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Love at the Registry Office. An anthropological view on intimacy institutions

1. Project statement

Mass media and political debates have recently focussed on certain marriages defined as abusive in Western European countries (Depraz 2005; Rap 2009; sac/AFP 2009; Waterfield 2008). They concern those private arrangements variously called “marriages of residence”, “fictive”, “arranged” or “forced marriages”. Each of these categories has been addressed by social scientists who have underlined the difficulty in reaching fixed definitions, and in discussing the social categorisations they draw on (De Hart 2006; Digruher & Messinger 2006; Ratia & Walter 2009; Wray 2006). Beyond these problems of definition, debates about abusive marriages challenge representations of what a genuine marriage is, and who are the appropriate persons to marry. This neglected issue is of central anthropological relevance as it constitutes a powerful and novel approach toward exploring dominant social norms and their reproduction in multicultural, post-colonial contexts, core topics of the present investigation.

The project focuses on state employees working at distinct levels of Swiss, Scottish and European civil registration bureaucracies. One of these employees’ chief tasks is to put into practice various national and international regulations concerning union and marriage, which entails assessing every proposed union to estimate its suitability, or absence thereof, with respect to the model of “true” marriage. The principal goal of this inspection is thus to ferret out unsuitable or illegal marriages. In this process, ethnic, racial and gender categorisations play a central role, participating in the creation of both conscious and semi-conscious stereotypes and expectations on the part of those responsible for such decisions. Drawing on classical socio-anthropological research on institutions (Crozier & Friedberg 1977, 2000 [1995]; Merton 1949), I focus in this project on civil servants’ “wobble-room” – the amount of discretion they are granted in performing these evaluations – and on how they use this localized discretionary power.

Civil officers are currently in the midst of marriage regulations that occur through a variety of mechanisms, even in societies not governed by a prescriptive regime (Levi-Strauss 1949). Explicit and implicit norms about “true” marriages draw frontiers between who can marry and who cannot – a matter of legal and social prescriptions and interdictions. Frontiers drawing is a mean of “doing differences” (West & Fenstermaker 1995), that permit the production of sameness and otherness by mobilising “the full range of differences that make a difference” (Ali 2007). I assume that the parallel constructions of sameness (“us”) and otherness (“they”) address issues of whiteness production and reproduction (Frankenberg 1993; Ware & Back 2002), as well as the topic of mixedness (Ali 2003), i.e., exploring which kinds of unions are seen as “mixed”, and under which conditions mixedness is considered to be a danger for national or local society.

The main research question of this project is thus: *What criteria – explicit and implicit – do civil registration employees use to distinguish between “genuine” and “sham” unions?* The assumption that representations about marriages are articulated with social categorisations includes raising two further questions: how do professional practices in civil registration reinforce (or not) ethnic/racial narratives on whiteness and mixedness? And: How do the intersection of gender and class representations influence and interfere (or not) with civil servants’ judgements and decisions?

Such questions involve three anthropological domains. Firstly, they offer an original and strong analysis of institutions: the registry office functionaries responsible for checking marital genuineness oscillate between legality and legitimacy, visibilising the “social life of law” (Eckert 2008). The second question potentially challenges the ambiguous relation

between the twin concepts of ethnicity and race in the process of marital evaluation. By focussing on recent postcolonial theories about whiteness and mixedness, the project proposes an innovative interpretation of marital narratives as social expressions of sameness/otherness definitions (Affergan 1987). Thirdly, contemporary marriage narratives address two main aspects of gender constructions. Considering civil registration as an institution of intimacy, I investigate male/female constructions as stretching between private realms and public policy of nation making (Yuval-Davis 1997). It also involves the topic of intersectionality (Crenshaw Williams 2005) as narratives of civil registration take into account social categorizations of race and ethnicity, class, gender and sexuality, among others. The thorough examination of the interplay of these three anthropological domains will allow me to analyse acute social debates while representing a stimulating and relevant scientific issue.

a. Checking union genuineness: the wiggle between legality and legitimacy

A central premise of socio-anthropological research about institutions and their social agents, has been the notions of wiggle-room and feeling (Hertz et al. 2002), which make possible exploring the gap between what registry offices' functionaries have to do and the implicit tools they utilise in everyday practice. On a superficial level, civil servants are merely supposed to apply precise legal dispositions. However, qualifying their occupation as mechanical and repetitive would be to overlook a less explicit dimension of their work: constantly mobilising their social knowledge to evaluate situations and take administrative decisions. In performing such judgements, they are being granted a certain amount of discretion in assessing representations of what constitutes a marriage, a genuine relationship, and the social criteria both partners are expected to fit. Wiggle-room constitutes discretionary power displayed at the local setting of their official encounters with customers and in the evaluation of their cases (Laurens 2008).

By activating judgment criteria and exerting their wiggle-room, civil servants act under two sets of normative narratives: *legality*, which explicitly forbids marriage in some particular cases, and *legitimacy*, which rests on more or less implicit social representations. The distinction between these two normative sets is useful for analytical goals, even if it is not thematised in everyday life, where they are not entirely compatible but constantly overlap.

Legal interdictions

Functionaries' decisions have to conform to legal measures that frame their professional activities. National and international legislation determines cases in which a prohibition takes place, such as marriage between close kin or if one spouse is already married. To this purpose, civil registration data serve to establish people's identity and their belonging to a juridical community¹, which may open a Pandora's Box of papers as evidence of people's identity (Yngvesson & Bibler Coutin 2006). Bureaucratic management and evaluation of identity papers offer concrete ground to observe civil servants wiggle-room.

Regulation and the necessity to certify one's identity denote the possible existence of frauds and abuses and therefore open up space for suspicion. Civil servants have to protect hypothetical victims of abuses, natural persons – often women in “mariages gris” (Rap 2009) or forced marriages – or juridical persons, like state and its legislation, when fictive marriages are considered as strategies to circumvent residence laws (Geiser 2007, 2009). Notions of sham, fraud, abuse and misuse constitute a stimulating area in the anthropology of institutions (Kelly 2009; von Benda-Beckmann et al. 2009), particularly in issues of the Swiss welfare state (Hertz et al. 2002; Maeder & Nadai 2004; Ossipow et al. 2008) and access to citizenship (Achermann & Gass 2003; Waldis 1998, 2001). This research will increase empirical data on these topics and offer new insights into the particular

¹ <http://www.bj.admin.ch/bj/fr/home/themen/gesellschaft/zivilstand.html> (accessed 28.09.2009)

administrative relationship of “counter encounters” (Dubois 1999; Spire 2008), characterised by their short duration.

Legitimacy and social prescriptions

Beneath the legal interdictions lie social prescriptions on the appropriateness of any given union. Civil servants also use them, in the form of social knowledge, to found their evaluation of what constitutes a genuine union. This implies a less explicit set of criteria that are summed up and come into discussion under the generic term of “love”. The ideal of “love” functions as a guarantee for the genuineness of a union and as relevant proof for the legitimacy of the foreseen union. With this term appears an ill-defined and complex body of representations including intimacy, (hetero)sexual relations and their serial monogamist exclusivity, and romantic and sentimental bonding. Considered as personal manifestations, emotions and feelings nonetheless rest on collective representations (Abu-Lughod & Lutz 1990b), and articulate various expectations linked to society and state regulation (Mody 2002). I argue that love narratives appear in the discourse among civil servants, during informal interaction or even more formal meetings, as a manner of expressing suspicion about the reasons to marry. Love should manifest itself through specific attitudes, interactions, knowing about intimate details of the partner’s life and evaluating the suitability of personal characteristics like age and physical appearance. A further objective of this research is thus to uncover the explicit and implicit definitions of love supporting the distinction between genuine and unsuitable unions, and to understand when and how love narratives become a relevant argument influencing administrative decisions.

Defining and exploring legality and legitimacy represent a valuable contribution to the anthropology of institutions particularly as it involves various legislative and institutional levels. Union legislation is nationally regulated, but has to conform to various international legal treaties the state countersigned. Registry officers’ practices are visible at the local level in their direct interaction with customers willing to marry. Their wiggle-room spreads in the interstice between the legal sphere, where their practices must harmonize with various institutional supervisions (regional/cantonal, national, and international) and local social representations, which are included into their practices as criteria to evaluate the genuineness of a union. Civil servants representations see themselves implicitly formalised into prescriptions about “true marriage” difficult to be escaped from. Except for a few pieces of research (Fischer 2007; Fresia 2008), the ways these bureaucratic levels interplay is still underexplored in anthropology, even if supranational institutions have recently received scientific interest (Bellier 2004; Latour 2005). By incorporating research in the International Commission on Civil Status (ICCS) and the European Court of Human Rights², both in Strasbourg, the project will provide the necessary empirical data so as to document the interplay of bureaucratic and administrative levels.

b. Ethnicity and race in the shades of unions

If various studies have shown how, historically, marriage regulation mobilized symbolic and social boundary making (De Hart 2006; Stoler 1998; Studer 2001), there is little empirical knowledge about the articulation of institutional practices and social categorisations. To separate the wheat from the chaff evaluating marriage’s genuineness tends to imply a particular focus on unions between a national and a foreigner. This reveals how categories of sameness and proximity are constructed, using as a counterpart the notions of otherness, difference and cultural distance. According to the respective historical and sociological contexts of Switzerland and the United Kingdom, these processes draw on two scientific corpora with narrow and conflictive relationships: the first focuses on the concept of ethnicity which has been mobilized in order to account for multiculturalism in Swiss society; race is the core concept of the second and cannot be overlooked in sociological analyses of British society.

² As the right to marry “without any limitation due to race, nationality or religion” is explicitly granted by the Universal Declaration of Human Rights (Article 16)

Anthropological studies of Swiss society use notions such as migration regimes, foreigners, citizenship, different categories of residence to infer the broader frame of ethnicity (Centlivres 1990; Centlivres & Schnapper 1991; Dahinden 2005; Ossipow 1996; Waldis 1998, 2001). As a classical anthropological topic, ethnicity was decisively shaped by Leach's research illustrating the dynamics of identity, as in the course of life, one can shift ethnic belonging, according to contextual politics (Leach 1954). Barth's work on boundaries and boundary making represents a second major reflexion, as he discerned the necessity of defining a face-to-face encounter in the construction of collective identity: ethnic particularity is not to be found in the hypothetical core of timeless features but dynamically produced by way of encounters with others (Barth 1969). Basic characteristics of ethnicity are therefore to be a dynamic process embodied in a context of interdependence (Lavanchy 2009), a powerful issue in French-speaking anthropology (Amselle 1985), where an (undefined) idea of *culture* forms the core of ethnic identities (Cuche 1996).

English-speaking scientific literature reassigned a central role to race as a necessary notion in which to explore the particularities of multiculturalism within the British context (Chatterjee 1993; Gilroy 2002). Observation was that even after having been removed from its biological contents, people continue to behave according to the existence of race (Wade 1997), and racial distinctions and assignation still occur by ranking phenotypical variation (Gilroy 1996). If racialisation occurs usually to mark "others", and to ground their identity in their *phenotype*, recent and innovative theorisations about whiteness make possible a broadening of reflexion on social categorisation by explicitly taking into account dominant groups. As proposed by Ali (2003), the concept of mixedness represents a further theoretical contribution, as it allows getting away from the rigidified boundaries between "black" and white" and taking into account the multitude of hybrid situations and their social interpretations.

This innovative perspective represents a valuable contribution at a theoretical level, as fieldwork in both Scotland and French-speaking Switzerland permit comparison of local uses of race and ethnicity, through the bureaucratic and administrative work of civil servants to define sameness, otherness, and the numerous interspaces of mixedness. The research assumes that both national societies can be defined as post-colonial, understood as a globalised notion with various localisations, presenting similar features that correspond to three criteria: media and political concerns about migrant populations and mainstream debates on multi-/intercultural challenges (Lavanchy et al. forthcoming); their consensual participation in international treaties defending supranational interests against non European immigration; and their colonial background. Regarding this last criteria, Switzerland and the UK may seem to have little in common because of their very different colonial and post-colonial histories: the United Kingdom has a clear imperial history while Switzerland's historical self-understanding is that the country was not involved in the colonial experience; however, recent historical studies show how Switzerland was directly implicated in colonial imperialism (David et al. 2005).

This project amends numerous studies about multiculturalism focussing on the interplay among individuals. By exploring marriage regulation practices and by comparing distinctive labelling and definitional processes, this research strikes at a core locus of state regulation of bio-normativity in modern post-colonial societies. It proposes an overarching theoretical framework by giving an answer to following questions: as ethnicity and race are malleable, historically constituted concepts, open to challenge or re-definition, how are their narratives overlapping? Do they fill similar goals? Where do they differ, and how can that be explained and analysed – as they do not share exactly overlapping assumptions about "natural identities" – the ethnic part based on cultures, and the part dealing with race, based on phenotypes?

c. Civil registration as intimacy institution

As a private institution central to public state-making, unions are a privileged entry point for analyzing the makeup of the "direct linkages between the enclosed, private world of

the family, and the outside world of the state's legislative apparatus and the project of nation-making" (Carsten 2005: 6) – therefore, civil registration represents an institutionalisation of intimacy, and, as such, a highly moralised bureaucratic and social space (Mody 2002, 2008). Union regulation implies the use of normative discourses about male-female relationships, about the connections between heteronormativity and homosexuality – as national legislation on union in both the UK and Switzerland offer the possibility for homosexual companions to conclude a legal partnership but no marriage. Even when the legal apparatus provides formal and legal equality between male and female, gender constructions still influence the way marriages with spouses defined as others are considered (Phillips & Dustin 2008a, 2008b; Studer 2001, 2004; Yuval-Davis & Anthias 1996).

By mobilizing love narratives as a guarantee for social legitimacy, marriage's regulation by civil registration involves representations of emotions and their expression. Emotions constitute a highly gendered realm of social politics (Abu-Lughod & Lutz 1990a, 1990b; Lutz 1988; Lutz & White 1986). Central questions are then to grasp how love narratives permit civil servants to appeal to social norms, and which ones; and also: how do such strategies allow the construction of differences between male and female, and restrain or guarantee their respective access to state resources? - in this case, the right to marry.

Theories about intersectionality demonstrate the constant interplay of social categorisations such as race/ethnicity, class, sexuality and gender, and its continuously changing forms (Gutierrez Rodriguez 2006). As noted by Ali, taking into account these multiple criteria proves indispensable "not only for theory and policy, but in very grounded and everyday ways [...]. [...] Experiences of ethnicity, race and mixedness are mediated through and with gender (and sexuality for that matter) as they are by different kinds of racialisation, by cultural and ethnic diversity, as well as by class, ability and by location" (Ali 2007: 3). By explicitly joining these analytical corpora, this research proves of central importance in delivering nuanced interpretations of gender constructions and their interferences with new forms of social inequalities also related to class, including educational level, accesses to economic resources, professional and social positions. Grounded on solid empirical data, it avoids homogenisation and abusive generalisations.

d. Methods

Data will be collected through a variety of fieldwork methods, involving essentially observation and semi-directed interviews. Inseparable from anthropological fieldwork, qualitative methodology is most adapted to the research questions as it allows in-depth investigation of subjective meanings that civil servants attribute to whiteness and mixedness, to gender and class representations and to their intertwining with marital narratives. It is particularly relevant to investigating various institutional levels (local, national and international) so as to take into account the complex framework in which official narratives about sustainable/unacceptable marriages take place. In terms of geography, this implies the following locations:

- Registry offices in French-speaking Switzerland and Scotland in order to grasp how local practices articulate legal narratives with social prescriptions. This also involves consideration of institutions in both national contexts, as for instance the Swiss Federal Office of Civil Registration that assumes the surveillance and monitoring of cantonal activities, and similar bureaucratic level (or its absence) in the UK. Fieldwork on these locations will produce rich empirical data on which to build a comparative analysis. Contrasts can be both explored and countered through new understandings of Swiss participation in European imperialism, and even more importantly, through the convergence of all European post-colonial societies (particularly with respect to migrant populations and their control through social policy). Working in different contexts has the potential to uncover similar processes and representations and to find an overarching theoretical framework.

- As international institutions are also physically located, it will be possible to conduct fieldwork at a supranational level. Interviews and observation will be held at the International Commission on Civil Status and the European Court of Human Rights in Strasbourg – of which Switzerland and the UK are members. This should be particularly interesting as a means of understanding how international collaborations take shape, and how consensus is found regarding relevant issues (abuses, fake, legal definitions of fictive marriages...). It is not excluded that during the course of the research other international institutions - still to be defined – will prove to be of particular relevance, thus leading to a broadening of the fieldwork scope.

Two methodological elements must be emphasised. Firstly, data collection by participant observation and interviews enable confronting two kinds of human activities and triangulating results of each procedure. Secondly, data analysis will be carried out according to the following stages: data from the Swiss fieldwork will first be encoded, categorised and analysed; this will prepare the second stage, namely the preparation of the fieldwork in Scotland and its realisation. At a third stage, the Scottish data will be encoded, categorised and analysed. The fourth stage is the comparison of fieldwork corpora that will highlight divergence and convergence in marriage regulation in both countries, and also make possible preparing interviews and participant observation in international institutions (fifth stage). The comparative highlighting of divergence and convergence in marriage regulation in two different European contexts promises to provide solid empirical data on which to construct scientific knowledge and so as to improve our analysis of the construction of sameness, otherness, and their interspaces.

As interviews and observation involves gaining access to institutions and civil servants bound by confidentiality it is useful to make clear that I have already obtained the necessary authorisations to conduct fieldwork in all six Swiss French-speaking cantons (Vaud, Jura, Neuchâtel, Valais, Fribourg and Geneva)³. This project kickoff also includes:

- checking the project feasibility
- initiating a complete literature review (relevant scientific work; collect of newspaper articles, political reports, national and international legislation)
- presenting the project to institutional and political authorities
- presenting and discussing the project with leading academics in the field, which included a journey to Edinburgh and London to meet my future professional interlocutors
- preparing and conducting explanatory interviews in all six cantons
- gaining (and obtaining) authorisation to conduct fieldwork in Switzerland (effective participant observation will take place between February and August 2010)
- taking part in two workshops for professionals about “fictive” and “forced marriages”

2. Literature

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3. Time schedule and milestones of the project

The project duration extends over 36 months (01.09.2010 - 31.08.2013) and involves being hosted by two leading academic institutions, the Department of Anthropology at the University of Edinburgh, and the Department of Sociology (Cluster *Race, Racism & Ethnicity*) at the London School of Economics and Political Science, with the following milestones:

Stage 1 (September 2009-August 2010, Switzerland)

- September 2009-January 2010: project kickoff, literature review, preparation of fieldwork, *supported by research grant from the Equal Opportunity Office, University of Neuchâtel*
- February-August 2010: fieldwork in (French-speaking) Swiss civil registration offices and the Federal Office for Civil Registration (interviews, observation, collection of institutional, political and mass media narratives)

Stage 2 (September 2010-August 2012, Department of Anthropology, Edinburgh)

- September 2010-January 2011:
 - Systematising and analysing information of Swiss data (encoding, categorisation, triangulation)
 - Participation in AAA meeting, New Orleans (USA): Co-organisation of a panel on “anthropology of law and institutions”, with Professor Fresia and PhD can Bozzini (both at the Institute of Ethnology, University of Neuchâtel)
 - Article submission (peer review)
- February-March 2011:
 - Preparing fieldwork in Edinburgh (contacts; collection of institutional, political and mass media narratives)
- April-December 2011 :
 - Fieldwork in Edinburgh (interviews, observation)
 - Participation in research seminars and workshops (Department of Anthropology and the School of Law, University of Edinburgh)
 - Article submission (peer review)
- January-June 2012:
 - Systematising and analysing information of Scottish data (encoding, categorisation; triangulation)
 - Preparing fieldwork in Strasbourg (ICCS and European Court of Human Rights)
 - Participation in research seminars and workshops (Department of Anthropology and the School of Law, University of Edinburgh)
- July-August 2012:
 - Fieldwork in Strasbourg (interviews, observation, literature review)
 - Article submission (peer review)

Stage 3 (September 2012-August 2013, London School of Economics)

- September-December 2012
 - Data analysis (international institutions) & result comparison
 - Participation in LSE research seminars and workshops
- January-August 2013
 - Final analysis
 - Participation in LSE research seminars and workshops
 - Publication of results: book-length write-up

4. *Importance of workplaces*

The Department of Anthropology at the University of Edinburgh is a leading academic institution in the anthropology of institutions and law, and the anthropology of relatedness, all of central relevance to my research. Professor Carsten - world known specialist in relatedness, including British family institutions, and of the ways the private is politics - has agreed to support my project and also has written a letter of recommendation. Collaborating with Professor Carsten will be valuable regarding the consolidation of my theoretical framework, as well as on a methodological level as she agreed to facilitate the fieldwork stage located in Scotland. I will also collaborate with Dr Kelly, author of leading work on the issues of frauds and abuses regarding legislation. Abreast of my anthropological work since our respective PhD fieldworks in Chile, Dr Course has manifested special interest in this new project and suggested I join him and his colleagues in Edinburgh so as to intensify our collaboration. Dr Course also kindly accepted to recommend me for my application to SNSF. Finally I will also collaborate with Professor Griffiths, Professor of Anthropology of Law at the School of Law, University of Edinburgh, whose extended knowledge of Scottish society and legislation will be of great importance for this research.

I plan to spend the final year of the grant at the prestigious *Race, Racism & Ethnicity* cluster, Department of Sociology, LSE. As my project addresses several priority research areas of the cluster this represents a unique opportunity to collaborate with outstanding specialists in postcolonial studies. Dr Ali, who backed my application at LSE and now has written a recommendation letter, is the most eminent specialist of mixedness and gender, and has a great experience in conducting fieldwork in institutions (education). She and her colleagues, above all Head of Department, Professor Gilroy, are recognised as innovative social scientists on the issue of the intersection of ethnic, racial and gender constructions, and their ambivalent relationship to national narratives.

5. *Importance for personal training*

In addition to its relevance for anthropological research on institutional practices, and its contribution to acute social debates, this postdoctoral investigation will allow me to reinforce my academic profile in order to apply for opening positions (assistant professor or full professor), especially on following aspects:

- It will strengthen my expertise in the topics I have explored since my PhD investigation (ethnicity, gender and institutions, and the intersection of those areas)
- The exchange and collaboration with English-speaking scientists also will broaden my academic and anthropological knowledge, as well as improve my network, which will surely widen my professional horizon
- Living in an English-speaking country will undoubtedly provide mastering English scientific terminology and thus facilitate publications in peer reviewed journals of major relevance in my domain

6. *Publishing intentions*

To valorise the results I plan a book-length write-up of six chapters which I hope to release in 2014. Three chapters will first be submitted to English-speaking peer reviewed journals of international reputation, namely *Ethnos* (Sweden), the *Journal of the Royal Anthropological Institute* (UK) and the *American Ethnologist* (USA). To prepare them I plan to be part of at least one international symposium, the AAA [American Anthropologists Association] annual meeting that will be held at New Orleans in December 2010, where I am currently submitting a panel proposal with two colleagues.