime, which is concerned mainly with labour migration and repeated regularization programs

(Kraler 2010). Aicha, a 40-year-old Egyptian-Italian advisor in an association in Turin, explains:

> no regular contract, no permit! The economic crisis hit foreigners harder. Some of them paid to get (fake) employment contract to apply for regularization, but then they were unable to renew the residency permit that went with it. [...] how can you blame those who marry to escape these situations! Everybody knows that a family permit is more stable.

The phenomenon of selling promises of employment is known publicly, but everyone, including the authorities, turns a blind eye. To help foreigners become legal, Aicha also suggests alternative bureaucratic strategies at the crossroad of various policy categories (that is, the migrant worker or family member). This bureaucratic interplay mirrors the categories of meaning that partners employ: beyond all conceptualizations of "real" or "fake" unions (Moret, Andrikopoulos and Dahinden 2021), they search for means to improve their personal and relationship situation (Triandafyllidou 2017).

Even after the 2011 legal hardening in Belgium marriage is still considered an option to acquiring legal residency status. Discordant information about it circulates informally. For its part, the migration political debate is replete with concerns about the marriage practices of low-income and ethnic minority citizens. Marriage is not considered just a path to legalization, but also a link in the "chain" facilitating further family-related migration. In Belgium, much more than in Italy, marriage migration is associated with ethnic separatism, failed integration, and circumvention of legal rules (Sarolea 2012).

Aline, a 45-year-old advocate for an association working with migrants in Brussels, explains: "The 2011 law parliamentary debate clearly mentioned Belgians of foreign origins, namely Moroccans and Turks born in Belgium or who have become Belgians. The control of migration justifies differential treatments among citizens (...) nowadays that it is extremely harder to obtain a regular permit." For Aline, it is important to acknowledge the combination of territorial and administrative borders (Deleixhe and Vertongen 2018) and ethnic boundaries to understand both the treatment of marriage migration and its use by migrants. Beyond this, she adds, "Before 2011, most people compiled their application files alone. Nowadays this is not the case, we work a lot on partners' files to maximise their chances as the administrations don't inform them, and provisions are implemented in a discretionary climate [...] this is part of the game!"

The street-level implementation of these policies shapes the reality of migration law (Jordan et al. 2003). Extending beyond what is permissible under European law, marriage migration administrative mechanisms systematically test the bona fides of certain nationalities, ethnic groups or genders, on the premise that they present a problem for national identity and welfare (de Hart 2017). Bureaucratic work "informs informal hierarchies of desirability [...] across intersecting lines of class, race, gender and so forth" (Scheel and Gutekunst 2019, 12). Beyond the legal criteria, the wider management of migration, and the bureaucratic culture that this has spawned, mould the search for legitimacy by binational couples. To fully engage with this process requires the decoding of both bordering and cross-border practices – the exercise of agency by bureaucratic institutions, and partners' agency, respectively. Building on Mainwaring (2016), in the following, I present accounts of this agency, to offer a "picture of the border as a contested space, questioning traditional conceptualizations of sovereignty, security and citizenship" (291).

A Life "with the Border:" Lack of Legal Status and Partners' Emotional Choices

With the ongoing tightening of immigration-related procedures in countries of origin and migration, migrants have interiorized how to live with borders. This metonymic expression highlights how waiting for a visa in order to be able to cross international borders or living with a precarious administrative status and/or the risk of deportation while waiting to cross the border of legality can shape migrants' "mode of being" (Peutz and De Genova 2010, 14). This condition triggers agency "to maintain the fragile fabric of everyday life" (Sigona 2012). This agency results from knowledge and resources emerging from a combination of the objective (the legal-institutional and socio-economic path) and subjective dimensions (the confrontation between initial expectations and actual migration experiences) of the migratory career (Martiniello and Rea 2014, 1084). Integrated in a broader context, temporal contingencies and opportunity structures (Anderson and Ruhs 2010), these dimensions help make sense of migration experiences. Agency comes out of these practice-learning processes, recruiting along the way past habits, projects, and expectations (Emirbayer and Mische 1998; Mainwaring 2016) for securing a change of one's social position and identity status. In this light, the pathway towards legality, which runs through a web of bureaucratic bordering practices, is a key moment in the migratory career and have a transformative effect on intimate and civic lives

(Menjívar and Lakhani 2016, 1826). The migrants' choice to alter their conduct so as to fit legal categories and bureaucratic injunctions reflects a certain "agency in the face of mechanisms of control [...suggesting that] there exist[s] a mutually constitutive relationship between individuals and law and the state" (Menjivar and Lakhani 2016, 1849). Challenging the binary between migrants and citizens (Griffiths 2021), I make the presumption that, as a side effect of the legitimization of intimate affectivity, with binational couples, it is not only the migrant partner but the relationship as a whole that embarks on a migratory career, revealing new aspects of the individual-law-state nexus.

Balancing the Possibilities Created by Immigration Bureaucracy

This shared migration career, replete with intentions and asymmetries of power (Ortner 2001), is entangled with emotions, experiences, and contextual knowledge. The history of Francesco, a 38-year-old Italian social assistant, and Layla, a 35-year-old Moroccan caregiver, rehearses this well. When they met, Layla was working for a senior. As is common with such jobs in Italy, she was working "under the table," without documentation. "A life as an illegal is impossible!" Francesco said to me. "We were going out, but she was under stress, so I was too! You can't do anything lightheartedly! We were in a limbo. She got more used to taking risks, but she was actually hiding because [she felt] vulnerable and scared!" Meeting Francesco and beginning a relationship with him upset the precarious balance that Layla had created in order to live "with the border" that is, without legal status. For his part, after a few months of dating, Francesco insisted that they get married. Italian immigration law grants rights to migrant partners once the partnership is formalized; common-law unions do not bestow any legal benefit. Layla admitted, "I was freaking out to show up to the *questura*[7] for apply for residence. I have heard so many stories about this office... Not to mention that to marry was a commitment, and we were just [beginning] together!" Layla proposed that she try the regularization program, requiring her return to Morocco to apply for a visa sponsored by her Italian employer. She knew that she could circumvent the procedure for remaining in Italian territory, burning some bureaucratic steps along the way, by getting hired again by her employer. Nevertheless, Francesco was sceptical:

> Layla knew something about immigration procedures because she has heard [about] them, but she was unaware of her rights. From what I understood myself, regularization through her employer may not work [...] To

> sort out her condition of modern slavery, and to be able to live together, the crucial point was to have the permit to stay, regularly and easily!

It was 2006; marriage procedure at the time required less bureaucracy than regularization sponsored by an employer, in fact a sort of lottery with a ceiling of "winners," by government decree. If "the ambiguity and uncertainty that characterize the bureaucracy is frustrating and anxiety-inducing, it also allows for flexibility" (Tuckett 2015, 114) – opening alternative options for binational partners. Besides intimacy demonstrating proof of commitment to one another, marriage is a legal family tie that, in Italy, crystallizes attachment to the nation and removes the risk of deportation. In light of this, strategically, while allowing Layla to become legal, the decision to marry served to legitimize the couple.

The same considerations about the possibilities created by the immigration bureaucracy were considered by Léa, a 45-year-old Belgian translator, in Brussels. Léa and Mor, a 42-year-old Nigerien national, started dating in 2010, while volunteering for an association supporting exiles. Mor worked for an international organization on an open-ended contract; he rented an apartment, had social security coverage, and a bank account. However, following the refusal of his asylum application, he was lacking legal status. He acted with discretion in public, immersing himself in his work and social activities – such activities potentially useful in proving integration in the event of a future regularization programme. Léa narrates, "At the beginning of our relationship, I didn't ask myself that question, but every time I saw the police, I trembled. [...] One day, finally, we talked about becoming legal. A residence permit is just a piece of paper, but it could change his – and our – life!" In March 2013, the couple decided to enter into a civil partnership – less binding than marriage but providing the basis for to the couple to initiate family reunification procedures on Belgian territory. Mor, who had already been rejected by the Belgian immigration bureaucracy, admitted, "We had different attitudes towards this choice. Another regularization will have rested only on my shoulders; with this one, I was also concerned for her [...] Our private life mishandled by paperwork and bureaucracy." Because he could not fulfil the requirements for other forms of regularizations, the formalization of his partnership with Léa was the better way to become legal.

Examples of this nature proliferate in both countries. Couples seek to take advantage of the migration law to end a life "with the border" – that is, to fight the uncertainty created by the enforcement of the same migration law. Due to the status asymmetry underpinning the relationship, the formalization of the partnership is assessed differently by the two partners, creating an emotional

"two-speed" process in approaching it (Odasso 2019). The citizen partner often insists on marriage, in order to negotiate the tensions created by their precarious relationship life. Accustomed to legality due to their status, they presume to enjoy enforceable rights in their country; at this stage, they often trust their state implicitly. But, due to their acquired familiarity with immigration bureaucracy, the migrant partners hesitate to undergo these immigration formalities. They are caught in an emotional-legal dilemma; with respect to their partner, the marriage becomes a double proof of affectivity and of legal stability. Surely, to cross the border of legality and acquire recognized status will fulfil their own migratory expectations and transform their personal, civic, and coupled lives. But past experiences have taught them that the bureaucracy of immigration is not without risk; they incorporate the contextual governmentality of migration (Abrego 2011). In both Italy and Belgium, scrutiny by the immigration mechanism serves to stigmatize undocumented migrants, assuming, by default, that in their case marriage rhymes with regularization. The migrant partners are torn between the desire to put an end to their situation, the anxiety of bureaucracy, and the fear of disappointing their partner.

The consequences of international migratory management shape partners' emotions and intentions similarly in the two countries, but differences emerge when one looks more closely at the process to negotiate legitimacy. The celebration of marriage, and the subsequent residence permit formalities bring the partners face-to-face with bureaucratic border practises, creating new forms of uncertainty.

Encountering Immigration Bureaucracy: Paperwork and Formalities beyond the Law

Beyond their intentions, the partners categorically perform the expectancies about their relationship when they compile their files for applications and meet with bureaucrats. Paperwork is a constitutive aspect of immigration bureaucracy, whose bordering practices effects "coalesce around the document as an object, which is treated by social actors as a token of admittance to a valued realm of belonging" (Leigh Pigg, Erikson and Inglis 2018, 172). The legitimacy that couples seek is, in fact, signified by the possession of some documents (that is, a marriage certificate to secure a residence permit; residence permits to become legal, and eventually access nationality) fashioned from the production of adequate documentation which materializes the existence of their intimate ties. These documents can be conceived both as "semiotic technologies"

(Hull 2012) – behind their textuality, they have a symbolic, relational, and discursive character, which determines their meaning and usage – and as "performative objects", recorded social acts that influence and transform the couples' reality (Ferraris 2013). On this basis, I engage with paperwork embedded in interactions; the production and evaluation of files call for narrative and relational contextualization (Leigh et al. 2018). The documents demanded of the partners by the immigration bureaucracies are legal and political supports for the recognition of rights. Yet the appraisal of the value of such documents defines the legitimacy of the couple, attaching itself to the partners' legal consciousness – how a person's sense of self is shaped by law (Merry 1990), in a historically contingent manner, embedded in particular social structures and relations (Sarat 1990, 344). This process implies the participation of several actors. In the following sub-sections, I outline this process, explaining how some encounters with state agents and non-institutional intermediaries over paperwork become cross-border milestones on the path toward legality, and characterize each country's distinct immigration bureaucratic regime.

A Conditional Border: Intimacy Paperwork and State Intrusion

Since 2013, civil partnership in Belgium has been subjected to the same strict controls as marriage, inasmuch as it potentially confers residence rights. The condition for successfully negotiating the first bureaucratic hurdle is to prove the existence of a solid relationship lasting at least the year preceding the request. To do this, bureaucrats request not just administrative documents: as Léa[8] explained:

> we had to provide proof of our life as a couple, no one knows exactly what precisely, but it seems through testimonies from relatives, photos, emails, SMS! I had an old phone, I didn't know how to print SMS messages, and we didn't write emails to each other, as we met all the time and after few months moved in together!

Documents, paper or digital, requested as proof of genuine marriage and civil partnership, have the particularity of being artefacts situated between the formalism of the administrative document (that is, forms, civil status records) and the confidentiality of private and personal documents (that is, photos, text chats). This implies specific modalities of production and evaluation.

Administrative documents are often quite easy for the citizen partner to gather, but this is not necessarily the case for the migrant partner. Mor, Léa's partner, had to ask for help from friends in Niger, and pay extra fees to clerks

there, because administrative databases and bureaucracy are neither efficient nor systematic in his country of origin. The non-existence of key intimate documents was another matter of concern, obviously; the couple had to result to alternative strategies in order to fulfil these requirements. "We asked the association where we met for photos with us; we called friends to ask if they could write a testimony for us – attaching their ID card to it. I was really embarrassed!" This effort of producing documentation is not without its emotional toll; for the couple, it means revealing their situation and justifying or explaining it to close or not-so-close third party.

On the other side, the demand and evaluation of private documents in the application indicate how the immigration bureaucratic machinery scrutinizes partners' intimate lives before conceding their rights, and thus frames the genuine affective life as a couple. While the main objective of policing marriage migration lies in migration risk management concerns, its implementation requires a search for indicators of this risk in the intimacies, through verifying papers, searching partners' homes, and interviewing them. These inner bordering practices, governing mobility in entrance while tiding intimacy and citizenship rights, have been defined as "technologies of love" (D'Aoust 2013, 271). This meaningful expression elucidates the alliance of governmentality and emotion at stake in marriage controls. To continue drawing on Léa and Mor's history, their documentation presented in order to obtain approval to formalize their partnership acquired a meaning in the wider frame of the many-minute police house checks and interviews. Léa felt that her privacy had been violated; Mor blamed himself for placing his beloved in such a situation. Caught in this web of papers and bureaucratic encounters, immersed in the uncertainty of the waiting, Léa felt constrained to obey. "We had to go to the summons, because the police knew where we lived, they could come back and pick up Mor at any time. We were in a paranoid phase!" They turned to friends with experience in migration bureaucracy to understand how to prepare the interview. As Mor explained, they practised by asking themselves, "the most absurd questions: 'What is your mother's sister called? Have you been on school trips?' Things that seemed useless until then! But we heard that the police asked all kinds of questions." Relying on European and national guidelines, often reconfigured internally by each administration, agents determine the bona fides of partners in binational unions by questioning them separately, comparing their answers to questions about their past, respective families, tastes, and present and future common plans including housing and childrearing. To furnish the same answer

is no guarantee of success; the agents' assumptions regarding intimacy (Maskens 2015), and a supposed correct love-based trajectory leading to marriage (Muller Myrdahl 2010, 113) make this play with the law more difficult for binational couples. Furthermore, it underscores that the suspicion is intertwined with a supposed "imagined sameness" (Lavanchy 2013). Beyond nationality, the couple's mixed status turns into a "subjective criterion of suspicion that captures a community's emotional reaction to a certain form of difference that makes a couple's relationship and love suspicious" (D'Aoust 2018, 46).

Designed to destabilise, such embodied encounters reveal a face of the state which the national partners had not suspected hitherto. They are, in fact, subjected to a double game of empathy and mistrust. Women citizen partners especially affirm that during such high performative cross-border moments – whose outcome impacts the subsequent bureaucratic formalities – the state, embodied by policemen or clerks, fluctuates between the protective and the punitive. Nevertheless, it is also during such moments that the same partners do not hesitate to assert their rights, while showing that they are complying – albeit not completely – with the bureaucratic game. As Léa and Mor, for instance, affirm clearly during the police interview, they are precluded from planning their future without regularizing Mor's legal situation. But, despite admitting this migration trick evidence, legally, they could confirm their partnership. Such little "victories" indicate that partners can produce "causal and constitutive effects on state relations and power" (Mainwaring 2016, 293).

This correlation between bureaucratic constraints and tactical navigation by partners goes on along the bureaucratic path that continues after the marriage celebration. The couples' "capital of authenticity" (Geoffrion 2017, 16) is screened before residence rights are granted, and for years until the process is completed, through the acquisition of nationality. Even so, migrant partners in Belgium found guilty of a marriage of convenience can be stripped of their acquired nationality.

The conditions for crossing this second bureaucratic border towards legitimacy that is the application for residence on the grounds of being the spouse of a national weighs mainly on the citizen partner. Leen, a 35-year-old fixed-term university researcher, told me how bizarre it felt to compose a file for the residence permit of Ahmed, her 33-year-old Moroccan spouse, principally with her information: identity card, proof of her income and livelihood, and social security system documentation. And more critical was the discovery – as for other couples – of her inadequacy with regard to fulfilling the conditions demanded by the law. As the marriage procedure went smoothly, she imagined that she

had overcome the harder part of the formalities. They knew that once the documentation for Ahmed's residency had been submitted to the immigration service at the town hall, they faced a wait of around six months, the time limit the Immigration Office (*Office des Étrangers*) – a federal Brussels-based administrative entity – had to conduct an assessment. "You are always waiting for something or someone when bureaucracy is at stake!" Ahmed commented, raising the question of temporality in the picture of the couple's migratory career. Together with the multiplicity of documents and administrative steps, temporality creates apprehension for the partners. After the umpteenth home police visit, Ahmed received a temporary residence document, pending completion of the process. The couple interpreted this as a positive sign; but in fact, it was merely procedural acknowledgement of receipt of their file, which was transferred to the federal Immigration Office for a decision. Five months later, Ahmed received a written communication from the municipality: his application had been rejected. "It was on me! The problem was my income paper," Leen complained. But choosing not to look on passively, she telephoned the Immigration Office repeatedly until an agent answered.

> I explained that I fulfilled the conditions. I had a one-year job contract, but enough money in my bank account to satisfy the amount demanded by law. I own the flat we lived in, and Ahmed was employed. This did not matter to them! [...] apparently the internal order was to check requirements strictly to refuse as many residence applications as they could.

Leen was disheartened: Ahmed's migratory career had revealed the precariousness of her own citizenship. She remarked, "This income requirement is a trap for poor and precarious citizens – as if love is stuff for the rich! I have the right to conduct the life I want with whom I want!"

This sentiment of the violation of one's family and personal rights recurs in the narratives collected in Belgium. The income requirement informs the "criteria of merit and performance" (Bonjour and Chauvin 2018), rendering citizens particularly vulnerable because of their social class and economic situation. This vulnerability, but also the state's intrusion in the intimacy and the aleatory outcomes of the formalities, constrain the agency of the couples, modifying the citizen partner's appraisal of their state in the process.

Nevertheless, on the ground during procedures and with the help of advice, couples discover that the law does offer possibilities for "manoeuvring within a particular set of conditions" (Coutin 2003, 173), defined by the wider legal and

bureaucratic frame. Ahmed, for instance, considered alternative options for gaining residence. He researched the provisions of the law independently, consulted government websites, and read up on juridical notices and interpretations. He also sought advice from acquaintances in a community café frequented by Moroccans, where migration was often the main topic of discussion. A local politician, a regular customer, advised him to appeal the refusal. Nevertheless, Ahmed wanted to confirm this understanding of the bureaucratic obstacle with a lawyer specializing in migration law. The lawyer opined that Ahmed lacked strong grounds for appeal, and recommended that he apply for residence by way of his status as the father of a Belgian child. Leen was pregnant with the couple's child, deemed Belgian by virtue of Leen's citizenship. A minor recognized as a citizen by virtue of birth can create the right to stay for a parent. Under this form of family reunification, the sponsor is the child; the only requirement that needs to be satisfied is paternity. A tactical navigation of the bureaucracy enables couples to get through, by positioning "themselves as actors interacting with immigration law, rather than exclusively acted on by immigration law" (Tuckett 2018, 58). Hence, reframing Rea's (2017) network-border theory, Belgium marriage immigration bureaucracy results in a conditional border that, in selecting the foreign spouse, affects the citizen's life through vague and invasive practices which produce alternative emotions and serve to erode their citizenship. But as the illuminating example of Ahmed and Leen suggest, even this regime leaves partners with room to manoeuvre. Interestingly, while the migrant partner agency is triggered into looking for advice in the heterogeneous field outside the institution, the national one still prefers the institutional strategy – as we see with Leen, calling the Immigration Office for an explanation and filing a complaint with the national ombudsman. Furthermore, Leen was logically concerned that the Immigration Office may have exchanged information regarding the two procedures – for marriage and for paternity – leaving Ahmed at risk of rejection again, and deportation. Conversely, Ahmed's experience with migration law led him to believe that immigration bureaucracy is often limited to policy and administrative categories. Because the grounds for his application had changed, the Immigration Office was obliged to re-evaluate the new application using the new circumstances alone, and without reference to the earlier procedure.

As for other couples in my sample, the divergent strategies of the partners indicate how legal status and experiences can impact on the understanding of, and the relationship with the bureaucracy. Migrants are generally more used

to relying on non-institutional routes, and to "bargain law in the shadows, [...in] the fringes of formal law" (Coutin 2003, 63).

An Ambiguous Border: Intimate Benefits and Bureaucratic Laisser Faire

Italian bureaucracy offers an interesting example of the frictions between benefits derived by the family ties, affording a legal foothold for marriage migrants, and doubtfully bureaucratic practises. In this context – unlike in Belgium – the experiences related by the couples are extraordinarily different, marked by cumbersome or soft bureaucratic paperwork according to the period. Strictness and *laisser faire* coexist in the approximative implementation of marriage-migration law, shaping couples' practices accordingly.

Silvia, a 36-year-old project manager, met Yassin, a 44-year-old Moroccan engineer (now an Italian national) in 2007, in a university library in Turin, where they were both students. They decided to get married in January 2009 – to project themselves into the future as a couple and, in doing so, ensuring Yassin's administrative stability, given that his permit of stay for study had almost expired. When I interviewed them, they did not even recall very well how the formalities went. Against the expectations of the couple, who had heard much about marriage applications, Yassin's precarious legal status did not raise any suspicions. Clerks at the town hall verified ordinary administrative documentation (that is, criminal record, clearance); to confirm cohabitation, the police simply visited the stated residence and rang the bell. Yassin answered, and this seemed enough for the agent to confirm common family life for the couple. Once he had obtained the marriage certificate, Yassin could go to the *questura* to request a residence permit, on family grounds. In fact, for almost all categories of foreigners, there is an online procedure to furnish documentation and book an appointment to obtain the permit required; but the partner of an Italian can go directly to the *questura* when he or she wants. This small procedural privilege adds to the benefits of legal familism mentioned above, which foreigners who are part of a family unit with an Italian citizen enjoy. To assess the couples' capital of authenticity, indirect discreet police investigations in the couples' neighbourhood and house checks are conducted, ranging from a short unannounced visit to a thorough inspection of the rooms, depending on the suspicions (or lack of) of the agent, and the evidence of compliance submitted by the couple.

During the same period, Gianna, a 33-year-old childcare worker, and Murad, a 35-year-old Moroccan mason, together since 2002, considered marriage. Murad could not renew his residence permit after losing his job. A 2002 migration law

made residency contingent on possession of a regular employment contract; together with the economic recession, this created irregulars out of precariously employed resident migrants (Triandafyllidou 2003). Gianna acknowledged feeling uncomfortable, always worried and vigilant. "It became exhausting for us." Some acquaintances had succeeded in regularizing their situation through marriage and told them that the bureaucratic formalities were easy. The entire situation put Murad in a very awkward position. They hesitated for months before seeking out information about the procedure with a local organization working for the defence of migrants' rights. The couple were dismayed: the law had changed during the summer of that year, 2009, and Murad could no longer get married. Due to his irregular situation, he ran the risk of imprisonment and deportation. Extremely stressed by the cumulative of these risks, the couple contacted a lawyer who suggested that they get married abroad and then apply for residence in Italy. San Marino, an autonomous nation-state wholly inside Italian territory, was one possibility, due to the shared official language. There, the authorities only required identity cards or passports, marital status certificate, birth certificates, and a fee of around €500. The couple followed this advice. A marriage contracted thus is valid in Italy: once the certificate has been transferred to the municipality of residence, it is transcribed. Afterwards, it is possible to go to the *questura* and proceed with the formalities for applying for a residency permit. The situation is ambivalent, "Laws are made to be broken," goes the saying; as in other migration domains (that is, the entry for employment quotas), Italian law remains fragile. The practice chosen by Gianna and Murad was widespread for a while until a series of controversies emerged, and controls become more rigorous. Pending the outcome of legal proceedings which led the Constitutional Court to officially lift the ban, many lawyers and pro-immigration activists advised this kind of strategy, as a means of circumventing the ban on marriages involving an undocumented partner. Nevertheless, once married, as Gianna related:

> I was afraid to do the practices to recognize the marriage, I felt guilty, and Murad couldn't accompany me – as he was undocumented at the time, he risked being denounced. But then I told myself that the rule was absurd, and if we had had to appeal in the case of problems, we would have won sooner or later."

From that moment on, the couples "have to choose between doing things the 'right', or legal, way, or doing them so that they might turn out the way they want" (Agustín 2003, 34) to assert their legitimacy. This choice is repeated during the various bureaucratic encounters that couples must go through in order to

remain legal, and to facilitate the migrant partner's acquisition of nationality. Alessia, a 45-year-old theatre actress, explained to me that she was no longer in a relationship with Mohammed, a 45-year-old musician, but that they had decided not to split until Mohammed acquired Italian nationality. "We are not living together, but we have decided by mutual agreement to pretend until the citizenship decision," she said. In Italy, the main condition incumbent on the citizen partner is demonstrating the continuity of family life with the foreign partner. For this reason, the citizen is as emotionally involved in the bureaucratic formalities as the migrant partner is directly impacted by the bordering practices. Certainly, the commitment draws the Italian partners into the web of bureaucracy, but the bordering practices as conceived in this country still preserve them, maintaining a distinction between the privacy of couples' lives and their public assertion. Partners' agency is both a form of manipulation and an adaptation to the bureaucratic routines that facilitate reaching the El Dorado that is the permit of stay and the acquisition of nationality.

Conclusion

The fluid interplay between the governmentality of marriage migration and the life-course of binational couples reflects the materiality of the bureaucratic formalities. Made of paperwork, embodied in encounters and waiting times, it partakes of both partners' agency, producing swinging emotions along what I have defined as a shared migratory career towards legitimacy. In light of the lack of cross-national comparative discussions of this topic in the literature, my article represents an attempt to uncover how couples wield, openly in the face of immigration bureaucracy, their intimate private life in order to become legal, and how these experiences influence their intentions and ability to act, despite the undeniable legal-bureaucratic constraints in the two European countries surveyed here, Belgium and Italy.

The analysis reveals the relational nature of partners' agency that plays out, under specific structural conditions (of a given set of initial social, economic, and political resources), through interaction with a number of intermediate factors (including other social actors like employers, NGOs or international organizations, but also national policies and national authorities that shape the migrant's plans and actions) (Triandafyllidou 2017, 3).

Firstly, the cross-national analysis shows the potency of the legal frame and bureaucratic culture in fashioning partners' agency and legal culture. Couples' narratives shed light on the types of marriage migration bureaucracies at play

in Belgium and in Italy. Both countries enact scrutiny of binational marriages involving a citizen national by introducing particular inward bordering practices, made up of a web of legal rules and requirements, documentation, and encounters with clerks and police agents. To exemplify this: the Belgian marriage migration bureaucracy results in a "conditional border," whose conditions weigh mainly on the citizen sponsor partner. The latter finds themselves the principal object of migration governmentality instead of their foreign partner and, thus, in a downgraded position among the citizenry of the country due to their intimate choices. Belgian citizens in binational unions discover their vulnerability through demands for intimate paperwork, and the state's intrusion into their conduct of their private life. This expression of control through technologies of love reaches higher levels in this country. For this reason, it generates among citizens impacted thus a lack of trust and a feeling of disaffiliation towards the state. This is not the case in Italy, whose marriage migration bureaucracy consists, instead, of an "ambiguous border." Over the years, legal strictness and bureaucratic softness have shaped benefits reserved for the spouse of the citizen on the basis of a so-called legal familism. According to this legal temporality – and much more than in Belgium – in Italy practices of legal non-observance among partners and bureaucratic *laisser faire* in the administrations have been registered during my fieldwork.

Secondly, and unexpectedly, the comparison shows that beyond the aforementioned evident national differences, the agency of the partners emerges similarly from: (*a*) the migration management at large; (*b*) their legal status and biographical resources, namely legal-bureaucratic knowledge; (*c*) and the interactions with intermediaries at the margin of immigration bureaucracy.

(a) Not only the management of marriage migration, but rather, upstream, the management of migration at large exerts influence on the intentions and initiatives of binational couples. In both countries, the migration regimes filter international entries, creating thus undocumented and precarious migrants. When these conditions weigh down on the migrant partner who actually lives "with the border," the couple tends to enter into marriage-related formalities. Agency become a lens with which to understand how the emotional commitment for a migrant can impact citizens differently, according to the context. Nevertheless, migration laws, and their implementation, still open opportunities for the creative manipulation of the rules, on the basis of the multiplicity of affective ties. It is often the national partner who insists on formalizing the

union as part of a search for stability, which – as a citizen is used to – brings the couple face-to-face with the immigration bureaucracy.

(b) Partners' agency is driven by non-identical emotional motives linked to couple stability, migratory and affective expectancies, and immigration law opportunities. But because legality becomes a shared goal, ultimately, their intentions meet in the formalization of the union; this is a reflection of the asymmetrical power relation embedded in binational relationships, where one partner has legal and enforceable rights, and the other minoritarian is often marked by lack of status and bargaining in the shadow of the law over the years. Due to their dissimilar legal status and legal-bureaucratic knowledge capitalized over their life courses, the partners display a singular attitude towards immigration formalities and the law. Somehow, the citizen partner experiences what it is like to be a migrant (Odasso 2016).

Nevertheless, citizens, who are more likely to trust their state (at least at the beginning of the procedures), transform their appraisal such that it converges more towards their migrant partner's attitude; skeptical, but resourceful in the face of bureaucratic formalities. Temporality plays a pivotal role in this process. The bureaucratic encounters and inherent surrounding interactions of several couples "constitute an important set of practices in the construction of their legal [and bureaucratic] consciousness" (Marshall and Barclay 2003, 625).

(c) In particular, at the margin of immigration bureaucracy, almost all the partners encounter "third parties," who wield legal rules and translate formal law into action, playing a crucial role in the bureaucratic ordeal embarked upon by binational couples. These immigration brokers – activists and employees of support associations[9], lawyers, friends of friends – negotiate "the authoritativeness of both official and unofficial legal discourses" (Coutin 2003, 79), nudging the couples into circumventing (but rarely actually subverting) the law, and to "acknowledge the multiplicity of law" (Coutin 2003, 79; see also Tuckett 2015). Thanks to their advice, partners feel confirmed in their tactical navigation of bureaucracies, helping them to play with the migration law (Ewick and Silbey 1992). But not all brokers are equally competent, and thus partners have to refine their legal and bureaucratic skills with cross-checks. These manifold interactions influence their legal-bureaucratic consciousness, converting it into forms of practical knowledge (that is, producing correct documentation as demanded, being prepared to answer police interviews). This knowledge is not fixed; rather it develops and changes through the individuals' contradictory experiences (Merry 1990, 5–9). Binational partners are not subaltern. They learn

how to deal with unpredictable bureaucratic behaviour and decisions, and even with possibly incorrect advice from third parties. In the frame of national opportunity structures, along the course of their shared migratory career, partners act on the liminal boundaries between legal manipulation – sometimes even disobedience – and compliance. Over time, along the bordering experiences that constitute the marriage-migration formalities, their agency is contingent and becomes more and more reflexive. In fact, the aim of both partners is to "get by" without being overtaken by the bureaucracy. The study of the intersection between marriage migration governmentality and the agency of binational partners highlights the significance of expectations, intentions, and relations in everyday bureaucratic encounters and ancillary requirements.

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Notes

[1] All names used for respondents in this article are pseudonyms.

[2] Immigration "is located at the crux of what constitute the three pillars of governmentality, that is, economy, police and humanitarianism" (Fassin 2011, 221)

[3] This is a subset of the empirical material gathered during three related research projects conducted in France, Italy and Belgium. The data used here were collected in the area of Venice (2009-2013) and Turin (2014-2016), and in the Brussels capital region (2014-2016), respectively.

[4] Although this last aspect is relevant and intertwined with my aim, it is beyond the scope of the analysis here.

[5] Livelihood must be the equivalent of 120% of "social integration income" – approximately € 1555.09 a month in 2020. Complementary social assistance is not included in the amount.

[6] Civil partnership did not exist in Italy until May 2016.

[7] Provincial police headquarters of the Department of Public Security, supervised by the Ministry of the Interior, where the immigration office is located.

[8] Unless otherwise specified, the respondents' names, when repeated, refer to the life histories previous quoted.

[9] Elsewhere, I have defined some of them "intimacy brokers," see Odasso and Salcedo Robledo 2021.

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