*Routledge Research in Race and Ethnicity*

# REGULATING INTERRACIALIZED INTIMACIES

## PERSPECTIVES FROM EUROPE AND BEYOND

Edited by Elena Zambelli and Betty de Hart

‘Regulating interracialized intimacies. Perspectives from Europe and Beyond is a multi-faceted, rare and rich contribution addressing racialized intimacies in a variety of settings, including Europe. Finally, our gaze is turned toward the continent which has historically been so maddeningly oblivious to its foundational role in inventing race!’

**Gloria Wekker,** *Emeritus Professor, Gender Studies, Utrecht University*

‘This book engages in a critical examination of global understandings of “race” and racial identities and global regulation of interracial intimacies. It impressively cuts across the divisions between colonial, metropolitan, and postcolonial contexts, centering in on European contexts and showing the centrality of the regulation of interracial intimacies throughout’.

**Angela Onwuachi-Willig,** *Dean and Ryan Roth Gallo Professor of Law, Boston University*

‘Illuminating the relationships between nation, law and race via interracial relationships, “Regulating Empire and Nation” is a valuable interdisciplinary resource not just for scholars of ‘mixed race studies’, but also those who study race through comparative frameworks. Appropriately for the subject matter, it connects ideas and practices across time, space, Empires and legal systems’.

**Steve Garner,** *Associate Professor in Sociology, Swansea University*

‘This stellar collection of essays by prominent international scholars originally contributes to the study on regulations of love and mixed relationships. Covering an astonishing wide spectrum, both historical and geographical, the volume challenges the study of race, gender and intersectionality in colonial, postcolonial and contemporary contexts in Europe and beyond’.

**Sandra Ponzanesi,** *Professor of Media, Gender and Postcolonial Studies, Utrecht University*

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# Regulating Interracialized Intimacies

This book explores the role of the law in the social construction of 'race' and 'mixture' within and beyond the borders of Europe. It focuses on 'interracialized' intimacies, that is, the intimate relations of subjects ascribed and/or perceived to belong to different 'races'. The role of the state in defining boundaries between 'us' and 'them' becomes particularly clear in their regulation. Moving across different times, places and political formations – including the US slavery regime, European colonial empires and metropolises – the book delves deep into how the governments of white-supremacist and white-majority societies have consistently attempted to prevent, discourage or obstruct intimate relationships crossing the colour line. This occurred directly, through prohibitions and anti-miscegenation laws, or indirectly, through citizenship laws, marriage licenses, social care, prostitution laws, housing policies, policing practices and other means. The book further shows that the legacy of these highly gendered and racialized regulations continues to reverberate today, informing norms, hierarchies and perceptions about whose intimacies count as legitimate and ought to be facilitated and whose are deemed suspect and requiring state surveillance. The contributions also shed light on the individuals, couples and families who were targeted by state regulations and how they challenged and disturbed state categorizations and regulations.

Highly interdisciplinary in scope, with contributions by pioneering United States and European scholars in this field, this book will be a fundamental read for scholars, researchers and students interested in tracing the genealogy of racial thinking in Europe and beyond, and its enduring operativity.

**Elena Zambelli** is Assistant Professor of Sociology at Maynooth University. Her research interests pivot on the commodification and regulation of sex and intimacy within and across national and racialized borders. Her publications include the research monograph *Sexscapes of Pleasure: Women, Sexuality and the Whore Stigma in Italy*.

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# Regulating Interracialized Intimacies

## Perspectives from Europe and Beyond

**Edited by Elena Zambelli and Betty de Hart**

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The idea for this publication took shape at the time of the COVID-19 pandemic, throughout which we organized several rounds of writing workshops – first online and then in hybrid format. Compiling an edited book is always a long journey, particularly so in such circumstances, so we would like to thank each one of the authors for their persistence in writing their chapters in the midst of such difficult times. Elena Zambelli has been essential in making the publication of the book actually happen.

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# Introduction

## Beyond Marriage Prohibitions: New Directions in the Study of Regulating Relationships Across and Beyond the Colour Line

*Betty de Hart and Elena Zambelli*

In September 2024, five women challenged the Belgian state before the Court of Appeal in Brussels for their racial segregation and custody policies in Belgian Congo, where they were born to Black Congolese mothers and white Belgian fathers in the aftermath of World War II (WWII). As 'children of sin' – white men could not marry Black women, and their offspring 'was considered a child of prostitution,' recalled Léa, one of the plaintiffs (Ponselet 2021) – they were forcibly taken away from their mothers and placed into orphanages. Both Belgian state officials and church authorities were involved in these abductions of mixed-race children, for which the Belgian prime minister apologized in 2019, promising to explore means to repair the injustice done. Seeing no concrete measures following suit, the women eventually sued the Belgian state for crimes against humanity, demanding compensation of damages.

This court case speaks to many of the issues we address in this edited volume. It exemplifies how colonial regulations of interracialized families worked to break them apart, shedding a light on the painful intergenerational impact these measures had on their children's lives. It shows how these regulations were not restricted to Europe's colonies, but stretched to encompass the metropoles, surfacing their interconnection (Stoler and Cooper 1997). It foregrounds the enduring material legacies of colonial race-thinking, laws and regulations. It also demonstrates how the individuals directly affected by the discourse pathologizing and stigmatizing interracialized intimacies can and do fight back. As this book goes to press, the Brussels Court of Appeal has just delivered a court ruling in favour of the women (Teffera 2024), which could potentially have an impact on the lives of the many people worldwide affected by similar laws, regulations and practices.

This book explores the role of the law in the social construction of 'race' within and beyond the borders of present-day Europe. Law did and does more than reflect social ideas and norms about race – it produced and reproduced categories of race and racial mixing (Haney-López 1996; Pascoe 2009). The book explores the pivotal role of the law in the genealogy of race by focusing on the regulation of 'interracialized' intimacies. We borrow this term from Jin Haritaworn (2012) to describe the intimate relations of subjects that at particular times and places were classified or perceived to belong to different racial groups – the passive form of the

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term underlining these relations' inscription by power.[1] In using this term, as well as descriptors such as Black, white and mixed-race, we are cognizant that they can ambivalently work to ontologize or deconstruct race (Gunaratnam 2003). Along with many others, our purpose in retaining their use and putting them at the centre of our analysis is to contribute to foregrounding and indicting the material effects of the construction and reproduction of essentialized differences between humans.

Scholarship attesting to the entrenched and widespread problematization of intimate relationships crossing the boundaries of race is extensive. The well-documented case of US 'anti-miscegenation' laws – laws, the goal of which was to prevent the racial 'degeneration' purportedly 'caused' by racial mixing – affected not only marriage and relationships between white and Black people but also those between whites and Asians and other racialized groups (Pascoe 2009). In European countries, such 'mixed' marriages and relationships were also highly problematized (Stovall 1998; Ryan 1999; Xu 2011; de Hart 2019; Lorke 2019). The contributions in this volume expand the scope of the kind of intimacies problematized as interracial, including relationships between white French and North African partners (Franco), white Swiss and 'not-so-white' Italians (Ducommun),[2] and white Germans and foreign Muslim men (Woesthoff). As race is a social construction (Haney-López 1996), so is the 'interracialized couple' category. Through the lens of the latter, this volume explores what historical and present-day actors believe 'race' and racial 'mixing' were, and how such beliefs translate into social and legal practices.

Moving across different times, continents and political formations, the chapters in this book illustrate how Europe's colonial, settler colonial and metropolitan governments have consistently attempted to prevent, discourage and obstruct intimate relationships traversing and destabilizing the boundaries of whiteness. As we illustrate in more depth later in this Introduction, states pursued this objective directly, through legal prohibitions, and indirectly, through housing policies, policing practices and other forms of regulation. Today, the shadow of these regulations continues to reverberate, *inter alia*, through the invocation of 'authenticity' to regulate family migrations cutting across the borders of the European Union. By bringing together scholars from different disciplines working on colonial, metropolitan and postcolonial contexts, this book thus foregrounds the continuities and durabilities (Stoler 2016) of the anxieties about racial mixing. Throughout, it consistently adopts an intersectional approach (Combahee River Collective 1977; Davis 1982; Crenshaw 1989; Collins 1998) to highlight both the co-constitution of race (mainly) through its interplay with gender, sexuality, class, religion and legal status, and the ensuing hierarchies of power, privilege and disadvantage. With this approach, the book makes a historically informed theoretical and empirical contribution to the study of the genealogy of race in Europe and the role of law and regulation within this genealogy.

## A Race-Less and Colour-Blind Continent?

The concept of 'race' is the product of scientific and political thinking of the eighteenth century, further developed in the 'scientific' racism of nineteenth-century Europe and eugenics (Young 1995; Banton 1998). 'Scientific' racists such

as Frenchman Arthur de Gobineau believed that the mixing of races endangered their purity, leading to 'racial degeneration.' 'Interracial' sex, relationships and marriages were thus portrayed as inherently problematic, immoral and pathological, and gender ideologies crucially informed these views. For instance, French anthropologist Paul Broca believed that whereas sex between white men and Black women produced fertile children and could thus be condoned, interracial sex between white women and Black men produced infertile children and ought to be prevented (Ifekwunigwe 2004). Although already challenged in the interwar period by academics, such as German-American anthropologist Franz Boas and Afro-American sociologist W.E.B. DuBois, on the threshold of WWII, the belief that racial mixing is and ought to be 'naturally' undesirable was still widespread in Europe (Stocking 1987; Haraway 1989; Proctor 1991). Against this background, the assumption that Europe never had problems with race and racism is astonishingly persistent.

The discursive suppression of race in post-WWII Europe led to the paradoxical presence of 'racism without race' (Goldberg 2006; Lentin 2008; Wekker 2016). Indeed, many European countries' self-representation enduringly pivots on the avoidance of race and the assumption that, except in the Nazi period, and distinct from the United States and South Africa, racism in Europe was never systemic. Although the United Kingdom departs from this colour-blind approach, it shares with the other European countries featuring in this book a self-portrayal as non-racist, or even anti-racist (Lentin 2008). Albeit fallacious, this discourse contributes to the scant scholarly attention paid until quite recently to the workings of race and racism both on Europe's soil and at its present-day ever more restrictive borders.

The binary juxtapositions between the colonies and the metropole, the colonial and the postcolonial, have long contributed to concealing how ideas about race and the 'dangers' of interracialization have travelled across borders. An effect of this elision is another widespread assumption, which is that outside of the 'Nazi-fascist exception' – i.e. the legal prohibitions of marriages between Jews and Gentiles enforced in Nazi Germany and fascist Italy (Szobar 2002; Stuldreher 2007; Campt 2010; Caponetto 2015), European nation states never intended to prevent the occurrence of interracialized intimacies on metropolitan soil. This assumption largely explains the so far quite limited scholarly interest in exploring how state institutions and officials have continuously controlled and interfered with interracialized couples and families. Whenever observed, such state regulations were deemed to be incidental, short-term periods of moral panics. Consequently, whilst there is ample scholarship exploring the role of interracial marriage prohibitions (or anti-miscegenation laws) in the edification and reproduction of white supremacy in the United States (see, for example Pascoe 1996; 2009; Gross 2009; Thompson 2009; Onwuachi-Willig 2013; Roberts 2014; 2018) and in Europe's colonies (see, for example Stoler 1995; 2001; Young 1995; Hyam 1998; Sòrgoni 1998; Moses 2019), works that have looked at state regulation of interracialized relationships in the European metropole are few (Bland 2005; 2019; 2017; de Hart 2014; Caballero 2012; Caballero and Aspinall 2018).

The paucity of Europe-focused research in this domain does not imply a lack of societal interest in knowing couples and families considered culturally, ethnically but *not* racially 'mixed' – the elision of race reflecting Europe's colour-blind self-imagination. Rather, from the 1950s onwards, academic literature burgeoned. Strongly informed by the integration paradigm, this body of work views 'mixed' marriages as either the result or a vehicle for minoritized groups' positive integration into mainstream society, drawing attention to partners' motivations and ways of dealing with 'cultural' differences (Collet 2012). Whenever issues of 'race,' racism and discrimination are raised (Hondius 1999; Rodríguez-García et al. 2015; Breger and Hill 2021), the analysis and critiques offered mainly address the micro-level of family and friends' reactions to the formation of a 'mixed' family, overlooking racism's structural dimension (but see Tizard and Phoenix 2002 and Twine 2010 on the United Kingdom). More recent scholarship on mixed couples in Europe has increasingly challenged the integration paradigm (see, for example Song 2009; Sterckx 2014; Alba and Foner 2015; Rodríguez-García 2015; Cerchiaro 2023; Fresnoza-Flot 2024); nevertheless, use of a multi-scalar approach remains limited.

Building on the work of feminist postcolonial scholars who have foregrounded the mutual entanglements of race, gender and sexuality in the regulation of sex and reproduction in colonial (McClintock 1995; Stoler 1995; McClintock et al. 1997) and national (Yuval-Davis 1997) contexts, the chapters in this book show the centrality of the intimate sphere in Europe's ambitions to govern and reproduce empire and nation along racial lines. To this end, it invites to shift the academic gaze in manifold directions. First, whilst the book explores aspects of the regulation of interracialized intimacies under the US slavery system (Gross), its focus largely lay beyond the geographies of North America, foregrounding analogies in Europe's interest in preventing their formation. To this end, European states used a range of regulations both in their colonial dominions – such as in French West Africa (H. Jones; Colpa), the Italian colonies in East Africa (De Napoli) and Libya (Tarchi), and the Dutch colonies of Suriname, Curaçao and Indonesia (G. Jones), and on metropolitan soil – including in the United Kingdom (Bland, Mustafa, Turner), West (Woesthoff) and East (Lorke) Germany, France (Franco) and Switzerland (Ducommun). Taken together, these works challenge the commonly held assumption that the regulation of interracialized intimacies hardly occurred in Europe, especially after the end of WWII. Second, this book redirects the gaze from couples' and families' social worlds towards the structures shaping these, particularly the state. In so doing, it demonstrates that, rather than drivers or indicators of integration, interracialized intimacies were structurally considered as threats to racial hierarchies, public order, social cohesion, public health and morality. Third, acknowledging that the racial divides of the colonial past are part of the genealogy of current European modes of exclusion, implying continuity rather than fracture (Cooper and Stoler 1997; Stoler 2001; Balibar 2004; Walsum, Jones, and Legêne 2013), the book surfaces the 'duress' (Stoler 2016) of these forms of regulation from within and from without the boundaries of present-day Europe (Thompson, Turner, Zambelli, Sportel).

## Regulation Through and Beyond Prohibition

Whilst literature on the regulation of interracialized intimacies in the United States is extensive, its predominant focus has long been states' direct and explicit marriage prohibitions, i.e. anti-miscegenation laws. These measures had profound effects on many aspects of family life, including divorce, inheritance, child custody, adoption (Kennedy 2003; Moran 2003; Pascoe 2009; Onwuachi-Willig 2013); adultery and rape laws (Hodes 1999) as well as citizenship and political rights (Haney-López 1996; Volpp 2005). Nevertheless, they were not the only means through which colonial and settler colonial governments disciplined sex, relationships and reproduction across the colour line. Indeed, scholarship on the Canadian context demonstrated that other forms of regulation existed to the same effect, such as the 1912 *White Women Labor Act*, which prohibited Chinese employers from hiring white women (Ferguson 2002; Backhouse 2010).

Following the work of Debra Thompson (Thompson 2009) and others, in this book we therefore take an expansive view of the role of the state and the law in regulating interracialized intimacies. In her Afterword to this volume, Debra Thompson highlights the role of the state in creating and maintaining racial boundaries through the regulation of interracialized intimacies and the interplay of transnational and domestic imperatives of racial governance. She underlines the importance of widening our understanding of racial politics past and present through the lens of new, unexplored comparisons. This volume responds to Thompson's suggestions and invitation, and it does so by working with Betty de Hart's typology of regulations of interracialized intimacies (de Hart 2014). Within this typology, legal marriage prohibitions stand on a continuum of regulation with a wider range of official and unofficial norms and practices deployed to prevent and restrict such intimacies, which we shall now illustrate.

### *Marriage Legal Prohibitions*

Marriage legal prohibitions were a key and overt form of regulation of interracialized intimacies. In parts of the United States, these laws remained in effect for centuries, until the Supreme Court famously held their unconstitutionality in its 1967 decision *Loving v. Virginia* (Roberts 2014). In South Africa, they were a pivot of the apartheid regime, lasting until 1985 – five years before its end (Hyslop 1995; Klausen 2021). Albeit predominantly constitutive of slavery, settler colonial and colonial regimes, such prohibitions were also adopted not only in the European metropole under Nazi Germany and fascist Italy's racial laws but also in late eighteenth and early nineteenth-century France, and during the French occupation of the Netherlands at the beginning of the nineteenth century (Heuer 2009; Hondius 2014).

Several chapters in this book discuss such marriage prohibitions. Focusing on court cases involving Black enslaved women, Ariela Gross carefully shows how in the sexual economy of the slavery regime, their rape was not criminalized. She demonstrates how legal prohibitions of interracialized intimacies both enabled

and normalized coercive relations between white men and enslaved Black women and kept white women and Black men apart, herewith protecting the intergenerational transmission of white property into white hands. Similarly gendered and racialized dynamics were also either enabled or enforced during Italian and Dutch colonialism. In his contribution on Italian colonies in the Horn of Africa, Olindo De Napoli discusses how, for long, non-marital unions between Italian men and Black Ethiopian and Eritrean women were unofficially tolerated. Upon the establishment of the Italian Empire, however, the fascist regime readily outlawed these relationships for reasons of 'racial prestige.' Whilst non-marital interracialized relationships were also a normalized practice in the Dutch colonies, Guno Jones demonstrates in his chapter that this did not imply their acceptance. In contexts where marriage gave access to respectability, rights and economic wealth, he shows how interracialized marriage prohibitions effectively confined racialized women to the position of concubines – objects of white European men's sexual desire and mothers without rights. Christoph Lorke's chapter on the German Democratic Republic (1949–1990) discusses the effects of a norm requesting couples consisting of an Eastern German citizen and a foreign partner to obtain a marriage permission, which was stipulated in the 1965 Family Code. A complex web of state interests weaved together in this regulation and its implementation, including diplomatic relations, national security, the protection of the socialist order and morality.

***Spatial-Legal Segregation***

Forms of spatial-legal segregation encompass policies and practices enforcing and reproducing the spatial separation of differently racialized groups in order to prevent their encounters and their potentially intimate involvement. In the United States, racial segregation in schools was often justified through recourse to the purported 'danger' of interracial sex and marriage (Pascoe 2009); in other contexts, similar purposes underpinned the intense policing of particular spaces (Valverde 2008; 2011). For instance, in the interbellum period, jazz clubs in many countries were highly surveilled precisely because they provided opportunities for the socialization between jazz musicians, most of whom were Black men, and white women and girls (Wouters 1999; Ngô 2014; Hardesty 2016; O'Connell 2016).

Two contributions in this volume demonstrate how the organization of urban space was integral to the management and control of interracialized intimacies. Focusing on Libya under Italian colonialism, Andrea Tarchi's chapter foregrounds how the arrival of increasing numbers of white Italian women at a time when the colonists were transforming Benghazi into a settler-colonial city prompted Italian authorities to plan and enforce stricter urban racial segregation. Tarchi shows how these measures affected both the lives of interracialized couples and the city's spatial organization. Set in post-WWII metropolitan France, Rébecca Franco's contribution describes how North African male migrants' portrayal as a danger to white women motivated and justified the deployment of housing policies to enforce the men's spatial segregation in remote *foyers* (collective homes). At the same time,

particular, i.e. commodified forms of interracialized intimacies were simultaneously tolerated and contained within specific zones of the city, contributing to shoring up a peculiarly racialized and gendered social order.

***Regulation of Consequences***

When the state did not explicitly operate to prevent the formation of interracialized couples, it often legislated over the consequences of their union – the harshness of the measures adopted conveying an underlying deterrent intention (Cott 1998). These regulations determined where the couple and their offspring belonged: to which nation, to which culture, to which racial group. Hence, the women whose court case opened this chapter were not alone in their fate. In colonies across the globe, mixed-race children were taken away from their families and put into foster homes (Sangster 2001; Demerson 2010) or orphanages (Mak, Monteiro, and Wesseling 2020). Analogously, in many countries, when young women and girls engaged in an interracialized relationship, child protection authorities intervened to 'protect' their morality through outplacement, incarceration and separation from their children (Fehrenbach 2005; Sangster 2001; Demerson 2010; Lee 2011; de Hart 2019; Bland 2020). For instance, under Ontario's 1919 Female Refuges Act, which remained in place until 1964, white women aged 16–35 in a relationship with Black, Native or Asian men could and were placed into re-educational homes (Kouritzin 2016).

The regulation of the consequences of interracialized couples' marriage and reproduction is at the core of numerous chapters in this volume. Both set in French West Africa, the chapters by Luz Cristina Colpa and Hilary Jones explore regulations of interracialized intimacies beyond the Black-white binary. In her contribution, Colpa demonstrates the linkage between marriage, religion, the construction of race and personal status. At its centre is a couple consisting of two colonial subjects wishing to register their marriage according to 'Catholic custom.' French colonial authorities saw in their use of a 'European' rite a danger for the overall tenability of the racialized distinction between subject and citizen, resulting in their marriage invalidation. Hilary Jones' chapter sheds light on the incoherence of French law regulating citizenship in its colonial dominions. She shows that whilst colonial administrators were eminently concerned with the 'problem' of the *métis* children of Black African women and white Frenchmen, the children born of interracialized relationships between Caribbean Frenchmen and Senegalese or *métis* women were ambivalently positioned as part of the French citizenry and as colonial subjects.

The contributions by Julia Woesthoff, Lucy Bland and Mira Ducommun are all set in the European metropole, and in the Federal Republic of Germany (1949–1990), the United Kingdom and Switzerland, respectively. Woesthoff directs our attention to the state's concerns about marriages between white German women and Muslim foreign men following the implementation of the new German constitution's 1953 equality statute. She shows that whilst German women could at times retain or reacquire German citizenship, their foreign husbands and their offspring were denied German citizenship, and with it, their belonging to the nation. In her chapter, Bland demonstrates how the eugenics-informed labelling of mixed-race

children as 'disharmonious' and 'mentally defective' contributed to the regulation of interracialized intimacies in the 1920–1950s United Kingdom. Their 'scientific' portrayal as the undesired consequences of these unions resulted in the children's exclusion from education and was further weaponized to argue for the introduction of restrictive migration measures and deportation. Ducommun's contribution addresses how in 1960s–1970s Switzerland, state authorities looked with concern at white Swiss girls and women's intimate relationships with Italian men – whose racialization arose at the intersection between their 'guest worker' status and their Southern European origin.[3] Through a close reading of the decision-making process that led to an underage girl's placement in an educational home, Ducommun demonstrates how, similar to the mixed-race children that Bland writes about, the welfare authorities portrayed the girl as of 'lesser' intelligence.

***Migration Law***

Migration law is the modern-day type of regulation of interracialized relationships, that functions to keep couples and families apart, prevent their formation and their entry into the nation. There is extensive literature that traces concerns for such relationships in global North countries' migration laws (Bonjour and de Hart 2013; Scheel and Gutekunst 2019; Andrikopoulos 2021; Griffiths 2021; Moret, Andrikopoulos, and Dahinden 2021), although this has not often been analysed as a form of regulation of interracialized relationships (but see Lavanchy 2014). Both domestic and European migration laws are still informed by notions of mixed couples as 'unlikely,' suspicious, and dangerous for the nation (De Hart 2024). For instance, the discourse on so-called 'anchor babies' – i.e. the assumption that non-EU parents instrumentalize their children to claim residence rights (Bledsoe 2004) – is in continuity with colonial authorities' discourse on colonial subjects' use of their mixed-race children to obtain white European privileges (Stoler 2001).

Two contributions in this book, both focused on the United Kingdom, illustrate the regulation of interracialized intimacies through migration law. It is well-established that the 1919 race riots paved the way for the introduction of stricter migration laws and deportation policies (Bland 2005; Ray 2009). In her chapter, Nawal Mustafa demonstrates that the 1958 riots had similar effects. In those years, the visibility of interracialized relationships, especially those between Black men and white British women, had been identified as a source of societal tensions. Among the measures that the government deployed to restore the social order was the restriction of Black British citizens' mobility and residence rights, with the goal to eventually decrease their presence in the country. In his contribution, Joe Turner posits that this form of regulation continues today. He argues that appeals to 'family' and the regulation of interracialized intimacy are part of wider material forces of border control constituting a form of 'colonial dispossession.' As other chapters in this book also demonstrate, he shows how the portrayal of racialized migrant men as dangerously hyper masculinized subjects offers the state a justification to enforce ever stricter racialized border regimes.

***The Shadow of Law***

Even if in present-day Europe, there are no direct forms of regulation of interracialized intimacies (except migration law, as outlined above), and even if couples and families do not make recourse to the state's official powers and legal institutions (Minow 1985), what they do, experience and feel is often still premised on and conducted in the shadow of law (Mnookin and Kornhauser 1979; Ewick and Silbey 1998). Law remains omnipresent in the discourses on interracialized intimacies that travel across the globe (Kulk and De Hart 2013). For example, today, images of Black-white interracialized relationships and their multiracialized offspring circulate as commodified and domesticated symbols of multi-culturalism (Ifekwunigwe 2004; Haritaworn 2012), offering the image of a postracial future in which 'we' are all mixed (Cashmore 2008). At the same time, this representation coexists with discourses framing interracialized relationships as a threat to the nation (King-O'Riain 2018). As shown in Joe Turner's contribution in this volume, and by scholarship discussing the effects of the case of sexual harassment taking place during 2015–2016 New Year's Eve in Cologne, Germany, on migration, asylum and rape laws (de Hart 2017; Wigger, Yendell, and Herbert 2022), this discourse is heavily racialized and gendered, with white European women systematically portrayed as victims of racialized male sexual predators.

Two contributions in this volume address aspects of interracialized couples' everyday lives conducted in the shadow of law. Both Elena Zambelli and Iris Sportel explain how couples involving a white European and a racialized migrant partner from Europe's former colonies are widely portrayed as resulting from the latter's aspiration to obtain EU mobility rights and citizenship. Zambelli describes how racist and sexist stereotypes pivoting on the sexuality of partners in interracialized straight and gay couples ubiquitously surface in their everyday lives in the form of assumptions about the 'real nature' of their union, to which they anticipatorily react by adopting a defence mode. She then traces the continuities of what she conceptualizes as the 'improper couple' imaginary in the patriarchal and colonial representations of the sexuality of women (across race) and Black men. In her chapter, Sportel shows how discourses of what she calls *false love*, *love fraud*, or *bezness* inform not only migration policies, enforcement practices and public perceptions, but also partners' self-image. She illustrates how white Dutch women deploy these tropes to explain the failure of their interracialized relationships with Arab men, claiming a position of victimhood that gives meaning to their experiences of loss and disappointment. At the same time, the circulation of their stories on social media functions as a deterrent, warning white European women to stay away from such relationships (see also Odasso 2021).

## Researching Within and Beyond the Archive

Most of the chapters in this volume are based on archival sources. Since the book focuses on states' regulation of interracialized intimacies, state archives have been the main loci of inquiry. The challenges and limitations of archival research

are well known (Trouillot 1995; Stoler 2009), but they were particularly striking in this domain given European states' persistent and ubiquitous preoccupations with the occurrence of interracialized relationships (Franco and Mustafa 2019; de Hart 2019). The search terms 'race,' 'mixed marriages' or 'mixed-race couples' – let alone 'interracialized' – yield hardly any useful hits, either because they were not used to categorize these archival materials (Backhouse 2010) or because these subjects were intentionally or unintentionally concealed behind the use of neutral sounding legal terminology (de Hart 2019). Especially (but not only) authors whose contributions focus on purportedly colour-blind post-WWII European societies encountered analogous challenges.

State archives tell only part of the story – their own, official one and silence the voices of interracialized couples and families. Tracing and elucidating the latter require overcoming disciplinary boundaries as well as narrow definitions of validity. Hence, some of the contributors to this volume (Gross, De Napoli, Franco) have turned to novels, autobiographies and diaries to supplement the archival materials at their disposal. As the voices of Black women are particularly silenced (Hartman 2019), Ariela Gross's chapter aptly illuminates the possibilities of such approaches. Other contributors (Lorke, Tarchi) drew from the letters that partners and couples wrote to state authorities to ply for their case.

As it can command a wider range of methods to access to the narratives of the directly involved people, research focused on the recent past or the present is less bound to the challenges and limitations of archival records. Through interviews with people who are or were until recently in interracialized relationships, some contributors (Zambelli, Sportel) are thus able to offer a glimpse into how they narrate themselves and make sense of their experiences in contexts shaped by anti-immigration discourses with markedly racist overtones.

## Concluding Remarks

This volume contributes to consolidating scholarly knowledge on the role of the regulation of interracialized intimacies in making and re-making projects of white supremacy and white hegemony. Its main contribution is demonstrating that these measures were neither exceptional nor incidental but systemic, and that they did not solely take place in colonial and settler colonial contexts, but also in twentieth-century Europe. We hope that what we found will encourage further studies in this direction – exploring different historical periods and national contexts, identifying new forms of regulations, tracing further linkages between colonies and metropoles, exploring their afterlives, and more.

Whilst some of the chapters address non-heteronormative forms of interracialized intimacies (Franco, Zambelli), to date, scholarship in this field has been largely concerned with the experiences of heterosexual couples, nuclear families, and consanguine kinship (but see Steinbugler 2012). More research is needed on a wider range of interracialized intimacies – including family formations constituted through, e.g. adoption, stepparenting, and medically assisted reproduction (Twine 2015; Harrison 2016), which may lead to the identification of new forms of regulation.

As the court case discussed at the beginning of this chapter shows, law today still needs to respond to the consequences of states' former regulations of interracialized intimacies. Yet, the inquiries ahead of us do not stop at identifying the injustice and harm of the past, or their contemporary reverberations. Present-day forms of regulation of interracialized intimacies affect child services and family judges' custody decisions (Caballero et al. 2012), dating apps use algorithms to link people based on race (Maldonado 2024), whilst AI struggles with generating images of interracialized couples (Thorbecke 2024).

As Thompson describes in her Afterword to this volume, the wide array of instruments that the state employed to govern interracialized relationships highlights the uneven targets and application of these regimes. It is as important to not lose sight of the voices of the people who crossed racial boundaries and were entangled in complicated webs of power in their search for love, friendship, intimacy, 'and all things in between.'

## Notes

1 Some authors suggested using the term 'mixedness' to signify a process rather than a fixed identity (Edwards et al. 2012; Collet 2015); yet, we consider that the passive form of the term 'interracialized' conveys this best – hence its adoption as our term of choice.
2 On constructions and contestations around Italians' whiteness, see, for example Giuliani and Lombardi-Diop (2013).
3 On Italian migrants' racialization in northern Europe, see, e.g. Hondius (1999) on the Netherlands and Stokes (2022) on Germany.

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# Part I

# Prohibition

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# 1 Of Coercion, Consent, and Concubines

## The Regulation and Litigation of Interracial Sex and Marriage under Slavery in the U.S. South

*Ariela Gross*

### Introduction

Could an enslaved woman consent to sex with her enslaver, or any man? What meaning could consent have under conditions of legal bondage and domination? The threat of sexual coercion and violence loomed over the lives of enslaved girls and women, and the specter of rape hovered over the law of slavery in the U.S. South. White jurists and most judges insisted that sexual violence by white men against Black women was unheard of. The law of rape reflected this white supremacist ideology. Yet Black women raised claims about their right to resist sexual violence, and they also insisted in court on their right to inherit from white men with whom they had been sexually intimate, at times forcing judges to acknowledge the problematic question of consent – especially whether an enslaved woman or girl could ever consent to a sexual relationship.

This chapter will look at cases involving sex between white men and enslaved Black women in the antebellum U.S. South, in which the question of coercion or consent was at issue, even indirectly. I will argue that despite jurists' efforts to characterize Black women as always already consenting, evidence of white men's coercion and Black women's claims on the law are all over the records of trials in Southern courts. Especially if we read those records alongside other sources of Black women's experience, such as the autobiography of a formerly enslaved woman, we can see what a challenge the question of consent posed for the U.S. legal system. As others in this volume have shown, colonial and enslaving regimes used the legal regulation of intimacy to impose dominant racial ideologies. They did so not only by prohibiting some forms of interracialized sex, but also by allowing others to occur without sanction. Yet legal arenas were also spaces of contestation, where even enslaved women used the tools available to them to challenge white supremacist control over their bodies.

These cases challenge us to think critically about consent in the context of rape law. In the contemporary United States, some jurisdictions and some theorists have begun to articulate a definition of rape as non-consensual sex. This is the result of decades of white feminist anti-rape activism that sought to move rape law away from the 'against her will' formulation defining rape by force and requiring resistance,

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toward an affirmative consent-based definition (see, e.g., Remick 1993).[1] At the same time, critics caution that a consent standard is both over- and under-inclusive. Scott Anderson (2016; see also West 2016) has compellingly argued that we should define rape by coercion rather than by lack of consent. Slavery, of course, was an extreme system of domination that makes it easy to recognize the limits of consent for subordinated people. Yet even enslavers often sought consent. And some enslavers engaged in long-term intimate relationships with enslaved women that historians have struggled to characterize along a spectrum from violent rape to informal marriage – which could itself include elements of coercion. Finally, women across time and space have at times engaged in sex they did not desire but chose as a means to access meaningful material improvement in their own or their children's circumstances. To understand sexual violence and the law regulating sex across the color line in the U.S. South, it is useful to shift our perspective away from that of the statute book and toward the enslaved women making choices in a world of violence and constraint.

Centering Black women in a discussion of rape and consent is especially important given the history of white feminist anti-rape practice and theory 'obscur[ing] the multidimensionality of Black women's lives' (Crenshaw 1989, 157). Although law did directly and indirectly regulate both white and Black women's sexuality, it did so in very different ways, seeking to enforce white women's chastity and Black women's accessibility to white men. As Kimberlé Crenshaw shows,

> The singular focus on rape as a manifestation of male power over female sexuality tends to eclipse the use of rape as a weapon of racial terror. When Black women were raped by white males, they were being raped not as women generally, but as Black women specifically: Their femaleness made them sexually vulnerable to racist domination, while their Blackness effectively denied them any protection.
>
> (1989, 158–159)

Thus, much of early feminist theory critiquing rape and liberal approaches to consent tended to equate [white] 'women' with [male] 'slaves,' as people whose consent is inferred from their enforced submission. For example, Carole Pateman's famous article on 'Women and Consent' (1980, 156) quotes John Stuart Mill to the effect that 'no slave is a slave to the same lengths, and in so full a sense of the word as a wife is.' This woman-slave analogy gives rise to precisely the erasure of Black women that made Crenshaw's intersectionality theory so urgently needed.

Black women's voices in the archive speak of the impossibility of free choice and the enormous constraints experienced by women attempting to assert their own sexual autonomy while also protecting children and family members. In the legal arena, they faced numerous disabilities that differed from those of white women. Criminal law did not recognize the rape of a Black woman as a crime; Black women were not understood to have a right of self-defense to rape. And in the civil law, when they sought to enforce bequests of freedom and property from enslavers, they confronted the legal category of 'concubinage,' defined as an illicit, long-term sexual relationship outside of marriage. A concubine was always a woman, the

sexual partner of a married or unmarried man. Although there were white concubines, most of the litigation involving concubinage in the antebellum U.S. South concerned free or enslaved women of color. This is because white family members so frequently sued to overturn wills in which white men left property or gave freedom to Black women. Concubines were legally limited in the amount of property – including their own bodies – they could inherit, ostensibly because of the immoral nature of the relationship. The language of concubinage was used to mask the knowledge of coercion in a cloak of consent – yet not always entirely successfully. In these cases, we sometimes see judges grapple with the question of whether enslaved women could really be characterized as concubines who had chosen their fate. At times, white men – lawyers, judges, and witnesses – even acknowledged the reality of sexual violence.

The first part of this chapter will discuss the statutory background regulating interracial sex and marriage, beginning in the colonial era and up to the Civil War. The second part will focus on the stories of three enslaved Black women, and the way their own efforts to assert sexual autonomy complicate our understandings of consent and coercion, drawing on recent work by theorists of sexuality. The third part will discuss the case law of concubinage regarding manumission of, and inheritance by, enslaved women alleged to be the concubines of their enslavers. This chapter touches on many topics – the regulation of interracial marriage, inheritance, and family; the social history of sex across the color line; and the law of rape – that have given rise to a substantial historiography, and this chapter will not attempt to recapitulate the extensive literature in this area. Rather, it seeks to draw some connections between legal efforts to 'regulate mixture' and the challenges women of color posed to legal regimes of slavery and race when they called attention to sexual coercion by white men.

## Regulating Interracialized Marriage and Sex in the United States

Regulation of interracialized sex and marriage in the British North American colonies began within a few decades of the settlement of the first colony, Virginia, and from the start, focused more attention on deterring relationships between white women and Black men than those between white men and Black women. In colonial Virginia, the first such law was passed in 1662, setting fines for fornication (extramarital sex) across the color line at double the amount for in-group nonmarital sex. In 1691, the legislature decreed that any white person who married a person of color had to leave Virginia within three months; in 1705, the punishment was changed to imprisonment and a fine (De La Fuente and Gross 2020, 70–71). Likewise, Louisiana's 1724 Code Noir barred white-Black marriage or concubinage, providing that children of a union between enslaver and enslaved woman would be confiscated and could never become free (whereas the woman and child would be emancipated if she bore a child with a free man of color, and they subsequently married). Although the 1685 Code in force in the Caribbean had also made it possible for a free white man to legitimate a relationship with an enslaved woman, and to emancipate her and their child together, by marrying her in the church,

the Louisiana revision drew sharper lines between both free and enslaved and between white and Black. Evidence from sacramental registers, however, suggests that about one-third of enslaved children for whom a term of color was noted were of mixed ancestry in the eighteenth century, and a significant number of long-term 'quasi-marriages' between white men 'of modest means' and free women of color also took place (Clark 2013, 71–96; De La Fuente and Gross 2020, 65–69).

After the Revolution, the hardening of racial lines across the U.S. South was achieved in part through harsher punishments for interracialized marriage, and differential treatment of sexual violence depending on the race of the victim and the perpetrator (see Rothman 2003; Block 2006; Spear 2009). In practical terms, there were no limits to white men's access to Black women, and restrictions on white men's freedom to do what they wanted in such relationships only emerged in court when they sought to bestow property upon Black women and children. By contrast, enslaved and free men of color risked rape convictions if they crossed racial lines for sex or intimacy (Sommerville 2004).

The most basic rule regarding inheritance in interracialized relationships was the rule regarding inheritance of status: *partus sequitur ventrem*. Enslaved Black women who married white men remained enslaved, and their children would be born with slave status. Reproduction was a form of labor, and enslaved children were a form of capital. Although nearly every slave society from ancient to modern times passed on slave status from mother to child, there were significant differences with regard to the legal treatment of marriage. One need only contrast the U.S. system with one in which enslaved wives or husbands gained freedom through marriage, as provided for in the Spanish medieval code, *Las Siete Partidas*. The incentives for enslavers to coerce the women they held as property were much stronger in the United States. As Adrienne Davis (2019) has shown, the U.S. system of slavery should be understood as a 'sexual economy,' one in which reproduction and sexuality were as much the currency as agricultural labor.

## The Voices and 'Choices' of Black Women

In this sexual economy, Black women were well aware of their limited choices in the face of sexual coercion. Yet because the testimony of enslaved people could not be admitted against a white person in the courtroom, we have little direct evidence of what enslaved women thought or felt about sexual violence. This section considers the perspectives of three Black women about whom we know somewhat more. Harriet Jacobs, who was born enslaved in North Carolina in 1813 and became an enslaved laborer in James and Maria Norcom's household in 1825, published *Incidents in the Life of a Slave Girl* after her escape from enslavement. Celia, a teenage girl enslaved in Missouri, who killed the enslaver who had been 'forcing' her since she was a child, left a record of her actions as well as some of her words as told to others. And historians have pieced together a great deal of the story of Sally Hemings, who bore several children with President Thomas Jefferson. Each of these women made choices within a world of domination and constraint.

In *Incidents in the Life of a Slave Girl*, Harriet Jacobs (2003), using the pseudonym Linda Brent, tells the story of her efforts to evade sexual victimization at the hands of James Norcom, a physician, whom she calls 'Dr. Flint.' James began to 'whisper foul words' (44) in Harriet's ears when she was a young teenager. Harriet had no one to whom she could turn, except for her free Black grandmother, who lived in the town. Although her grandmother had been enslaved by the Norcom family before purchasing her freedom, according to Harriet, Norcom 'dreaded her scorching rebukes' and furthermore, 'he did not wish to have his villainy made public.' For a time, this wish to 'keep up some outward show of decency' protected Harriet (47).

Harriet's free grandmother, however, could not protect Harriet for long. Harriet turned then to Maria Norcom, whom she hoped would intervene with her husband. Through the laws of coverture, Maria Norcom was subject to her husband's prerogatives, without legal recourse against him if she disapproved of his behavior. Nevertheless, her actions suggest that she blamed Harriet as much as her husband. As Harriet described it, when Maria learned of her husband's overtures toward the young, enslaved girl, Maria 'pitied herself as a martyr; but she was incapable of feeling for the condition of shame and misery in which her unfortunate, helpless slave was placed.' She took Harriet into her own room to sleep, which kept Harriet safe from James for a time. However, Harriet often woke to find Maria bending over her and came to fear for her safety around this 'jealous mistress' (53–54).

Given the dangers of relying on Maria's self-interested vigilance for her protection, Harriet found alternate means to resist her enslaver's sexual coercion: she began a sexual relationship with another white man, with whom she eventually had a child. In a chapter entitled 'A Perilous Passage in the Slave Girl's Life,' she wrote of her feelings for this 'white unmarried gentleman' in the language of consent and freedom contrasted with compulsion.

> I knew the impassable gulf between us; but to be an object of interest to a man who is not married, and who is not her master, is agreeable to the pride and feelings of a slave, if her miserable situation has left her any pride or sentiment. *It seems less degrading to give one's self, than to submit to compulsion. There is something akin to freedom in having a lover who has no control over you*, except that which he gains by kindness and attachment [emphases added].

In the register of the sentimental women's writing of the time, she begs for the reader's pity and describes the shame she felt before her grandmother in confessing to sex outside marriage (84–86).

Harriet casts her sexual relationship with 'white unmarried gentleman' as freely chosen, while at the same time pointing out the coercion inherent in all choices by enslaved women. She also never directly accused her enslaver of attempted rape,

although she made clear his efforts to pressure her to agree to sexual intimacy. As Emily Owens (2022, 25) has written,

> Centering the contexts in which slaveholders required Black women to give, perform, or go through the motions of consent-bearing activities (that is, transactions) made clear that it was not *rape* that gave definitional shape to men's violence, but *consent.* Consent was one of the primary tools that slaveholders used to normalize violence against women.

Enslaved women such as Harriet Jacobs were the most vulnerable of southern women. Although white servant women were also subject to violence and sexual assault by 'masters,' the experience of Black and white laborers diverged when they made their experiences known publicly and sought redress; Black women lacked even the limited legal defenses that were open to poor white women (Block 2006). And had Harriet fought back physically against her enslaver's advances, she risked criminal prosecution and even death. Yet it was notable that Norcom's violence did not involve force, but rather threats and other forms of coercion, precisely because he sought a fantasy of consent that was not legally required (Owens 2022).

Prosecution and execution were precisely the fate that met the nineteen-year-old Celia Newsome, who decided that she had had enough one day, after more than four years of being raped by her enslaver. When he came to her cabin and approached her, she warned him away, and when he continued to come near, according to her recorded 'confession,' she struck him over the head with a stick, causing his death. An 1845 Missouri statute made it a crime 'to take any woman unlawfully against her will and by force, menace or duress, compel her to be defiled,' meaning that women could claim self-defense in resisting such sexual assaults.[2] Celia's court-appointed lawyer argued that because of this law, Celia should not be held criminally liable for Newsome's death. The court, however, decreed that a Black woman was not 'any woman' within the meaning of the statute. The law did not recognize Celia as a woman whose purity could be 'defiled.' She was thus convicted of murder, sentenced to death, lost her appeal to the Missouri Supreme Court, and despite an escape from jail that may have been facilitated by sympathetic white neighbors, was hanged.[3]

One remarkable aspect of Celia's case was the acknowledgment, by two of the white male witnesses, that Celia had been raped by her enslaver Robert Newsome. The two witnesses referred to the sexual assaults in various ways – both the fact of the rapes, and of the community knowledge that they had taken place. For example, Jefferson Jones testified that he told Celia to 'tell me the whole truth,' and that 'she said the old man (Newsom) had been having sexual intercourse with her.' When cross-examined, Jones reported that

> she said the old man had sexual intercourse with her. Her second child was his. The deceased bought her in Audrain County. Can't say positively whether Celia said the deceased forced her on the way home from Audrain County. It was heard that he did, but do not know with certainty whether she told me so.

In other words, Jones not only heard from Celia herself that Newsom had and 'had been having' sex with her, but Jones also knew, either from Celia herself or having 'heard' from others, that Newsom 'forced her on the way home from Audrain County' right after purchasing her at the age of fifteen. William Powell also mentioned on cross-examination that Celia had 'said that she had threatened that she would hurt him if he did not quit forcing her while she was sick' – again, as though the fact that Newsom was 'forcing' Celia to have sex was common knowledge.[4]

These white male neighbors mentioned rape with neither approbation, disapproval, nor disgust, but as a matter of fact, although Newsome was an 'old man' and Celia but a girl. It was relevant to explain her state of mind but not to excuse nor to mitigate her culpability for homicide. Newsome's neighbors and daughters, like Maria Norcom, had heard the appeals of an enslaved girl for protection, but turned a deaf ear.

*State of Missouri vs. Celia* and *Autobiography of a Slave Girl* are unusual for their frank discussions of sexual assault of an enslaved girl by her enslaver. Harriet Jacobs, writing for an audience of Northern middle-class women, expressed shame about her vulnerable situation, and about the fact that she eventually entered a sexual relationship with another white man to whom she felt drawn precisely because she was not his property under the law. Celia's attitude toward Newsome we can glean primarily from her final act of rage or revenge, but we can discern the perspective of the white slaveholders who made up the class of jurors, lawyers, and participants in the trial in their cold recounting of the fact of her victimization over a period of years. 'The law,' as expressed not only by the judge's opinion but also by the proceedings in her case, recognized her rape incidentally, but gave it no legal force.

Thomas Reade Cobb, the young reporter for the Georgia Supreme Court, in his *Inquiry into the Law of Negro Slavery*, expressed a Christian zeal for law reform when he argued that the rape of a female slave should be made a crime. Yet he also voiced the racism of the slaveholding elites who governed the legal system when he comforted his reader that such a crime was 'almost unknown,' because of the 'lasciviousness' of women of color. In other words, they had always already consented to sex. Only 'for the honor of the statute-book' should rape of an enslaved woman be recognized as a crime (Cobb 1858, chap. 39, sec. 107, 100).

Excluding Black women from the laws of rape reinforced common images of Black women as either sexually aggressive 'Jezebels' or sexless, nurturing 'Mammies' (White 1999). The first stereotype justified the sexual exploitation of enslaved women and the second fed the slaveholders' fantasy that the women they enslaved loved and cared for them. Of course, neither of these images corresponded to the realities and hardships of enslaved women's lives. In the sexual economy of slavery, as Adrienne Davis (2019) has detailed, enslaved women performed sexual, reproductive, and backbreaking productive labor that paid little attention to common distinctions about 'women's work.' Despite these brutal conditions, women of color organized communities and households, and tried to protect them against the worst excesses of the slave system. Harriet and her grandmother were involved in a complicated network of extended kin and invested a great deal of energy in

protecting brothers and sons from sale 'up the river.' And despite her grandmother's distress at Harriet's extramarital relationship, she did all she could to protect Harriet from those who sought to recapture her, and to secure her freedom in the North. Harriet eventually fled the Norcoms' household in 1835, hiding in her grandmother's attic for seven years.

Perhaps the case scholars and students of history have found the most challenging to characterize is that of Thomas Jefferson, and the woman he enslaved, Sally Hemings, who was the mother of several of his children. As Mia Bay (2010) has movingly written, some defenders of Jefferson have gone from finding it unimaginable that he could have loved or slept with a woman he enslaved, to romanticizing their relationship as a loving, long-term partnership, or portraying it as a rational 'bargain' on her part to achieve financial security and eventual freedom for herself and her children. Yet to 'see the relationship between Jefferson and Hemings as consensual, and even loving' is to 'lose sight of the historical context in which it took place' (Bay 2010, 192) – the law of slavery, race, inheritance, interracial marriage, and rape detailed above.[5]

Much of the debate around Sally Hemings' status as consenting or coerced revolves around her return from France to Virginia with Jefferson. She could have remained there as a free woman, 'unprotected in a foreign country whose language she spoke haltingly' (Rothman 2003, 20), perhaps never to see her family again, but does the fact that she returned to enslavement in Virginia mean that she loved Jefferson, and consented to their relationship? As Annette Gordon-Reed (2008) shows in her sweeping biography of the Hemings family, Hemings' choices were constrained by her upbringing, her sense of femininity shaped to a great degree by Jefferson himself, and the limited set of choices available for herself and her children. 'Hemings seized her moment and used the knowledge of her rights to make a decision based upon what she thought was best for her as a woman, family member, and potential mother in her specific circumstances.' Thus, it makes little sense to think about Sally Hemings as either a rape victim or a romantic 'mistress'; affective ties by no means preclude intimate domination or even coercion; at the same time, constraint does not negate agency or rationality (Gordon-Reed 2008, 353–396).

In recent years, some feminist lawyers, legal scholars, and political activists have sought to shift the defining feature of the crime of rape from force to non-consent. Consent as a bright-line requirement for licit sex is attractive because of its clarity, but as legal theorists have shown, it is both under- and over-inclusive. There are situations that many theorists would agree do not constitute rape in which both parties do not explicitly consent and may even voice non-consent (such as sex with a sleepy spouse). Conversely, acquiescence by someone in a radically unequal power relationship may not absolve the perpetrator of moral wrongdoing if the person reluctantly consenting has effectively no choice. That is why political and legal theorists have tried to shift from a focus on consent to coercion instead, defining coercion not only as physical force or the threat of physical force but also as taking advantage of extreme power differentials. For example, Joseph J. Fischel (2016) argues that consent, by itself, cannot distinguish 'good sex from bad, harm

from freedom.' The consent paradigm ignores power asymmetries; consent can be engineered or extracted by 'socially imposed ignorance, enculturated submission, and/or financial/emotional dependency' (Fischel 2016, 10). Fischel argues that the aim of rape law should be to protect sexual autonomy – without reducing autonomy simply to consent. Several other feminist philosophers have proposed ways to give effect to sexual autonomy without falling into reductive understandings of consent as permission-giving, such as Ellie Anderson's (2022) phenomenological account of consent (see also Moore and Reynolds 2004; Cowan 2007; Fischel and O'Connell 2015; Greenblatt 2018; Seuffert 2020), and Scott Anderson (2016) conceptualizes rape as coerced sex, where 'coercion is best understood as a use of asymmetric power that one sort of agent may hold over another sort based in the former's ability to inhibit broadly the ability of the latter to act,' which might be based on the use or threat of force, but could be built into their asymmetric power relationship.

Although these critics differ on the details of what they would replace the consent/non-consent line with, they agree that sex could be both consensual and coerced in deeply asymmetric relationships – which was of course the case when an enslaver had a sexual relationship with the person he enslaved. And as Emily Owens (2022) showed, in sexual transactions, enslavers often insisted on consent: within the sexual economy of slavery, 'sex alone was not the central object of [enslavers'] attention nor the object of the exchange.' Instead, it was 'sex within a particular affective context,' sex with consent (Owens 2022, 80). As we try to recreate the social and legal worlds in which these relationships took place, all of which involved some level of coercion, we see that the states regulating these relationships were primarily concerned with the protection of property rights – both property in human beings and in land and other objects. Thus, it is illuminating to see how courts dealt with issues of coercion and consent when they were confronted with these questions in the context of dispositions of property.

## Coercion, Consent, and Concubines in the Courtroom

In antebellum southern courts, the question of consent and coercion in interracial sexual relationships arose most directly when courts considered property inheritance by 'concubines,' the unmarried sexual partners of married men. Could white men emancipate and bestow property on the enslaved women with whom they had sex and fathered children? Should these women be seen as seductresses, common-law wives, or victims of assault (Dubler 2000)?[6] These cases, as Adrienne Davis (1999) has shown, pitted the testamentary freedom of one white male patriarch against the norms of the sexual economy of slavery. Some Black women seeking to protect their inheritances found 'sympathetic' judges – including ones who acknowledged the coercion inherent in an enslaved woman's 'consent.' Typically, these judges upheld testamentary gifts to women, including gifts of freedom.

Bernie Jones (2009) identifies three narratives developed by judges to explain the actions of enslavers who included enslaved women and their children in their wills. In the 'righteous fathers' narrative, judges took a 'matter-of-fact

attitude' to sex between white men and the women they held as property (Jones 2009, 24). In these cases, the wills were upheld. For example, in *Bates v. Holman*, the testator's enslaved daughter was referred to as the offspring of his 'imprudent (though not uncommon) temporary connection.'[7] Sometimes, the court expressed moral condemnation of the slaveowner's actions, while upholding the terms of the will in order to protect the woman or children. For example, a Kentucky court referred to the provision in Hubbard's will dictating that his daughter's freedom should be purchased as 'the best civil atonement for the guilt of fornication.' When the daughter was swindled out of her estate, the court condemned a fraud perpetrated on one 'who had no ordinary means of rescue or resistance.'[8] By contrast, other courts portrayed 'concubines' as fallen women who preyed on 'vulnerable old men,'[9] or the men as 'degraded individuals' who lived in consensual marriage-like relationships with Black women contrary to societal norms.[10]

Louisiana courts, more than most state courts in the antebellum United States, addressed questions of consent and coercion explicitly because of the significant number of white men who sought to manumit and leave property to women they acknowledged as the mothers of their 'natural children.' In Louisiana, some of these manumissions, or at least the property transfers, were foiled by a rule that the deceased could leave no more than ten percent of his estate, or any immovable property at all, to a 'concubine.' Often, the value of the enslaved woman herself amounted to ten percent or more of the estate (Schaefer 1997, 180–200).

Yet, in several Louisiana cases in the 1850s, the judges challenged the logic that denied enslaved women the right to become free and inherit property, calling attention to the contradictions of coercion and consent under slavery. In *Vail v. Bird*, first litigated in 1851, Henry Vail's will emancipated Jane and her (probably their) daughter, leaving them promissory notes of $100 each. Vail's white heirs sued the estate, arguing that because Vail and Jane 'lived in Open Concubinage,' the gift was invalid.[11] The executor answered that

> all that part of the Plaintiff's petition, as set w/n Concubinage or intercourse between the master and slave ought to be stricken out as improper and not in law admissible (emphasis in original) only when it is alleged between persons not at the time subject entirely to the power of a master and *without a will of their own* (emphasis mine).[12]

In a long and somewhat rambling opinion, the trial court upheld the will. In so doing, Judge Preston adopted and expanded on the executor's suggestion that Jane could not be held responsible for the relationship, because she lacked the ability to consent to sex with her owner.

> Such a vice in the master – the slave *being sinned against not sinning* – required atonement; and the best earthly reparation to the injured and the most appropriate that as her passive condition of slave had been abused by him, he gave her liberty to save her from the like abuse by another master (emphasis mine).

He went on to compare Jane to a free woman: 'a free white female can participate with intention and commission of concubinage. A negro slave cannot – she has no will – other than that of her master' (emphasis in original). She never had the chance of legal marriage, nor any 'position' to lose or recover.[13]

The Louisiana Supreme Court, perhaps unsurprisingly, did not accept this radical logic. To combat its inexorable power, the higher court returned to the comforting threadbare myth of the willing Black woman Jezebel and the rarity of forced sex.

> It is true, the female slave is peculiarly exposed, from her condition, to the seductions of an unprincipled master. That is a misfortune; but it is so rare in the case of concubinage that the seduction and temptation are not mutual that exceptions to a general rule cannot be founded upon it.[14]

In *Turner v. Smith* (1857), a Louisiana court returned to the same issue. John Turnbull drew up a will in December, 1855 in which he left Rachel and their five children their freedom and one-third of his estate upon his death, which happened six months later. The remaining two-thirds went to Smith, who was also made executor. Rachel, through a court-appointed curator, Turner, sued Smith for not executing his duties. Relatives of Turnbull joined the suit to argue that as a concubine and slave, Rachel could not inherit. The parish judge found in Rachel's favor, but while the case was being appealed to the Supreme Court, the Louisiana legislature outlawed all emancipation in March, 1857; the Supreme Court applied this rule across the board to all open cases.

Yet the trial judge in *Turner v. Smith*, Judge Ratliff, appealed to the same logic that had featured in the lower court opinion in *Vail v. Bird*. His opinion began with the abstract proposition posed in the male gender: 'If the slave is entirely subject to the will of his master he may command him to do an immoral act. Can the slave refuse?' Judge Ratliff then cited *Vail* for the proposition that '*The laws do not subject a female slave to an involuntary and illicit connection with her master, but would protect her against that misfortune* (emphasis mine).'[15] He noted that Judge Preston in *Vail* did not cite law 'by which a female slave can be protected from such a misfortune,' and 'this Court is not aware of any such statutory enactment, but if there was, let us see how it is possible for a female slave to avail the benefit of it.' He then went on to imagine the exact scenario faced by Harriet Jacobs, by Celia, and perhaps by Rachel:

> Now, a female slave in the service of a licentious and immoral master is commanded by him to receive his illicit embraces. She has been taught from her earliest infancy that one of her main duties as a slave was absolute subjection to the will of her master – but the master has never before commanded her to do such an act as this, she hesitates between duty and propriety, the master repeats his requests, and threatens to use force or violence. She is now determined what to do – either to be punished or submit. She determines not to submit. Who is she to apply to for her protection? A magistrate. Where is her

> proof? *Her word will not be taken – she cannot testify against her master – no one has heard or seen anything improper between the master and his slave.* To all appearances she has been well and kindly treated, and has no apparent cause of complaint, and here I might ask, where is the law by which she can be protected? The idea of protection from such an influence may be plausible in theory, but perfectly powerless in practice; … The master having absolute power and control over his slave, and she having no will of her own when opposed to that of her master should not be held responsible for the vices and sins of her master [emphasis in original].

Judge Ratliff then took these ideas about an enslaved woman's inability to give meaningful consent, her lack of free will, to its logical conclusion: she could never be a 'concubine,' but rather would always be a victim of sexual assault. As the victim, she should not be doubly penalized by losing her right to inherit.

> In view of all the relations of master and slave, the Court cannot believe that a female slave can be the concubine of her master in the legal sense of the term. Not so with a white woman, or a free colored woman – then each party has a free will of their own, and if a white woman or a free colored woman chooses to carry on an illicit connection with a man without being married to him, their wills being mutual, the criminality of such an intercourse being voluntary on both sides, and if such a connection is open and public concubinage as contemplated by our law, would be complete – but to deprive a slave of the bounty or liberality of her master on account of the immoral or licentious acts of the master, on account of her yielding obedience to his wicked desires would be punishing the weak and the helpless for the sins of the strong and powerful. Such a construction would be in the teeth of eternal Justice and against every rule of rights.[16]

Despite the trial judge's passionate opinion, the Louisiana Supreme Court decided the case on much simpler grounds. John Turnbull had made no move to emancipate Rachel or his enslaved children before his death, but only sought to free them by his will. Since the Louisiana legislature had, in the intervening year and a half, banned all manumission, they could not be freed, and hence could not inherit.

The last case I want to consider from 1850s Louisiana is one in which the Louisiana Supreme Court upheld a will in favor of a 'concubine,' expressing sympathy for her and disapproval of her enslaver. *Hardesty v. Wormley* is also an extremely interesting case because it exemplifies the fact that many manumissions by enslavers of women with whom they had longstanding sexual relationships, and even children, were nevertheless also cases of self-purchase, in which the women did years of unrelenting labor to secure freedom. In this case, as early as 1834, Moses C. Hardesty petitioned the police jury of St. Tammany Parish to manumit Sukey Wormley and her daughter Adeline. Wormley had been purchased as a *coartada* slave, having already advanced half of the price for

herself and her child at the time of the sale. (*Coartación* was an arrangement for self-purchase by installments under Spanish law that was still practiced widely in Louisiana in the antebellum period and sometimes recognized by courts even though the Code expressly rejected it.) The seller had offered Hardesty a reduced price based on his promise to emancipate her and her child as soon as she completed the payments. In effect, Wormley herself had advanced the buyer a loan for her part of the sale; apparently, she continued to loan him money, at interest, in the intervening years.

At trial, Sukey Wormley's lawyers presented interrogatories to her witnesses, including Thomas Jefferson White, who had sold her to Moses Hardesty, asking them about the sale, how much Wormley had advanced of her own price, Hardesty's promise to emancipate her and her children, and whether they knew Sukey Wormley to be 'an industrious & economical saving moneymaking woman.' Hardesty's white heirs asked cross-interrogatories that focused instead on the sexual relationship between Hardesty and Wormley.

> Do you or do you not know that the said Sookey Wormley sometimes called Wright was the concubine of the said Moses C. Hardesty? Did or did not they cohabit together as man & wife … was or was not their acts towards one another such as to convince you that Sookey was the concubine of the said Hardesty? Was it or was it not known in Covington notoriously that Sookey was the concubine or kept mistress of the said Hardesty …?[17]

At trial in February, 1841, William Bagley testified that he had not heard anything about the 'relations' between Wormley and Hardesty except that they lived in the same house, but that he

> knows that Sukey was a very hard working person … knows that she has had money and understood that she loaned it at interest …. he has never seen M.C. Hardesty … with much money or known of his making any investments.

As to Wormley's character, he testified that 'she always had the character of an upright honest person and has enjoyed the respect and good opinion of every one here as much as any person of her class …. Sukey was remarkably industrious and economical.' Bagley estimated that she could 'have laid aside from her earnings $500.00 or $600.00 a year for the purpose of purchasing her children,' that she was 'always very punctual in paying her debts and collecting them.' By contrast, 'Hardesty was for many years before his death addicted to drinking and gambling.' George Gilbert likewise testified that he had no knowledge one way or another about concubinage, but he knew that Wormley had money and Hardesty did not.[18] Wormley's witnesses were even more emphatic: 'Sukey was remarkable for her industry integrity money making and money saving,' Hardesty was 'given to dissipation and spent his money has fast as he made it or faster.'[19] Several witnesses testified to loans made by Wormley to Hardesty for the purpose of buying her children so that she could emancipate them.

In affirming the jury verdict in favor of Sukey Wormley, over a decade later, Chief Judge Slidell of the Louisiana Supreme Court summarized the trial testimony 'that by unusual industry, economy, and good character,' she

> made a great deal of money, laboring day and night for the purpose of purchasing her offspring … what she now has is the fruit of her honest and persevering exertions during a long course of years, in a community where she seems to have enjoyed general confidence and respect.
>
> Given her hard work and excellent character,
>
> even if concubinage were proved, there is nothing in the fact that the master had degraded himself by debauching the slave under his dominion, which could discharge him in law from the fulfilment of his promise of emancipation … This suit is a cruel experiment upon the liberty and hard earnings of a [] humble and deserving woman.[20]

## Conclusion

Regulation of interracialized marriage and sex normalized coercive relations between white men and enslaved women while keeping white women and Black men apart, shoring up not only the economy of production but of reproduction – the property system and sexual economy of slavery. Yet there is a persistent theme that comes out in the case law regarding the knowledge that enslaved women could not meaningfully consent, and that white men were guilty of sexual violence – a knowledge that was always being suppressed, but that Black women continue to press.

This hidden knowledge of coercion was one of many secrets of the slave system that anti-slavery activists sought to publicize. Harriet Jacobs' autobiography, and other ex-slave narratives that spoke of the sexual predations of white men, like William Wells Brown's description of the sadistic slave trader who preys on the beautiful Eliza, were potent weapons in the long war against slavery (Brown [1847] 2001; see also generally, Brown 2020). In that war, enslaved women who fought back against their aggressors in large ways and small, played an important role. The legal history of regulating mixture is both a story not only about the role of legal institutions in creating and perpetuating a racist regime but also about the ways ordinary people operated within and against that system.

## Notes

1 *See also* Colleges and Universities – Sex Offenses – Policies, 2014 Cal. Legis. Serv. Ch. 748 (S.B. 967) (West) (California 2014 affirmative consent or 'yes means yes' law), available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB967.
2 Laws of Missouri (1845), Article 2, Section 29.
3 Celia Trial (1855): Case Documents, available at https://famous-trials.com/celia/183-documents.

4 Trial Testimony of Jefferson Jones, Record of Proceedings, Celia, A Slave, Trial (1855), available at https://famous-trials.com/celia/190-jonestranscript; Trial Testimony of William Powell, Record of Proceedings, Celia, A Slave, Trial (1855), available at https://famous-trials.com/celia/193-powelltranscript.
5 Bay (2010, 192) speaks of the blurred lines between consent and coercion even when a woman who was not enslaved was involved (see also Rothman 2003, 20; Gordon-Reed 2008).
6 Dubler (2000) shows the differential treatment of white and Black unmarried couples. White couples who lived together without formal marriage became 'common law' husbands and wives; Black couples were guilty of fornication or adultery.
7 *Bates v. Holman*, 13 Va. (3 Hen. & M.) 502 (1809), *cited in* Jones (2009, 24).
8 *In re Hubbard's Will*, 29 Ky. (6 J.J. Marsh.) 58, 60 (1831); *Narcissa's Executors v. Wathan et al.*, 41 Ky. (2 B. Mon.) 241 (1842), *cited in* Jones (2009, 29–30).
9 *See Davis v. Calvert*, 5 G. & J. 269 (Md. 1833) for the 'vulnerable old men' narrative, *cited in* Jones (2009, 33).
10 *See Pool's Heirs v. Pool's Executor*, 33 Ala. 145 (1858) for the 'degraded individuals' narrative, *cited in* Jones (2009, 38).
11 *Vail v. Bird*, 6 La. Ann. 223 (1851), Trial Transcript, Louisiana Supreme Court Archives, University of New Orleans Special Collections, at 4.
12 *Vail v. Bird*, 6 La. Ann. 223 (1851), Trial Transcript, Louisiana Supreme Court Archives, University of New Orleans Special Collections, at 8.
13 *Vail v. Bird*, 6 La. Ann. 223 (1851), Trial Transcript, Louisiana Supreme Court Archives, University of New Orleans Special Collections, at 28.
14 *Vail v. Bird*, 6 La. Ann. 223 (1851), Trial Transcript, Louisiana Supreme Court Archives, University of New Orleans Special Collections, at 44; 6 La. Ann. 223 (1851).
15 *Turner v. Smith*, 12 La. Ann. 417 (1857), Trial Record, Louisiana Supreme Court Archives, University of New Orleans Special Collections, p. 24.
16 *Turner v. Smith*, 12 La. Ann. 417 (1857), Trial Record, Louisiana Supreme Court Archives, University of New Orleans Special Collections, at 27–29.
17 *Hardesty, Sr., et al. v. Wormley*, F.W.C., Louisiana Supreme Court Archives, University of New Orleans Earl K. Long Library Special Collections, https://dspace.uno.edu/xmlui/handle/123456789/26118, at 9–18.
18 *Hardesty, Sr., et al. v. Wormley*, F.W.C., Louisiana Supreme Court Archives, University of New Orleans Earl K. Long Library Special Collections, https://dspace.uno.edu/xmlui/handle/123456789/26118, at 45–46.
19 *Hardesty, Sr., et al. v. Wormley*, F.W.C., Louisiana Supreme Court Archives, University of New Orleans Earl K. Long Library Special Collections, https://dspace.uno.edu/xmlui/handle/123456789/26118, at 47–48 (Testimony of Abraham Penn).
20 *Hardesty v. Wormley*, 10 La. Ann. 239 (1855).

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# 2 Regulating Sexual Mixing in the Italian Colonies of the Horn of Africa

## A Legal History Perspective

*Olindo De Napoli*

### Introduction

Based on a fruitful season of studies on the regulations of mixed unions involving Italian men and African women in the colonies of the Horn of Africa (Campassi 1987; Sorgoni 1998; Iyob 2000; Barrera 2002a; 2002b; 2003; De Napoli 2009, 51–102; Trento 2011; Ponzanesi 2012), this chapter aims at offering a general explanation of the changing intensity of regulations of intimacy as well as the causes of institutional racism in the Italian colonies of the Horn of Africa between the liberal and fascist period from the perspective of legal history.

The primary purpose is to pursue an interpretation of the different regulations of the so called *madamato*, not reduced to the study of the official norms, but one that takes into account social data thereby leading to a 'broader understanding of the law' (Edwards 2018), to encompass all the mechanisms that condition the behavior of others 'in an explicit or implicit form, by resorting to the techniques of the rule-prohibition, or the techniques of the inculcation of habits' (Hespanha 1993, 25). This means not only considering laws, sub-primary regulations, and institutions, such as the army, that could shape habits, but also moving beyond these, analyzing regulations deriving from habits and social constraints.

The main argument of this chapter is that the different regulations applied to the Italian colonies varied based on changing social, demographic, and political contexts.[1] It suggests that any understanding of the regulations of interracialized intimacies (Haritaworn 2012) must be set within the social context of the colonies and include in the analysis the non-state norms produced by the Italian settlers. Italy's fascist aggression to Ethiopia in 1935–1936 and the following official proclamation of an Italian empire and racist legislation were a true watershed in the regulation of colonial concubinage but also represented a centralized intervention of the state law against social norms that was no longer acceptable to fascist ideology.

This chapter analyzes the regulation of 'mixed relationships' not only through secondary literature and legal sources but also through memoirs, literary sources, and archival materials related to the Italian army, which was one of the most important institutions in the Italian colonies (Labanca 1993). It is organized as follows: the first section provides a brief explanation of the kind of interracialized relationships called *madamato*[2]; the second section describes how these relationships

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were regulated during three distinct periods ending with the post-'imperial caesura,' which did not occur at the beginning of the Fascist period (1922) but in the mid-1930s.[3] This section argues that there was a relationship between the living law produced by the colonizers' communities and the formal, centralized law. A short conclusion sets the arguments made against the backdrop of the international debate on how law functions in colonial contexts.

## What *madamato* Was, What It Claimed to Be, and What It Was Not

> Here [is the story of] how and where I fell in love with the daughter of the 'engineer,' that is, the daughter of the guy I had baptized 'engineer,' as he is a very skilled builder of tukuls.[4] […] Anyone who wishes to find fault in my affairs, at this point, should think that even as a lieutenant, I was twenty-two years old. After all, it was not a romance, it was almost a tragedy. I found the girl at the spring, I joked with her, she started laughing; I went to the village to see her again, and […], I liked this girl and entered into the formal negotiations […]. But at this point, the tragedy occurred. While the negotiations were running, little Adamié [the girl] was struck by smallpox, and despite our doctor, whom I urged to do his utmost to assist her, the poor woman died, and I felt real pain because, in effect, this was – in contrast with current customs – a sentimental adventure.
>
> (Sapelli 1935, 41, 199)

In these lines, Lieutenant Alessandro Sapelli, a *vecchio coloniale* (old colonial official) as he defined himself (Sapelli 1935, VI), narrated his colonial romance with an African girl that ended in tragedy. This story refers to 1887, at the dawn of Italian colonial domination in the Horn of Africa. At the time, only five years had passed since Italy had first established its formal sovereignty over a strip of Africa, namely the Assab bay. The colony of Eritrea, which absorbed Assab and other larger regions of the Horn, would be officially founded shortly after, in 1890.

Sapelli was aware that his relationship with Adamié, his *madama* – as local women and girls who had liaisons with Italians were called – was different from a certain standard which held that falling in love with local women was unfair, because he was sentimentally involved with her. Historiography has highlighted that what was called *madamato* included a wide spectrum of relationships, which could range from a continuous relationship of a merely sexual nature, to the short-term maid 'acquired' from the parents, up to a long-term relationship akin to marriage. Only very rarely did the Italian men marry their fiancés or recognize their offspring, even though some significant cases have been studied (most notably, that of Alberto Pollera, see Sorgoni 2001).

In her work on the history of Italian ethnography in the colonies, anthropologist Barbara Sorgoni maintains that since the beginning of colonization, Italian settlers shared the idea that, as *madamato* corresponded to the marriage of *demoz*,[5] an institution of the Tigrinya people of the highland, the latter did not consider it

immoral (Sorgoni 1998, 127–138). The Italians thus claimed that *madamato* fit perfectly into a local tradition in accordance with the pre-colonial norms. The reality was much different because the *demoz* was a legitimate union from which the men assumed precise duties toward the wife and the offspring, who was also considered legitimate. By contrast, the Italians did neither consider their *madamas* as legitimate wives nor recognized any norm that protected their status. Their eventual offspring, unless explicitly legally recognized, was illegitimate by default, and, differently from Tigrinya norms, Italian legislation did not allow women to declare the attribution of paternity. Only Carlo Conti Rossini and Alberto Pollera, two colonial officials who stood out for their studies on the traditions of the peoples of the Horn, stated that equating *madamato* to *demoz* was a mistake (quoted in Sorgoni 1998, 130). This 'mistake' – needless to say – was to the advantage of Italian men, who could repudiate their African women at their will and be completely disinterested in their offspring's destiny.

As mentioned, while *madamato* covered a wide range of relationships, usage of the word generally implied the existence of a fairly stable relationship. In the lexicon of the Italians who lived in the colony, this word did not encompass all kinds of sexual relationships, like those characterized by the mere sexual exploitation of women. In particular, *madamato* did not include 'prostitution,'[6] and the Italian authorities always treated the two phenomena very differently (Barrera 2002a, 75–120). When the time came for the prohibition of the *madamato*, during the late fascism, the law used the expression *relazione di indole coniugale* (relationship of conjugal type), which meant that the *madama*, even if for a predetermined time, was a 'sort of wife,' as the judges stated (De Napoli 2009, 63–80). These women were frequently occupied with housework and lived together with their Italian partners, who sometimes called them 'comfort wives' (Iyob 2000, 222–223). In general, they represented the possibility for the Italians to have, for the duration of their stay in the colony, a safe sexual relationship without the risks of contracting a sexual disease. Nonetheless, sources like Sapelli's book show that – contrary to the widespread discourse in the colonizers' culture – the women were not only objectified but could exercise agency and attract sentiments from the colonizers.

Speaking of sentiments in colonial contexts clearly implies keeping in mind that they are always social constructions: in the colonial situation, romantic sentiments toward local women certainly did not mean that these relationships were not characterized by racial boundaries, domestic violence, or gender inequality (Sorgoni 1998), as an intersectional standpoint shows (Crenshaw 1991). In recent decades, historiography has thoroughly focused on the issue of intimate relationships in imperial contexts, highlighting the political relevance of interracialized relationships and how ideologies on gender, sex, and sexuality were fundamental to the maintenance of imperial rule and the structure of colonial societies (see at least Stoler 2002; Levine 2004; Wilson 2011; for the Italian case Barrera 2004).

Possibly, after all, the cases of Italians who felt they were really in love with their Eritrean partners, like Sapelli, were not so uncommon. Whether or not they implied sentimental involvement, these relationships between Italian men and African women were widespread and certainly continued in all the colonies of the

Horn even after their official prohibition in 1937 (Trento 2011).[7] The following source sheds light on how Eritrean women were seen as being capable of attracting Italian men and even 'capturing' them. On 24 July 1921, in the colonial circle of Asmara, a sung comedy was staged that aimed at ridiculing the bitterness of daily life in the Italian colony.[8] One of the characters uttered:

> oh the woman, what a disaster,/she always makes you despair,/those teeth of alabaster/know well how to bite you … /and the man is an imbecile/as he lets himself be captured/only one in a thousand can save himself … /[…] you unfortunate get enchanted because/there is nothing else to do here./The danger comes little by little/and saving yourself is really difficult/because your heart is driving you/and she turns you around and whips you to her liking!
>
> (Vecchi 1921, 12–13)

According to this text, almost all Italian males ended up captured by African girls (indicated by the locution 'those with teeth of alabaster).' As we can read further, in the words of another character, an Italian woman called *la biondina* (the blondie), local women could arouse white women's jealousy: 'I think of you, little *monelle* (rascals), who know by now how to chain the hearts' (Vecchi 1921, 14). Eritrean girls[9] were recognized as having a true art in 'chaining the hearts,' an idea corresponding to the classic colonial stereotype of the good-natured and naive Italian man, of which colonial subjects took easy advantage.[10]

In the Italian colony, as in some other contexts, mixed relationships like *madamato* represented the basic structure on which colonial society developed (Barrera 2002a, 93–99); in various colonies, such as the Dutch East Indies or Nigeria, European governments tolerated their male citizens' sexual relations with local women (Callaway 1987; Stoler 2002). Moreover, for the first part of the Italian colonization (1882–1896), Italian military commands encouraged even their officials to have *madamas,* while in British India military authorities expected the officers to have more sexual restraint than the rank and filers (Barrera 2002a, 93). Thus, relationships between Italian men and Eritrean women were very common and socially accepted by the Italian community in the colony. In 1885, the jurist Enrico Catellani stated that in the colony the 'interracial crossbreeding' was 'unavoidable' (Sorgoni 1998, 116). As Ann L. Stoler has pointed out, at the European level, the idea that colonial governments should impose that their nationals had intimate relations only with people of the same race was a relatively late invention, which opposed the very model of relations on which the colonies had grown (Stoler 2002, 2).

## Colonial Rules

However, the wide diffusion of interracialized relationships between Italian men and local women does not mean that, during what Italian historians define as Italy's liberal period (1861–1922), these were free from any regulation or control. The archives record that after Adamiè's death, Sapelli had relationships with other Eritrean women, and in 1891, his new partner attracted the attention

of the Italian authorities who investigated her movements.[11] According to the legislation of the time, we do not find any norm forbidding or restricting the *madamato*. The colonial government issued decrees to establish the judiciary systems for local people and for Italians (Martone 2002), regulate the condition of 'mixed-race' offspring (Sorgoni 1998, 113–114; Barrera 2002b), define the status of local women who married Italians, also after the end of the marriage, and (quite late) to set the distinction between citizens and colonial subjects (De Napoli 2022). However, it issued no decrees on the widespread phenomenon of *madamato*.

According to Stoler, in the European colonies interracialized concubinage was permitted in the earliest stages of colonialism and colonial authorities started to regulate it explicitly only in a second phase, when European identity was perceived as vulnerable, and the colonial elites needed to 'clarify the cultural criteria of privilege' (Stoler 2002, 51). For the Italian case, I propose a subdivision in three periods, as follows. The first period consists of an early stage of Italian domination in which colonial concubinage was tolerated by the Italian authorities, although constrained by a set of 'social norms' (1880s–1910s). In a second period, colonial authorities sought to issue norms to reinforce those social habits, in particular (but not only) in the military environment (1920s–1935). In the third and final stage (1936–1941), the 'imperial caesura,' corresponding to a general radicalization of the regime (Gentile 2008, 135–159) and issuance of vast racist legislation, fascism forbade *madamato* by means of a criminal law followed by the prohibition of mixed marriages.

#### *The First Period (1880s–1910s): The Birth of Social Rules on* Madamato

During the early period, colonial concubinage was widespread and free from formal regulations, but non-written and socially produced rules existed to discipline its limits. It is useful to recall here the notion of 'living law,' coined by legal sociologist Eugen Ehrlich at the beginning of the twentieth century to indicate the law created outside public institutions, which regulated the social life without being verbalized in juridical propositions. This concept was the basis for the development of the theory of legal pluralism, which has become a key concept in the study of colonialism (Benton and Ross 2013). In those same years, the Italian jurist Santi Romano elaborated the so-called institutional theory of law, according to which a legal system existed every time a social system met three requirements: pluri-subjectivity, organization, and regulation. Therefore, the legal system did not pertain uniquely to the state (Romano 1917). Initially, Romano did not have in mind the colonial context but the new entities typical of mass society, like political parties and trade unions, but shortly after he authored a handbook in colonial law (Romano 1918).[12] The concept of a 'living law' produced by organizations other than public institutions, proved particularly pertinent for colonial studies, as a first wave of studies on the relationship between the legal rules of colonial governments and the traditional and often unwritten rules of the indigenous peoples in the colonies show (Merry 1988; Hertogh 2008).

Nonetheless, these studies linked the idea of non-state rule mainly to the indigenous social systems and not to the communities of white people living in the colonies. Ehrlich's work embodies an idealized view of non-state legal orders as based upon cooperation and voluntary adherence, whereas state law was grounded in domination and constraint (Webber 2008, 202); on the contrary, the application of this theory to the colonial context should assume that non-state law also produces constraints. Actually, 'social norms' can also be coercive in different ways (Webber 2008).

To understand the functioning of the whites' colonial societies, especially in the initial times when public institutions were weak or inefficient, one cannot solely consider the formal norms established by colonial authorities, since this would exclude the 'living rules' that almost everybody knew and followed, which depended on internal balances and were subject to negotiations.

My argument here is that the existence and the quality of the 'living law' that established constraints for interracialized relationships depended largely on demographic aspects. If we take the example of the colony Eritrea, in its first years, the community of Italian inhabitants was tiny. In 1921, when *Asmarezze* was staged, Italians were still few, amounting to 3,874 against an indigenous population of almost 600,000 individuals, a ratio remaining almost equal in 1931 (Ciampi 1995, 496–497; Istituto centrale di statistica del Regno d'Italia 1935, 15). In Italian Somalia, Italians were even fewer compared to a larger indigenous population. Plans for mass migrations of 'nationals' to the colonies existed, but they all failed (Ertola 2023, 52–72) and only fascism succeeded in establishing vast colonial settlements, both in Libya and Ethiopia, from the late 1930s (Ertola 2017; Pergher 2018).

More interestingly, there was a notable unbalanced ratio between males and females: for example, in 1931 in Eritrea the Italians were 62.3% males and 37.7% females, while in Somalia the ratio was even more unbalanced, with 80% males and 20% females (Istituto centrale di statistica del Regno d'Italia 1935, 14). In both cases, in the number of females, the dominant element was that of married or widowed women (more than half in the case of Somalia); thus, women who went to the colony to follow their husbands.[13] According to the colonial official Alberto Pollera (Pollera 1935), this unbalanced gender ratio increased the number of mixed-race children, which aroused the concerns of rulers, missionaries, and jurists. As a result, the Italian colonies were mostly colonies for men, in which the white women available for official relationships with Italian men were very few.[14]

To understand the genesis of a living law produced by the communities of nationals in the colony, one should consider the distribution of the population. In Eritrea, considerable groups of Italians lived in the main cities, namely Asmara (2,620 people), Massawa (no. 439), and Keren (no. 269). Still, a portion of Italians lived scattered in small urban centers or villages: for instance, they were only twenty in Assab (Mori et al. 1932, 227). In Somalia, the approximately one thousand Italians of Mogadishu corresponded to much lower numbers living in other regions, for example, one hundred and two for the entire Lower Juba, with as many as thirteen

*residenze* (residences) where Italians were less than ten (Istituto centrale di statistica del Regno d'Italia 1935, 44).[15] In sum, Italians lived partly in medium national communities in the main towns and partly in small and even smallest numbers scattered in villages, where social control of a structured national community could hardly press them.

The larger Italian communities living in the towns accepted and tolerated interracialized relationships with local women but produced a set of social norms aimed at regulating the *madamato* and establishing boundaries. Historian Giulia Barrera, whose work has been seminal for the inquiry of social aspects of this phenomenon, has highlighted that a colonial *ethos* existed, which required that Italians restrained these relationships within precise boundaries, which should not be crossed. For Barrera,

> the fact that a large percentage of the settlers had spent most of their lives, or even all of them, in the colony, allowed for the elaboration of a shared colonial ethos and facilitated the incorporation of the newcomers. Old residents, in fact, found it easy to socialize the few newcomers to the unwritten rules of behavior that regulated colonial life.
>
> (Barrera 2002a, 114–115)

One of the women she interviewed affirmed: 'before 1935 Italians had a human and a friendly attitude. To be sure, they did not take our mothers to restaurants or to the cinema. The division was there, but it was natural, it was not imposed' (Barrera 2002a, 113). In 1905, the judge Ranieri Falcone, in the inaugural address of the judiciary year, made it clear that these relationships were 'detrimental to the prestige of the whites,' but the law could not forbid them not to create a conflict with 'the conscience of the partners' (Falcone 1913, 322). Despite worries about racial confusion, liberal jurists thought there was a sphere in which the state could not intervene (Barrera 2004, 158).

Going back to the unwritten settlers' norms, it is likely that in the larger Italian communities in the towns, everybody knew them because *madamato* was relevant also from a political viewpoint, as it involved the relationship between the colonial powers and the dominated people. Furthermore, since it was easy to get to know everyone's liaisons, social control could be quite effective there. It was just in the cases of people living in isolated or scattered communities that this form of social control did not work. In a book published in 1910, Tertulliano Gandolfi, a worker who emigrated to Eritrea, referred to the story of a man completely subjugated to his *madama*: 'Cavalier P., a well-to-do man, pure Neapolitan. He, his madama – whom he calls "my lady" – and his seven "chocolates" all speak only the Neapolitan dialect.' Cavalier P. – Gandolfi referred – went crazy because his 'lady' had left him for an Abyssinian priest and he tried to commit suicide until some people intervened to bring her back to him in exchange for money and with the promise that she could whip him whenever she wanted (Gandolfi 1910, 150). Later, in 1936, in a page of his diary, an official of the Italian army ironically stigmatized a lieutenant who, in a

little village called Daga Modò (Daga Medo), openly lived with an Ethiopian woman:

> We thought his fate was bitter, but he is very happy. The natives rely entirely on him, and he pleases them as best as he can. […] He donates a few quinine tablets or a piece of soap or a few pounds of sugar and gets reward and devotion in return and, it seems, the graces of a *damina* [young lady]. It seems that even the few soldiers are getting by. Women eat with them.
>
> (Sirianni 2016, 148)

One can see these episodes as examples of violations of the social norms of the colony or, more precisely, as a sign of the absence of these norms in particular demographic situations, where there was no conspicuous community that could produce an *ethos* regarding mixed unions and the behaviors to adopt with locals. In these cases, the Italian men involved in mixed relations were aware that the social rules on *madamato* were effective only in other contexts. This is why the two different observers who referred to the stories used a sarcastic tone: what the two men were doing was clearly at odds with the behavior that a respectable Italian man in the colony should have.

#### *The Second Period (1920s–1935): Administrative Reinforcement of Social Rules*

Administrative norms issued by colonial governors, who were particularly worried about the officials' behavior, were soon reinforced and at times, they aggravated the social, unwritten rules on *madamato*. Ferdinando Martini, the Eritrean colony's first civil governor (1897–1907) (Aquarone 1989), took some initiatives to repress interracialized concubinage as it could damage Italian prestige: according to him, racial boundaries were at stake. While he did not forbid these Italian-Eritrean relationships, he intervened when they caused public scandal, including by expelling the Italian men involved from the colony. Sometimes it was deemed sufficient to stop what was considered as an improper behavior, as in the case of some officials who lodged their Eritrean partners at state expense. Giuseppe Salvago Raggi, who succeeded Martini in 1907 and recanted part of his policies (De Napoli 2017), agreed on the necessity to regulate colonial officials' relationships with Eritrean women and forbade cohabitation and marriage with native women, even if this prohibition was scarcely enacted. His successors, however, were more tolerant: for example, in 1916, Giovanni Cerrina, in the general context of urban segregation that was in place, issued a new city plan which enlarged the mixed zone (namely, the districts where both Italians and Eritreans could live), and allowed some Eritreans to live in the European area (Barrera 2002a, 109–117).

After fascism seized power in Italy (1922), the army, the most critical institution in the colonies, paid particular attention to the problem of *madamato*. 'The well-known institution of the madama' – stated a military report on the *Spirito delle truppe* (spirit of the troops) of 1927 – brought about 'indecorous situations,'

potentially causing 'officials' moral, physical and even intellectual decay' along with 'the damage of the [Italian] prestige towards inferior people.'[16] The army addressed the problem of *madamato* without recurring to official regulations but by strengthening control on the officials and limiting the freedom of movement of the native women involved. At the end of 1927, the problem seemed to be over, as according to the report, the shortcomings were 'few and slight,' and those originating from relationships with indigenous women had 'disappeared.'[17] According to a report of 1928, there had been 'only one fault' punished with the repatriation of a captain, to which a severe admonition to all the other officials followed.[18] African women could be seen as intrusive and could also represent a sort of bridge-figure between local people and the military, reducing the distances between conquerors and dominated people. This did not mean that interracialized relationships had ended, but they had been brought back to limits that made them acceptable to the military.

#### *The Third Period (1936–1941): The Imperial Caesura*

If one looks for a substantial change in these regulations, the real caesura was not the year 1922, when fascism seized power, but the period 1935–1936, when it waged war on Ethiopia and then occupied it, proclaiming that Italy had eventually returned to being an empire, as in the times of ancient Rome. From the victory, Mussolini gained wide personal success and consolidated his power at home, strengthening the popular opinion favorable to the regime.[19] In this period, Mussolini, who acquired the title of 'Founder of the Empire' (De Napoli 2022), conceived that every aspect of Italian politics should follow the logic of the empire, which meant solid and explicitly racist laws and policies. In the orders given in August 1936 to General Rodolfo Graziani, Viceroy of Ethiopia, the government prescribed a rigid racial separation and called for the issue of *madamato* to 'be addressed with extreme strictness.' Thus, it was necessary to: (1) oblige all the married men to bring their families to the colony; (2) limit as much as possible, through police measures, the contacts between nationals and indigenous women; (3) organize brothels, including itinerant ones, staffed with white women (quoted in De Napoli 2009, 53). This racist legislation was introduced in all the Italian colonies in the so-called Italian East Africa (which comprised Eritrea, Ethiopia, and Somalia), even on the initiative of some jurists. In particular, fascist jurists had concerns about the birth of *meticci* (mixed-race) children, who represented 'elements of weakness, restlessness, and sometimes also turmoil in the colonial society' (Mutinelli 1937).

The General Law on the Empire dated 1 June 1936 can be considered the first explicitly racist law issued by fascism,[20] as it contained norms that erased the possibility for mixed-race children to acquire Italian citizenship based on race and deprived women who married colonial subjects of Italian citizenship (articles 28 and 30, respectively). The second racist law was issued in 1937,[21] which forbade the 'relationship of conjugal type' between Italians and Africans (i.e., between citizens and colonial subjects) in Italian East Africa, and punished only the Italians involved with imprisonment of up to five years. In a nutshell, fascism eventually

prohibited the *madamato*. Other racist laws followed, aimed at establishing a strict regime of apartheid in Italian East Africa. According to the fascist rhetoric, even after the issuing of the antisemitic laws (1938–1939), the choice to produce racist norms was a consequence of the conquest of Ethiopia: although fascism to some extent had always been racist – fascist ideologues affirmed – the construction of the Empire projected the entire nation into a different perspective, which required a markedly racist general approach (De Napoli 2009, 51–102).

What did this racist turn represent from a legal history standpoint? It raises questions about its roots, the significance of the legal intervention, and its causes.

Historians have discussed the roots of these explicitly racist policies. Some have focused on the so-called *legge organica* (systematic law) for Eritrea and Somalia of 1933,[22] the first Italian law to use race as a legal category. This law permitted the concession of Italian citizenship to two classes of children: those abandoned by both parents who presumably were both white acquired Italian citizenship immediately; those who presumably had only one Italian parent could receive Italian citizenship under certain conditions once adults.[23] In both cases, the presumption was based upon the so-called 'proof of race,' which consisted of a sort of racial evaluation.[24] According to some historians, these norms of 1933 represented a strengthening of the color line in the colony (Sorgoni 1998, 148), and thus the first step toward the 'racialization of citizenship' (Costa 2001, 289). When Pope Pius XI accused Mussolini of having 'regrettably' copied the antisemitic legislation of 1938 from Nazi Germany,[25] Mussolini and his entourage closed ranks and propagandized the idea that Italy had always been racist. Fascist rhetoric needed to build a story of continuity, according to which fascism had not copied anything from anybody, and the law no. 999 of 1933 was used to this end. Jurists like Marino Mutinelli and Berlindo Giannetti indulged this version by stating that it already had blueprints of the following racist laws (Borsi 1938, 82).[26]

In effects, some historians have based their evaluation of racist laws' roots on the representation pursued by the regime itself. On the contrary, the law of 1933, in theory, could permit a vast number of Italian-Eritrean and Italian-Somali children to enter the community of the Italians, which was not possible under the previous regulations, namely the citizenship law of 1912.[27] The 1933 assimilation guidelines were quite the opposite of strengthening racial boundaries. In fact, Carlo Costamagna, one of the most influential jurists of fascist radicalism, recognized the opposition between the legislation of 1933 and that of 1936–1937, and did not hesitate to condemn what he considered a serious error made in 1933, which, fortunately, the racist turn of 1936 had remedied:

> Clearly, our legislative politics was influenced by the direction of French colonial legislation, which, after the Great War, had emphatically been in favor of *meticciato* [racial hybridization], in consideration of a policy of assimilation. Only after the acquisition of Ethiopia and the foundation of a colonial empire worthy of this name did the Italian legislator tackle the problem of purity and prestige of the metropolitan race with different criteria.
>
> (Costamagna 1940, 28)

In those years, Costamagna was overtly advocating a totalitarian and racist turn for fascist politics and used to argue with other intellectuals who, in his eyes, were only superficially fascist. He felt much freer to reveal the real evolution of the Italian legislation than other minor jurists, whose task was to chant that the regime had always been right. But also the contemporaneous commentaries to the law (i.e., before the issuing of antisemitic legislation) recognized that it was inspired by assimilation criteria (Cucinotta 1934).

Historians have also discussed the motivation for introducing the prohibition of *madamato*. As mentioned above, according to Barrera, the colonial *ethos* on how to behave with African partners had gradually formed within a colonial society that was growing slowly.[28] The war against Ethiopia changed this very rapidly because it brought about an enormous influx of people in the Horn in a short period, so that the Italian community in Eritrea boosted from 5,000 in 1934 to 73,000 in 1941, not to speak of the transit of more than 300,000 soldiers. As a consequence:

> In pre-1935 Eritrea – just as in other colonies – white settlers discriminated against the colonized without the need for the central government to intervene. Commonly shared, unwritten rules of behavior dictated how a colonizer was supposed to deal with the colonized. […] The size and speed of Italian settlement in East Africa starting from 1935 did not allow for a gradual structuring of the colonial order.
>
> (Barrera 2003, 427–428)

For this reason, Barrera has maintained, the state had to intervene, and a law was necessary as the new situation could not permit the respect of commonly shared unwritten rules. This is a sharp viewpoint, which aims at highlighting the social aspects' preeminence in the genesis of the Italian racist laws.

True, public authorities were worried about the possible 'contamination' of a mass of Italians going to the colony and realized that a firm intervention was necessary. Nonetheless, the direction of this legal intervention did not wholly correspond to those unwritten rules, which until then, were part of the colonial common sense. The colonial social rules of the small Italian community stated the necessity of social boundaries for mixed couples, but Italian men were basically allowed to have liaisons with African women. Instead, the prohibition of *madamato* of 1937 simply forbade these relationships.

The analysis of the jurisprudence on the 'crime of *madamato*' is particularly interesting. The judges, after some debates, decided that their investigation had to find 'objective elements' that could prove the existence of Italian men's genuine affection toward African women: living in the same home, showing up in public or eating together, making gifts to her or her relatives, writing letters, were all elements that could open the way of prison for the Italian man (De Napoli 2009, 66–80). As some military verdicts show, even violent outbursts of jealousy were a sign of love that could cause imprisonment.[29] In short, where judges could find evidence of a sort of marital affection, they condemned the Italian man to jail.

This was not the reinforcement of previous social norms but rather the imposition of a new public spirit by means of a 'centralized law.'

## Conclusions

In the colonial context, the politicization of the private sphere was intense. Interracialized intimacies – and, more generally, personal habits – often became political affairs in the colonial rulers' eyes. But the existence of an impassable color line was not always clear to colonists, who possessed particular 'repertoires of common sense,' which were sometimes at odds with cultural representations and propaganda in the metropole (Stoler 2008, 350). The changing intensity of social and legal regulations of intimacy depended on political crises, demographic elements, and regime change.

This chapter pursues the idea that law is not only something produced by the state and imposed on society but rather something impossible to separate from society (Katz 1984). In this direction, it has shown the existence of three different moments in the regulation of colonial concubinage. In the first phase, a living law established that *madamato* could be tolerated but African women could not cross some boundaries, particularly those regarding the public sphere. I have argued that such norms were enacted only in places where a large community of Italians lived since people living scattered or isolated felt little social constraints. In the second phase, still in the absence of specific laws, colonial authorities, especially the army, strove to limit colonial concubinage by issuing sanctions that aimed at reinforcing that living law. In the last phase, the imperialistic invasion of Ethiopia impressed a racist turn, which marked a top-down change of paradigm. Sapelli's memoirs, which highlighted the possibility of having a true love story with African women and praised Italians for not having racist feelings, were published in 1935. Just one year later, such a publication would have been forbidden as in contrast with the regime's new principles. For fascist elites, the social problems deriving from the sudden mass flow of men in the colonies were undoubtedly relevant, but a general change in colonial politics decided from above was more critical, and their priorities were punishing the *insabbiati* (i.e., Italian men who 'went African' and 'forgot their racial superiority,' like the men guilty of *madamato*), restricting the possibility of mixed relationships to the mere sexual exploitation of the African women, and impeding the naturalization of the offspring even in the case of fathers' official recognition.

The racist turn must be considered a true watershed in colonial politics, particularly in the persecution of interracialized relationships (even if racism and gender violence were already present before it). In the context of the attempt to revitalize the regime through racism, formal law was a necessary means for making a change in the individuals' private sphere. This turn can also be seen as a moment of superimposition of a rigid, authoritarian state law on the unwritten living law that the community of Italians in the Horn had produced over the years. Fascism used the 'centralized law' to impose a new behavioral guideline on a living law that had grown up based on different criteria, what is more, in

a moment of radical demographic change. The formal law not only would have created radically separate communities of citizens and of colonial subjects but would also have impacted the living law by modifying layered social norms formed over time.

## Notes

1 The situation of Libya and the Dodecanese islands was highly different, partly because their populations were not object of the same racist contempt as those of the Horn of Africa. However, in Libya, after the defeat of the resistance, Fascist administration prohibited colonial concubinage in view of the building of a vast settler colony (see Tarchi 2021).
2 For reasons of the limit and scope of this essay, both same-gender relationships and those involving African men and European women, which would deserve special focus and partially diverse considerations, are not considered here.
3 According to Goglia (1988), the fascist regime did not lead to a substantial change in colonial policy in a racist sense compared to the liberal age, occurring just as a radicalization of official language and symbolic politics.
4 The word *tukul* or *tucul* means a little building with a circular plan and a conical roof, typical of East Africa.
5 The *demoz* was a sort of temporary marriage on payment from the man to the woman's family.
6 Even if – Sorgoni notes – some Italians stated that potentially every Abyssinian woman was a 'prostitute' (1998, 131).
7 Royal decree 19 April 1937 no. 880.
8 In Italian, *amarezze* means bitterness, and the play's title was *Asmarezze*, a wordplay that merged this word with the name of the capital Asmara.
9 The Italian term *monelle* is age-specific: it is used to refer to girls, or to infantilize women.
10 This stereotype was very common in various colonial environments: see for example McGrath (2013).
11 Archivio storico diplomatico del Ministero degli affari esteri (Asdmae), Archivio Eritrea (1880–1945), b. 29. According to the telegram, directed to the government in Massawa, Sapelli's madama, after the feast of the cross, went to the village of her relatives, and finally, on 12 November 1891, returned to Adicaieh 'from where she never left.'
12 A connection between Ehrlich and Romano has been convincingly maintained in Croce (2012). A thorough application of Romano's theory to the colonial environment can be found in Di Stefano (2021).
13 This assumption is based upon the plausible fact that widows lost their husbands after going to the colony.
14 As for the fascist period, especially for the cultural implications, see Stefani (2007).
15 The *residenze* were administrative units corresponding to villages, which were part of larger administrative units called *commissariati* (commissariats).
16 Ministero della Guerra, Comando del Corpo di Stato Maggiore – ufficio operazioni (colonie), letter 'Alle autorità superiori,' 17 December 1927, 4–5, in Archivio dell'Ufficio storico dello Stato Maggiore dell'Esercito, L7/D4, b. 184.
17 Acs, Rctc, IV trimestre 1927.
18 Acs, Rctc, III trimestre 1928.
19 Actually, this topic is controversial among historians (Corner 2012).
20 *Legge organica per l'Impero* no. 1019 of 1 June 1936.
21 Royal decree no. 880 of 19 April 1937.
22 *Legge organica per l'Eritrea e la Somalia* no. 999 of 6 July 1933.

23 The norm had a general formulation, but it was clearly conceived for children abandoned by the fathers.
24 A very similar norm was included in the Eritrean civil code of 1907, although it never came into force (De Napoli 2009, 12–27).
25 Discourse of Pius XI in Propaganda Fide of 28 July 1938, published in 'L'Osservatore Romano,' no. 176, 30 July 1938, 1.
26 Sorgoni (1998, 149) quotes Borsi (1938, 82) as a piece of evidence that the law of 1933 was against mixed-race children's integration into the Italian community and not as a successive fascist representation of it.
27 Law no. 555, 13 June 1912.
28 On the formation of colonial settlers' ethos, see also Kennedy (1987).
29 Acs, Tribunali militari, Coloniali, b. 1, vol. XIV, verdict no. 1207.

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# 3 Dutch Politics of Intimacy in Colony and Metropole and Their Afterlives

## Reflections on a Shifting Political Economy of Intimacy

*Guno Jones*

### Introduction

The dominant discourses in contemporary Dutch society do not usually view intimate life and partner choice in 'Western liberal democracies' such as the Netherlands as being subject to public scrutiny and political control. On the contrary, these discourses could give the impression that Western liberalism, certainly in its Dutch incarnation, has made freedom of partner choice a matter purely for individuals themselves. However, closer scrutiny of the Dutch discourses over the past two decades reveals that, in reality, they rely on symbolic constructions of racialized others, and are also deeply political and social in nature. With the normalization of far-right politics in the Netherlands, particularly against a background of rising Islamophobia from the first decade of the new millennium onwards, these discourses began to centre around same-sex relationships and to become intertwined with homonationalism (Puar 2007). In these discourses, 'representations of gay emancipation are mobilized to shape narratives in which Muslims are framed as non-modern subjects', with the Netherlands being the locus 'where the entanglement of gay rights discourses with anti-Muslim politics and representations is especially salient' (Mepschen, Duyvendak and Tonckens 2010, 962). In the same vein, EU legal discourse and research tend to define and measure freedom of partner choice in terms of 'equal rights for same-sex partners' and to treat this as part of the constructions of European progress, in which Europe tacitly figures as an example to the rest of the world. By contrast, racialized minorities in the metropoles *and* people in the 'Global South' figure as negative reference points and as 'backward' others for the purposes of comparison with 'European' sexual modernity (see Puar 2007; Wekker 2009; Mepschen et al. 2010; Bonjour and de Hart 2013).

What is usually obscured in these celebratory discourses regarding freedom of partner choice is that the Dutch empire, like other European empires such as that of Britain, outlawed and severely punished homosexuality through colonial sodomy laws (for colonial Suriname, see, for example, Makdoembaks 2020). From a genealogical point of view, therefore, the outward projection of homophobia in the colonies is problematic. Furthermore, liberal politics of recognition in the Netherlands and elsewhere in the EU largely negate unrecognized non-hetero intimate imaginations and practices not conforming to dominant Western models of intimacy

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(see Wekker 2006; Isenia 2021). More importantly in the context of this chapter, liberal accounts of 'freedom of partner choice' obscure the history of colonial anti-miscegenation policies and their afterlives. Bringing colony and metropole into a single analytical framework reveals how certain intimacies were and are scrutinized, controlled, conditioned and instrumentalized in colonial formations and national imaginations.

This chapter focuses on the Dutch politics of intimacy in colonial Suriname, Curaçao and Indonesia and in the Netherlands. I discuss how the colonial authorities constructed and regulated heterosexual interracialized relationships and multiracialized bodies, how the regulation of intimate life was connected with racialized hierarchical opportunity structures and constructions of the nation, and how the targeted people both reproduced and transgressed these structures. Firstly, I consider the politics of intimacy in the Dutch colonial context of Suriname and Curaçao and their afterlives, with the latter being examined in relation to the wider post-independent Caribbean and US context. Secondly, I examine similar politics in colonial Indonesia and briefly consider their intergenerational impact. Thirdly, I discuss how the political problematization of interracialized intimacies became intertwined with constructions of the Dutch nation in the context of people's increased relocation from the colony to the Netherlands in the twentieth century. Despite the non-existence by then of anti-miscegenation laws in the Netherlands, these metropolitan political dynamics testify to the long durée of colonial politics of intimacy. Post-colonial occlusion, by which I mean the ending of free migration from the colonies to Netherlands after political independence, formed part of these dynamics. I end by briefly discussing how political discourses on interracialized relationships and their offspring have shifted in the twenty-first century.

## Concepts and Scope

I consider terminologies used in political discourses for making sense of intimacies as formative elements of a particular political and social order rather than for describing phenomena as they are. Political constructions on interracialized intimacies and the associated laws and policies are connected with all sorts of interests and benefits: indeed, they are integral to the *distribution* of status, opportunities and privilege in a variety of contexts and ways. For this reason, they may be viewed as a political economy of intimacy. Relationships and bodies classified as 'interracial' or 'mixed-race' have no 'real' existence 'out there', but are instead constructed through language in varying ways as part of the social organization of life in particular contexts. As Hazel Carby (2021, 65) explains:

> Race is not a material object, a thing; it has to do *not* with what people are but with how they are *classified*. […] I use the word *racialization* to capture *the practices and processes involved in the calculations and impositions of difference, all of which have their own logic but are not eternally fixed.* [emphasis added]

Similarly, I use 'interracialization' and 'multiracialization' to capture the practices and processes entailed in the calculations and impositions of difference on relationships involving differentially racialized couples and their offspring. In line with this constructionist perspective, and following Haritaworn, I refer to these relationships and their offspring by using the terms 'interracialized' relationships and 'multiracialized' individuals, respectively (Haritaworn 2009; 2012). Indeed, as Haritaworn asks (2012, 28), 'What would happen if we made sense of "ambiguous phenotype" not as a pre-social property of particular bodies but as a socially produced – and productive – idea that is constituted in broader power relations?'

The constructionist lens utilized in this chapter is both epistemological and 'existential' in nature. In keeping a critical distance from racial ontologies, my aim is to discuss how politics of intimacy became intertwined with a particular (and shifting) colonial and national order. While I do not include empirical data to elucidate how couples themselves and their offspring made sense of their intimacies and bodies, applying a constructionist approach to the politics of intimacy may be viewed as a voice from 'within' and as a way of responding to the political imposition of the ideology of 'interraciality' and 'multiraciality' on certain couples and their offspring. These couples' alleged specificity is a function of the dominant discourses, not the other way around. And, as some examples will demonstrate, targeted people have always contested the dominant normative order in multiple ways, sometimes transgressing certain dimensions of the intimate order without challenging its underlying structure.

Citizenship and the law were important instruments in this politics of intimacy. Not being married or not having access to marriage, or not living a life sanctioned by the law (see Hartman 2019), were all ways of marking racialized women in the Dutch colonies who were assigned enslaved or concubinage status as objects of European male colonial sexual desire or, if they had children, as disenfranchised mothers. This is not to suggest that no romantic unions existed, but rather that these relationships were conditioned by colonial hierarchies. Just like intimacies today, romance could exist alongside the hierarchies and social divisions that informed these intimacies in multiple, often complex ways.

My analysis is intersectional: I explore how constructions of race, gender and class are implicated with discourses, policies and legal rules on interracialized intimacies and their multiracialized offspring (Crenshaw 1991). However, the intersectional analysis is limited to heterosexual interracialized intimacies and their multiracialized offspring. While not addressed in this chapter, the question, for instance, of how Dutch colonial authorities and others made sense of and responded to Black and White same-sex couples needs further research.

## Intimacies in the Dutch Caribbean Colonies

As I have discussed elsewhere (Jones and de Hart 2020), the violence of ideologies of race and 'mixed-race people' in the Dutch colonial territories is directly recognizable in the classifications used in the authorities' official registrations of the population in the Dutch Caribbean. In eighteenth- and nineteenth-century

Suriname, the population was classified into 'Whites', 'Free Mulattos/Coloureds and Negroes' and 'Slaves' (Van Lier 1977, 71),[1] with similar classifications existing on Curaçao (Roe 2016). The basic legal distinction between 'free persons' and 'slaves' during the years of plantation slavery implied a stratification of society based on phenotype. Phenotype, in combination with other signifiers of difference such as legal personhood, gender and religion, became a key signifier in colonial society. The fact that, in these classifications, 'free' was not an adjective applying to Whites, but only to 'Mulattos/Coloureds' and 'Negroes' implies that those in the latter category could be free or unfree, whereas all those classified as White were by definition free.

Bringing colony and metropole into a single analytical framework reveals a fundamental contradiction within modern (Dutch) citizenship, and one that was reflected both in the intimacies and in how they were regulated. While the post-feudal Netherlands saw the thickening of modern citizenship status via the expansion of civic, political and social rights (Van Houdt and Schinkel 2009), the legal distinction dominating the Dutch Caribbean colonies was between an elite of free persons recognized as citizens, on the one hand, and enslaved 'masses', on the other hand. In fact, the thickening of the citizenship of the metropolitan and colonial elites was a *conditio sine qua non* for slavery: modern citizenship, in particular the recognition of property rights as inherent to citizenship, enabled the possession, trading and exploitation of enslaved bodies in conjunction with other fields of law (Jones 2023). The legal distinction between enslaved and free persons determined the intimate conditions (concubinage or marriage) under which people could live. On the other hand, asymmetric intimacies, especially between White men and enslaved women, could substantially influence the legal position of the latter and their offspring. Enslaved individuals could, for example, obtain freedom and legal personhood through manumission, but this was costly and required permission from both the master and the colonial administration.

The ways in which enslaved bodies were positioned in the intimate sphere (especially until the nineteenth century) largely determined the chances of manumission. As a consequence, interracialized relationships and multiracialized individuals began to occupy an intermediate position in the colonial matrix (Van Lier 1977, 71–74; Neslo 2016, 129–132). This needs a brief explanation: while colonial administrators tried to prevent sexual relations between White men and Black and Indigenous women via plantation ordinances in the seventeenth and eighteenth centuries, frequent and often non-consensual sexual relationships between European men and enslaved 'women of colour' occurred in both Suriname and Curaçao, resulting in a significant number of multiracialized offspring classified as 'Mulatto' or as one of its derivatives (Van Lier 1977, 70–85; De Hart 2014, 9–11; Roe 2016, 62).

Back in 1934, the anti-colonial activist and writer Anton de Kom, who was branded a 'communist agitator' by the Dutch colonial authorities and who was *persona non grata* in the Netherlands for decades before being rehabilitated in recent years, pointed to the connection between patriarchy, exclusion from

citizenship and forced intimacies in his trailblazing anti-colonial book *We Slaves of Suriname*:

> When the last group of women turns back home across the fields, carrying heavy baskets with cotton on their heads, the master (or the administrator) frequently lays his eyes on one of the young negresses, beckoning her to lay down her cotton basket. Then the second task awaits her in the night, meeting the horny desires of her master. No exemption was granted for this duty. Because negro slaves were after all not human, neither the sacrament of the church, nor civil rights applied to them.
>
> (De Kom 1981, 36)[2]

De Kom revealed the differentiated impact that the violence of modern European citizenship had on enslaved men and women by pointing to the systemic sexual violence perpetrated against the latter. However, this was not the way dominant historiography usually made sense of these relationships, with Angela Roe (2016, 64–65) observing that historiographical accounts of these interracialized intimacies were 'constructed in the absence of voices of women—and also men—of color that were forcedly part of these detrimental interactions'. The historiography thus tends to suggest the consensual nature of these interracialized intimacies, while making no mention of the sexual violence towards and the exploitation of 'women of colour'. This romanticization of sexual exploitation and the silencing of the perspectives of women of colour in the historiography signify 'epistemic violence' (Spivak 1988) and have had a long-lasting and complex impact on Afro-descendant people (Roe 2016, 65).

While concubinage between White men and enslaved and free women of colour was *de facto* normalized and viewed as beneficial for the functioning of colonial society, especially in the context of the demographic imbalance between White men and White women (Van Lier 1977, 54), colonial authorities tried to prevent marriages between free women of colour and White men. Official recognition of a free woman of colour as the spouse of a White man was seen as undermining racial colonial hierarchies in eighteenth-century Suriname and Curaçao (Van Lier 1977, 48–58; De Hart 2014, 12; Roe 2016). As Roe observes with regard to Curaçao:

> Women of color that had relationships or interactions with White men—consensual or not—could reap benefits from them, but even when such relations were amorous and permanent, Afro-descendant women could never enter White European space as a White man's legitimate partner.
>
> (2016, 66–67)

This exemplifies the unequal distribution of intimate status: in colonial Curaçao and Suriname, interracialized relationships between White men and enslaved and free women of colour were largely assigned concubinage status. White women, by contrast, whose intimate lives were supposed to be contained within the institution of marriage, represented respectable, domestic, 'true' womanhood, worthy of legal

protection. As in the metropole, the 'cult of true womanhood' in the colonies was also a patriarchal and heterosexual formation, albeit a formation in which the subject positions of White women were more complex. In the colonial setting, White women, as legal persons, were allowed to articulate their property rights regarding enslaved bodies, but met with severe punishment if they behaved as active sexual agents by entering into sexual relationships with Black men. The latter, meanwhile, would be executed, as stated in, for instance, a 1711 ordinance (Van Lier 1977, 55–56; De Kom 1981; Wekker 2001, 182–183). Sexual relations between White women and Black men were violently and lethally repressed in eighteenth-century Suriname; as Wekker observes, they were seen and treated as 'a serious transgression of racialized sexual boundaries' (Van Lier 1977, 55; Wekker 2001, 182; Stoler 2002). White men, on the other hand, could normally combine marriage to their White spouses with concubinage relationships with Coloured women. Thus, the 'distribution' of intimacies between concubinage and marriage signified the maintaining of gendered and racialized hierarchies of respectability in the context of carnal relations between colonizer and colonized.

It should be emphasized that, in the Dutch Caribbean colonial context, legal personhood, *de jure* Dutch citizenship, was a necessary condition, but not sufficient in itself, for gaining access to the respectable and legally beneficial institution of marriage, even for those who were socio-economically well-off: access to marriage was thus interpellated with race and gender. A telling example is that of Elisabeth Samson, a wealthy, free Black woman in eighteenth-century Suriname who owned several plantations using enslaved labourers. The Dutch colonial authorities in Suriname prohibited the intended marriage between Samson and her lover, a White man named Christopher Braband. Samson then filed an appeal in the Netherlands against this decision. Three years later, the court decided in her favour, but by then her husband-to-be had died (Van Lier 1977; De Hart 2014). Hence, Samson's contested transgression of intimate racialized boundaries was not aimed at dismantling slavery as a system of oppression, but was instead enabled by her deep involvement in it. However, unlike Samson, many other racialized individuals, both free and unfree, developed a variety of alternative intimacies that did not conform to dominant family law, and these relationships had a long-lasting impact on the intimate landscape in both Suriname and Curaçao.

The Dutch Caribbean colonial order strikingly reveals that the recognition of a multiracialized group was not a reflection of the transcendence of racism, but rather a potent sign of a deeply uneven distribution of legal status, life chances and opportunities along racial lines. Although significant numbers of the multiracialized offspring of White men and Black or Coloured enslaved women were enslaved, they were much less likely, for a variety of reasons, to remain enslaved than Black people, while their colonized mothers also had an easier route to manumission (Van Lier 1977, 72–73; Roe 2016). These patterns were discernible in both Suriname and Curaçao (Van Lier 1977, 71; Roe 2016, 65), such that the unevenness in practices of manumission, also arising in conjunction with other policies, resulted in a category of people with 'in-between' status emerging in both territories. In Suriname, for example, some multiracialized

offspring who enjoyed legal personhood, as well as some free Black people, were able to go to the metropole for further studies as early as 1800 (and sometimes even earlier) and became part of a 'coloured elite' (Van Lier 1977; Neslo 2016).

Racialized classifications and the related inequalities in colonial society were a function of colonial policies; they were neither the result of essential features, nor a reflection of innate attitudes of people towards each other. Neslo (2016, 29–42) points in this respect to the potency of colonial policies and legal rules in the formation of racialized social and socio-economic distinctions and inequalities between free 'Coloureds' and free 'Blacks' in colonial Suriname. Generally speaking, the former systematically received more favourable treatment by the colonial authorities than the latter. This resulted in systemic inequalities concerning 'upward' social mobility, and was beneficial for maintaining the Dutch colonial order because of the 'divide and rule' impact it had. According to Neslo (2016, 235–239), the idea of an inherent antagonism between members of the two groups is overemphasized in the scholarly literature (her sources suggest more interactions than earlier literature indicates). Nevertheless, the colonial structure resulted in colour-class hierarchies in both Suriname and Curaçao. As Roe observes with regard to multiracialized offspring of interracialized relationships in Curaçao:

> The children that resulted from such relations were likely to have more privileges compared to their darker skinned peers, but their White peers would by default outrank them. [They] received privileges from their fathers and from society at large, but never to the extent that they became part of the White elite.
>
> (2016, 67)

The abolition of slavery did not result in a dismantling of the racialized colonial order. Rather, White privilege became an intergenerational asset both in the colonies and former colonies and in the metropole (Essed and Hoving 2014; Wekker 2016). In the colonies, the offspring of free multiracialized and free Black populations occupied an intermediate position and increasingly became part of the colonial elite, while the great majority of Black families remained extremely disadvantaged (De Kom 1981; Neslo 2016). Indeed, in Suriname, it was not until the 1950s that the political emancipation of the members of this class and the descendants of the indentured labourers from China, India and Java (Indonesia) succeeded in ending the exclusive dominance of the European and 'light skinned elites' (Marshall 2003).

In the case of Curaçao, meanwhile, emancipatory processes also had an impact on society, with the remnants of the 'pigmentocracy' – a place 'in which somatic features are ranked on a detailed hierarchical scale always characterized with dark-skinned Blacks at the bottom and Whites at the top' (Roe 2016, 45) – still being visible in public culture, in language and in the socio-economic sphere (Roe 2016). Moreover, social pressures exerted by family members on intimacies between people of different phenotype continue to persist and may still have a deep, violent impact, as Roe's (2016) auto-ethnographic observations demonstrate.

While emancipatory movements have sought to deconstruct colonial value-scales, many former Caribbean colonies are familiar with the phenomenon of colourism, whereby bodies and their offspring are ranked along lines of skin colour and phenotype. Like in Suriname and Curaçao, pigmentocratic formations have also structured societies in the English and the French Caribbean, with Jamaica and Martinique being just two examples (see Hall 2017, 25–59; Carby 2021, 41–49), as well as in the United States (Hunter 2007; Reece 2018; Harris 2022) and South American countries such as Brazil (Cottrol 2013; Daniel and Hernández 2020). This phenomenon underlines, once again, the potent workings of 'multiracialization' as a political economy characterized by sharply uneven, colonial-derived opportunity structures.

## Intimacies in Colonial Indonesia

Similar to the situation in the Dutch Caribbean, interracialized intimacies and the ways in which they were regulated were important building blocks in the hierarchical order of things in colonial Indonesia (Stoler 2002), where modern Dutch law also played a key role in anchoring and reproducing a racialized hierarchical order. In colonial Indonesia, it was the racialized binaries between enslaved and non-enslaved persons, between Europeans and natives, and between Dutch citizens and Dutch subjects that provided the hierarchical legal contexts for intimacies. An individual's racial classification, legal status, gender, class and religion determined which intimacies (concubinage or marriage) were accessible and the associated benefits, protections, privileges or disadvantages, vulnerabilities and disenfranchisements. The duality between concubinage and marriage, which existed throughout the various phases of Dutch colonialism in Indonesia, was a classed and gendered duality in the context of transcending carnal boundaries and maintaining racialized boundaries. The ways in which concubinage relations between European men of particular classes, on the one hand, and Indonesian or multiracialized women, on the other hand, were viewed and whether (and how) they were regulated or tolerated depended on perceived colonial interests. In this context, 'sex was not a leveling mechanism but a site in which social asymmetries were instantiated and expressed' (Stoler 2002, 57), with the institution of marriage representing European-Dutch respectability and multiple benefits, and usually being reserved for relationships between men and women with European status (Stoler 2002; Baay 2008).

Before its abolition in 1860, slavery was an important context for non-consensual relationships between White European males and enslaved Asian women (Baay 2015, 74–80). Like Transatlantic slavery, Indian Ocean slavery was a racialized phenomenon: in colonial Indonesia, the enslaved population consisted of Asians from a variety of countries and regions, and Africans from East Africa (Baay 2015, 35–36; Van Rossum 2015; Manuhutu 2020; Schrikker and Wickramasinghe 2020). White Europeans in the Dutch East Indies were free persons and slave-owners, but members of the indigenous nobility, too, owned slaves (Baay 2015). Furthermore, and regardless of colonial ordinances prohibiting sexual relations between

Europeans and Asians, it was normalized for White men to have relationships with enslaved Asian women during slavery and for many years afterwards (Stoler 2002; Baay 2008, 15–34; 2015, 74–80). In this regard, Ann Stoler (2002, 1–2) observes a 'discrepancy between prescription and practice' that was key to intimate colonial formations in colonial Indonesia. In the slavery context, gender, 'race' and class intersected in complex ways in determining intimacies and intimate status. Marriages between colonizers and colonized were kept limited and allowed only under strict conditions. Indeed, from 1617 onwards, marriages between Dutch East India company employees and non-Christian women were prohibited, while a European man who married a freed Asian woman was not permitted to repatriate to the Netherlands (Stoler 2002, 101; Baay 2008, 25). The impact of colonial intimate politics was class-specific: while 'lower ranked' White European men, who were the majority of European men, were often involved in non-consensual concubinage relations with enslaved Asian women (marriage required the latter's manumission and Christianization and was discouraged by colonial policies for men of this class), male members of the colonial elite were usually allowed to bring their European wives with them or to marry an Asian or Eurasian woman, providing these women were free, Christian and Europeanized (Baay 2008, 15–34). The Dutch chartered companies, too, played an important role in colonial politics of intimacy, and this role shifted in line with colonial interests (Stoler 2002, 29–30, 76).

Concubinage between European men and Asian women continued on a large scale after the end of slavery in the Dutch East Indies (1860), although its meaning shifted. From then on, concubines were all 'free persons', but as 'natives' remained excluded from citizenship. By the late nineteenth century, concubinage had become a widespread institution in colonial civil society, in the colonial army and on plantations against the background of continued demographic unevenness between European men and women and restrictive marriage policies. Concubinage was an institution in which European males of all classes became involved: by the final quarter of the nineteenth century, more than half of the European male population – which included 'equated' multiracialized Indo-European males – lived with a *njai* (a native concubine). Indeed, relationships with a *njai* were even promoted in the education provided to future Dutch colonial civil servants (Stoler 2002; Baay 2008, 35–37, 62–63).

Concubinage granted European males 'benefits, without responsibilities' (Baay 2008, 63) and was an intimate cornerstone of the colonial order. For the *njai*, as a native subject, concubinage implied sexual, domestic and cultural responsibilities (such as facilitating cultural translation and teaching the man the local language), but at the same time being deprived of custodian rights over multiracialized children, as decreed in Articles 40 and 354 of the 1848 Civil Code (Baay 2008, 83; De Hart 2014; 2019). Consequently, an abandoned *njai* could suddenly lose her children and family life and, since concubines of Europeans were stigmatized in wider Indonesian society, often also faced social isolation. This was the scenario arising when, as frequently happened, the European male partner 'sent her back to the Kampong' (Indonesian village or district), recognized the children and replaced her with a European spouse (Baay 2008). European males usually 'viewed and used

their concubine as a temporary surrogate' until they found a 'suitable European marriage candidate' in the metropole. These practices were anchored in Dutch law, which prohibited marriages between Christian European men and non-Christian 'native' women (Stoler 2002, 101; Baay 2008, 94). In 1848, more than 200 years after being introduced, the prohibition on 'mixed marriages' (i.e. between Christians and non-Christians) was lifted. From then on, therefore, European men could marry their non-Christian concubine/*njai*.

But while the 1848 Act 'allowed European men already living in concubinage with non-Christian native women to legalize their union and the children born from them', the women were not granted the same legal status as their husband, in accordance with the defining principle of the Civil Code at the time (Stoler 2002, 101; Baay 2008, 94; De Hart 2014; 2019). This changed in 1898, when the Mixed Marriage Act ordained that a 'native' woman marrying a European man would be granted European status (and Dutch nationality). However, the few European women who married native men would become 'native'; these women's choice of partner meant they were viewed as not deserving of European standing. For European women, therefore, and in contrast to European men, endogamy was viewed as the norm. Women who did not conform to this gendered endogamous norm were viewed as 'lost for the Dutch nation', as De Hart demonstrates (2014, 37–39).[3] Furthermore, and in line with the 1892 Dutch Nationality Act, which was based on the principle of *ius sanguinis* and patriarchy, Eurasian (Indo-European) children of male Dutch citizens and native women were granted Dutch citizenship, providing the father recognized the child (; Stoler 2002, 102–106; Baay 2008, 95–97).[4]

Despite the Acts of 1848 and 1898, the number of 'mixed marriages' remained relatively low, and most European men chose to continue living with native women in concubinage. It was then up to the European father to choose whether to recognize Indo-European children he had with his concubine, a choice that had a deep impact on such children's future position in colonial society and that underlined, once again, the patriarchal and racist nature of colonial intimacies (Baay 2008, 96–97; De Hart 2014; 2019). While some European men eventually married their concubines, these marriages were viewed from the colonizers' perspective as a 'violation of the colonial code' and negatively impacted on European males' colonial career prospects (Baay 2008, 79–80, 94).

From 1900 onwards, concubinage was increasingly viewed as an unwanted institution. However, this new phase did not signify a more equal social order: rather, the colonial order transformed itself into *de facto* apartheid (Wekker 2001; Stoler 2002; Baay 2008), with nationalist movements pleading for internal self-rule being brutally oppressed. Among the colonizers, the endogamous European marriage became the norm, and colonial society began to be characterized by spatial segregation between Europeans and natives in public places and residential areas (Stoler 2002; Baay 2008). This was despite the emergence of a multiracialized group, referred to as 'Indo-Europeans', during the centuries when concubinage was a common practice.

At this point, it is instructive to look at how constructions of race translated into socio-legal hierarchies. This broader context elucidates why it mattered, from

the perspective of privilege, whether a person was in a concubinage or marital relationship, and whether they were recognized as legitimate offspring of a European man or not. This racial stratification of the society was formalized in 1854, with the population being divided into 'Europeans', 'Natives' and 'Foreign Orientals'. Although these socio-legal racial classifications allowed for some boundary transcendence, the overall hierarchical structure of colonial society remained unaffected. Hence, the category of Europeans 'and their equals' consisted of White Europeans – primarily White Dutch, but also a wide variety of other Europeans – and, from 1899 onwards, Japanese. Importantly, as mentioned earlier, multiracialized Indo-Europeans were also classified as European if they were legally recognized by their European fathers. By contrast, the indigenous Indonesian population was overwhelmingly assigned the legal classification of 'Natives', and this status was also assigned to 'Foreign Orientals' (in other words, to 'Chinese, Arabs, Moors and all others that were either Muslims or Pageants') and to the non-recognized multiracialized offspring of European men and Asian women (Jones 2007, 57–60; Tjiook-Liem 2009). 'Natives' could become 'equated with Europeans' if they met certain criteria, such as speaking and writing Dutch and being of Christian faith.

The key issue here is that someone's socio-legal status as 'European' implied concrete privileges and benefits, such as a European education (which was one of the conditions for a 'European' career), appointment to public positions (such as being a civil servant or officer in the colonial Dutch army), and the right to pensions (for civil servants) and a fair trial. It also determined whether a person could inherit. The multiracialized 'Indo-Europeans' were proportionally more likely to be classified as 'Europeans', and hence to be eligible (in principle) for such positions, than the indigenous Indonesians (Jones 2007, 57–60; Tjiook-Liem 2009). However, widespread racial discrimination meant that they did not have the same opportunities as White Europeans (Jones 2007, 57–60, 84–85). Furthermore, significant numbers of European fathers did not recognize their multiracialized children; this led to dire situations for these offspring, who could thus fall through society's cracks (Stoler 2002; Baay 2008). These conditions are clear examples of situations in which Eurasian multiraciality was politically produced and articulated. Multiracialized 'Indo-Europeans', especially when impoverished, were often mongrelized in the colonial discourse, with biological and cultural racism construing them as deficient 'half-castes'. It was, however, colonial ideologies of race that created their predicament, rather than this reflecting some innate 'Eurasian' identity; in other words, 'Eurasianness' was produced by colonial discourse and policies, and not the other way around.

These socio-legal classifications of the population into 'Natives' and 'Europeans' laid the foundations for the legal distinction between 'Dutch citizens' and 'Dutch subjects, non-Dutch' that was later introduced into citizenship law. While, as I have argued, metropolitan accounts of the historical development of Dutch citizenship emphasize formal equality and the gradual 'thickening of citizenship' (Jones 2023, 108–109), the Dutch sovereign formalized a distinction in the Dutch East Indies between first- and second-class citizens in the descent-based 1892 Nationality Act.[5] This assigned Dutch citizenship to all those classified as Europeans, including the

multiracialized category of Indo-Europeans recognized by their Dutch fathers, and people who were 'equated with Europeans'. People classified as natives were excluded from Dutch citizenship and, from 1910 onwards, assigned the second-class status of 'Dutch subjects, non-Dutch'. This dualism in Dutch East Indies nationality law was explicitly aimed at ensuring the continuation of colonial hierarchies and was legitimated by the sociobiological racism underpinning the Dutch 'civilizing' mission. It was believed that granting full Dutch citizenship to the entire population in colonial Indonesia would undermine the colonial order, given that unified citizenship status would imply formal equality between colonizer and colonized. (Jones 2007, 57–72). This dualism was a continuation of both *racial* and *male* European dominance: access to Dutch citizenship and to the associated symbolic, political and socio-economic privileges was determined by Dutch fathers, not Dutch mothers, and non-recognized multiracialized children were classified as 'natives' and, like the vast majority of the indigenous Indonesian population, assigned the nationality status of 'Dutch subjects, non-Dutch'. European women, in turn, could not pass on Dutch citizenship to their children, and lost their European status and Dutch citizenship upon marrying a 'native' man (De Hart 2014).

This racial stratification of the population in law also created the predicaments of concubinage for Indonesian women classified as 'natives' and explains why marriage to a European men could be essential for maintaining family life and retaining custody of children. For Indonesian women, being officially recognized as the spouse of a European man (which few experienced) meant sharing in the legal protections and benefits of European status, including being able to maintain family life with their husband and children. For multiracialized Indo-Europeans, in turn, being recognized by a European father meant gaining access to the privileges of European status and, later, to Dutch citizenship. However, since most European men did not marry their concubines, it often also implied a permanent loss of contact with the Indonesian mother and her lineage if their European fathers subsequently married a European woman and took them to the Netherlands.

The afterlives of the intimate violence wrought by Dutch colonialism in colonial Indonesia continue to be directly experienced in present-day Dutch society by potentially hundreds of thousands of Dutch citizens. Reggie Baay tellingly narrates, for example, how his invisibilized Javanese biological grandmother turns up in a document left behind by his deceased father. This document contains the legal recognition of Baay's father by his grandfather, a White Dutch man. To effect this recognition, his 'native' grandmother, Moeinah, his grandfather's concubine, was 'rounded up' (after previously having been 'sent back to the Kampong') to give her consent to the procedure, and was then returned into oblivion. As mentioned before, Dutch civil law determined that European men who recognized their multiracialized offspring held legal custody, while 'native' Asian mothers had no custodian rights over their children. As Baay explains:

> That this was a traumatic experience for mother and child is demonstrated by the fact that my father could never hear or speak about her and it was only after his death that the copy of the certificate of recognition turned up […]

> [A]fter all these years, finding this certificate, which contained the proof of her existence, for the first time made me feel that this great unknown person had really lived.
>
> (Baay 2008, 10–11)

Baay emphasizes that his family story is not an isolated case: indeed, he estimates that two-thirds of the 800,000 Dutch individuals 'with roots in the Dutch East Indies' have an Asian 'foremother' and assumes that, like his father and himself, many people in this group have no knowledge about these ancestors. In other words, colonial 'recognition' of multiracialized children by European fathers, signifying assimilation and upward social mobility, proved to be traumatic for later generations because it simultaneously implied being permanently cut off from the Indonesian mother and her lineage. Perhaps recognizing the traumas produced by 'colonial recognition' could serve as a tool for tracing the impact of colonial afterlives in general, and for tracing their multiple locations.

## Intimacies in the Metropole

While Dutch politics of intimacy were integral to maintaining the patriarchal colonial order, they became intertwined with the gendered, classed and racialized constructions of national identity when people from the colonies started moving to the metropole in somewhat greater numbers. Through these Dutch discourses, people from the colonies who relocated to the metropole were constructed as symbolic aliens, even when they were formally Dutch citizens. In this context, interracialized intimacies were construed as a threat rather than as a contribution to the nation.

With regard to the Dutch Caribbean (Suriname and the Dutch Antilles), the slight increase in the 1930s and after the Second World War in migration from these territories to the Netherlands resulted in interracialized relationships becoming the object of gender- and class-specific problematization. In the political arena, both nationally and at a municipal level and also in media discourses, relationships between working class Black men and White women (but not so much those between White men and Black women, or privileged Black men and White women) were subject to particular scrutiny and sometimes discouraged through policies. In the 1930s, for instance, the municipal authorities of Amsterdam and The Hague retracted the licences of Black Surinamese Dutch men working as musicians in the entertainment industry so as to make it more difficult for them to come into contact with White women (sometimes referred to in this context as 'White daughters of Eve'). These decisions were taken in response to moral panic about such relationships, a subject that was even debated by the Dutch parliament (Jones 2007, 16; De Hart 2014, 32–34). This class- and gender-specific problematization of interracialized relationships reared its head again in the 1950s, when Dutch cabinet members and civil servants at the central and municipal level scrutinized and strongly condemned relationships, in non-public reports and settings, between Surinamese Dutch men who had been recruited to work in the Netherlands and White women, while newspaper articles magnified these relationships in disapproving tones

(Schuster 1999, 119–128). Schuster (1999, 124) demonstrates how these public officials, based on speculations and stereotypes, 'criminalized and sexualized immigration of Surinamese men'. Strikingly, the intimacies of female Surinamese Dutch nurses, who were recruited at the same time (the 1950s) to work in Dutch hospitals, were not subject to scrutiny by the authorities and society, and neither were interracialized relationships between students (Jones 2007). Traces of this class- and gender-specific eroticization of interracialized relationships could still be found in 1963, albeit in less pronounced ways (Jones 2007, 213–218). Suriname's gaining of political independence in 1975 effectively resulted in the borders of the Dutch nation-state being drawn: the arrangements made at the time of Suriname's independence were motivated by the Dutch political goal, which also materialized, of ending the right of people from Suriname, after a transitional period, to move freely to and settle in the Netherlands (Jones 2007).

With regard to people from the Dutch East Indies, metropolitan political discourses and policies had a particularly pronounced effect on the multiracialized descendants of European men and Indonesian women who aspired to relocate to the Netherlands shortly before or after Indonesia proclaimed independence in 1945. The Dutch political discourse made an essentialist distinction between 'Indo-Europeans', who were constructed as 'Eastern-oriented Netherlanders', and 'Western-oriented Netherlanders', who were primarily White. This served as legitimation for the 'discouragement policies' applied in the first half of the 1950s to the former, regardless of their Dutch citizenship, while the Dutch government welcomed the latter. And although the Eurasian Dutch right of free movement was not retracted, discriminatory government policies, such as not granting them loans for travel expenses (while granting such loans to White Dutch), hindered their relocation to the Netherlands. In the end, fierce protests resulted in these policies being abolished (Jones 2007, 159–168). These twentieth-century metropolitan political responses to interracialized relationships and multiracialized bodies show how the Dutch nation was constructed as being essentially White. This racialized construction of the Dutch nation should also be understood in conjunction with arrangements made at independence, as I discuss earlier with regard to Suriname. Political independence signified what I provisionally term 'post-colonial occlusion': in other words, the severing of ties between the European metropoles and their former colonies via collective denationalization after independence, and the retraction of the rights of free movement after independence. Keeping in mind the differences in context, these connections between intimacies, race, migration and nation in the metropole are part of a broader European pattern (Rose 2000; Gilroy 2011; Fogarty 2019; Carby 2021; Franco 2022).

## To Conclude: Shifting Meanings and the Continuation of Colonial Logics

In the Netherlands, the political meanings and functions of interracialized relationships and multiracialized bodies conspicuously changed in the decades following the independence of Indonesia and Suriname. In contrast to the period

before political decolonization, the high incidence of interracialized relationships/exogamy, since the early 2000s, among Dutch citizens with genealogical connections to Caribbean colonies (Suriname and the Dutch Antilles), specifically relationships with White Dutch, has figured as an indicator of integration and has been contrasted with marriage patterns among other racialized groups (Jones and de Hart 2020). Within this discursive context, endogamy has figured as a sign of 'lesser integration' in the case of racialized minorities, while intimate patterns among White Dutch citizens have been systematically excluded from scrutiny. The same is also true for the intimacies of citizens coming from other European countries and living in the Netherlands. In the public cultural sphere, the increasing number of advertisements representing 'Black-White' interracialized relationships and their multiracialized offspring now being seen in the media is telling. As Botman (2010, 157) critically observes, these relationships are commodified and seem to represent 'a non-threatening image of the multicultural Netherlands […] which also appeals to White consumers or with which they can identify'. Indeed, the normalization of interracialized relationships and their offspring in advertisements and the integration discourse unfortunately (and perhaps unintentionally) seems to have become part of contemporary constructions of difference: against a background of rising Islamophobia from the early 2000s onwards, these relationships seem, in the dominant discourse, to represent acceptable difference, the 'harmless identities' (Captain 2014) of the 'beleaguered' Dutch nation. In this sense, dominant representations of interracialized relationships and multiracialized bodies have become part of the colonial logics in the present. If these relationships are to be untied from these hierarchical logics, we need to thoroughly de-racialize them: they are nothing special, nothing extraordinary. Like any other intimacies, they just signify people who simply want to live a happy life.

## Notes

1 In Suriname, those who were not part of the racialized plantation economy, such as Maroons and Indigenous people, were not counted.
2 Unless stated otherwise, all translations from Dutch are by the author.
3 Wetgeving voor Nederlands-Indië. Gemengde Huwelijken 1898, *Staatsblad* No. 158.
4 Wet op het Nederlanderschap en ingezetenschap 1892, *Staatsblad* No. 268.
5 Wet op het Nederlanderschap en ingezetenschap 1892, *Staatsblad* No. 268.

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# 4 'What Does Our Love Have to Do with Politics?'

## Regulation of Interracialized Couples in East Germany

*Christoph Lorke*

### Introduction

'Is it a crime to love a foreigner?'[1] These lines were written by an East German woman in 1982. Her letter was addressed to the Chairman of the Council of State of the German Democratic Republic (GDR), Erich Honecker. She had been engaged to an Algerian man since 1977 and they had a child. As early as 1979, she officially applied for permission to marry him and move to Algeria. In the letter she wrote almost three years later, she vehemently criticized the behavior of the GDR authorities, who had forbidden her to submit another application for marriage. The woman described undergoing a veritable odyssey through various official stages, from the local registry office to the competent ministries, all the while being 'treated in such an undignified manner' and experiencing 'degrading treatment.' Her question to the chairman can only be interpreted as a cynical reaction to the authorities' actions, expressing her despair at the delay and eventual rejection of her application. This case illustrates that the official denial of a proposed marriage between partners considered to be of different 'races' (in this case, a white German woman and an Algerian man) is a form of regulation bordering on prohibition, and raises a number of questions worthy of further discussion.

Thinking about the regulation of interracialized relationships and marriages from their 'margins' allows for some inferences about the social construction of normative values and deviance in specific times and places. These, in turn, reflect the underpinning backgrounds and motivations of particular state actors. With reference to two post-war German societies and their handling of the National Socialist legacy (Chin, Fehrenbach, and Eley 2010), the relevance of interracialized couples is discernable not only for the democratic Federal Republic of Germany (FRG), but also for the dictatorially constituted GDR (Woesthoff 2013; Lorke 2022). Such a focus on interracialized couple relationships not only continues the recent trend in historical scholarship to address questions of love, marriage, and romance in general (e.g., Wienfort 2014; Becker and Reinhardt-Becker 2019), but also with interracialized intimacies in particular (among others, see e.g., De Hart 2014; Jeismann 2019; Chong 2020; Edgar and Frommer 2020; Lorke 2020; Moses and Woesthoff 2021).

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Based on these observations, this contribution explores how individuals in interracialized relationships were produced under the gaze of the law and lived constrained by its action. Social and economic frameworks as well as political, legal, and cultural norms determined the degree of acceptance and rejection of such relationships. Contextualizing the lives of these couples in the GDR (1949–1990) allows us to learn more about the interplay between political regulatory efforts and individual patterns of response, drawing a complex picture situated in this specific social order.

Intimacy in modern societies has always been a central and highly political concern of those in power (Thompson 2009). This chapter therefore focuses on how interracialized relationships were dealt with on the part of the GDR state, illustrating the intersections of gender, class, race, and religion and the resulting inequalities. In doing so, it solely concentrates on marital partnerships since the archives only contain records for marriage applications, which means that, since same-sex marriage was prohibited in the GDR, the chapter focuses only on heterosexual relationships.

This chapter is based on original sources that I have consulted in the German Federal Archives in Berlin, the Political Archives of the Foreign Office in Berlin, the State Archive in Magdeburg, and the papers of the Ministry of State Security (which are now also stored in the Federal Archives in Berlin). In most cases, applications for marriage were accompanied by applications for relocation to the non-German partner's home country or for a permanent residence permit in the GDR for the non-German partner. These documents point to often lengthy, individual case-by-case processing by the responsible authorities, showing how the women and men in interracialized couple relationships were exposed to a blatant degree of arbitrariness. The result of the authorities' official information gathering and monitoring was meticulously recorded in examination protocols, including *Rahmengliederungen* (frame structures), containing thorough assessments of the applicant: his or her presumed *leumund* (moral conduct and reputation), their alleged political or – in contemporary terminology – *ideological position* on the GDR and their integration into work and neighborhood life. The fact that the authorities had to obtain information on all these points underlines the seriousness with which the institutions examined these applications, as well as the considerable amount of time and human resources invested in administrative processing and regulating. The importance of the operational assessment of the applications should not be underestimated, since negative individual impressions could hamper them.

This chapter is organized as follows: First, I relate the history of GDR migration policies to the history of interracialized relationships. Then I draw on my archival sources to discuss the encounters and clashes between the state's efforts to control, dominate, and regulate private life, and individual rights. In the final section, I reflect on my findings and provide an outlook for future research.

## The GDR, Its Migration History and Interracialized Couple Relations

The founding of the GDR in October 1949 reflected the goal of the party and state leadership aim to create a socialist alternative to the capitalist West (especially the FRG) and its allegedly exploitative economic order. The study of the GDR is

particularly interesting because of its peculiar political sensitivity, which is linked to the ideological constitution of the new state and already points to central contradictions in its ways of dealing with otherness. In the newly established 'anti-fascist' state, social inequality was meant to be a thing of the past, as were economic selfishness, militarism, and other 'bourgeois-capitalist' manifestations. This also included the doctrine of solidarity, which was to become the guiding principle of the GDR's foreign and development policies – at least on the surface, regardless of the considerable number of contradictions with the political and everyday practice of this social order. In recent years, numerous studies have analyzed these contradictions between aspiration and reality (e.g., Burton et al. 2021; Wetzel and Schenck 2022).

Dealing with 'otherness' in the GDR was socially and politically highly ambivalent. Discriminatory and everyday racist practices stood in stark contrast to the politically prescribed thrust of socialist 'friendship among nations,' 'humanism,' and 'internationalism.' In particular, people from non-European countries have experienced various forms of exclusion, racism and even violence whether at or off work, and in the field of private and family life (e.g., Rabenschlag 2014; Lorke 2019; Poutrus 2022). Migration studies are now increasingly asking about aspects of the everyday history, lifeworlds, and perspectives of the *Vertragsarbeiter* (contract workers) and students (see in particular Pugach 2022).

Marriage markets also expanded in the GDR society over the time. The likelihood of entering a binational relationship, with or without a marriage certificate, increased both due to the growing number of non-Germans (who came from both 'friendly' socialist states and, increasingly over the years, from 'Western capitalist' countries) and because of the more frequent opportunities for GDR citizens to come into contact with and meet foreign workers, students, or visitors. Typical places of encounter included the workplace, the university, vacation trips, and trade fairs. Admittedly, the scale of the encounters never reached the same proportions as in the FRG. However, from the 1960s onwards, the number of binational marriages in the GDR also increased, reaching almost 3 percent of all marriages in the year when the Berlin Wall fell (1989). Although this was a significant increase, it was still significantly lower than in the FRG, where about one in ten marriages was binational in the late 1980s (for more details on the figures, see Lorke 2021). Politically, however, the country of origin of foreign spouses was seen as far more important than the mere increase in statistical numbers, as it touched on the state's desire to control and regulate. This is evidenced by the frequent classification as 'socialist' or 'non-socialist' in the official statistics of marriage applications.

Until the mid-1970s, most foreign spouses of GDR citizens came from socialist countries that were part of the Eastern Bloc (i.e., allies of the USSR); they were mainly workers, technicians, engineers, students, or people who worked in trade, the military, or politics. Between 1969 and 1972, over 6,800 such marriages took place in the GDR, of which more than half (3,676) including a Hungarian partner. Importantly, the populations of these states were predominantly white in those years. On the other hand, there were few spouses from non-European socialist countries such as Cuba, Mongolia, and China, whose populations were overwhelmingly racialized as nonwhite.

During the 1970s, however, the number of marriage applicants from 'non-socialist' countries increased significantly. The background to this shift was the humanitarian relief efforts brought about by the Helsinki Accords (1975; https://en.wikipedia.org/wiki/Helsinki_Accords) and the subsequent negotiations between the Western capitalist and the socialist blocs.[2] The signatory states – including East Germany, which sought international recognition – had pledged to uphold human rights and fundamental freedoms. As a result of this treaty, relations between the blocs eased, leading to expanded dating and marriage markets. In addition to white men from West Germany and other Western European countries, there was a marked increase in (attempted) marriages between GDR women and male *Vertragsarbeiter*, i.e., migrant contract workers coming from non-European socialist countries, and especially Cuba, Vietnam, Mozambique, and Angola.[3] The flourishing of these interracialized relationships was primarily an urban phenomenon: East Berlin, Dresden, and Leipzig had the highest number of applications and marriages. In contrast to the FRG[4] however, there is a notable gender difference: in the GDR, far more women than men married foreigners (or at least applied to the relevant authorities to do so). As it will become clear in the course of this chapter, this circumstance has had a decisive influence on the actions and perceptions of the authorities as well as on the concrete legal implementation of existing legislation, with gender and race playing a central role.

With regard to the socio-economic profile of couples, some official documents provide elements from which these can be derived.[5] In 1975, for example, the Halle/Saale city administration of the *Sozialistische Einheitspartei Deutschlands* (Socialist Unity Party, SED) evaluated a total of sixty-six applications in the period 1972–1975.[6] Of these applicants, sixty-one were women and only five were men. As with the GDR fiancées, the majority were students and professionals. Overwhelmingly (sixty-one out of sixty-six), couples reported meeting each other in the foreign partner's place of study, suggesting that these interracialized relationships mainly occurred among the highly educated. Figures from other regions of the GDR and other periods may have been similar, since universities, technical colleges, and other educational institutions, as well as companies, offered similar opportunities for encounters.

## Marriage Policy in the GDR

Binational couples' relationships and marriages are intertwined with aspects of civil law as well as humanitarian issues, such as residence and citizenship law, national and international private law, and family reunification. These arrangements reveal several gendered particularities.

In April 1953, the FRG declared the provision of the Reich and Nationality Act (1913) as unconstitutional. From then on, the loss of citizenship of German women who married foreigners was abolished. This law applied regardless of whether the law of the foreign spouse's home country recognized the acquisition of citizenship by marriage. Shortly thereafter, the GDR enacted similar legislation and established an identical procedure with the Ordinance on Equal Rights for Women in

Citizenship Law (1954). However, this overcoming of legal gender discrimination was not immediately accompanied by the elimination of traditional reservations against non-German spouses, at least when they came from certain non-European countries of origin (Woesthoff 2025).

Binational marriages in the GDR were governed by the 1965 Introductory Act to the Family Code (§15, para. 1). According to this law, in addition to the fiancé(e) s' home country law, the relevant GDR state authorities had the right to grant or reject a permission for marriage, i.e., 'when and under what conditions marriages with citizens of other states could be contracted.'[7] Accordingly, Applicants Had to Reckon with Authorities' Potential Arbitrariness.

Decisive for the permission to marry non-German partners, regardless of their region of origin, was a 1963 legal principle laid down in the 'Principles for the Processing of Applications for Marriage with Nationals of Non-Socialist Foreign Countries.'[8] These guidelines were drawn up by the GDR Ministry of Interior and had to be observed by authorities such as courts, registry offices, etc. Couples needed to provide evidence of their – unclearly defined – 'long acquaintance' and/or of their constituting a 'genuine relationship.' In addition, they had to meet legal requirements (having reached the minimum age for marriage, and the absence of obstacles to marriage, such as the existence of another one).

Numerous authorities and individuals were involved in the decision-making process: Approvals were required from the district service office, the company where the applicants were employed at the time, and state security. In addition, the Ministry of Interior's Office for Passport and Foreign Affairs recorded statements from work colleagues or neighbors in order to evaluate applicants' appearance and behavior, motives for the planned marriage, material and idealistic factors of attachment to the GDR, family relationships, and moral conduct.[9] This elaborate information gathering significantly influenced the regulation of intimacy. However, whether a marriage could ultimately take place had to be verified in a further step. The authorities' treatment of male and female marriage applicants from West-Berlin, the FRG and non-Socialist countries differed from case to case. These were rejected if the authorities assumed that the sole purpose of the marriage was to bring about the GDR partner's permanent departure. This aspect points to the GDR's fundamental depopulation fear – the building of the Berlin Wall in 1961 having already been a particularly drastic preventive measure in this regard. Concessions were made only for marriages that were the subject of an explicit state interest, which required an assessment by the Ministry of Foreign Affairs and the SED Central Committee/ International Relations Department. What was considered to be in the interest of the state depended on the prevailing foreign policy and diplomatic climate and changed over time. For example, in May 1973, a woman who was studying in Leipzig applied for a permission to marry an Iranian medical doctor, but her application was rejected due to a 'foreign policy' consideration – Iran was considered a non-socialist state.[10] This was not an isolated case: In? that year alone,

one hundred and twenty-seven applications by GDR citizens to marry citizens of non-socialist states and leave the country were similarly denied on foreign policy grounds.[11] In contrast, only a few weeks earlier, the application of a woman from Dresden to marry the president of the National Youth League of Iraq, who was a member of the socialist-oriented Baath Party, had been approved, as the competent authorities considered the man's political career a 'decisive political influence.'[12]

## Race and Gender in the Regulation of Marriages

I suggest that race played a subordinate role in the GDR's struggle for diplomatic recognition. Initially, concerns for 'national security' and the repeatedly propagated 'protection of the socialist order' appeared to be more decisive criteria in the assessment of marriage plans. Nevertheless, the factor of 'race' could be relevant in individual cases, especially since there was a great deal of continuity among the civil servants working in the GDR after World War II. Therefore, contrary to the official ideological interpretation that racism no longer existed in the GDR after the defeat of Nazism, continuity at the level of personnel and bureaucratic traditions may have influenced the assessment of marriage applications involving racialized men. While the numerous approvals of marriages of GDR women to men from African and Asian socialist states, mostly students, and their subsequent resettlement in the latter's country of origin may seem to contradict such an assessment, a more complex and nuanced case-specific analysis is required.

In many cases, the decision-making processes of all the authorities involved, from the registrar to the senior ministerial staff, cannot be fully traced and reconstructed. In addition, the existing files do not always show whether a marriage ultimately took place or not, and it is not possible to estimate the share of racial reservations among the refusals, especially since these would not necessarily be clearly stated in writing. Nevertheless, as in the FRG, continuities in the reproduction of racist knowledge in the authorities' ways of dealing with difference and otherness are rather likely (Alexopoulou 2022; Lorke 2022).

Despite these limitations, I was able to identify a large number of well-documented cases in the archives that reveal the existence of a certain framework for the smooth approval of marriages. This was based on a combination of factors like the 'authenticity' of the relationship, partners' social standing, good moral assessment ('reputation'), and intention to stay in the GDR. For example, in 1972, a woman who studied at the School for Mechanical and Electrical Engineering in Magdeburg was allowed to marry a man from Mali, who was studying at the Engineering School in Roßwein (Saxony), and whom the authorities described as being 'determined, honest and polite.' This assessment coexisted with the couple's explicit intention to move to Mali with their child – an intention that in other cases would often constitute a ground for refusal due to the GDR authorities' fear of depopulation.[13] A helpful factor was the 'reputation' of both partners, especially their political commitment to the SED. Political loyalty was often a decisive argument for marriage and emigration in many other cases. Similarly, in 1973, a female journalism student was allowed to marry a Libyan man who worked as an Arabic

translator for the German General News Service in Berlin and who, as a correspondent for his father's Beirut-based newspaper, regularly wrote positive articles about GDR politics.[14]

In addition to these geopolitical frameworks, the state's self-description as 'internationalist,' 'humanist,' 'proletarian-internationalist,' and promoter of 'friendship between people' shaped its 'grand' ideological narrative – at least in theory. However, the application of these frameworks to the treatment of interracial couples reveals significant discrepancies. This can be seen in numerous examples contained in official records, particularly when men from African and Asian countries applied for marriage licenses. But here, too, the official position was not always clear. While there were no objections to the application of a woman from the Dresden area and a Nigerian man from the Dresden University of Applied Sciences in 1974, since the GDR leadership at the time was interested in expanding economic relations with 'non-socialist' Nigeria, objections were raised in the case of a partner from Thailand in the same year. It is not clear from the files to what extent the political instability of the country, which oscillated between military rule and liberal democracy, may have played a role in this decision – but it is safe to assume that it did.[15]

In other cases, rejections, delays, and procrastination suggest the existence of patterns of racial discrimination. In 1964, after her application to marry a Nigerian student had been rejected, a woman from Magdeburg asked the chairman of the Council of State, Walter Ulbricht, directly: 'Or you just don't want your GDR citizen to have a closer relationship with this African Negro?'[16] Such accusations recur in the archival sources I consulted, but they are rarely as explicit as in this case. A more indirect reference to racial discrimination can be found in the following words of a Kenyan medical student (who had already lived in the GDR for several years). In 1975, after several unsuccessful attempts to marry a woman from Dessau, he wrote a letter to the State Department expressing strong political protest against her treatment: 'As far as I know, the GDR is the only country in the world where – due to the attitude of the government – a woman cannot marry the man she wants to. In this question the GDR stands alone among the socialist countries.'[17]

Although it can be assumed that racist attitudes underlay many denials and lengthy delays in marriage applications, the authorities were careful not to make this explicit. In order to avoid negative diplomatic repercussions, which could have led to a loss of international recognition on the part of both Socialist and Western states, the engaged couples were usually summoned directly to the relevant foreign ministry in East Berlin. As a rule, however, only the German female fiancées were invited to these meetings. Only there and then were they informed of the reasons for those refusals or delays. Unfortunately, the course and outcome of these meetings were not documented; rarely did the archives contain more than brief notes. For example, to discourage a GDR woman from marrying and moving to Niger, she was instructed by GDR officers about the country's 'climatic conditions, customs and traditions.' It is not possible to reconstruct exactly what this meant, but it is likely that racist or colonialist interpretations of German superiority played a role.[18] On the other hand, numerous marriages of GDR women to men from

African socialist countries, mostly students, were approved, along with the couple's residence permit. Marriages with non-German men and women from non-European socialist or non-socialist states were still possible for GDR citizens, both legally and practically.[19]

**Administrative Assessments of the Authenticity of the Relationships**

It is often not enough to note that the likelihood of a marriage application being approved by the GDR authorities varied widely. The decision depended not only on the partner's country of origin and the official assessment of the fiancées' reputations, but also on diplomatic timing, traditional prejudices, and official suspicions about the authenticity of the relationship. The suspicion that marriage applicants might enter into a *Scheinehe* (marriage of convenience) is perhaps about as old as the history of modern marriage (see Messinger 2017; De Hart 2022). In the GDR too, there were no official documents stating what constituted a 'genuine marriage.' After the construction of the Berlin Wall in 1961, more and more detailed checks were carried out to determine whether a spouse from a 'non-socialist foreign country' had a 'genuine relationship' with a GDR citizen – because, as we have seen, for the authorities such a desire to marry was usually synonymous with the hidden goal of permanent emigration. This was particularly painful for the state because most of the applicants were young, employable, well-educated women.[20] The responsible branches of the People's Police and State Security were therefore required to carefully assess whether a permanent, 'genuine' relationship existed. In the case of such requests, suspicions were enough to justify a rejection, usually including the seemingly arbitrary reference that the relationship was not 'genuine and lasting.' This argument could be used especially if the marriage applicants were 'unpopular' in the eyes of the decision-makers for various other reasons (moral, political, social, etc.). The application of a geologist from Leipzig, who wanted to marry a Japanese citizen living in West Berlin in 1983 and then move with him to Japan, was rejected primarily on the grounds of a suspected marriage of convenience, but also on the basis of the authorities' sexist assumptions about her promiscuity and her 'connections with criminal and decadent elements in Czechoslovakia' and West Berlin.[21] Thus, the 'authenticity' of the relationship could, under certain circumstances and in combination with suspicions of political disloyalty, be a decisive argument for rejection. Sometimes, the assumption that the marriage was only for the purpose of emigrating to the 'capitalist West' was undoubtedly the clearest argument for rejection. In the fall of 1982, a woman from Schönebeck applied to marry an Algerian. Although the district council saw no formal grounds for refusal, the security organs noted that in similar cases the couple had usually left the country for France or the FRG – an increased travel activity in which there was 'no state interest.'[22] Thus, they proceeded with rejecting their marriage application.

In addition, an important argument in the authorities' assessment of marriage applications was concerned individuals' reputation (*Leumund*) – an administratively constructed category with a history going back many decades that could

open the floodgates to arbitrariness. Considerations of the moral behavior of the marriage candidates played a central role. In particular, the sexual behavior of the women involved (or the assumptions about it) was in the spotlight. If an applicant who was already unpopular with the authorities (for example, because of his political views) led a lifestyle that was considered 'questionable,' the latter could be used to justify a refusal. Not infrequently, rejection was coupled with social devaluation, almost pathologization of the women involved because of their association with prostitution (see e.g., Ryan 1999; Lorke 2020), revealing the patriarchal and sexist stereotypes underlying the social perception and categorization of women intending to marry a (racialized) foreigner. According to an official assessment of the Ministry for State Security, a housewife from Leipzig who, in 1983, wanted to marry an Algerian man lived in 'disorderly' conditions, 'constantly' visited restaurants, received foreign citizens, produced 'noise that disturbed the peace,' and did not fulfill her supervisory and educational duties.[23] In the same year, a woman from Halle, who had a child with a Vietnamese man and wanted to marry him, was accused of having an 'unstable character,' an unclean apartment, promiscuity, neglect of her children, and too close contact with other Vietnamese citizens who sewed pants in her apartment. The fact that her circle of acquaintances consisted mainly of women who had children with and/or relationships with Cuban men added to the negative picture painted by State Security and made it impossible for her to obtain permission to marry.[24]

**International Relations with 'brother countries'**

The politicization of these marriages, however, did not come from the GDR authorities alone. The social and official approaches described above would be incomplete without taking into account the demands and expectations of the non-German partners' countries of origin, as the GDR required for binational marriage applications. Mutual legal assistance in civil and family matters was agreed with many of these countries, including the 'friendly,' i.e., socialist, countries. However, until the fall of the Berlin Wall in 1989 and the dissolution of the GDR, they were all subject to state interest.

First and foremost, the socialist 'brother countries' were generally interested in their citizens' repatriation after completing their studies or training as skilled workers in the GDR. This was the reason for a rigorous policy of rejecting binational marriage applications until the 1980s, e.g., by the Cuban authorities. They often did not approve marriage and resettlement applications at all, especially from university graduates, or only after long waiting periods of 2–3 years. This practice resulted in numerous petitions from female GDR citizens complaining of massive socio-economic and family problems, as many of them already had children with their Cuban fiancé. In the mid-1980s, bilateral efforts were made to expedite and standardize as much as possible the processing of marriage and resettlement applications, including more sympathetic reviews and more generous processing. It was also noticeable that the Cuban authorities took a more nuanced

approach to these applications, no longer viewing them solely as a means of emigration.[25]

Similarly, the Vietnamese government consistently tried (though not always successfully) to prevent these marriages because of the country's need for post-war reconstruction aid, and further assumed that its nationals were entering into marriages of convenience to remain in the GDR.[26] For their part, East German authorities avoided interfering in Vietnam's internal affairs and referred to 'the internationalist duty of the GDR' when responding to inquiries and complaints. Such abstract responses allowed the authorities to conceal their possibly racist disapproval of such relationships.[27]

In the case of Mozambique, political and cultural reasons have led to an unclearly argued but fundamentally negative attitude of the authorities toward marriage applications with foreign (especially European) partners. In the early 1970s, the *Frente de Libertação de Moçambique* (FRELIMO, Mozambique Liberation Front) prohibited its members' marriage with European women.[28] From the point of view of the GDR authorities, the stalling policy of the Mozambican Ministry of Justice had a clear objective: over time, fiancés would stop or refrain from applying for marriage, and not a few were probably actually deterred by the many hurdles and difficulties they encountered. This attitude was, of course, particularly problematic when children had already been born.[29]

In the second half of the 1980s, the GDR authorities approved only 50 percent of marriage applications involving partners from Mozambique, compared to 71 percent for the FRG, 73 percent for Algeria, 76 percent for Cuba, and 96 percent for Vietnam. In the case of Vietnam, however, only two out of three pre-approved applications were eventually followed up; in the case of Cuba, just under half of all applications in the same period were followed up; and in the case of Mozambican nationals, only 12 percent of pre-approved applications were followed up. In the end, most of the applications were not rejected but were withdrawn by the applicants for reasons that cannot be reconstructed in detail.[30] In addition to the bureaucratic obstacles mentioned above, these may include logistical and financial difficulties, or 'fatigue' due to long waiting and processing times.

## Voices of the Couples

Nevertheless, not all couples simply accepted the denials of the authorities. It is therefore worthwhile to include in this historical analysis (at least where records exist) the possibilities that couples had to shape their relationships and to insist on their social, human, and civil rights. These options included, for example, the practice of refraining from marriage altogether in favor of cohabitation, which involved less bureaucratic requirements (though without the legal benefits and guarantees of an official marriage). On the one hand, the individuals affected by the negative administrative treatment and unclear refusals discussed so far were victims of the institutions, since there were no organizations in the GDR that provided advice in such situations. On the other hand, in some cases, engaged couples tried to circumvent these social and institutional restrictions by their own means. It is

not surprising, therefore, that there were numerous official complaints about unjustified delays, verbal refusals, and postponements, especially when non-European spouses were involved in the marriage process.

The rejection of a marriage application is not 'just' a bureaucratic act in the lives of those affected, but also affects their identity and well-being. In 1974, for example, a woman from the GDR who had met an Algerian man during her studies in Leipzig articulated suicidal intentions after the first rejection of her marriage application. It is not possible to trace in the archive whether her mental health affected her application; what we do know is that half a year later she was granted permission to marry and move to Algeria with her husband.[31]

Similar emotional reactions can be seen repeatedly in the archival data I consulted. They convey despair and harsh criticism of the politicization and racialization of people's intimate sphere. Since the 1970s, due to the developments in the field of human rights during the Helsinki negotiations, there has been a noticeable accumulation of petitions to the Chairman of the State Council of the GDR and other institutions protesting the rejection of marriage applications. The complaints were directed either at the GDR authorities or at the authorities in the fiancées' countries of origin. These letters often contained references to the UN Convention on Human Rights, the GDR Family Code, or the GDR Constitution, and criticized the authorities' 'callousness and bureaucracy.' In one case from 1974, a woman from Erkner who wanted to marry a Ghanaian citizen stated: 'We are stunned that they treat us so inhumanely, that they want to separate us and that I should be left alone with our child.'[32] In another case from 1978, a woman from Suhl who was denied a planned marriage to an Algerian underscored her suspicion that the local registry office was stalling by referring to marriages between Algerian and GDR citizens that had recently taken place in Erfurt and Magdeburg. These references point to the existence of informal network structures and exchange processes among those affected throughout the country.[33] An angry letter of protest written in 1979 provides insight into another case of a woman who wanted to marry an Algerian man. In the letter, she cited UN human rights treaties and expressed persistence and harsh criticism. In it, the woman, who had been disowned by her parents, declared that she was 'determined to fight to the last to be allowed to go to Algeria. Of course, we are aware that it [life] is not easy in his country. But it cannot be worse than it is now.'[34]

Especially when partners from African or Asian countries were involved, longer waiting times were common, which regularly led to complaints to the GDR Council of State and the Ministry of Foreign Affairs. In 1966, the Magdeburg City Council wrote to the district that the citizens did not understand the reasons for the long waiting times.[35] This, along with the delaying tactics and unfounded refusals, led them to despair and question the credibility of the GDR and its officially proclaimed political goals. 'What does our love have to do with politics?,' a woman from Halle asked in a letter in 1975, relating her desire to marry a man from Nigeria in accordance with the state's propagandistically proclaimed goals of 'practicing proletarian internationalism, as is so often demanded by our government.' The woman's further statements show how resentful she was after

the rejections and postponements she had experienced up to that point: 'Nothing connects me with a state that does not accept our application for marriage,' she continued, explaining that she would later repay the state funds used to finance her studies to the GDR.[36]

The experiences of individuals in the GDR hardly remained isolated from one another, as they exchanged information about long waiting times, personal summonses to Berlin, and experiences of racism in informal groups. On the part of the authorities involved, there was a noticeable increase in uncertainty. As a result, perseverance and patience could pay off in individual cases, as the authorities sometimes lost track of the decision-making process, which might have allowed a case to be reassessed. Changes in the authorities' decisions were not the exception, but rather the rule, for example, when an embassy lobbied for permission to marry or move, or when 'political-operational considerations' were taken into account.[37] These examples demonstrate how important the right timing in terms of political climate and opportunity can be in such a highly politicized regulatory regime of intimacy.

## Conclusion

This chapter reflects individual fates and couples' struggles for self-determination in the face of the proclamation of their rights to family life. A look at the relationships of these interracial couples reflects in many ways contemporary negotiations of national and cultural difference in the intimate, private, and everyday spheres. They show the intersection of different categories such as class, race, and gender, point to modes of perception by the authorities and – at least to some extent – individual spheres of action, and reveal something about the negotiation of belonging, the creation and transfer of knowledge about otherness, and the mechanisms of inclusion and exclusion in GDR society.

As I have shown, the framework for GDR marriage policy was shaped by a variety of influences: racism and sexism, diplomatic and foreign policy considerations, moral categorizations, and individual judgments. Although, as I have shown, each case must be considered on its own merits and carefully differentiated, they all reflect couples' difficult negotiations with legal uncertainties, control, repression, surveillance, and restrictions on their freedoms and human rights. The individual confrontation with the still politicized and equally racialized modes of regulating interracial intimacy is remarkable. This suggests that it would be useful to examine the validity of these considerations more systematically and across the whole of the GDR.

Interracialized couples and families were a quantitative minority in GDR society. However, their perspectives on and experiences in East Germany (and reunified Germany) are important in mapping a more diverse and multi-perspectival memory of the second German dictatorship. Ultimately, doing so allows us to draw conclusions about the boundaries and demarcations between 'familiarity' and 'otherness' that were typical of the time, and about forms of intersecting inequalities that still require a great deal of historicization.

## Notes

1 Letter of A.N., February 10, 1982, Saxony-Anhalt State Archives in Magdeburg, M 1, 16738/2.
2 The negotiations were the result of a global policy of détente. The negotiations, which began in 1973 and in which seven Warsaw Pact countries took part alongside the NATO states, ended two years later with a declaration of intent by the signatory countries regarding the inviolability of borders and the protection of human rights and fundamental freedoms, among other things.
3 Overview of marriages with citizens of other states (confidential classification), second half of 1989, Politisches Archiv des Auswärtigen Amtes Berlin (hereinafter abbreviated as PAA), M 3, 255/3.
4 Information on applications for consent to marriage between citizens of the GDR and citizens of non-socialist states, West Berliners, etc., as of January 1, 1984, to March 31, 1988, overview by district (only applications), BA B, MfS ZKG 18650.
5 A comprehensive quantification and qualification cannot be done within the scope of this chapter. For further information and explanations see Lorke (2022). A systematic and complete recording of these marriages or attempted marriages is still pending.
6 Note of the SED city leadership Halle, September 19, 1975, Local Archive Halle, A 3.25, Nr. 51.
7 Assessment of problems of marriage with citizens of other states (except FRG and West Berlin, 1973, BA B, DO 1/161066.
8 Principles for the processing of applications for marriages with citizens of non-socialist foreign countries, BA, DO 1/13851, July 24, 1963.
9 See among many others the file BA, MfS ZKG 261.
10 House Memorandum in the Ministry for Foreign Affairs of the GDR, PAA, M 2, B 467/76, May 18, 1973.
11 Letter from the Ministry of Foreign Affairs of the GDR to the Ministry of the Interior, PAA, M 2, B 744/78, June 30, 1973.
12 Note in the Ministry for Foreign Affairs of the GDR, PAA, M 2, B 467/76, February 16, 1973.
13 Council of the City of Magdeburg to the Council of the District of Magdeburg, Saxony-Anhalt State Archives in Magdeburg, M 1, 16175/1, January 11, 1972.
14 People's Police District Office Osterburg to the District Council, Saxony-Anhalt State Archives in Magdeburg, M 1, 16175/4, January 27, 1973.
15 Note in the Ministry of Foreign Affairs of the GDR, 5.11.1974; letter of WS, November 26, 1974, PAA, M2, B 468/76.
16 Letter of LW, January 3, 1964, Saxony-Anhalt State Archives in Magdeburg, M 1, 16154/1.
17 KL to the Ministry of Foreign Affairs of the GDR, August 21, 1975, PAA, M 2, B 744/78.
18 Note in the Ministry of Foreign Affairs of the GDR, May 7, 1975, PAA, M 2, B 744/78.
19 For example, between 1969 and 1972, as we have seen, this was an important phase in the struggle for diplomatic recognition for the GDR leadership, one hundred and eighty-three marriages were contracted with men and women from countries in the Middle and Near East (an average of about 46 marriages per year). In 40 cases, the couple remained in the GDR after marriage. In most cases, the partners came from Syria (42), Iraq (39), India (19), and Lebanon (16), all of which were countries with more or less strong socialist or communist movements or political influences in those years. For Africa, the figures are even higher: two hundred and fifteen marriages took place in those years (about 54 marriages per year). In 33 cases, the newlyweds remained in the GDR. Here, too, the countries of origin Ghana (29 cases), the United Arab Republic (27), Algeria (21), Sudan (18), Nigeria (14), and the Democratic Republic of the Congo (12) produced, at least for a short time, political forces that were sympathetic to the GDR leadership. In the years from 1973 to 1988, the annual average number of marriages between GDR citizens and men and women from Asia was 68, and with men and

women from Africa it was 126. See Assessment of problems of marriage with citizens of other states (except FRG and West Berlin), 1973, BA B, DO 1/16106 and: Overview of marriages with citizens of other states (confidential classification), second half of 1989, PAA, M3, 255/3.

20 Overview of the development of marriages with citizens of non-socialist foreign countries, June 14, 1963 BA B, DO 1/13851.
21 Frame Structure, 9.11.1983, BAB MfS BV Lpz BKG 276.
22 Council of the City of Schönebeck to the Council of the Magdeburg District, September 15, 1982, Saxony-Anhalt State Archives in Magdeburg, M 1, 16737/3.
23 Frame Structure, April 28, 1983, BA MfS BV Lpz BKG 276.
24 Investigation report of the district service office Halle; August 9, 1983, BA, MfS, Abt. X 343.
25 Legal Office of the State Security, 814, February 13, 1989, BA, HA VII.
26 Problems of GDR-SRV marriage and the transfer of Vietnamese citizens to the GDR, October 22, 1986, PAA, M 52/502393.
27 Embassy of the GDR in the SRV, May 28, 1983, BArch MfS Abt. X 343.
28 Letter Council of the district Gardelegen, August 17, 1972, Saxony-Anhalt State Archives in Magdeburg, M 1, 16176/1.
29 Problems of marriage and resettlement between citizens of the GDR and the People's Republic Mozambique, October 22, 1986, PAA, M 52/502393.
30 Information on applications for consent to marriage between citizens of the GDR and citizens of non-socialist states, West Berliners, etc., as of January 1, 1984, to March 31 1988, overview by district (only applications), BA B, MfS ZKG 18650.
31 Zerbst District Council: Statement, October 4, 1974, Saxony-Anhalt State Archives in Magdeburg, M 1, 16176/3.
32 KS to the Ministry of Foreign Affairs of the GDR, March 6, 1974, PAA, M2, B 468/76.
33 PA to the Ministry of Foreign Affairs of the GDR, December 16, 1978, PAA, M 2, B 5.285.
34 UL to the Ministry of Foreign Affairs of the GDR, October 7, 1979. PAA, M 2, B 5.285.
35 Council of the City of Magdeburg to the Council of the District, August 1, 1966, Saxony-Anhalt State Archives in Magdeburg, M 1, 16154/2.
36 Note of the SED city leadership Halle, September 19, 1975, Local Archive Halle, A 3.25, Nr. 51.
37 See only for the year 1983 BA, MfS BV Hle BKG 361.

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# Part II

# Legal-Spatial Segregation

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# 5 Regulating 'Mixture' while Building a Settler-Colonial City

## The Case of Benghazi

*Andrea Tarchi*

### Introduction

This chapter focuses on the transition from a militarized space to a settler colony that transformed the capital of Cyrenaica, Benghazi, and how such a transition modified the Fascist colonial elites' regulatory attitudes toward episodes of 'mixture.'[1] In particular, this chapter looks at how changes to the city's social landscape, together with the arrival of a more significant number of Italian women between the end of the 1920s and the beginning of the 1930s, prompted Italian administrators to erect and police the city's racial boundaries. It will show how administrators swiftly dealt with cases of Italian women engaging in intimate relationships with Libyan men while planning to enforce stricter racial segregation in the city. These policies point to shifting regulatory frameworks during the transition to a settler colony and how they contributed to the racist paradigm shift that characterized the Fascist Italian Empire in the mid-1930s.

The unbalanced gender ratio of most European colonies has prompted much research on interracialized intimacies between European men and colonized women. Since the 1990s, the scope of inquiry on colonial 'mixture' has expanded, with postcolonial feminist scholarship recognizing that white women served as 'potent symbols of civilization throughout the imperial world' (Perry 1997, 502), and held a liminal place in racial hierarchies, as they could either upheld 'the supposed superiority of white morality' or subvert it by engaging in purportedly 'inappropriate' behavior, such as by 'engaging in sexual relations with black men' (Zacek 2009, 333).

Given their centrality in the enforcement of racial boundaries, white women's role in colonial societies, their social perception and regulation have been researched in different contexts.Research on their intimate relationships with colonized men has focused chiefly on colonial states' anxieties around the movement of white prostitutes in different colonies and on the broader discourse on the 'black peril' at the beginning of the twentieth century.[2] Scholarship on 'mixed' intimacies between European women and Arab men in colonial contexts is somewhat smaller (but see Brown 1994; Kholoussy 2003; Phipps 2021). This chapter contributes to expanding it by focusing on Italian Libya, which has been only partly researched.[3] In particular, it will show how the Fascist authorities reacted

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to the possibility of sexual relationships that defied colonial assumptions regarding intimate colonial boundaries by analyzing cases of working-class Italian women who engaged in intimate relationships with Libyan men. In this way, regulations of 'mixture' in Benghazi are understood as an exertion of colonial, patriarchal state power over their sexual and affective agency. Further building on Fuller's work (2006) on urban segregation in colonial Tripoli, this chapter paints a picture of an evolving intimate colonial landscape amid a reorganization of the city's hierarchies along racial and class lines. To analyze this shift and assess the role that 'mixture' and its regulation played in it, this chapter connects instances of expulsions of Italian women who engaged in 'mixed' intimacies to the urban segregation policies investing Benghazi. Whilst the two policies are not necessarily in a relation of causation, they are two related outcomes of a shifting social environment characterized by an increase in white Italian presence, which saw the emergence of forms of colonial state power to police the city's racial boundaries.

These changes are assessed by analyzing official government sources collected in Italian state archives. For the women expelled from the colony, archival folders mix the procedural steps that served as their punishment with the complaint and plea letters the women sent to the government. For what concerns the racial segregation planning of the city, the letters, memoranda, and city plans analyzed here give a clear indication of the evolution of colonial power and ideology in the city with regard to the regulation of 'mixture.'

The first section of this chapter outlines the ideological framework that encompassed the shift of the Libyan colony from a militarized space to a settler colony and the consequences it had on the lives of Italian women who were in intimate relationships with Libyan men. The second section adds to the backlash that such couples had to endure the stricter enforcement of the city's racial segregation, detailing how the unique experiences of 'mixed' couples were part of a larger scheme of preservation of the racial purity of Italians in the colony. Overall, these cases will show how the increasing presence of Italian women in the Libyan colony played a central role in shaping urban segregation policies in the city of Benghazi.

## 'Mixture' in the City: Racial Boundaries and Gendered Regulation of Public Morality

### *The Dangers of Certain 'Mixed' Intimacies in a Settler-Colonial City*

In the Italian colonies, the Fascist regime asserted the racist ideology that increasingly characterized its nationalist discourses by consolidating the settlers' racial identity through policy and discourse. The regime elevated Italians' awareness of their whiteness by racializing colonial subjects in a colonial 'logic of encampment' (Gilroy 2000)., which identifies how, during colonial times, European nations conflated the notions of race, culture, and nation into a rigid material and symbolic field within which to erect standards of racial and national identity. In conjunction, this discursive *milieu* was deployed in the colonies by creating an identification by

contrast, through which Italians were supposed to identify themselves as white and European in opposition to the racialized colonized population.

For the Fascist administration, the imperative to enforce the racial divide was relevant for the Eastern African colonial subjects as much as for Libyans, even though the latter dwelled at a higher level in the Italian colonial hierarchies, as exemplified by the 'colonial citizenship' status extended to them (Tarchi 2022). Islam was a primary marker of racialization for the Libyan population, as essentialized cultural and religious differences between the settler and colonized population were used by the colonizing society to this end. The colonial administrations actively protected colonial boundaries to circumscribe such essentialized differences, with 'mixed' intimacies being one of the biggest threats to the fragile colonial hierarchies that organized the evolving social landscape of Benghazi.

With regard to 'mixture' and colonial racial boundaries, the colonial city 'functioned as a means of and reason for social control and segregation' (Beverley 2011), embodying the space in which colonial regulations concerning the logic of encampment found their most immediate practical application. This ideological framework became highly relevant when the colony transitioned from military space to a settler colony. 'Mixed' intimacies such as concubinage (known as *mabruchismo* in colonial Libya), which Italian military administrators had condoned for twenty years to provide sex, domestic help, and comfort to army officers, became a clear threat to racial hierarchies once the Fascist government allowed and fostered the presence of Italian women in a 'pacified' colony (Spadaro 2010, 42).[4] This shift revolutionized Benghazi's social landscape, which saw its Italian settler population grow exponentially in only a few years, turning from a military outpost town into a proper colonial city.

Until the second half of the 1920s, Benghazi had been a small and secondary city in the Italian colonization plans for the region – its relative importance residing only in its position as the leading military outpost against the anticolonial resistance. For most of those years, Benghazi had no more than 16,000 inhabitants, composed mainly of Arabs and Berbers and a small Jewish minority. The Italians were mainly soldiers, colonial administrators, clergy, and civil servants, usually unaccompanied by their families,[5] and in the first stages of the Italian colonization, their small size never pushed colonial administrators to reshape the city's geography.[6] This situation remained unchanged throughout the war and in the first years of Fascist rule (starting in 1922), but abruptly changed with the end of the war and the ensuing settler colonization. Between 1927 and 1939, Benghazi's population grew sharply, reaching 66,200 inhabitants, of whom 20,628 were Italian civilians and the rest military.[7] This change reflected the arrival of settler families, and with it, higher number of Italian women. This evolving context strengthened the Benghazi colonial administrators' urgency to enforce a stricter policing of racial boundaries in the city.

This change in the colonial authorities' attitude can be understood as a direct result of the ideological shift that gradually invested the Fascist party and moved it toward more racist and segregationist policies culminating with the conquest of Ethiopia in 1936 (De Napoli 2025). Simultaneously, as I will show, it can also

be partly attributed to material changes in the colony, with an increase in Italian women, resulting in a swifter regulation of all kinds of 'mixed' intimacies.

In what follows, I illustrate these social and regulatory shifts in Benghazi by analyzing two cases of 'mixture' involving Italian women in a relationship with Libyan men, which are preserved in the Archive of the Italian Ministry of Foreign Affairs. Both women were recent inhabitants of Benghazi, who ended up on the radar of Fascist administrators because of their relationships with local men, and were eventually expelled from the colony. The colony's government and the Ministry of Colonies handled these cases individually, relying on discretionary power and police surveillance. In both cases, the colonial police arbitrarily carried out the women's expulsion and repatriation based on accusations of prostitution and immorality and without any accompanying juridical references. I draw specifically from the colonial administrators' official reports and rulings and the women's letters sent to the colonial and metropolitan governments.[8]

### *Italian Women and Libyan Men: Public Morality or Racial Purity?*

The first folder mentions Francesca, who moved to Benghazi in January 1927 with her mother, husband, and five children.[9] Shortly after their arrival, for reasons related to domestic violence, the couple filed a request for consensual separation with the Benghazi regional tribunal and obtained it relatively quickly. As a separated woman in the colony, Francesca was instantly subjected to strict surveillance by the colonial police, which resulted in a report sent to the Governorate of Cyrenaica on August 25, 1928:

> Francesca, legally separated from her husband, conducts a notoriously marital life with Abdel. She gives herself to Italian, Jewish, and indigenous men in his absence. Some time ago, Francesca went to a shoe store where the mentioned Abdel bought her a present, and she was heard explicitly stating her affection for him. In another instance, she accompanied Abdel to a friend's wedding. […] Many metropolitans who happened to be there strongly criticized her behavior on this occasion. […] This report is intended to depict Francesca's moral conduct, who deserves some punishment.[10]

In this quote, we see that some Italian settlers saw Francesca behaving 'immorally' in the company of a local man, leading the police to suspect that she might be engaged in a 'marital relationship' with him. Settlers' interest in it represents a critical mechanism of informal social control amounting to an indirect regulation of non-acceptable intimacies. As argued by Barrera (2002, 335) for the Eritrean context, it suggests the existence of 'a common colonial ethos, and [that] by and large settlers did not need the colonial government – or even less the central government from Rome – to tell them how to run their sexual lives without endangering racial hierarchies.' It is also relevant to underline how the police accused Francesca of prostitution – echoing the early-twentieth-century widespread assumption that white women in relationships with racialized men were either sexually deviant

or prostitutes (see, e.g., Bland 2005) – and, therefore, worthy of punishment and expulsion from the city:

> Given the report provided by the police to this office on Francesca's moral conduct, the undersigned Vice-Governor learned that the woman in question had behaved immorally for a metropolitan citizen, as she is engaged in a marital relationship with the native Abdel. She did not even have the decency to hide her affair from the public. […] This government rules that Francesca, *for reasons related to prestige and morality* [my emphasis], shall be swiftly expelled from the colony and repatriated to her metropolitan city of origin.[11]

The mentions of prestige and morality should be understood here as a will to both enforce public order and proper morality in the city by punishing a woman guilty of adultery and to demarcate racial boundaries. As I argued elsewhere (Tarchi 2021), morality was never invoked in the first years of the Italian presence in Libya for cases of *mabruchismo* involving Italian men and Libyan women. While the Italian population was low in numbers and comprised mainly of military males, racial purity was not perceived to be in danger, and therefore issues of morality were not raised, because of the military need for sex in the colonies. As the colony transitioned to a settler-colonial space with more Italian women, the biopolitical stakes of maintaining colonial boundaries became more pressing, and morality and prestige became a primary source of concern for the colonial state.

Desperate to come back to Benghazi, Francesca wrote a letter to the Governorate in May 1929:

> As I separated from my husband because of his violent behavior, following the authorization of the local authority of Public Security, I have been able to rent out a room of my house to sustain my and my family's livelihoods. Moreover, I would also wash and iron the clothes of my clients and help some local doctors as a nurse. As those doctors can confirm, among the tenants of my rooms, there was a certain Abdel, captain of a troop of Libyan askari [the colonial divisions of the Royal Italian Army]. The presence of this person began slanderous persecution towards me, and I was accused of having an illicit relationship with that man. Upon learning of such slanders, the police obtained a paid-off testimony, which resulted in my expulsion from the city under immorality imputations. […] I would like to know what motivated my expulsion, which resulted in me losing all my properties and belongings. I am convinced that I would be able to confute such accusations and demonstrate the iniquity of the colony's government if compared to Rome's. I declare that such accusations are groundless and hope that His Excellency the Governor would hear my remarks.[12]

Francesca addresses the colony's government in firm terms, denouncing the iniquity of their decision and refuting the accusation of being in a relationship with Abdel. While no law then prohibited 'mixed' relationships in Cyrenaica, Francesca

mentions being accused of having an 'illicit relationship.' Although this characterization could refer to the extramarital nature of the relationship, it may also hint at the perceived danger it posed for morality and racial prestige and, therefore, to both the patriarchal and colonial power of the Italian government. Her defiant attitude, alongside her presumed behavior, did not resonate well with the city's and colony's administrators. Francesca's appeal was thus rejected, with a dismissal of the content and form of the complaint as void and irrelevant, and she and her children were sent back to Italy. This decision, I argue, can be seen as part of a changing regulatory context related to the constitution of Libya as a settler colony that also went on to include the spatial segregation policies (as later analyzed).

The second instance of an Italian woman in colonial Benghazi who defied the standards of 'morality,' or racial 'purity,' is Gabriella's.[13] She first arrived in 1928 with four children to join her husband, who had moved to the colony in 1926. Two years after her arrival, her presence started arousing suspicions in Benghazi's colonial police ranks, as testified by this 1933 document, written by the Vice-Governor of Cyrenaica Rodolfo Graziani himself:

> The aforementioned metropolitan citizen engaged in an intimate relationship with the Arab Muhammad, a driver, with whom she was even seen strolling around in a carriage through the streets of this city. An investigation started, but seeing that trouble was brewing, the woman fled the colony with her children in February 1930, leaving her husband behind. In November of the same year, she reappeared in the city, and even if the police warned her about adopting a better moral standard, she started seeing Muhammad again. They were the cause of great concern for the city administration as Gabriella and Muhammad exploded in fits of jealousy on more than one occasion, mainly since Muhammad had chosen an Arab mistress alongside her. The police intervention was necessary, and the husband of Gabriella was consequentially reprimanded and warned that if he did not restrain his wife, she would be expelled from the city. Only then did Gabriella's husband suggest that she depart immediately. Given all the outlined circumstances, this government suggests that the Ministry of Colonies never allows the woman back in the colony again.'[14]

One week before Graziani sent this report to General Emilio De Bono, the Italian Minister of Colonies, the same Ministry had received a letter from Gabriella, an event that prompted the Ministry to ask for information on the woman. Unlike Francesca, Gabriella does not deny being involved in an intimate relationship with Muhammad. However, she begs the Minister to overrule Graziani's decision to ban her from the colony for life, as she swears that she will never fall back to such immoral behavior. She says that everything is now 'forgiven and forgotten' and that she would put 'the strongest effort into keeping a restrained demeanor and therefore avoiding any accident that could interfere with the domestic peace.'[15] Unfortunately, the folder on Gabriella does not contain any additional information on the outcome of her request, leaving a gap in the complete assessment of her case and the authorities' reaction to her pleas.

As in Francesca's case, Gabriella was deemed guilty of defying racial boundaries in the colony by showing herself in public in the company of a Libyan man, and the issue of morality and prestige is brought forward as cause for concern. Once again, the language of 'morality' is a recurring discursive tool in discussing women's role in colonial environments and to stigmatize episodes of 'mixture.' In constructing a normative standard for white Italians' behavior in its colonies, Fascism relied heavily on creating sexual boundaries and the demarcation of racially segregated spaces by imposing a 'moral imperative' along gender lines to reassert an ethnically defined, patriarchal national and cultural identity. In this process, women were invested by patriarchal power structures to embody clear boundaries between the racialized Other and the European Self.

Before they were even allowed in the colonies, women played a central role in developing Fascist notions regarding Italians' national identity in the metropole. As testified by the historiography on Italian Fascism and gender (De Grazia 1993; Willson 2002; Gori 2004; 2007), women embodied the contradictory stance of the regime regarding gender politics, as it strived to frame Italian society as a modern European power while maintaining the traditional social order, particularly in the private sphere. Women were also central in Fascism's demographic policy, and as such, their primary social role was to be traditional wives and mothers. With the regime's 1930s turn toward racist ideology and eugenic understanding of race, Italian women's role became even more central in ensuring that the so-called Italian race increased in numbers to 'defend it' on the global imperial world stage.[16] This understanding of women's role in metropolitan Italy meant that, in the colonies, Italian women were held to an even higher standard: as bearers of Italy's morality and racial integrity and as reproducers and 'ideal guardians of racially pure families' (Spadaro 2010, 29).

Gabriella's and Francesca's stories indeed testify to the policing their bodies were accordingly subjected to. Both cases attest that Italian women were subjected to strict control of their movements within the city, as the colonial police were able to identify their breach of racial boundaries and 'moral standards' in a matter of months from their arrival. The policing exerted over the bodies of white women in Benghazi was a form of patriarchal control that was common in most colonial environments to defend the racial boundaries between the settler and the colonized populations (see, e.g., Gartrell 1984 on English Rhodesia and Kennedy 1987 on Kenya). Moreover, 'mixed' intimacies involving white women were a source of particular concern because such relationships 'did not follow established patterns of European male sexual domination of "colonized" peoples' (Phipps 2021, 17). White European masculinity was inherently threatened and humiliated by the sexual agency of white women engaging in intimate relationships with racialized men. When women, like Gabriella and Francesca, did so, they were seen as race traitors.

Benghazi was never spatially segregated when Italian men, primarily soldiers, comprised most of the settler population. 'Mixture' became a primary cause of concern for the city's Fascist administrators only when 'European identity and supremacy were thought to be vulnerable' (Stoler 2002, 51). Since some Italian women defied colonial expectations of their role as the defender of racial purity, their vicissitudes may be part of the same context that brought colonial administrators to

react to instances of 'promiscuity' on a regulatory level. Consequently, the next section will analyze how the city government planned to organize Benghazi following the swelling numbers of Italian settlers arriving in the city, as it transitioned from a militarized space to a settler-colonial society. I suggest that the city's master plans can be seen as part of the same policy framework as the regulation of 'mixture' in the city: namely, the city enforcement of racial purity in the colony.

## Plans of Racial Segregation in Benghazi

### *Fears of Racial 'Promiscuity' Within a Class-Divided City*

Benghazi was the epicenter of the demographic colonization of Cyrenaica, and as the main colonial city in the region, it represented the core of the new settler society while simultaneously being the frontier between the Italian and Libyan populations.

Michel Foucault (1984, 241–242) wrote in relation to colonial cities that 'the model of the whole city became the matrix for the regulation of the whole state […] One can understand the city as a metaphor or symbol for the territory and how to govern it.' Foucault's analysis applies to colonial cities and the colonial state, particularly in cities transitioning to a settler-dominated space. In this regard, Edmonds (2010b, 131) wrote that settler-colonial cities 'were developing urban frontiers, equally charged and often-violent contact zones of racialized spatial contestations. Such urbanizing frontiers were mosaic-like, mercurial, transcultural and, importantly, intimate and gendered.' The configurations of colonial state power in such urbanizing frontiers found a primary object of regulation in relations between settlers and colonized populations, particularly if intimate. The development of settler-colonial cities such as 1930s Benghazi into racially segregated spaces reflected colonial anxieties about preventing 'mixed' intimacies, particularly when involving white women. According to Edmonds (2010a, 7), 'bodies and spaces were rapidly reconfigured in the settler-colonial city, and racial partitions were amplified in the colonial landscape.'

The Italian colonial state's urgency to enforce stricter control over the separation of the 'indigenous' from the newly arrived Italian settlers appears particularly evident in the 1932 master plan for the extension of the city:

> Since it is necessary to avoid too great of an expense for the Municipal administration, it is necessary to circumscribe the construction of infrastructure to the Italian quarters, as the indigenous habits do not make it necessary to implement new ones in the native's quarters. […] The newly arrived Italian settlers need to be encouraged to build their property in the assigned lots and abandon the indigenous neighborhoods they have too often dwelled, creating reproachful promiscuity with the indigenous element. To this end, we have tried to make clear that this new masterplan attempts to separate, as strictly as possible, the indigenous part of the city from the one that is or should be inhabited by the metropolitans.[17]

This report shows how infrastructures were part of a racializing logic, with 'natives' seen as not needing them due to 'their habits,' and also that Italians had

initiated a claim for the spatial expansion of the settler community. The racial segregation of the city went hand in hand with the amelioration of the settler areas of the city to claim its space as inherently belonging to the 'civilized' settlers and not the racialized Libyans. Moreover, the report's reference to 'reproachful promiscuity' seems extremely important to the urban development that the Fascist political elites envisioned for Benghazi. On more than one occasion, they reinforced the absolute need to keep the new Italian settlers separated from the 'indigenous element.' The importance of this excerpt is thus twofold. On the one hand, it informs us that, as the stories of Francesca and Gabriella testify, Italians had already mixed in Arab neighborhoods, disproving the notion that 'the Arab population itself was very isolated' (Pergher 2017, 197). On the other hand, it shows the Fascist administrators' increasing anxiety for the racial promiscuity that physical proximity between colonizers and colonized could lead to.

Speaking of Tripoli, Mia Fuller states that 'the planners themselves affirmed that segregating Tripoli was impossible, barring costly interventions' (Fuller 2006, 171). Benghazi's history seems to diverge from Tripoli's on this issue, as city planners and colonial administrators never mentioned such endeavor's unfeasibility in the documents still preserved in the Italian Central State Archive. Reasons for this difference seem primarily historical. As Tripoli and the surrounding region had had a history mostly devoid of fighting for over twenty years, the city had seen a more significant and gradual influx of male Italian settlers, and its inhabitants had not been subjected to spatial segregation until late in the colonial domination. On the other hand, Benghazi had had a primarily military Italian male population confined to its bases and only a few civilians that did not cause too much concern, with the bulk of the Italian settler presence having arrived after 1932.

These differences notwithstanding, the firm desire of Benghazi's city planners to enforce strict spatial segregation between metropolitan citizens and colonial subjects did not have a swift and efficient outcome. Much like in the city of Tripoli, the political and physical distancing was not consequential, and what was planned often did not have satisfactory material outcomes. The report that the city architects Alpago, Novello, and Cabiati wrote in 1935 as a comment on the updated version of the urban master plan that was to be published that same year seems to confirm such hypothesis:

> The necessity of the strictest separation between the metropolitan and indigenous neighborhoods, keeping the latter intact, made us assess the demarcation lines proposed in 1932. Since the first master plan never had actual legal effectiveness, such lines do not correspond anymore to the reality of the city. The margins of the indigenous neighborhoods, especially the ones in the old city center, have been eroded by the new metropolitan settlements so that a large portion of the south-western area of the city should now be considered as belonging to the metropolitan quarters.[18]

The real issue that the Fascist administration encountered for the city of Benghazi was that they sought to create a material, clear demarcation along racial lines

in a short time. In contrast, the inhabitants of the city, both Libyan locals and Italian settlers, tended to dwell in different parts of the city along class lines. Much like in Tripoli's 'oases of ambiguity' that Mia Fuller describes as the 'clusters of available labor dispersed throughout the city' (Fuller 2006, 174), Benghazi's liminal neighborhoods between the segregated areas were inhabited by a significant number of lower-class Cyrenaicans and Italians. The plans for the demographic colonization of Libya had brought several working-class Italian settlers to the coast of Cyrenaica, that soon positioned themselves within the class-based social segregation of the city. As in the case of the French administration of Rabat (Abu-Lughod 1980), the government of Benghazi appeared to be back-handedly segregating Cyrenaicans through economic barriers within the urban environment. Evidence of this is the previously quoted 1932 master plan: 'It is not excluded that in the new metropolitan neighborhoods wealthy natives could eventually move in, particularly if they show to be willing to adhere to our lifestyle.'[19] By accepting only a few wealthy 'natives' in the metropolitan areas, colonial administrators excluded all those who did not comply with these socio-economic criteria, which was the vast majority of the Libyan population.

The segregation of the city was a significant factor in shaping colonial Benghazi. Even before the publication of the first city master plan, the wealthier Libyan inhabitants of Benghazi were already included in the metropolitan administrators' neighborhood. This inclusion indicates a disruption of the racial segregationist discourse concerning the region's cities. This normative framework does not entail that class was a more significant segregation factor within the city than race. However, it does signify the intersectional character of the assertion of colonial power within the city. As Anthony King wrote, 'the colonial city is that urban area in the colonial society most typically characterized by the physical segregation of its ethnic, social and cultural component groups, which resulted from the process of colonialism' (King 1976, 17). This notion implies that the planned segregation between colonizers and colonized was deployed in the social reality of the city in a way that discursively underlined the settler/native divide but that, in its material realization, also implied a class-based logic. This class-based, racialized segregation of the city created areas and spaces where Italians and Libyans belonging to lower social status could intermingle and articulate a complex social reality proper to colonial Benghazi.

## Fascism's Racist Shift and the Totalitarian Enforcement of Segregation

The 'promiscuity' that characterized the city's lower-class neighborhoods was a cause for concern for Benghazi's urban planners and administrators. This was attested by the quoted report written by the city architects, but also by the subsequent relation on the new master plan drafted in 1935 by the General Inspector of Public Infrastructure:

> There is no doubt that considering its position, the triangular neighborhood between Corso Italia, Via Tripoli, and Via Aghib is part of the center of the metropolitan city. For this reason, it is inadmissible to tolerate the promiscuity

> that exists there at the moment. Except for the buildings on Corso Italia, the rest of the neighborhood is constituted by old Arab houses inhabited by Italians, in which metropolitans often welcome, in deplorable promiscuity, the indigenous element.[20]

Once again, colonial administrators spell out the undeniable will to separate the city's different neighborhoods along the settler/Libyan axis. They do so by stating their preoccupation with cases of 'deplorable promiscuity' that resulted in a non-segregated colonial life, which was in clear breach of the Fascist discourse over the role of the empire in the construction of Italians' racial consciousness. Moreover, the emphasis on cases of metropolitans 'welcoming the indigenous element' within their homes appears to give significance to the administrators' particular anxiety about the possibility of intimate interactions between Libyans and Italians. Unsurprisingly, the times that the Italian police spotted both Francesca and Gabriella in the company of their Libyan lovers were in parts of that 'triangular neighborhood' described by the General Inspector, justifying the administrators' concern regarding the racial 'promiscuity' of the area.

Evidently, up until the mid-1930s, Fascist colonial administrators responded to the beginning of the demographic colonization of Cyrenaica with a series of segregation master plans for Benghazi. They intended to prevent the mass-scale 'racial promiscuity' and intimate interactions between metropolitans and colonial subjects. In 1934, a single colony named Libya was created out of the two historical regions, Cyrenaica and Tripolitania. The colony's unification was the first step in the plan of 'provincialization' of Libya, making it an internal province of metropolitan Italy (Rochat 1986). At the same time, the Fascist regime was embracing a biologically racist ideology that framed Italians not as 'Mediterranean' anymore but as 'Aryan.' This shift, which coincided with the Italian empire's proclamation and subsequent promulgation of racist policies in both colonies and metropole (De Napoli 2012, 110), influenced the enforcement and policing of colonial boundaries toward a more segregationist approach. We see at this point a tighter totalitarian grip on the enforcement of racist legislation and racial segregation throughout the empire. The promulgation of the anti-miscegenation decrees of 1937, 1938, and 1939,[21] as much as the urban segregation policies approved in Italian Eastern Africa in 1937,[22] clearly indicate how the regime tightened its regulatory grip on the issue of racial purity in the empire. As much as other cities and towns in Libya, Benghazi was no exception.

During Italo Balbo's stint as governor, the colonial administration began to relocate Cyrenaicans from the fertile Jebel hills to concentration camps in the south of the colony at a faster rate to accelerate the transformation of the colonial environment into a settler one (Cresti 1996). As Balbo said in 1937, 'the entire area along the coast must be transformed into an Italian zone, in which the Arabs will be steadily reduced to an unimportant minority, by gradually moving them towards the interior of the colony.'[23] The resettlement of the inhabitants of the Jebel to concentration camps, the spatial segregation in the city, and the enforcement of strict racial boundaries started to become more effective, and the totalitarian organization of

the empire became more efficient than ever. As written by Fuller, in the second half of the 1930s, 'segregationist theory and practice had begun to mirror each other' (Fuller 2006, 177).

The increase of effectiveness in the practical development of the planned racial segregation in the city of Benghazi is evident in the colonial state's documents, reports, and notes on the new master plan for the city, published in 1938. Most of the documents drafted during these years mention the necessity to maintain strict boundaries between Libyans and settlers, but as if it had already been met. Particularly telling is the note written by the Head of the Cabinet for the city planning of Benghazi, who mentions the future need to 'study a way to remove the few remaining indigenous zones that are currently delimited by green areas, in order to carry out the last remnants of our policy of decontamination [sic].'[24] In this quote, the explicit reference to a practice of 'decontamination' in the process of urban segregation emphasizes the conflation of racial purity with public health and of racial otherness with dirtiness that characterized Fascist Italy, and racism and colonialism more broadly, during the 1930s. According to Lombardi-Diop (2012, 178–179), 'the connection between the protection of race and health prophylaxis pervaded many aspects of Italy's racial culture of the mid-1930s.' It is also relevant to note that the Head of the Cabinet explicitly refers to one of the 'few remaining indigenous zones' that were already bordered by green areas to increase physical separation. While this implies that the city may have been racially segregated, it does not mean that the Fascist administrators of Benghazi managed to create a wholly segregated city. Instead, it testifies to the shift in approach to segregating the urban colonial environment, one that aligned itself to the mass resettlement of Libyans into concentration camps and the progressive increase of exclusion of Libyans from the colonial society through the proclamation of Libya as an Italian province (Pergher 2017, 194).

## Conclusion

This chapter described the regulatory shift that invested the city of Benghazi as Cyrenaica transitioned from a militarized space to a settler colony. The analysis of this colonial policy change has pointed to the colony's gender-specific organization of racial boundaries. Moreover, this chapter has shown the relation between the ideological shift that characterized Fascism in the mid-1930s and how it influenced the social organization of Benghazi. The regulation of 'mixture' provided the chapter's analytical framework with a looking glass suited to understanding anxieties related to racial difference and gender roles in a colonial environment that was changing from an ideological and material standpoint.

Italian Libya was a context in which the intimate colonial encounter was no rarer than in other colonial settings. White women's engagement in intimate relationships with racialized men in the colony posed a threat to established colonial hierarchies organized according to race and gender structures. By crossing established boundaries between the colonizer and the colonized, women like Francesca

and Gabriella posited a small-scale, but real challenge to the very nature of patriarchal colonial power. While racially unsegregated prostitution was officially endorsed and concubinage between Italian officers and Libyan women was tolerated for the first twenty years of the Italian presence in Libya as necessary practices to consolidate colonial power in the region, the opposite gender dynamic – at least with regard to concubinage, not prostitution – in a settler-colonial context posed an existential threat to the very same power structuration.

It needs to be underlined that the documented cases of white women involved in 'mixed' intimacies in Libya were close to insignificant in number. Regarding a city of close to 70,000 inhabitants, only two folders of the same kind discussed in this chapter are preserved in the Italian archives. However, the strong reaction of the city's ruling class underlines their relevance for the colonizing society. The swift expulsion of the women is a testament to their centrality in colonial society and the role they played as ramparts of the increasingly racially defined national character of Italians. For these reasons, their involvement in cases of 'mixture' was unacceptable for a regime that was steadfastly moving toward conflating whites with Italian nationalism.

As Fascism's inched closer to a racist and segregationist social organization of the metropole and the colonies, 'mixture' posed a tangible threat to the construction of Italian whiteness in the context where it mattered the most: the empire. This is also visible in the increasing segregationist master plans for Benghazi. The many public works for the settler areas of the city that the regime there mentioned, as much as the need to increase urban segregation, were part of the same transformation of the city landscape into an Italian settlers' space.

## Notes

1 The terms 'mixture' and 'mixed' are conceptualized in this chapter as the coupling of two individuals that are socially understood as belonging to two differently perceived races at a specific time and place. The quotation marks emphasize the social construction character of race and hence of its 'mixing.'
2 On the 'white slave trade,' see, e.g., Camiscioli (2019), on prostitution in colonial contexts see, e.g., Levine (2003), on the 'black peril' see, e.g., McCulloch (2000).
3 On intimacy in the Eastern African context, see Sòrgoni (2006) and Stefani (2004); on Libyan women and their experiences in colonial Libya see Yeaw (2018) and Yeaw and Spadaro (2020).
4 As I have argued elsewhere (Tarchi 2021), Vice-Governor of Cyrenaica General Rodolfo Graziani acknowledged the existence of *mabruchismo* in the colony in 1932, deprecating previous administrators' tolerant attitude.
5 As per Royal Decree n. 983, May 1924, troops and officers were not allowed to bring their families to the colony.
6 Even if racial segregation existed as an undeveloped idea (Di Paola 2010, 196), the city's first master plan (1914) never really enforced it. By contrast, later master plans explicitly state its necessity.
7 Touring Club Italiano, 'Censimento 1939, Libia,' in *Le vie d'Italia – Rivista mensile del Touring Club Italiano*. Milano, 1939.
8 Unfortunately, it is impossible to know the consequences for the Libyan men involved, since the archives do not contain traces of their words and motivations (Phipps 2021, 13).

9 All personal names in this chapter and pseudo anonymized, and all the translations from Italian are my own. The folder related to the case of 'Francesca' can be found in the Archivio Storico del Ministero degli Affari Esteri (ASMAE), Fondo Ministero Africa Italiana Vol. II (MAI), busta 150.27.
10 ASMAI, Vol. II, b. 150.27, *divisione autonoma dei carabinieri di Bengasi, report n. 124/55/III*, August 25, 1928.
11 Governo della Cirenaica, protocollo n. 4032, May 10, 1929. Archivio Storico del Ministero degli Affari Esteri (ASMAE), Fondo Ministero Africa Italiana Vol. II (MAI), busta 150.27.
12 Lettera a S. Ecc. il Ministro delle Colonie. Archivio Storico del Ministero degli Affari Esteri (ASMAE), Fondo Ministero Africa Italiana Vol. II (MAI), busta 150.27.
13 The folder related to the case of 'Gabriella' can be found in the ASMAI, b. 150.27.
14 Report n. 65074, June 29, 1933, from Cyrenaica's Vice Governor Rodolfo Graziani to the Ministry of Colonies. Archivio Storico del Ministero degli Affari Esteri (ASMAE), Fondo Ministero Africa Italiana Vol. II (MAI), busta 150.27.
15 ASMAI, Vol. II, b. 150.27. *Letter to Minister De Bono*, June 22, 1933.
16 See Mussolini's 1927 '*Discorso dell'ascensione*' [Ascension speech] on the need for a 'demographic whip' to allow the Italian race to numerically compete with the other European powers.
17 ACS, MAI, b. 114, f. 2: *Relazione sul nuovo piano regolatore della città di Bengasi*, p. 6, Giugno 1932.
18 ACS, MAI, b. 11, *Municipio di Bengasi, Piano Regolatore, relazione degli architetti Alpago, Novello e Cabiati*, 1935.
19 ACS, MAI, b. 114, f. 2: *Relazione sul nuovo piano regolatore della città di Bengasi*, p. 6, June 1932.
20 Archivio Centrale di Stato (ACS), Ministero dell'Africa Italiana (MAI), busta 114, *Parere sul nuovo piano regolatore di Bengasi*, 1935.
21 Notably, R.D. 880 of April 19, 1937, prohibiting concubinage in Italian Eastern Africa; R.D. n. 1728 of November 17, 1938, prohibiting marriages between Italian citizens and members of 'other races,' and R.D., n. 1004 of June 29, 1939, prohibiting all 'mixed' intimacies between metropolitan citizens and natives of Italian Africa.
22 These include R.D. n. 620205 of June 12, 1937, prohibiting Italians and other Europeans from inhabiting 'indigenous' neighborhoods and the R.D. n. 41674 of July 19, 1937, segregating public transportation.
23 Archivio Storico Istituto Nazionale Previdenza Sociale (ASINPS), Carte Colonizzazione Libica (CCL) busta 129, 1937.
24 ACS, MAI, b. 114, *Piano Regolatore e di Ampliamento di Bengasi*, *nota 40931*, December 22, 1938.

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# 6 Policing 'Zones of Degeneracy'

## (Post-)Colonial Migrants and Interracialized Sex and Intimacies in France (1954–1979)

*Rébecca S. Franco*

### Introduction

In 1979, a resident of the Goutte d'Or neighborhood in Paris writes in his neighborhood newspaper that "for a long time, they [the police] tolerated, if not encouraged, these activities [brothels] in order to disfigure the reputation of the neighborhood, which is closely linked to immigration …" (Goutte d'Or 1979, 13).[1] Criticizing the police's presence and practices, the resident argues that police tolerate prostitution and brothels to contribute to the stigmatization of the neighborhood so to justify increased surveillance of the resident immigrant population, which he believes is "simply a way of being racist" (Goutte d'Or 1979, 13). In the period that this chapter examines, from the mid-1950s to the end of the 1970s, North African migrants in the French metropole were mostly single young men, whose families were in their home countries. They were therefore seen as neither truly married nor truly without families (Sayad 1980). The authorities viewed such single male North African migrants as a threat to the metropole's public moral order because they did not fit into the conception of white French domesticity (Franco 2022). Policing played an important role in regulating both North African men in French cities and in controlling their sexuality (Blanchard 2008a; 2008b; Gauthier and Schlagdenhauffen 2019; Mainsant 2021). The police regulated the intimate lives of North African migrants, and in doing so, interracialized sex and intimacies.

Historians and socio-legal scholars alike demonstrate that policing sex and intimacy serves to protect and reproduce public and social order, both historically and in contemporary times (Benabou 1987; Finnane 1994; Mainsant 2013a). As feminist anthropologist Gayle Rubin (1984) argues, a hierarchy of sex and intimacy is constructed wherein normalized intimacies receive the reward of protection and the attribution of morality and other forms of sex are made deviant and criminalized accordingly. Race plays an important role in this hierarchization and policing (Steinbugler 2005). Scholars researching colonial contexts convincingly substantiate that producing and administering racialized difference were integral to upholding colonial order (Stoler 1992; McClintock 1995). Below, I build upon this body of literature by analyzing the asymmetries in how the French police regulated various forms of interracialized sex and intimacies according to a (post-)colonial hierarchy.

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As the opening quote exemplifies, there is an intricate connection between the policing of sex and intimacy among postcolonial migrants and the policing of space. Queer and feminist geographers emphasize that, alongside and in conjunction with policing practices, the organization of urban space is integral to the control of sex and heteronormativity (Crofts, Hubbard, and Prior 2013). Scholarship focusing on French colonial contexts explores the ways in which this organization is racialized, and particularly in how state management of female-to-male sex work played a central role in the racialized planning of the colonial city to establish, consolidate, and protect the colonial order (Taraud 2003; Maghraoui 2008). The spatial organization and policing of commercial sex enabled control of the conditions under which certain forms of interracialized sexual encounters were possible and thus played a role in regulating interracialized sex. Spatial management is also one of the technologies authorities generally employ to regulate interracialized intimacies in metropolitan contexts (De Hart 2014). I demonstrate that analyzing the policing of interracialized sex and intimacy through spatial organization of these activities reveals the authorities' actual concern: protecting a white, heteronormative social order likewise mapped onto urban space.

This chapter centers on the years 1954–1979, a period that spans the beginning of the Algerian War of Independence through the gradual establishment of France's restrictive immigration regime. During this period, France had to restructure its relationship to people from the (former) colonies. One way was through controlling the intimate sphere (Franco 2022). I focus on the policing of different types of intimate and sexual encounters and relationships to uncover the asymmetries in how these were policed, depending on whether and how they transgressed the social order. The types of sex and intimacies and the people participating in them that emerged from the archives as relationships of concern to the police include: heterosexual, interracialized full-service sex work between white female sex workers and North African male migrant workers; North African men having sex with white women who were not sex workers; and interracialized same-sex encounters between North African men and/or minors and white French men.

This chapter is organized as follows. After describing my methodology, I build on and expand feminist critical race scholar Sherene Razack's (1998) concept of "zones of degeneracy" to argue that the construction of racialized urban spaces enables the policing of interracialized sex and intimacies. First, I reveal that the police tolerated and contained heterosexual commercial sex within certain neighborhoods, while discouraging white women who were not sex workers from moving through those neighborhoods. Then, I show how the police conflated commercial and non-commercial male same-sex sex and intimacies by spatially and morally placing those practices and the people engaging in them at the margins of white French society.

## Methodology

This chapter draws on primary archival sources I consulted as part of my doctoral research.[2] I base my analysis on critical archival methodologies. I understand the archive not as a repository of facts, but as a medium through which historical

knowledge is produced (Shohat 1992; Stoler 2002; Burton 2010). I approach my sources by tracing the problematization, hypervisibilities, and invisibilities constructed in and through the archives and the documents they hold, to uncover the regulatory logics reflected in them (Franco and Mustafa 2019).

For this chapter I consulted state, municipal, and departmental archives, as well as newspaper and private archives, which together offer complementary perspectives. At the French National Archives, I conducted research in the Ministry of Interior's and of the National Police's records. I also consulted police files for the City of Paris and the Department of Bouches-du-Rhône, where Marseille is the main city. To supplement the official state archives, I drew upon the private papers of Monique Hervo, a white French woman and activist who campaigned for better housing conditions for people living in the informal settlements with dilapidated housing called *bidonvilles* [shantytowns] and against police violence against Algerians. She worked with Algerian and North African migrants who lived in the large informal settlement, *La Folie*, in Nanterre on the outskirts of Paris, where she lived between 1959 and 1971. I also used reports on life in the informal housing settlements on the outskirts of Paris, specifically *La Folie*, in the 1960s and 1970s, written by activist writers and published in 1980 and 1982. Additionally, I consulted the archives of the national left-liberal newspaper *Le Monde* between 1954 and 1979 and the neighborhood newspaper *Goutte d'Or*, published from 1978 to 1980.

## Constructing "Zones of Degeneracy"

In this section, I describe the construction of "zones of degeneracy" that enabled policing practices targeting interracialized sex and intimacies, following Sherene Razack's (1998) definition of them as anomalous zones where societal norms and legal conventions are suspended to tolerate commercial sex, to which white bourgeois men can temporarily venture before returning to spaces of respectability (357). Razack develops the term in the context of nineteenth-century European cities and applies it to mid–late twentieth-century, racially segregated US cities and to sex tourism in Asia during that same period to highlight the saliency of race in the selective regulation and containment of sex work in particular spaces. She argues that zones of degeneracy strategically exist to contain immoral behavior by white men, and thus to protect respectable white society. I argue that zones of degeneracy were constructed and policed in (post)colonial France to contain North African men's sexuality in certain spaces.

As people migrated from (former) French colonies in North Africa to France, the French projected anti-immigrant sentiment and anxieties about the former's presence in the metropole onto urban space (Ross 1996; Franco 2022). In North Africa, urban colonial governance was based on the creation of dichotomies between civilized "European" or "French" neighborhoods, as opposed to "Muslim," "indigenous," or "colonized" neighborhoods, which must be kept under control (Çelik 1997). As (post)colonial migrants moved to the metropole, such spatial governance traveled with them.

Both media outlets and authorities alike thought of the neighborhoods where (post)colonial migrants lived in the metropole, the "Arab" neighborhoods as colonial and unruly spaces (Paskins 2009). In general, (post)colonial migrants who moved from North Africa to the French metropole had difficulty finding suitable housing, due to severe housing shortages and racist, discriminatory housing policies (Blanc-Chaléard 2016). North African families lived in working-class neighborhoods that were frequently called by the colonial term "*casbah,"* which refers to the traditional citadels in North Africa where Muslim populations lived. About 10 to 15 percent of all Algerians, both single men and families, who arrived in France between 1950 and 1965 lived for a period of time in informal, dilapidated housing concentrated in *bidonvilles* (Cohen 2017). During and after the Algerian War, the French population and politicians alike imagined these settlements as crime-ridden hotbeds of Algerian nationalism and as disease-ridden, unruly spaces served to fuel anxieties about postcolonial migrants' presence on French territory (Byrnes 2008; Paskins 2009; House and Thompson 2016). In the *bidonvilles*, the police practiced heavy surveillance and engaged in pervasive violence (House and Thompson 2016).

Generally, the media, politicians, and public discourse constructed the presence of North African men in the metropole as a problem through gendered and sexualized colonial anxieties about these men's sexual and intimate lives (Shepard 2018). These were articulated particularly by associating male postcolonial immigrants and forms of sexuality and sexual practices considered to be transgressive of the moral code, namely sexual violence and sex work. They represented North African men as posing a sexual threat to white women. Police reports asserted this representation, projecting it onto entire neighborhoods, which they called "dangerous" for white women. For example, a National Police report from 1973 called "Public Opinion About North Africans" states the following:

> There is a psychosis of fear in the neighborhoods near the "casbahs" … These closed environments also recruit a group of delinquents whose propensity for violence manifests itself in attacks on single women and other crimes. The North Africans, who are usually celibate or have left their wives behind, display sexual aggression in the form of rape, indecent assaults, or, more often than not, obscene verbal provocations … This behavior by "Maghrebian" men triggers a sense of fear among French women living in or near the "Arab neighborhoods" of Paris, Toulon, Marseille, Toulouse, and Metz.[3]

Depicting spaces where migrant men lived as dangerous to white women motivated and justified spatial segregation of North African single, working-class migrant men from French society. The only state-sponsored housing option available to them were hotel-like, temporary, collective *foyers*, in which they were housed and to which they were relocated as part of efforts to curb (literally: resorb) the *bidonvilles*. The *foyers* were usually built on the outskirts of neighborhoods, separated from both migrant families and the white French population. Mayors refused to accommodate housing for migrant men within the borders of their municipalities

and residents of the neighborhoods where *foyers* were planned protested their construction. These refusals and protests stemmed from fears that migrant men would pose a threat to public order, and particularly to (white) women and young girls.[4] For example, officials in charge of housing projects argued that spatial containment of North African men was necessary because "women and young girls are afraid to leave the house for fear that they will be assaulted and raped" (Michel Massenet, quoted in Shepard 2017, 233).

The *foyers* not only functioned to spatially segregate North African men, but also to police and control their private lives (Bernardot 2008). For example, in 1965, the prefect of the Ain Region justified the construction of a new *foyer* by arguing that "it would also be suitable for achieving better police surveillance of the *foyer* itself and its surroundings, for which the current location is not appropriate."[5] The housing of single migrant men was based on a governmental rationale that did not allow them to create durable, settled domestic lives with women; instead, these men were placed in collective, temporary housing where residents had no privacy. In state-sponsored housing the living spaces of migrants was under constant police surveillance, which made it possible to control (opportunities for) intimate and sexual relations (Franco 2022). Queer geographers note that white, heteronormative societies require sexual, intimate encounters to occur in private domestic spaces (Hubbard 2001; Prior, Crofts, and Hubbard 2013). In *foyers*, however, private space did not exist. Strict internal regulations prohibited men from inviting visitors into their rooms. Having female visitors could be cause for expulsion.[6] In short, the state-sponsored living spaces for migrant men were structured and policed in ways that obstructed opportunities for intimate relationships with women.

At the same time, the French government and police assumed that the presence of North African men increased the prevalence of sex work, depicting neighborhoods with North African male inhabitants as "hotbeds of prostitution." A 1972 police report from the port city of Marseille is a case in point:

> It is feared that the increase in the floating population due to the infrastructure of the industrial area of Fos-Sur-Mer and the large North African cell in the Berre Region will cause the amount of prostitution and pimping to remain the same or even increase.[7]

The report included no numerical evidence to support the claim that North African male immigrants' presence increases the incidence of sex work. The government's rationale was that, while single North African migrant men required an "outlet" for their potentially dangerous sexual needs, they could not and did not form durable relationships with white French women. This was not only because it was assumed that the men would eventually return to their countries of origin, but also because of the administration's racialized logic that they were not suitable partners for white women (Franco 2023).

Linking sex work and the presence of North African migrants justified increased police surveillance. For example, a police report about Marseille's Belsunc neighborhood addressed the problem of North Africans who came "to see their

compatriots, to shop and to enjoy themselves. … with all the inconveniences that these meetings bring."[8] The police problematized the presence of North Africans and linked it to an increase in sex work, which they subtly refer to as "inconveniences." As a solution, the police increased their "very strict surveillance," using the prevalence of sex work as a rationalization.[9]

Working-class neighborhoods known for their high concentration of immigrant residents, such as the *bidonvilles* or the "*casbahs*" were imagined as morally transgressive spaces. The police's imagining of "unruly" spaces created and maintained a dichotomy between white, civilized, French space and racialized, sexualized colonial zones of degeneracy in the metropole. Doing so allowed the authorities to construct the latter as unsuitable for "respectable" white women and reserved for sex work, as I show in the next section. The distinction between these spaces therefore enabled the creation and reproduction of hierarchies of sex and intimacies.

## The Policing of Heterosexual Encounters, Sex, and Intimacies

Constructing zones of degeneracy allowed the police to tolerate sex work in a heteronormative, racially, gender-specific way. Understanding the continuities between the colonial and metropolitan postcolonial context can help shed light on the racially specific meaning of tolerating sex work in early postcolonial France. In colonial Morocco and Algeria, city administrators considered the creation and regulation of *quartiers réservés* [reserved quarters, meaning quarters where sex work is allowed] an essential part of protecting the European city from so-called racial and social "contamination." Sex work was understood to be a necessary evil that had to be spatially removed from the heterosexual modern city but was also indispensable to its maintenance (Maghraoui 2008; Staszak 2014). Analogously, in France, the police contained certain bodies, namely North African migrant men and female sex workers, and their sexual practices, in zones of degeneracy, from which "respectable" white women had to be protected and kept away.

It is important to note that the criminalization of full-service sex work was indirect. The legal and regulatory framework for sex work focused on prohibiting aiding and abetting prostitution, not necessarily the sale of sex. Since 1946, French legislation has criminalized brothel-keeping, all types of third-party involvement (pimping),[10] and public indecency (debauchery), which affected soliciting and sex work in public spaces. The police enforcing these laws had relatively wide discretion in carrying out their mandate. This, alongside the relatively broad definitions of the criminalized acts incorporated into the legislation, allowed the police to determine who and what should be regulated and how (Agustín 2008; Mainsant 2013b).

Archival sources from police departments show that their officers selectively and deliberately tolerated female sex work serving North African male clients, including the criminalized acts of soliciting and brothel-keeping.[11] The broad mandates and the police discretion made it possible for zones of degeneracy to function as anomalous zones where different social and legal conventions applied (Neuman 1996; Razack 1998). Thus, in certain neighborhoods, police did not enforce

legislation but allowed prostitution to occur, allowing the policing of (commercial) sex in public spaces along racial lines. This selective tolerance of female prostitution, in turn, reinforced the public image of these neighborhoods as "unruly" and "degenerate."

Rather than it being an anomaly in law enforcement, this spatial exception in enforcing laws against prostitution was both necessary for the police to be able to uphold their broader mandate of protecting the racialized social order, as well as a consequence of it. Suspending legal conventions was integral to constructing and maintaining zones of degeneracy outside of white French society. The police justified their selective tolerance of female prostitution by referring to it as a "lesser evil," as the Director of the Criminal Investigation Department argued in 1956:

> Prostitution becomes a lesser evil when more serious crimes are avoided, even crimes such as rape, assaults on young girls or children, as we have had to deplore in some cities with high concentrations of North African or foreign workers.[12]

Framing female prostitution as a "necessary evil" has a long history in Western European morality, rooted in Catholicism (Zambelli 2023). Within a patriarchal, heteronormative order, female prostitution was instrumentalized as a "sexual outlet" to satisfy the purported sexual "needs" of men. Women were divided into "respectable" women in need of protection and "fallen" women sacrificed to protect the virtue of the former, and by extension, the moral functioning of society.

In France between 1954 and 1979, this frame was reinvigorated in a racially specific way to protect white French heteronormative sexual norms from interracialized heterosexual sex and intimacies that would transgress the social order. An article in the local neighborhood newspaper *Goutte d'Or* in Paris illustrates this. In it, a local police officer told a white French female reporter: "Fortunately these houses [brothels] exist, without them you would be raped!" … We need them [the prostitutes] for all these [North African] men!" (Goutte d'Or 1977). While a few archival sources note the existence of North African sex workers,[13] most were white women.[14] Within public discourse, there were some mentions of North African sex workers during the Algerian war, but not after 1962 (Gobin 2017). It was therefore mostly white female sex workers who were constructed as a sacrifice to protect respectable white women from North African men (Franco 2023).

The construction and reproduction of zones of degeneracy also manifested in police control of white women's mobility by discouraging them from entering these neighborhoods. There are even examples of surveillance, such as those recorded in the field notes and diaries of Monique Hervo (1959–1985), specifically with reference to the *Cité de Bezons*. These were new housing projects constructed to adapt migrant families to the modern French lifestyle, but which functioned as segregated spaces of surveillance, where concierges, social workers, and the police-controlled residents (Blanc-Chaléard 2016). As Monique noted, the concierge recorded the entrances and exits of the only French person, Monique herself, and passed this information on to the police. Evidently, her presence was deemed suspicious because

white women were not supposed to be in spaces marked as "North African." The police also screamed warnings to discourage white women from entering spaces where a majority of North African migrants lived. For example, a policeman once yelled at Monique as she was entering an informal housing development inhabited primarily by Algerians: "If you want to get raped, go ahead!"[15] In another instance, a police officer made a similar comment to another white woman entering the same settlement, exclaiming, "Tough luck if she gets raped or stabbed!"[16]

While police officers monitored interracialized encounters, which were considered dangerous, I also found anecdotal evidence in Monique Hervo's diary that policemen themselves were at times a threat to women, protected by the authority their position granted them. Monique recorded that police officers visited cafés in the *bidonvilles* and then refused to pay for their drinks and harassed the North African women present. This not only reveals their hypocrisy, but more importantly, the social hierarchy that allowed (some) policemen to harass North African women without repercussions, while oppressing North African men in the name of protecting white women from harassment.

### Policing Same-Sex Encounters and Meeting Places

Thus far, I have discussed how police practices regulated heterosexual intimacies through the production of zones of degeneracy. These practices, however, played out differently for male same-sex intimacies. With heterosexual relations, police sought to structure the opportunities and conditions for encounters between white women and North African migrant men in ways that fit within, rather than upset, the normative hierarchies of sex and intimacy. By contrast, the police considered all same-sex relationships perverse and deviant, regardless of the racialized identity of the people involved. In this section, I argue that policing practices aimed not only to protect French racialized social order, but also its heteronormativity.

In France, in this period, male same-sex sexual practices were indirectly criminalized, not unlike full-service sex work.[17] Sexual relations between adult men were criminalized, under Article 330(2) of the Penal Code that sanctioned homosexual "*outrages publics à la pudeur*" [public attacks against morality] (Marchant 2006; Gauthier and Schlagdenhauffen 2019). Moreover, the age of "minority" was raised to 21 for acts "against nature with a person of the same sex," (Article 334). Political discourse that considered male homosexuality perverted and criminal reinforced this legal repression: in 1960, the government added homosexuality to its list of "social plagues," allowing a change to the Penal Code that doubled the penalties for same-sex "indecent exposure." The indirect criminalization of certain same-sex sexual acts between men facilitated general surveillance of public spaces where police expected these acts to take place.

Indirect criminalization and exclusion from sexual normalcy pushed male homosexuality to the margins of urban life: nighttime parks, public toilets, bathhouses, alleys in the Pigalle District in Paris, and (empty) movie theaters.[18] Historian and political scientist Emannuel Blanchard discovered in the Paris police archives that, between 1954 and 1962, North African men engaged in sexual relations with one

another, with white men, and with female sex workers in the same locations as those used for same-sex meetings between people of different generations, social classes, and immigrant backgrounds (Blanchard 2008b). Some of these were specifically known as places where interracialized same-sex encounters occurred. The HexagoneGay website gives an overview of all the male same-sex cruising spots in Paris in the 1970s: "The magnificent auditorium of the Luxor, Boulevard de Magenta [Paris], was the stage for hot French-Arab meetings in front of B movies."[19] Such cruising locales became spaces where North Africans and French men who had sex with men came together as sexual dissidents (Gauthier and Schlagdenhauffen 2019).

The open and transgressive nature of these sexual encounters made them a potential threat to public order, and thus, prone to state surveillance and policing (Hubbard 2001; Crofts, Hubbard, and Prior 2013). During the Algerian War of Independence, police in the metropole targeted same-sex meeting places frequented by North African men (Blanchard 2008b, 440). A file in the Paris police archives reveals that, in 1955, at the beginning of the Algerian War, police raided bathhouses and specifically targeted North African men, regardless of whether they were involved in same-sex encounters or not.[20] This indicates that police were less interested in suppressing same-sex encounters than in arresting North Africans.

Whereas for heterosexual sex, the difference between sex work and state-sanctioned "moral" relations is integral to the hierarchization of intimacy, in European countries, same-sex relationships were always considered perverse and deviant (Rubin 1984). Indeed, the police systematically equated interracialized male same-sex prostitution with interracialized non-commercial sex between men. Historically, in nineteenth- and twentieth-century France, such an equation contributed to relegating homosexuality to the realm of sexual deviancy (Revenin 2005). As a consequence, such relations were pushed past the margins of sexual normalcy and urban life, regardless of whether they were transactional or not. The archives reflect this: it is difficult to ascertain which interactions were transactional and which were not (Revenin 2008).

Moreover, the police seemed unconcerned with commercial sex between white French men and North African male minors. A police report on the "Repression of Prostitution and Procurement" in the Marseille Region, discussed above, contained information about both "male prostitution" and North African clients of female sex workers. However, it did not mention commercial sex between white men and North African men or minors. Yet, North African minors were overrepresented in juvenile detention centers for prostitution convictions: 30 percent of minors punished for "homosexual prostitution" were young North African migrants (Revenin 2008). This indicates that law enforcement criminalized North African male minors for selling sex rather than protecting them as vulnerable minors. These minors were not part of the French white nation, and therefore seemingly not in need of protection.

Selective police action was mutually constitutive with the suspension of legal conventions in zones of degeneracy, and particularly in the *bidonvilles*. Same-sex encounters in these areas involved minors and prostitution. An autobiography by

priest and activist François Lefort (1980)[21] and diary entries[22] by activist Monique Hervo recount the harsh conditions in the large *bidonville* of Nanterre in the 1970s. They document that white French men seeking sex with North African male minors arrived in "fancy cars" at the central fountain in the settlement. The white French men lingered there and offered the boys money in exchange for sex. One recorded interaction involves a ten-year-old boy. In her diaries, Monique Hervo writes that men also came to the area to recruit boys to engage in transactional sex: "young French pimps invaded the '*bid*' [slang for *bidonville*] and were disruptive."[23]

Although the police constantly came to the *bidonvilles* to harass and monitor the residents, they did not crack down on the criminalized offence of men seeking commercial sex with male minors. Instead, the police suspended legal convention to contain (post)colonial migrants and same-sex sexual relations. They did not sanction criminalized forms of (commercial) sex when those did not "spill over" from spaces marked as anomalous and unruly. The residents of the settlement petitioned the police to crack down on these practices (Lefort 1980). However, as Monique noted in her diary, "almost no one talked about it except François Lefort."[24] As one boy in Lefort's (1980) book says, "there were so many faggots [sic] that … [it] … was impossible the chickens [the police] didn't know about it. But since we were Arabs, they didn't care and let it happen (49)." Some men coming to the *bidonville* engaged in transactional sex with North African minors. Others may have made use of their relative privilege in socioeconomic position and racialized identity to have same-sex relations with North African men over the age of majority.

Because these sexual practices were contained within the *bidonvilles*, they were outside of the realm of white patriarchal bourgeois morality. White men could thus venture to the margins of urban life relatively freely – not unlike North African colonial landscape as a "porno-tropics" that offered white Europeans opportunities to explore their homosexual desires relatively safely and inconsequentially (McClintock 1995; Patil and Puri 2020). Police tolerance of white French men who sought same-sex encounters, commercial or not, with North African men in these spaces stands in stark contrast to their surveillance of white women and the fear that the latter would succumb to sexual violence. Moreover, this approach contrasts starkly with the constructed dichotomy between "respectable" white women in need of protection and the "sacrifice" of white female sex workers. These asymmetrical policing practices reveal that the police were first and foremost interested in protecting a heteronormative, white sexual order, which required protecting respectable white women from North African men and relegating sex workers and men having sex with men to the margins of sexual normalcy and urban life.

## Conclusions

In this chapter, I have argued that, from the 1950s to 1970s, the policing of sex and intimacies of North African migrants in France was mutually constitutive with the production of an urban space in which police could regulate interracialized sex and intimacies. I have used Razack's concept of zones of degeneracy and demonstrated how such zones were produced as anomalous spaces where legal conventions and

legislation pertaining to prostitution and homosexuality did not apply. Through selective enforcement of legislation that criminalized certain types of sex outside the domestic sphere, the police protected a heteronormative, racist social order. In this social order, interracialized and same-sex sexual relations had to be contained within certain racialized areas of the city.

My analysis contributes to a historicized, contextualized understanding of the regulation of interracialized intimacies across the colonial/postcolonial continuum. My findings demonstrate that spatial analysis is integral to understanding the racialized regulation of policing of sex and intimacies in French postcolonial spaces. By building on insights from colonial contexts, this chapter emphasizes the saliency of race and interracialized intimacies in the policing of sex in (post)colonial metropolitan urban space. Expanding on Razack's concept, I have demonstrated that zones of degeneracy serve to protect heteronormative white society, not only by providing outlets for white men's purported sexual needs in certain urban zones, but also by containing migrant men's sexual lives in such zones.

In mid-century French urban environments, the asymmetrical policing of sex served to regulate interracialized intimacies to construct and protect a social order that was racialized and heteronormative. By marking certain zones as "degenerate," the police fortified surveillance of North African men. While police officers had a broad mandate to surveil the population in these spaces, they did not unequivocally enforce the law. Instead, the police tolerated some forms of prostitution and same-sex encounters, including acts and practices that were criminalized, and selectively tolerated heterosexual, interracial sex if it was commercial; that is, they tolerated brothels and street prostitution for North African clients, even though soliciting and brothel-keeping were criminalized. At the same time, non-sex-worker white women were segregated from North African men through urban planning policies and policing practices to prevent and avoid possible encounters between members of the two groups, ostensibly to protect the women from racialized men's sexual violence. For same-sex intimacies in certain neighborhoods, however, the police did not differentiate between different types of intimate encounters. Instead, they chose not to punish French men seeking sex with minors and not to protect the minors involved, as long as those encounters and their participants remained contained within zones of degeneracy. Thus, the spatial organization and policing of sex structured opportunities for interracialized intimacies in ways that purged the modern bourgeois city of them and relegated them to the margins of society.

Thinking through Razack's concept of zones of degeneracy has been productive to my analysis in this chapter. Razack (1998, 376) concludes that "for feminists, this must mean that our goal is to end it [prostitution] even while we keep an anxious eye on the fate of women currently in prostitution." She bases this statement on her assertion that the conditions of white bourgeois nations produce prostitution and that spaces of prostitution constitute the modern bourgeois subject. While this has not been the main concern of this chapter, I do not want to leave her conclusion unchallenged. I disagree with it. Instead, I assert, in line with the position of international sex workers' rights movement (Smith and Mac 2018), that criminalization and overregulation of sex work contribute to its marginalization to

zones of degeneracy and to instrumentalizing sex workers' bodies in the service of racialized and gendered moral politics (Bateman 2021). This chapter has shown how French sex workers were instrumentalized to protect a heteronormative, racist social order. The goal should not be to end sex work through criminalization, but to lay bare and struggle against the social order that exploits the bodies and labor of marginalized people, whether they are sex workers or migrants.

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**Notes**

1 All quotes are translated from French by the author.
2 My doctoral research was part of the ERC project, "EUROMIX: Regulating Mixed Intimacies in Europe," and received ethical clearance on 16 July 2018 from the Ethics Committee of Juridical and Criminological Research at the Faculty of Law, VU Amsterdam.
3 L'opinion publique et les nord-africains, 8 septembre 1973, Direction centrale des renseignements généraux, section étrangers et minorités in the folder "Les travailleurs arabes en France généralités," Archives Nationales 19850087/156.
4 For example, Synthèse des rapports trimestriels établis par les conseillers techniques pour les affaires musulmanes, 1e trimestre 1959, ministère de l'Intérieur. Service des affaires musulmanes et de l'action sociale, confidentiel, in Archives Nationales 19760133/14; Note sur l'immigration étrangère dans le Rhône, 1971, Service de Liaison et de Promotion des Migrants, Archives Nationales 19860269/11.
5 Préfet de l'Ain, à monsieur le premier Ministre délégation de l'action sociale pour les travailleurs étrangers et pour information a Ministre de l'Intérieur, objet: hébergement des travailleurs d'outre-mer et notamment des travailleurs algériens. 7 May 1961, in Archives Nationales 19770391/6.
6 Secrétaire General du AFTAM à Ministre du Travail, grève des foyers-hôtels à l'AFTAM, 25 November 1974. Archives Nationales 19960134/4.
7 Le Préfet délégué pour la Police a Monsieur le Ministre de l'Intérieur, direction générale de la police nationale, direction de la règlementation, Lutte contre le proxénétisme, 1972, in Archives Départementales du Bouches-du-Rhône, 1650 W1.
8 Controleur centrale de la police nationale to Préfet de la région de Provence et cote d'Azur et Préfet du Bouches-du-Rhône, 25 July 1971, in Archives Départementales du Bouches-du-Rhône 135 W 326.
9 L'Officier de paix principal au commandant de groupement du corp urbain, 21 July 1971, in Archives Départementales du Bouches-du-Rhône 135 W 326.
10 Loi n°46-685 du 13 avril 1946 Dite Marthe Richard Tendant A La Fermeture Des Maisons De Tolerance Et Au Renforcement De La Lutte Contre Le Proxenetisme, retrieved from https://www.legifrance.gouv.fr, last visited 1/9/2023.

11 E.g., Le Préfet délégué pour la Police à Monsieur le Ministre de l'Intérieur, direction générale de la police nationale, direction de la règlementation, Lutte contre le proxénétisme, 16 August 1973, in Archives Départementales du Bouches-du-Rhône 1650 W1. This is reproduced in subsequent reports.
12 Note de "le directeur des services de police judiciaire" a l'attention de monsieur le directeur général de la sureté national, 25 March 1959, in Archives Nationales 19910852/8.
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14 Oral history Yvon Thomas, interview by E. Blanchard, 13/07/2004, Récits de vie de policiers 1992–2005, Fonds de l'IHESI-INHES et du CESDIP, in Bibliothèque Nationale de France DONAUD0601.
15 Notes, Archives Monique Hervo, ARC/3019/3.
16 Notes, Archives Monique Hervo, ARC 3019/3.
17 Same-sex relations between women were not criminalized in practice: the judicial apparatus treated women engaging in same-sex relations usually as psychological cases who had to be "protected" with psychiatric care, see Gauthier and Schlagdenhauffen (2019).
18 The Pigalle District is a neighborhood in the northern Paris historically known for sex work and morally transgressive and sexual entertainment.
19 Quote from the website hexagonegay.com, last accessed 5 December 2021.
20 Direction de la police judiciaire a monsieur le Préfet de la police, interpellation de nord-afrcains dans un bain de vapeur, 22 April 1955, Archives prefecture de paris, HA 19 4.555.
21 François Lefort was an activist priest and a social worker for youngsters in an informal housing settlement. This published account is based on extensive interviews with residents – specifically, young Algerian men and minors. The book combines statements from different people to make sure no individuals could be identified, for fear of expulsion. The author became a well-known Catholic humanitarian. In a twisted turn of events, the author-priest was sent to prison for sex with minors (boys) in Senegal in 2005.
22 Notes, Archives Monique Hervo, ARC/3019/3.
23 Notes, Archives Monique Hervo, ARC/3019/3.
24 Notes, Archives Monique Hervo, ARC/3019/3.

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# Part III

# Regulation of Consequences

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# 7 A 'Marriage Between Natives'

## Race, Religion, Citizenship, and Customary Marriage in Late Colonial West Africa

*Luz Cristina Colpa*

### Introduction

On April 18, 1943, Anatole Degbey, a doctor from the French colony of Dahomey, now Benin, working in the colony of Niger, married Louise Diallo, a midwife of African and European heritage also working for the French colonial government.[1] The couple registered their marriage in the circle of Téra, according to "Catholic custom."[2] Sometime afterward, the act of marriage was declared invalid (*conclu à-nullité de l'acte*) by a judge, who cited its lack of accordance with the 1933 French Colonial law governing marriage registration. In February of 1944, the governor of Niger wrote to the governor of French West Africa (Afrique occidentale française, AOF), inquiring about the legality of this marriage, referencing the recent "recommendations" made at the Brazzaville Conference a month earlier.

This chapter explores the regulation of Catholic marriage, and its implications for citizenship, in 1940s French West Africa. It investigates entanglements between marriage, religion, and the construction of race and "personal status," as understood the by French colonial state. Drawing on correspondence about the Degbey-Diallo marriage, the life trajectories of Anatole Degbey and Louise Diallo, and jurisprudence on Catholic marriage and French citizenship, I argue that, while the French colonial civilizing mission proponed monogamous marriage in abstract, in practice, African marriages which too closely resembled European marriage traditions called into question the arbitrary division between subject and citizen. In this way, the marriage of Anatole Degbey and Louise Diallo called into question the entire colonial civilizing mission, as well as the arbitrary racialized distinction between subject and citizen.

This volume is devoted to the study of "mixture" in Europe and beyond. The "mixture" of the Degbey-Diallo marriage is not the traditional racial mixture, but rather the "mix" of cultures and religions created by colonial contact and the resulting system of socio-religious categorization. As such, the Degbey-Diallo marriage demonstrates the intersection of racial constructions with cultural and religious practices.[3] This categorization produced racialized socio-religious binaries, so much so that the colonial state presumed Africans were not Christians, and thus assumed the Degbey-Diallo marriage was a ruse to escape the subjugations of French colonial law. Thus, while Anatole Degbey and Louise Diallo did come from two

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different natal communities, with Diallo classified by the French state as *métisse* (mixed race), while Degbey was labeled with a tribal affiliation, Fon, it was their mixture of cultures, rather than their mixture of races that conflicted their categorization under French colonial law.

The chapter begins with an understanding of racial mixture in late colonial French West Africa, its place in the historiography, and its implications for the Degbey-Diallo Case. I then move on to an intersectional analysis of the life trajectories of both Anatole Degbey and Louise Diallo, followed by a discussion of the legal implications of African Catholic marriage in the late colonial period in terms of legal constructions of race, social status, and citizenship. Critically, the Degbey-Diallo marriage called into question the racialized distinction between French citizen and French colonial subject. In this argument, I draw on the historiography around the invention of tradition in Africa, the racialization of emotion, and the creation of the métis category in the French colonial system.[4]

## Race and Citizenship in the French Colonies?

The social-legal projects to "aid" the métis children of Frenchmen, or provide education to elite Africans such as the medical school, had the goal of creating a civil service class of culturally French citizens; rendering métis children French, and thus white (White 1999). This racialized genealogy, where the paternal racial line predominated, is unheard of in the anglophone world (Duke Bryant 2017). The racial project of the creation of "French" men and women was just as much moral and emotional as it was legal and biological. The 1931 statute granting métis the right to French citizenship stipulates that they had to "live" as French people. Thus, even as Senegalese Muslim men with French citizenship practiced polygamy, métis men who hoped to become recognized citizens by claiming their French heritage, could not have a hint of sexual impropriety attached this them (Diouf 1998).[5] This led to orphanages for metis children applying for citizenship for their youngest charges, before they had time to have a sexual past. For women, the belief that African heritage leads to sexual impropriety, and the desire to "save" young métis girls from a life of prostitution was even more pronounced. As time passed however, and citizenship granted freedom from the twin terrors of colonial law and forced labor but also the vote, it became important that métis women entered into not just a respectable marriage, but as we shall see, a union that was politically palatable to the French colonial state.[6]

A project like the medical school was as much about filling a need for skilled labor in France's West African colonies as it was about making sure doctors functioned as White Frenchmen in the colonies. Hence the tile of Bryant Mumford's 1935 review of French education in West Africa, "*Africans Learn to Be French,"* as well as the law allowing educated Frenchmen to accede to citizenship (Mumford 1970).[7] Following this project, the midwifery school, which was created with the goal of both creating a skilled labor pool and a marriage pool for French-educated Africans, makes complete sense. For the first several years, at least

half of the midwifery students were pulled from métis orphanages, like Louise Diallo (Barthélémy 2010). These women would have had the ability to access French citizenship as adults, provided they lived as French citizens. Therefore, the projects of citizenship for métis and elite African education became mutually reinforcing, creating a class of skilled workers to serve the French colonial administration, who were all but French. Marital choice and marriage practice, in other words who and how one married, were essential parts of the production of this French-educated elite, which itself was vital to the running of productive colonies in French West Africa.

In her pivotal essay "Tense and Tender Ties," Stoler argues that the "intimate domains," including marital choice, were pivotal in the "making of racial categories" (Stoler 2001). This bears up in French colonial projects like the medical school, which was designed to discipline the emotions and desires of elite Africans. At the same time, as Stoler notes, "encroachments upon, and threats to the privileges of" French citizens were "condemned" as overreach by those who, like Anatole Degbey and Louise Diallo were experiencing projects like the métis law, the medical school, to their logical conclusion: the creation of an intermediate class of French-educated African citizen. These civil servants were, according to French colonial law, entitled to French citizenship.[8]

This chapter is part of a larger project devoted to the study of the constructions of "mixed-ness" in Europe and beyond. Is the marriage of Anatole Degbey and Louise Diallo a "mixed" relationship at all? The title of the letters about their marriage: "a marriage between natives" implies a marriage between two Africans who, in the eyes of colonial officials, had the pretensions to marry in a way which mimicked Europeans. Yet, the Degbey-Diallo union was far more complex than the "native marriage" French colonial authorities would reduce it to. In her chapter, "Through, against, and beyond the Racial State," Debra Thompson notes that the du Bois' color line did not solely exist among white and black communities, but among the relations of "the darker to the lighter races of men" across the globe (Thompson 2014). However, the lens through which we view "mixed" relationships in scholarship has been almost entirely black and white. This chapter seeks to take a more unorthodox view of "mixed-ness," looking at how a marriage "between natives" was also seen as a mixed relationship, and the threat such a relationship presented to the colonial order.

In this chapter, I take an intersectional approach to analyzing the marriage of Anatole Degbey and Louise Diallo, using information we have about them, and their positions in the eyes of French colonial law, to better understand how their assigned social and legal categories might have shaped the reaction to their relationship (Crenshaw 1991). This approach combines elements of microhistory, biography, and legal life-writing, in order to go beyond legal history in French West Africa, attempting to understand the law as historical actors might have experienced it (Sugarman 2015). In this reading of the lives of African subjects, I attempt to use the law in order to understand how Louise Diallo and Anatole Degbey were defined by it, and how those definitions might have shaped their life trajectories.

***Anatole Degbey: His Personal Status and Life Trajectory***

We might not know about Louise Diallo and Anatole Degbey's marriage, had not its registration been annulled because of its lack of compliance with French colonial law. The key issue involved the legal definition of the couple's personal status which regulated how they were governed. Under French colonial law, Anatole Degbey and Louise Diallo, were African subjects or "*Indigènes*," hence the subject of the letter "*Rédaction d'un acte de Mariage entre indigènes"* (Amendment to an act of marriage between Natives).[9] Yet, while this status would have a profound impact on both their lives and their marriage, it is not the only pertinent information we have about them. Writing about the lived experience of colonial subjects in French West Africa is difficult. Most individuals had few interactions with the colonial state, leaving few traces in the archives. However, the medical school, the *École africaine de médecine de pharmacie*, educated and licensed African doctors and midwives keeping detailed records on them. Thus, we know that Anatole Degbey was accepted there in 1933.[10]

As a doctor in French West Africa, Degbey would have been unique, an elite among the elite. In 1945 there were just three hundred and one French trained African doctors in French West Africa, which had "a population of over fifteen million" inhabitants (Sabatier 1978, 253). As such, Degbey went through rigorous training involving at least six years of primary education, a two-year secondary preparatory course and four years of medical school (Le Dantec 1920). The medical training Anatole Degbey would have received would have been at *L'Ecole de médecine de Dakar,* which had been founded just after World War I (Le Dantec 1920). In an October 1920 speech, the school's founding director, Aristide Le Dantec, outlined the institution's history and mission, explaining and demonstrating the ways the medical school aligned with the larger French colonial project (Le Dantec 1920). The school opened in November of 1918, and was part of a larger effort to mobilize West African resources during World War I (Le Dantec 1920, 626). The building of increased medical infrastructure was also seen as part of the repayment for the West African contributions to the French war effort; a repayment of the "debt" in African lives (Diouf 1998).

The teaching hospital was also meant to aide France's economic interests in West Africa. European colonial governments were obsessed with population growth, in an effort to increase an available labor pool and promote economic productivity in their colonies.[11] The founding of the *Ecole de médecine de Dakar* can be seen in line with these efforts. Le Dantec argued that high infant mortality, as well as "ignorance of the most essential notions of hygiene," was decimating the population in West Africa to the detriment of both the economic health of the colony, as well as France's potential military strength (Le Dantec 1920, 624).

Critical to the understanding of the Degbey-Diallo marriage is the fact that Le Dantec envisioned the creation of the school as both a medical aid project, and an experiment in social reproduction. He recruited young doctors and midwives from the upper echelons of African society with the hope that not only would they provide medical care for rural populations, but also that they would marry among

themselves (Le Dantec 1920, 623). This goal, the creation of families of African medical workers whose relationships were fostered during their studies, was part of the reason that the school for midwives was founded at the same time as the medical school.[12] In his speech, Le Dantec states: "We must promote with all our efforts unions between our doctors and our native midwives," as such marriages would be a moral and "intellectual guarantee" that French-educated African students would not "backslide" into local mores, particularly polygamy (Le Dantec 1920, 637–638). Medical students and trainee midwives were expected to work together, allowing them time to get to know each other, fostering emotional bonds, and ideally, "desirable unions" (Le Dantec 1920, 638). Therefore, from its earliest inception, the medical training program intended to cultivate the type of marriage that Anatole Degbey and Louise Diallo would contract in the spring of 1943, a marriage between educated elites, fostered, authorities hoped, upon bonds of affection and respect built over time.[13]

**Louise Diallo: Métisse, Midwife, and Spouse**

Louise Diallo entered midwifery training there in the fall of 1937, graduating 5th in a class of 16 in 1940.[14] Though we know little about her life before she entered midwifery training, there is strong evidence that Diallo was educated in an orphanage for mixed-race children in Zinder, which gives us a bit more insight into her personal trajectory. A telegram sent in August of 1939, which named Diallo, suggests that she was from the orphanage.[15] Additionally, a 1941 report on young girls educated at the orphanage stated that that: "They show a marked predilection for jobs in the health service," and adds that recently "two former students of the home have just been assigned to positions as midwives in the bush."[16] These two midwives were probably Louise Diallo and Jeanne Djarama, who both graduated in 1940, and were both stationed in Niger in 1941.[17]

The 1941 report on the orphanage also suggests that Diallo's marriage to a civil servant was neither uncommon nor unexpected. The author writes that marriage between African civil servants and métis women raised in the orphanage was common, as was Diallo's entrance into civil service.[18] Barthelemy estimates that in the interwar period, métis women represented twelve percent of the state trained midwives (Barthélémy 2010, Ch. 7). In Louise Diallo's graduating class alone, 12 out of 21 students were identified as métis.[19] This is because many of the girls and women who benefited from higher education in French West Africa were recruited from orphanages for métis children, like the one in Zinder.[20] This background as a child of an unknown European father will have had a profound impact on Louise Diallo's life trajectory.

The orphanage in Zinder was created with the intention of aiding "abandoned" métis children; several cases of such children were cited in the inspection report of the orphanage from 1938.[21] At the same time, the report states that many mothers of métis children refused to send their children to the orphanage, despite the future opportunities a French language education would have provided them.[22] The mothers' objections may have had to do with the fact that the conditions of the

orphanage were, by the report's own admission, "mediocre," including a lack of basic necessities such as soap and water.[23]

The report also echoes the observations of the lieutenant governor of Mauritania, noting that many métis children were not abandoned but rather "adopted into families with the same status as other children."[24] A 1937 letter cited in the report states that, while métis children were often "abandoned" by their French fathers when they returned to France, "As for the mothers, mostly white indigenous women, they oppose with all their might any attempt to separate [from] their mixed-race children."[25] The letter goes on to say that military officials had asked for provisions for local orphanages for these children, even when sending the children to the orphanage in Zinder would have been more "logical."[26] It is interesting to note that the affection women had for their children was perceived as being linked to their "race" or ethnicity. In any case, the evidence demonstrates that Louise Diallo's presence at the orphanage in Zinder was desired by a colonial state and shaped her life trajectory.

### Louise Diallo and "the quality of a French citizen"

Louise's background also could have given her the opportunity to be recognized as a French citizen. As the daughter of an African mother and unknown European father (*une métisse),* she could have had the "quality of a French citizen" recognized under the Decree of September 5, 1930 (Badji 2011; Saada 2012, 30). Under this decree, the child of legally unknown father of European origins would have been able to apply to have the "quality" of their Frenchness recognized. This would have allowed Diallo access to a better pay rate, and freedom from the *indigant*, the law which brutally oppressed colonial subjects.[27] Though the letter does mention Diallo's status as the unrecognized daughter of a European, as well as her profession, the 1930 law and her connection to it are never mentioned as a possible solution to the legality of the Degbey-Diallo marriage. This may be because the process was complicated, required academic achievement, fluency in the French language, and impeccable moral standing.[28] Importantly, in light of the Degbey-Diallo marriage, a woman's choice of husband was taken into consideration during this process.

In his work on the Decree of September 5, 1930, White notes the cases of two métis women who had their applications for recognition as French citizens denied, under the pretext that they were both married to African civil servants: Lucienne Koram and Denise Rhama (White 1999, 67, 145). It was argued that their choice of husband put them more in the category of African rather than French, and authorities worried that African husbands might acquire citizenship through their wives.[29] In May of 1938, the Governor General of the AOF had to intervene on behalf of Koram and Rhama. Thus, while a marriage between a métis woman and an African civil servant was common enough for it to be remarked upon by observers at the time and encouraged as a way to prevent métis women from going into prostitution, it also upset the racial project of colonization by allowing African civil servants an avenue to citizenship through their wives. The similarities here to the Degbey-Diallo case are striking. These women were participating in the

respectable monogamous marriages which the colonial state was proponing, but the citizenship status, and by implication the racial status, of their husbands called the legitimacy of their claims to "French-ness" into question.

## Early Rulings on African Catholic Marriage: The Koromaka-Kamara Case

While it was the race of the husbands that was the crux of the issue in the Koram and Rhama cases, in the instance of the Degbey-Diallo marriage one of the main issues was religion. In short, could Africans marry as Catholics? In the twenty years before French colonial jurists would consider the Degbey-Diallo marriage, the tribunal responsible for dispensing colonial justice in Mali considered another instance of Catholic Marriage, this time as part of a divorce case. In 1924, Virginie Koromaka, a Catholic woman living in Bamako filed for divorce from her husband, Urbain Kamara, also a Catholic.[30] The couple was married in a Catholic religious ceremony. Virginie later filed for divorce under French customary law. The tribunal in Bamako then proceeded to treat Roman Catholic canon, or religious law, in the manner in which it treated Muslim religious law: as a local custom. Following this logic, the tribunal ruled that "according to Catholic custom, there is no divorce," and ordered Virginie Koromaka to return to her marital abode.[31]

In 1924, the court of appeals of French West Africa ruled that the tribunal in Bamako had no authority to rule on the Koromaka-Kamara marriage, as it was a religious marriage, and thus, in the eyes of secular French law, it did not exist.[32] While acknowledging that "it is clear that in French West Africa indigenous statuses are, in certain regions, as varied and numerous as the customs", the appeals court refused to treat Catholicism as separate African custom.[33] Instead, it reminded the court of Articles 6 and 7 of the decree of August 16, 1912, which required "Native" tribunals to use "Muslim" or "non-Muslim" customary status when deciding the cases of French subjects in the AOF[34] Thus, according to the decree of August 12, Urbain Kamara and Virginie Koromaka should have been treated as "non-Muslim" African subjects, not as Catholics.

This distinction between religion and customary status is an important one, as it defined an African subjects' relationship to French colonial law. African subjects were encouraged to "evolve" toward French culture, even as the legal understanding of their status was rooted in ideas of difference and primordial tradition (Conklin 1997). The personal status of African subjects was assumed to incorporate all of an individual's "ancestral" laws and social practices. These practices, as the appeals court understood them, were rooted in family, tradition, and history, as opposed to individual religious belief. Thus, the fact that Africans had converted, or were raised as, Catholics could not be viewed as a factor that would grant them new civil rights if they were "contrary to ancestral native customs."[35] In short, the practice of Catholicism could not be treated as a separate African custom. Thus, the lower courts had no right to rule on a marriage which, under both French civil and customary law, did not exist. [36] Hence, even as the ruling affirms a secular basis in French law, separate from tradition or custom, the judge has a specific idea of

Catholic marriage as monogamous and permanent, something he does not associate with his conception of African marriage.

The Koromaka-Kamara divorce played an important part in the French jurist and missionary Henry Solus' discussion of French colonial marriage law. In his analysis of the case, Solus disagrees with the legal opinion of the court of appeals (Solus 1927). Solus believed in recognizing and codifying customary law in order to create a legal system reflective of local social mores, but he disagreed with its application to Christian "converts" (Solus 1927, 6). Refuting the court of appeals' argument that a religious marriage could not have any legal import under French civil law, Solus points out that much of French customary law had a religious origin, particularly Muslim customary law (Solus 1927, 153–157).

Solus' commentary on the Koromaka-Kamara case is located in a larger chapter covering how "native" subjects might obtain French citizenship, and the renunciation of personal status in particular, which he describes as the manner "by which a native, repudiating the native laws and customs which governed him and withdrawing from the institutions which constituted his personal status, declares himself to be subject to French laws and accepts, as a whole, French legal institutions" (Solus 1927, 136). This renunciation had two potential results. One was to make the individual subject to French civil law, without the acquisition of additional rights. The other, applicable solely in French possessions in southern India, gave the "civil and political rights of French citizens" to those who renounced their personal status (Solus 1927). It was this possibility, the idea that the renunciation of personal status might allow French subjects to acquire the political rights of citizenship, that seems to have unnerved French jurists and administrators alike.

If the French government could codify and apply Koranic law to African subjects, why not Catholic canon law? This, in fact, was what the tribunal in Bamako had done with the Koromaka-Kamara divorce case. This is the situation Anatole Degbey and Louise Diallo found themselves in 1942. One of Solus' arguments, the idea that religious conversion was tantamount to a renunciation of personal status, is evident in the correspondence around the Degbey-Diallo marriage. Solus' analysis also sheds light on the ties between conversion, marriage, and citizenship. Jurists like Solus and Bonnichon were aware that being governed by French civil law was viewed as a step toward the acquisition of French citizenship (Solus 1927, 136; Bonnichon 1931, 46). Thus, the Degbey-Diallo case revived these questions of religion and custom, marriage, and citizenship, which the Koromaka-Kamara divorce ruling did not entirely resolve. Some of these issues would come up again, twenty years later at the Brazzaville conference.

## Brazzaville and the Push for Monogamous Marriage

The Brazzaville conference, held in Brazzaville, the French Congo, between January 30 and February 8, 1944, set a new tone for the politics of France's African empire. Its reforms were designed to recreate France's relationship with its African colonies, in part as recompense for their support in the Second World War. One of the watershed moments of the Brazzaville conference was the abolition of the

*Indigénat*, which paved the way, in theory, for the equality of Metropolitan French citizens and African subjects under the law (Jennings 2015, 251). On the other hand, much of the rhetoric of the conference still reinforced the idea of progress in a framework of tradition and custom (Jennings 2015, 251–259). However, this political commitment to upholding "African tradition" was not completely reflected in the Brazzaville conference's recommendations on marriage. The 1944 summary of the conference mentions recommendations for the reformed parameters of African, presumably endogamous, marriage: the regulation of bridewealth, consent of the bride in marriage, the promotion of monogamous marriage, and the "eventual repression" of "bigamy"; favoring monogamous marriages while still allowing divorce (Jennings 2015, 41–42). What is striking is the recommendation that these marriages "must" be registered by local colonial authorities in Town Halls. The May 29, 1933 law establishing the civil registry had only required marriage registration from African civil servants.[37] One can surmise that officials felt the need to register monogamous unions because they feared those contracting them might "backslide" into polygamous practices, or as they termed it: "bigamy."[38] The commission members who wrote the recommendations also wanted to make certain that a woman whose husband had contracted another marriage had the option of divorce.

What is remarkable reading these recommendations is how close they are to the marriage of Anatole Degbey and Louise Diallo. A Catholic marriage would have been, by definition, monogamous, and divorce would have been impossible. Degbey and Diallo registered their marriage with local authorities, and it is for this reason that we know about it. In short, the Degbey-Diallo marriage would have been a model marriage for the commission working on family and social costume. Why then was its registration annulled? The answer is because, by its very nature, the marriage of Anatole Degbey and Louise Diallo called into question the colonial civilizing mission, including the racialized distinction between subject and citizen.

### Catholic "Custom" and Native Status

In his February 1944 letter, the Governor of Niger reminded the Governor General of the AOF of the obligation to register African marriages under customary law.[39] He also brought up that Catholicism "is not officially recognized as a separate custom."[40] We know that both Christianity and Catholicism have histories in West Africa dating back to the sixteenth century (Mark 2002; Jones 2013, 73–95). As such, it makes sense that by the 1920s, some officials in West Africa were treating Catholicism as a distinct African custom. Lawyer and missionary André Bonnichon referenced the Koromaka-Kamara case to make the argument that French colonial law should codify a distinct civil status for "native" Christians and converts, as much of customary law was based on Muslim religious law.

The *état civil indigène,* or native civil registry, was intended to both document "village life as it existed" and push local African populations toward a type of western modernity (Penant 1933, 309–310; Wilder 2005, 103–105). Thus, the law reinforced the idea that the lives of the West Africans it governed should be grounded

in an idea of "African custom," even as the colonial administration promoted the adoption of western ideals linked to the nuclear family. The culturally essentialist impulses of the French colonial state can be seen in this insistence that all major life events (births, deaths, marriages) had to be understood in terms of custom. It allowed no room for African Catholics, some of whom might have practiced Catholicism for generations, to marry according to Catholic tradition. It was this insistence on African subjects being grounded in and regulated by a particular custom that Anatole Degbey and Louise Diallo violated with their marriage. A marriage registered under Catholic custom flew in the face of the strict ethno-racial binary of the May 1933 law which created the *état civil indigène*. But, what would it have meant for Anatole Degbey and Louise Diallo?

Marrying in the Catholic church in 1942 would have entailed several particularities. There would be no bridewealth, or exchange of goods legitimizing the marriage, the marriage would be monogamous, and both Diallo and Degbey would forfeit the possibility of divorce (Sacré-Cœur 1939; Antoine 1992). A marriage under customary law – in this case Fon customary law due to Degbey's ethnicity, would have included the option of contracting a polygynous marriage, as well divorce.[41] The French state perceived this type of marriage as providing more sexual liberty for men, as well as holding the potential for "abuses" against women such as "bigamy," as polygyny was sometimes termed.[42] Notably, customary law provided an exit from an unhappy marriage in the form of divorce. The option of no-fault divorce (*divorce par consentement mutuel*) was not available to French women until 1975 (Cosnard 1978). Thus, French colonial officials saw the marriage of Anatole Degbey and Louise Diallo as fundamentally different from this understanding of African customary marriage.

## The Resolution of the Degbey Diallo Marriage

In July 1944, the Governor of French West Africa wrote to the Governor of Niger: ruling, that the Degbey-Diallo marriage was valid if it was entered in the "native civil registry," rather than the European register.[43] This makes sense, given that following the establishment of the *état civil indigène* in the French West Africa, in May of 1933, African subjects living under French colonial law had the option of registering their marriages in a separate civil registry.[44] The law requires the registration of "births, deaths, and marriages" in the *état civil indigène* by those who were in the employ of the French colonial administration as well as their descendants.[45] Thus, Louise Diallo and Anatole Degbey, by registering their marriage, were actually fulfilling their legal and occupational obligations.

The only way the Degbey-Diallo marriage would have been invalid would have been if the couple had been registered in the European civil registry. Thus, the registration of the marriage of Anatole Degbey and Louise Diallo was valid, as long as it reflected the couple's legal status as African subjects. Harkening back to the Koromaka-Kamara case, the Governor of the AOF wrote that Anatole Degbey and Louise Diallo, with the registration of their marriage under "Catholic custom," expressed a "reference devoid of any legal significance" to have their

marriage regulated under (metropolitan) French law.[46] How can a desire to be governed under a particular set of laws be devoid of any legal significance? The legal reasoning was that the Koromaka-Kamara marriage was a religious marriage, and therefore had no significance under metropolitan French law, which only recognized civil marriage. It was only under customary law, as applied in French colonies that religious marriages, such as those under Koranic law, had any legal significance because of the codification of Muslim religious law into customary law.

The Governor of the AOF was concerned that the wish to have their marriage placed under French law might be part of a larger scheme by the Degbey-Diallo couple to gain French citizenship.[47] But why would he have jumped to this conclusion? What were the links between religious marriage and citizenship? For the answers, we must return to Henry Solus' explanation of religious conversion, marriage, renunciation of custom, and French citizenship. The precedent that a religious convert could gain civil rights under French colonial law was established by the September 21 Decree of 1881.[48] This law stated that the renunciation of personal status was open to all "native" subjects of either sex in France's colonies in India (Solus 1927, 139). Those who renounced their personal status were governed "by the civil and political laws applicable to the French in the colony" (Solus 1927, 141). In other words, they would go from being treated as French subjects to having the rights of French citizens in the colony. Thus, the September 21, 1881 decree became one of the few ways for a "native" subject in France's empire to become a French citizen through their own will, and without inquests by French colonial authorities.

This type of renunciation was strongly associated with religious conversion and civil marriage, because many of the legal ramifications of the process fell upon the renouncer's family. The wife and minor children of a renouncer would gain French citizenship (Solus 1927, 143). Furthermore, as Solus points out, most of the customary laws governing the family in both India and West Africa were religious. Considering the association between marriage and renunciation of personal status, the Governor of the AOF, in his July 1944 letter to the governor of Niger, read the desire of Louise Diallo and Anatole Degbey to be married as Catholic as a renunciation of their personal status. While he is not opposed to the Degbey-Diallo couple marrying as Catholics, he did not want the marriage to be used as a way to gain French citizenship.

In the letter, he strives to straddle this tension, writing that the granting of citizenship based simply on the wishes of African subjects would go against the rule of law. Thus, he can strike a tone of magnanimity, allowing that the Degbey-Diallo Marriage is valid, as long as it is understood that it is a "native" marriage, registered in the *état civil indigéne* and would have no implications in terms of citizenship for either spouse. The marriage could still be read as a renunciation, as long as it was a renunciation of custom and not of legal status. From the perspective of the Governor General of French West Africa, this decision preserved the distinction between citizens and subject, which Diallo and Degbey had crossed by registering their marriage under "Catholic custom."

The last letter concerning the marriage of Anatole Degbey and Louise Diallo is dated January 1945. More than a year had passed year since the Degbey-Diallo marriage was registered in April 1943. During that time, it appears much had changed politically, as we can see from the Brazzaville Conference, not only in French West Africa, but also in Metropolitan France. This change appears to be reflected in the reconsideration of the marriage. The letter focuses on what I argue has been the overarching preoccupation of colonial officials with regard to the Degbey-Diallo marriage: its implications for citizenship. Stressing the exemplary nature of the Degbey-Diallo marriage, the Governor of French West Africa wrote: "The Anatole DEGBEY-Louis DIALLO case may be the case, in terms of personal status, of many evolved natives."[49] In this passage, he is for the first time referring to the couple as having a status beyond that of "native subject": "*évolué*," or evolved African. The Governor references the July 29, 1942 decree in French Equatorial Africa, which defined an "*évolué*" as any "native" of either sex who was able to demonstrate that they had "the status of an advance notable" to the local administration.[50] The requirements for obtaining the status of *évolué* could include the ability to speak, read, and write French fluently, or military service, but could also apply to prosperous locals without French education.[51] Entrance into the French colonial civil service did not guarantee that a person would be awarded this status. Yet, as the Governor of French West Africa argues, most, if not all of the African civil servants working for the French colonial administration at the time should have qualified for the status.[52]

Having the creation of a parallel status in mind in the AOF, the Governor proposed a new solution to the challenge created by the Degbey-Diallo marriage. He turns again to the legal definition of renunciation.[53] This, he believes, was the intention of Anatole Degbey and Louise Diallo when they registered their marriage under "Catholic custom." Drawing upon the jurisprudence around the September 21, 1881 law, he proposes treating the "evolved notables" of French West Africa in a similar manner to *renonçants* in France's colonies in India, without granting them full citizenship rights.[54] Thus, the final ruling on the Degbey-Diallo marriage supported the goal of the civilizing mission, promoting monogamous marriage, while still preserving the distinction between subject and citizen.

## Conclusion

In declaring their marriage to be Catholic, and thus religiously disciplined into monogamy; Anatole Degbey and Louise Diallo defined themselves as belonging to a monogamous social community, one which colonial officials saw as racially antithetical to the social practices of "Native Subjects." It is for this reason that they saw the Degbey-Diallo marriage as a renunciation of their customary status. The discipled monogamous "native," was in fact, not socially a native, and therefore politically deserving of the civil status of citizens.

What is the link between race, religion, and marriage practice which we can see in the Degbey-Diallo case? In his book, *The Problem of Race in the Twenty-First Century,* Thomas Holt argues an earlier genesis for the history of race than scholars

focusing on the United States. He traces the beginnings of racialized thinking to the Spanish *Reconquista*, and religious and cultural practice, maintaining that requirements for group belonging would go from "purity of faith" to "purity of blood" following colonial conquest (Holt 2009, 42). Therefore, Holt writes: "the project of nation-building, the onset of imperial expansion, and a campaign of racial exclusion appear to be not only simultaneous but interrelated" (Holt 2009, 41). While in many setter colonial societies, such as the United States, phenotypic understandings of race prevailed, under the French colonial system in West Africa, cultural practices such as marriage were understood as being racialized, with Africans such as Anatole Degbey and Louise Diallo legally linked to the religion and social practices of their "ancestors" until such a time as the colonial government deemed them worthy of acceding to a new civil status.

In French, the term "*mariage mixte*" or mixed marriage, has a primarily racial implication. Yet we can see, in light of the Degbey-Diallo marriage, how citizenship, religion, and marriage practice have become entangled in conceptions of "mixed" relationships. In this chapter, I have explored the regulation of Catholic marriage and its implications for citizenship in 1940s West Africa through the marriage of Anatole Degbey and Louise Diallo. Their marriage was annulled because of its implications in a racialized colonial structure. The "civilizing mission" in French West Africa, while proponing monogamous marriage in the abstract was, in practice, opposed to African marriages which called into question the arbitrary distinction between subject and citizen. The Degbey-Diallo marriage demonstrates how, starting in the late colonial period, any relationship which called into question distinctions between citizens and non-citizens could be invalidated (Fassin 2010; Kringelbach 2013).

## Notes

1 Gouverneur du Niger, "Rédaction d'un acte de Mariage entre indigènes," 1944, Mariages Indigènes 23 G 12, Archives Nationals du Senégal (hereafter ANS). All translations done by Luz C. Colpa. In the correspondence around their marriage Louise Diallo is referred to as "*une métisse*." In various scholarship on *métissage* and mixite métis has been translated as "mulatto" or "mixed-race." In this particular context the word would describe person with an African mother and a "unknown" European father.
2 Gouverneur du Niger, "Rédaction d'un acte de Mariage entre indigènes," 1944, Mariages Indigènes 23 G 12, Archives Nationals du Senégal (hereafter ANS). All translations done by Luz C. Colpa. In the correspondence around their marriage Louise Diallo is referred to as "*une métisse.*" In various scholarship on *métissage* and mixite métis has been translated as "mulatto" or "mixed-race." In this particular context the word would describe person with an African mother and a "unknown" European father.
3 For more on the socio-cultural constructions of race see: Haney Lopez (2017).
4 See: Achebe (2018), Cole and Thomas (2009), Fields (1990), Ranger (1997 [1993]), and Reddy (2008).
5 See also: « Demandes de reconnaissance à la qualité de citoyens de statuts de droit commune métis, formulées par M. Le Directeur de Foyer du Métis de Bamako ». 23 G 97 (174) ANS.
6 "Demande D'accession Décret Du 5 Septembre 1930 – Mme Diop Née Suzanne Traoré Dite Borion," April 19, 1950. 23 G 97 (174) ANS.

7 See also: "Décret de 23 Juillet 1937." O 197 (31) ANS.
8 Décret de 23 Juillet 1937. O 197 (31) ANS.
9 The 1931 decree defined *Indigènes* as "individuals originating from the French possessions of French West Africa and Equatorial Africa, not possessing the status of French citizen." See also: "Décret Du 3 Décembre 1931 Réorganisant La Justice Indigène En Afrique Occidentale Française." In *Recueil de Législation et Jurisprudence Coloniales*. Paris: Marchal et Billard, Administrateurs, Librairie de la cour de cassation, (1932),242.
10 Arrêt. O 163 (31). École africaine de médecine de de pharmacie NOTE. Procès-Verbal de la Séance du Conseil de professeurs du 13 Juillet 1933.O 14 (31) ANS.
11 Some notable examples of this include Allman (1994), Hunt (1988), and Thomas (2003).
12 For more on this, see Barthélémy (2010), Chapter 7, and the section in the chapter on Louise Diallo.
13 M de COPETT. Arrête. Portant le nomination et affection des MEDECINES AUXILIAIRES Le 18 Nov. 1937. O 14 (31) ANS. NIGER. Service de santé. Rapport annuel, 1941. p. 35. 2 G 41 ANS.
14 P. Boisson. Arrête. Inspection Générale des services sanitaires et médicaux. Haut-Commissariat de L'Afrique Française. Le 12 Nov. 1940. O 161 (31). ANS.
15 Télégraphe D'État. Gouvernent de Afrique Occidentale Française. Le Gouverneur de Niger à Gouverneur Général. Niamey, le 3 Août. 1939. O 161 (31).
16 NIGER. Service de santé. Rapport annuel, 1941. p. 39. 2 G 41 ANS.
17 NIGER. Service de santé. Rapport annuel, 1941. p. 39. 2 G 41 ANS.
18 NIGER. Service de santé. Rapport annuel, 1941. p. 39. 2 G 41 ANS.
19 « École de Médecine "Jules Cadre"». Liste des Élevés Sages-Femmes & Infirmiers-Visiteuses. Nov, 1937. O 14 (31) ANS.
20 « École de Médecine "Jules Cadre"». Liste des Élevés Sages-Femmes & Infirmiers-Visiteuses. November 1937. O 14 (31) ANS.
21 Cros, M. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement, July 30, 1938. O 175 (31). ANS, 18–19.
22 Cros, M. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement, July 30, 1938. O 175 (31). ANS, 20.
23 Cros, M. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement, July 30, 1938. O 175 (31). ANS, 7.
24 Cros, M. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement, July 30, 1938. O 175 (31). ANS, 20.
25 Cros, M. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement, July 30, 1938. O 175 (31). ANS. French officials considered North African peoples in the AOF "White" in contrast to sub-Saharan African populations. See: Zimmerman (2020).
26 Muller. Letter N. 315. April 8, 1937. Cros, M. 1938. "Rapport D'inspection de L'orphelinat de Métis et Métisses de Zinder." Colonie Du Niger. Service de L'Enseignement. O 175 (31). ANS.
27 The Indigénat as the name of the French colonial law to which governed African subjects through a series of decrees and arbitrary judgments by French colonial administrators. It made them subject to forced labor and unjustified punishment. For an in-depth exploration of this see: Mann (2009).
28 See White's (1999) exploration of this process.
29 "'Certificats de Possession d'État – Koram Lucienne et Rhama Denise,'" May 31, 1938. 23 G 23 (174) ANS.
30 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 101–102.
31 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 101–102.
32 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 102.

33 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 102.
34 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 104.
35 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant. 1925, 104.
36 Tribune des colonies et des protectorats: journal de jurisprudence de doctrine et de législation maritimes et coloniales / directeur M. D. Penant, 1925, 105.
37 "Règlement l'état civil indigène" In *Recueil de jurisprudence de doctrine et de législation maritimes et colonials*. 1933, 312.
38 Ministère des colonies, 41.
39 Gouverneur du Niger. 1944, Mariages Indigènes 23G 12, ANS.
40 Gouverneur du Niger. 1944, Mariages Indigènes 23G 12, ANS.
41 In either case consent of the bride would have been legally required under the Mandel Decree. For more in contemporaneous understandings of Fon marriage see Delafosse, Poutrin, and Le Roy (1930).
42 Ministère des colonies, "La Conférence Africaine Française," 41–42. See also Surkis (2019).
43 Gouverneur General AOF, July 1944, Mariages Indigènes 23G 12, ANS.
44 Gouverneur General AOF, July 1944, Mariages Indigènes 23G 12, ANS.
45 D. Penant, *Recueil Penant.*, 1933, 312.
46 Letter. Gouverneur General AOF 23G 12, ANS.
47 Letter. Gouverneur General AOF 23G 12, ANS.
48 Letter. Gouverneur General AOF 23G 12, ANS, 137–139. See also: Herchenroder (1936).
49 Gouverneur du Niger, January, 1945, 23G 12, ANS.
50 Décret n° 377, fixant le statut des notables évolués. Conférence Africaine française, Brazzaville, 30 janvier-8 février 1944, Paris: Ministère des colonies, p. 32.
51 Décret n° 377, fixant le statut des notables évolués. Conférence Africaine française, Brazzaville, 30 janvier-8 février 1944, Paris: Ministère des colonies, p. 40.
52 Gouverneur AOF, January, 1945, 23G 12, AN.
53 Gouverneur AOF, January, 1945, 23G 12, AN.
54 Gouverneur AOF, January, 1945, 23G 12, AN.

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# 8 Rationalizing Racial Mixing in French West Africa

## From African and European to African and Caribbean Encounters with Empire

*Hilary Jones*

### Introduction

European empire operated not only through military might and capitalist extraction but also through the imposition of a 'civilizing' discourse that sought to prohibit, constrain, or codify inter-racial intimacies (Stoler and Cooper 1997; Lee 2005; Jean-Baptiste 2014; Ray 2015; 2023). Scholars of the legal history of French Empire have demonstrated the modern colonial project's inherent contradictions. For example, the ideology of the Third French Republic based its legitimacy on purportedly universal notions of equality, freedom, and brotherhood, while defining colonial subjects as inherently indebted to and dependent upon 'the mother country' (Vergés 1999; Saada 2012).

The 1948 centenary of French abolition offers an example of the French attempt to reconcile their history of colonialism and plantation slavery while also shedding light on the unintended consequences of the circulation and intimate interactions between Caribbean and African people under French rule. For officials in Paris, marking the milestone anniversary of French abolition rationalized the inclusion of the *anciens colonies* (Old Regime Colonies) of the Caribbean and the Indian Ocean into the French nation by recognizing the islands as departments of overseas France.[1] French Caribbean leaders, however, used the occasion to champion the importance of participatory democracy and self-governance. Aimée Césaire, deputy from Martinique to the French National Assembly and mayor of Fort-de-France, and other French Caribbean leaders planned activities to celebrate the passage of the Law of March 19, 1946 also known as the Law of Departmentalization, which solidified the status of the island colonies as Departments of Overseas France and their people as French citizens (Childers 2006).[2] Kristin Stromberg Childers wrote that Caribbean leaders used the centenary celebration 'as a bulwark against racism,' in which the Caribbean demonstrated its historic and contemporary connection to France (Childers 2006, 294). Assemblymen from French West Africa petitioned to travel to Martinique to participate in the celebration as a gesture of solidarity and to acknowledge the history of slavery that connected Africa and the people of the French Caribbean islands. The ministry in charge of departments of France overseas denied this request on the basis that all celebrations had to be local in nature

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not 'universal,' while the colonial office supported the celebration of the centenary in Senegal's capital. On April 29, 1948, Governor Laurent Marcel Wiltord presided over the festivities that involved the performance of 'Antillean' youth who sang and danced in the style of the islands.[3] For the occasion, colonial officials relied on the bodies of young people, who were the descendants of Senegalese women and Antillean men, to act as a receptacle for demonstrating the power of the French civilizing mission. The colonial office typically counted the offspring of Antillean men and Afro-European women in Senegal among the European or European adjacent population, except for key moments such as the centenary of abolition that called for differentiation.

This chapter examines the changing nature of racial mixing in French West Africa by shining a light on 'unlikely' encounters between Africans and Caribbeans in the colony and the multicultural societies that these encounters engendered. Racial mixing in French West Africa during this era is often reduced to one type of union, or a homogenous middle group called *métis/métisse* (alternatively referred to as 'mulâtre/mulâtresse,' Eurafrican or Afro-European) (Biondi 1987; Vergés 1999; Saada 2012). Colonial officials' obsession with creating policies and programs to deal with 'abandoned *métis*' overshadowed the range of other inter-racial interactions in the colony. Children born of African women who resided in the Protectorate territories, and European men who did not claim paternity of their children, presented an intractable problem for French officials seeking to uphold the colonial order and their self-described 'civilizing mission (White).' Official records obscure other forms of cross-cultural, trans-imperial, and inter-racialized unions that occurred in French West Africa. Colonial authorities' concern with *métis* orphans also erases the longer history of *social* intermixing that connected West Africa, France, and the Atlantic World since the era of the transatlantic slave trade.

The Caribbean presence in colonial Africa flew under the radar precisely because the colonial administration sought to erect boundaries to prevent sex that crossed the white-black color line. Their aim in doing so was to maintain a clear division between the category of 'African' and 'European' rather than between people of color in the French colonial world. The presence of multiracial people who could claim belonging to France, either by blood or by an abstract quality of French-ness, thus, disrupted the perception of 'black Africa,' as a land of 'natives' to be 'civilized' by European overrule and modernity as the ideal that the colonized should aspire to emulate. In writing about the legal and regulatory system regarding mixed sexual relations and marriages in Dutch colonies from the late seventeenth century to contemporary European migration law, Betty de Hart argues that the subject of mixed relations is crucial because, 'mixture confuses and destabilizes (legal) categories that have become fixed and essentialized in certain times and places' (De Hart 2014, 8). De Hart maintains that what interested the state in developing regulations about mixing concerned the perceived health of 'individual unions' and the nation (De Hart 2014, 13). Regulating inter-racial marriage held greater implications than regulating inter-racial sex because of the economic and social consequences involved. And yet the state became involved in marriage and sex that crossed the color line to uphold Christian and monogamous marriage that

relegated women as wives to a position of inferiority in relationship to their male spouse. Following Betty de Hart's classification, the regulations of mixed unions that I address in this chapter fall into the category of 'regulation of consequences,' since for the most part colonial administrators were concerned with the 'problem' that *métis* children posed for the colonial state and what the appearance of moral laxity meant for projecting an image of the ideal French nation (De Hart 2014, 11–12).[4] On the other hand, the fact of 'unlikely' mixing between Caribbean men and African women, while not viewed as 'likely' by the state, still held key social and biological consequences for the health of the couple, their children, and the nation. The nature of empire meant that Caribbean men were temporary residents, passing through West Africa, thus, establishing relationships with African women that were not permanent. Intimate ties, both romantically but also in the furtherance of pan-African alliances, produced new relationships that had the potential to challenge the legitimacy of the colonial state.

This chapter examines how the policy of assimilation in French West Africa sought to impose a racial order to police the boundary between black and white, African and European, colonizer and colonized. The first section considers the discourse of race as a key factor in shaping French colonial policy and as a means of defining the imperial project. Then the chapter takes up the idea of assimilation as colonial policy and its implications for creating a category of 'colonial citizens' in colonial Senegal and in the French Caribbean. The last section sheds light on the historical patterns of interaction between Caribbean and African people in French West Africa that in a few cases led to cross-cultural intimacies. This final section of the chapter considers the implications of Caribbean and African encounters for understanding the historic ties between Senegalese of the coastal towns and as a precursor to building pan-African connections in the decade of decolonization [1950s].

## The Discourse of Race in Twentieth-Century Empire

Historical and anthropological research on modern European empires shows that invented categories that drew distinctions between 'civilized' and 'savage,' 'citizen' and 'subject,' and 'native' and 'non-native,' served to perpetuate colonial domination (Cooper and Stoler 1997). And yet the racialized language of empire reveals more about the tensions embedded in European imperialism that sought to uphold the notion of the 'civilizing' power of empire than about the reality of social life in the colonies. An examination of racial classification illustrates the problem that colonial officials confronted in determining who counted as 'citizens' and who counted as 'subjects,' especially because the boundaries of inclusion and exclusion shifted over time and according to the specificity of local societies. Writing in this volume, Luz Colpa's chapter, 'A Marriage Between Natives,' illustrates how marriage became a terrain of contestation over race, citizenship, and religion for Africans in French West Africa (Colpa 2025). In 1944, a judge declared invalid the marriage between Louise Diallo, a *métisse* midwife of an 'unknown European father,' and Anatole Degby, a doctor from Dahomey (Benin) and African civil

servant posted to Niger. The couple registered their Catholic marriage in the French civil registry presided by a French official. And yet, French authorities refused to recognize the monogamous marriage in the Roman Catholic Church as legitimate because in their view Africans could only marry under customary law not French law. As the child of a European man and as a civil servant, Louise Diallo met the standard of a naturalized French citizen according to the Decree of September 5, 1930, but her choice of marital partner relegated the couple to the category of 'African marriage' that could only exist in the civil registry for natives. This case shows that decisions about who counted as African and who counted as European rested on arbitrary distinctions that even contradicted the principle of assimilation that the French colonial state promoted by elevating monogamous, Christian marriage as evidence of achieving the ideal of assimilation to French culture.

The Degby-Diallo marriage shows how the French promoted the idea of a 'civilizing mission' while at the same time policing and racializing a marriage between French educated, Catholic civil servants who conformed to the expectations of *évolues*. In a 1912 reform to the judicial system in French West Africa, Governor General Ponty insisted on a distinction between citizens and 'natives.' The *métis* and some *originaires* (Black African residents of Senegal's Four Communes) fell in the category of citizen because they acquired their status due to their birth in the Four Communes.[5] Évolués, on the other hand, spoke French or possessed French education but they preferred Koranic law to French law. Because *évolués* refused to denounce their customary status as Muslim, French officials questioned their legal status as naturalized citizens (Robinson 1988, 421; Conklin 2001, 151–152).

The Degby-Diallo marriage was not an anomaly. Documentation produced by the Governor General's Political Affairs office shows that colonial officials spent a great deal of time deliberating cases about the legality of marriage that crossed the color line but that also crossed the line of citizen and subject. On April 9, 1932, colonial official Bessiers sought to determine if an officer of the civil registry could record a marriage previously celebrated under Muslim custom between a male *indigène* (native) and a female *originaire*. In 1929, The named (La nommée) Diarra Saar, an *originaire* of Saint Louis, and *Sous-lieutenant indigène* ('native' sub-lieutenant) Maham Bâ celebrated their marriage 'according to Muslim rites.'[6] Three years later the couple sought to have the union recognized under the Civil Code, probably as a means of ensuring their legal status as citizens, or at least the citizenship rights of children born of their union. The Sarr-Bâ marriage complicated the French idea of assimilation which held that only those who possessed 'French quality,' had the right to record their union under French law. Simultaneously, Bâ's request to certify the marriage in the civil registry brought up an old debate about whether adult African men of Senegal's colonial towns should be afforded equal access to voting rights through the electoral institutions established for town residents. Maham Bâ's request to record the marriage in the civil registry likely concerned protection of inheritance rights for his wife and their children. It may also have been a challenge to colonial authorities who insisted that to possess the qualities of French citizens, Africans must renounce their religion and custom. The problem of civil rights as either belonging to 'custom' or to 'French-ness'

proved to be an obstacle throughout the interwar period that *originaires* and veterans continued to battle.

The colonial project in Africa differed from that of the Caribbean because the administration introduced new social, economic, and political hierarchies grounded in a discourse of so-called customary status. By evoking ethnicity and religion as markers of difference, colonial policies sought to create and maintain a social order rooted in racialist thinking. Writing about racial identity and the colonial state in British Central Africa (then called Nyasaland, now Malawi), Christopher Lee suggests that persons of mixed-race background presented a 'categorical problem' for colonial authorities (Lee 2005, 457). In the British colonies, the designation of 'Native' or 'non-Native' provoked a debate among administrators about whether the distinction implied biological difference (meaning race), or cultural difference (a 'quality' of European or African-ness). The notion that a 'native' was someone 'born in Africa who does not have European or Asiatic blood' erased the fact of individuals born in Africa to one European parent and an African or Asian parent (Lee 2005, 472). Colonial courts, thus, based decisions regarding the legal culpability or punishment of individuals on arbitrary categorizations of identity. In this volume, Olindo de Napoli shows that Italian colonial authorities in the Horn of Africa found it challenging to uphold the color line despite the appearance of a 'regulated' colonial order that colonial officers projected to officials and citizens in the metropole (De Napoli 2025). De Napoli finds that the rules and regulations that sought to define proper interaction between African women and European men in the colony were contingent upon a range of factors: from the current political realties in the colony, to international relations (the outbreak of war), and changing demographic factors.

The emergence of multiracial communities is a key legacy of imperialism that has played a central role in shaping modern nationalism. And yet the subject has only recently garnered attention by historians of colonial and post-colonial Africa (Barrera 2005; Jones 2013; Ray 2015; Jean-Baptiste 2023). In French West Africa, the problem of categorization hinged on biology (race), and culture (a quality of French-ness), but also on one's ability to claim belonging to the nation (citizenship). Officially, the word *métis* sought to quantify who counted as 'French' or who qualified as a 'French person.' The existence of descendants of Europeans in West Africa created a conundrum for metropolitan law and colonial legal systems. In her introduction to the edited volume, *Discours sur Métissage, Identités Métisses: En Quête d'Ariel*, Sylvie Kandé (1999) writes that the blurring of the color line, created by the colonial condition, required more precise semantic tools than the words used at the initial phase of the colonial encounter such as *mestizo* or *métis;* a term originally used to describe admixture in Asia and the Caribbean. According to Kandé, the language created to describe the difference between Africans, Asians, and Europeans was about 'ordering chaos in the colonies and classifying the difference' between colonizer and colonized (Kandé 1999, 14). The 1873–1874 *Grand Dictionnaire Universel Larousse* defined 'mulâtre' as admixture between a 'white' European (male) and a 'négresse' (female), whereas whites with Indians of Asia produced 'métis,' and unions between whites and 'Indians of America' produced

*mestices* or West Indians.[7] No word existed for those born of parents of African and Asian ancestry precisely because the colonial bureaucracy was not concerned with maintaining distance between subjects of the empire. French terms of the late nineteenth century did not name third, fourth, and successive generations of inter-mixture and did not count them as a separate category in population surveys. Instead, terms like *sang-mêlé* (mixed-blood) or *gens du couleur* (people of color) served as euphemisms for people of mixed racial ancestry who inter-mixed with other multiracial people. In population data collected for French West Africa, third, and fourth generation *métis* were generally not counted but rather were assumed to be part of the European population (ANS 17G252 #108). Consequently, Antillean children born in the Senegal colony to *métis* women and Caribbean fathers hardly merited mention in population data for French West Africa. The official record showed concern with classifying the difference between African and Europeans (or native and non-native) in the colonies not distinctions between black and brown.

## The Politics of Assimilation in French West Africa

For official purposes, determining who counted as French or not also mattered because Europeans and people of European descent living permanently in the colonies claimed their right to the same legal status as French citizens. Regulating inter-mixture in West Africa had implications for who could vote in the colony, who had access to French law, French education, and who could hold office in the representative assemblies established by Third Republic France for 'citizens.' In the Old Regime colonies of the Indian Ocean and the Caribbean, following the 1848 decree that ended slavery, France imposed policies that sought to remake the enslaved into an in-between category of quasi-citizens (Wilder 2005; Hélénon 2011; Semley 2017, 135).[8] Yet formerly enslaved people remained second-class citizens in terms of their belonging to the Republic. In Senegal, the long history of French engagement in this region lead to the creation of an administrative district called the Four Communes which included Gorée, Saint Louis, Dakar, and Rufisque. The Four Communes came under the designation of Territories of Direct Administration, in contrast to the Protectorate where the majority population was subject to the arbitrary and authoritarian policies imposed by the Office of Political Affairs. Black African residents of Senegal's Four Communes (called *originaires*) argued that as permanent residents of the communes, they held the same rights as French citizens to participate in political life without renouncing their 'customary' status, which for many meant their identity as Muslim West Africans (Conklin 2001, 156–158). In 1914, Blaise Digane became the first *originaire* elected to the Chamber of Deputies of the National Assembly. At the height of World War I, Diagne achieved passage of the 1916 Blaise Diagne laws.[9] The legislation recognized all adult male permanent residents of Senegal's Four Communes as naturalized French citizens. In return, Diagne helped French officials to recruit West African soldiers for the war effort. Despite securing access to French citizenship for *originaires*, the colonial judiciary argued about whether Muslim African residents of the communes were actually an 'assimilated group' eligible for naturalization because in their estimation, Muslim

town residents were neither 'French of heart nor French of blood.[10] In a 1932 report on the legal consequences of the Diagne Laws for 'Natives of AOF,' the Director of Political Affairs in Dakar argued that *originaires* could not be called 'citizens' even if they possessed 'public rights, a distinction that colonial officials in Dakar relied on to exclude black African and Muslim city dwellers from the same protections that French law afforded to French citizens.

The 1946 law that extended departmental status to the French Caribbean and Indian Ocean territories confirmed the legal status of the descendants of slaves and free people of color of Martinique, Guadeloupe, Guyana, and Réunion islands as full citizens of France (Hélénon 2011, 1–17). This came two years after women in France achieved the right to vote with the ratification of the female suffrage law. Annette Joseph Gabriel reminds us that Caribbean women were precisely situated at the intersection of departmentalization and women's suffrage (Joseph-Gabriel 2020). In Senegal, *originaire* women Soukeyna Konaré and Ndate Yalla Fall (the female cousins of male politicians Lamine Guèye and Galandou Diouf) protested French reforms that extended the vote to French women in Senegal's Four Communes but denied the franchise to African women of the colonial towns (Germain and Larcher 2018, xi–xx; Jones 2018; Joseph-Gabriel 2018, 91). The formation and re-formation of *métis* identity in French West Africa must be understood in relationship to the struggle for full legal and political rights by men and women who faced exclusion because of their race, their gender, their ethnicity, and because of their Muslim identity.

In writing about laws that regulated sex and marriage across the color line in the Dutch colonies, Betty de Hart notes that 'mixture confuses and destabilizes (legal) categories that have become fixed and essentialized in certain times and places' (De Hart 2014, 8). Inter-racial mixture challenged legal categories and in so doing held key implications for participation in the political life of the nation. The fact of inter-racial mixing in the colonial context challenged the meaning of nationality and citizenship for metropolitan French and French West Africans. The category of 'gens du couleur,' or 'métis,' thus, took on new meaning depending upon the location of multiracial people through the various locations of the empire and their relationship to the colonial administration.

## Mixing in Colonial Senegal: African and Caribbean Encounters

The presence of Antilleans in the Senegal colony dates to the revolutionary era. Jean Jacques Alain, a person of color born in Lamentin, Martinique, traveled to Senegal in 1799 as part of a delegation sent to shore up ties of loyalty between people of color of Senegal's Atlantic coast and the French empire. A member of the National Guard, Alain participated in the revolutionary era battles and the Napoleonic era period of British occupation of French territories. Alain became a well-known merchant in the export trade in gum arabica from the Senegal River region. He married a daughter of one of the notable *métis* families of Gorée and Saint Louis and became a leading figure in the political life of the Atlantic towns. Also referred to as '*l'Antillais*' (the Antillean) or '*l'aîné*' (the elder), Jean Jacques Alain served

as mayor of Saint Louis and was part of the governor's private council of *habitant* consultants between 1828 and 1848.[11] Alain rose to prominence in the early nineteenth century because of the common socio-economic class position between free people of color in the Caribbean and the enclave of EurAfrican families in the Senegal colony. Both groups grew up in the shadow of the French fort, and through the pursuit of French education, affiliation to the Catholic Church, and their ability to own property, made claims to French authorities that they should have the same political and legal rights as metropolitan French men and women.

In the 1880s and 1890s, French Caribbean men held appointments to Senegal's colonial judiciary. These men along with Caribbean legislators in the National Assembly played instrumental roles in crafting anti-slavery policy (Manchuelle 1992, 393). In another case, the Devès family of Senegal relied on their connections to a Guadeloupean in the Senate to advocate for their business interests and to gain political leverage over colonial officials who leveled attacks at their family for their political activities (Jones 2013) In the nineteenth century, French officials did not question whether *métis* men should participate in the governing apparatus of the colony, even when they proved a nuisance to their efforts to impose colonial control. Because nineteenth-century French officials did not question *métis* men as culturally and biologically French, these men gained access to power through the electoral institutions.

Unlike Caribbean men who arrived in the Senegal colony in the early nineteenth century, Caribbean and African exchanges in the twentieth century took on a different valence. French Caribbeans in twentieth-century West Africa typically served as functionaries in the colonial service or as military personnel. Caribbeans in the colonial service like Gaston Barzilays and August Larrouy tended to be upwardly mobile bureaucrats who had risen through the ranks of the Colonial School created in Paris in 1899 to train administrators for the colonies. In the Caribbean, French policy sought to erase the legacy of slavery by fostering an intermediate class between white Creole planters and former slaves. Education in French schools, mastery of French language and acceptance of the French 'civilizing mission,' served as keys to upward mobility. In the 1920s, passing the exams to enter the colonial civil service served as a mechanism for men of color of the Caribbean middle class to pursue their professional ambitions. And yet most French Caribbean employees held positions at the lower ranks of the colonial service.

In general, Caribbeans in the colonial service did not seek out appointment to Africa but were nevertheless sent to African posts by their superiors. In the colonial schema, Caribbean colonial officers occupied a position in-between white Frenchmen and black Africans on the racial hierarchy. Not surprisingly, French Caribbeans appointed to African posts identified with Europeans in the colony and sought socialization with other French officers and agents of metropolitan commercial firms living in the colony. In September 1928, Lieutenant Bebel launched a complaint against the Soudan Club of Bamako because its members refused to accept his petition for membership because of his identity as an 'originaire of Guadeloupe.'[12] From Paris, Guadeloupean Deputy Gracien Candace requested that the Minister of Colonies close the Soudan Club for its refusal to admit French officers

of the black race 'based on two members who declared they do not want '*négres*' in the club that was never created for '*les négres*.'[13] Candace pointed out that Greeks, Syrians, Swiss are admitted 'without discussion.'[14] For the Governor General's office in Dakar, the deciding factor was whether the club could demonstrate that the term 'European' had been strictly interpreted in a geographical sense and that none of the members had been previously accepted because of being '*originaire* of an extra-European country.'[15] In other words, this incident demonstrated that members of the club understood belonging to colonial society as a matter of skin-color not nationality.

For Caribbean men in the colonial police service, the path to upward mobility through the colonies looked different. In November 1912, the law of military service took effect in the Caribbean (Hélénon 2011). Just in time for the lead up to World War I, conscription applied to Caribbean men for the first time. In October 1913, the first Caribbean soldiers arrived in France for training and in 1914, French Caribbean soldiers were incorporated into the French Army. During World War I, Caribbean men served in the National Army rather than colonial regiments such as the *Tirailleurs Sénégalais*. Senegal's *originaires* shared this distinction with Caribbean men following passage of the Diagne laws. For black Caribbean men and for Senegal's *originaires*, military service proved their claim to full rights as French citizens. Military service meant that men of color left their home countries for other locations within the empire and also to the metropole, where they encountered women with whom they entered a variety of conjugal arrangements. Sarah Zimmerman points out that by making determinations about marriage and domestic affairs of soldiers, the French colonial military played a key role in shaping masculinity, femininity, domesticity, patriarchy, and sexuality for African military households (Zimmerman 2020, 2).

The same can be said of the ways in which French colonial systems and laws managed relationships between Caribbean police affected to Senegal after the Great War. After World War I, the colonial service sent Caribbean men to Senegal as police officers and lower-level military personnel. The first wave arrived in 1928 and successive military training classes arrived in Senegal in 1929, 1930, 1931, and 1932.[16] In Senegal's colonial capital, Caribbean soldiers probably interacted with métis women at Church, in the public library, or in social clubs. Caribbeans in Senegal organized a social club in Saint Louis that became known as the *Club Antillais* or the Antillean Club (Labrune-Badiane 2013, 142–144). In some cases, these relationships bore children who attended the same schools, belonged to the Catholic Church, and attended the same parties. Parents within the Caribbean community socialized with one another and sought matches for their children within their network.[17] Most Caribbean men were affected to other parts of the empire after a few years of service in Senegal, later settling in France or returning to the Caribbean. A class of 'Caribbean' youth who issued from these unions, thus, emerged in Senegal's colonial capital.

The 1948 centenary of abolition corresponded with a redefining of France and its relationship to its empire, as World War II came to an end, and the law of departmentalization settled the legal status of French Antilleans as full citizens of France.

The Director of the Primary School of the Petit-Lycée in Senegal's colonial capital, Saint Louis, sent the colonial ministry a summary of the scholarly festivities held on April 29, 1948.[18] He reported that school children prepared for the celebration in the class lessons of reading, writing, drawing, and recitation. They learned about the principles of emancipation and the biography of abolitionist Victor Schoelcher. For the centenary, students performed Maurice Bouchor's poem 'Hymn to Universal Humanity,' and sang the *Marseillaise* (the French national anthem). Three hundred people attended the school show organized by the governor's wife, and was attended by the Mayor of Saint Louis, and the mothers and fathers of the students. School children performed songs and dances, they read the 1848 decree ending slavery in territories under the French flag and one student gave a speech promoting French influence as the possibility of moving toward 'a civilization in progress' because of the principle of equality 'in all French people by their birth.'[19]

For the purpose of marking the one hundredth anniversary of the Second Republic's abolition of slavery, the Antillean youth provided a perfect vehicle for performing the power of the French civilizing mission. From the perspective of Saint Louis resident Mireille Désirée, participation in the school celebration of the centenary held another meaning. In her conversation with me, she recalled that for the performance, students of Caribbean descent, including herself and her future husband, dressed the Antillean way, with a handkerchief, blouse, and skirt in Creole style. For the 'great ball,' they were taught Creole dance and Creole songs.[20] She and her husband held fond memories of that moment because it was a recognition of the heritage passed to them by their parents, and the ideal of being a part of the French Union. Her father arrived in Senegal with the class of French Caribbean soldiers affected to the Island in 1928 and who remained in the colony until 1932. As the children of French Caribbean fathers and Senegalese mothers, these Antilleans knew little of the Caribbean. They did not speak the language, and often were raised by single mothers when their fathers left West Africa for service in other locations of the French Empire. The legacy of French colonialism for people of multicultural heritage in French West Africa was often one of family separation and estrangement, of meeting the qualities of French-ness through birth, but also being excluded based on their position as subjects of empire. It also represented the ideal for a future of racial equality and socio-economic mobility within the larger francophone world.

In the 1950s, another wave of Caribbean civil servants arrived in Senegal (Labrune-Badiane 2012, 211–213). According to one of my informants, a wave of Caribbean men and women came to Senegal in the mid-1950s to work as teachers, nurses, storekeepers, and to work for French development projects.[21] School children in Senegal's colonial capital attended classes with Caribbean schoolmates in the decade before Senegal's independence from France. With the dissolution of the French Fourth Republic (1946–1958) and the rise of the French Fifth Republic (1958–present), Dakar replaced Saint Louis as the center of French authority. Many of those who self-identified as belonging to a Caribbean community relocated to Dakar. The Antillean Club left Saint Louis and reopened in Dakar. By the late 1950s, anti-colonial politics and the forces of decolonization moved French

West Africa toward eventual separation from France. French rule ended in Senegal on April 4, 1960, when France ceded power to the Mali Federation leading to the election of Leopold Sédar Senghor as the first President of the Republic of Senegal.

## Conclusion

The regulation of mixture or the rules and policies, in law and in practice, that developed to manage cross-cultural interaction and inter-racial encounters had implications for shaping European ideas of who belonged, and who did not belong in the category of citizens. The decrees, and memoranda that issued from the Governor General's office in Dakar, as well as the informal practices that local authorities implemented to rationalize their own understanding of who constituted the citizen, and who did not, also served as a touchpoint in the struggle between people of color in French empire and the right to citizenship. These laws, while crafted through the lens of modern European legal frameworks, were enacted in the colonies, shaped by interactions between colonial authorities and colonial subjects, and were used as a means of upholding the color line in colonial society. For African *originaires*, *évolues*, and *assimilés* the question of belonging hinged on being able to demonstrate one's 'quality of French-ness.' A standard difficult to prove and ambiguous in its meaning.

In the nineteenth-century Senegal colony, authorities accepted without question that men born from unions between elite African or Afro-European women of the coastal towns, and European or *métis* men were entitled to the same legal and political rights as French citizens born in the metropole. By 1920, as Senegal's *originaires* gained ground in electoral competitions for residents of the Four Communes, and as an increasing number of African men served in the colonial army and achieved higher rank, colonial officials became increasingly exigent over maintaining the line between African and European. This is illustrated by the case of 'Native sub-lieutenant' Maham Bâ, whose request to register his marriage to *originaire* Diarra Sarr in the civil registry became a matter of legal wrangling for French officials who determined that permitting a French officer to register a marriage celebrated under Muslim custom ran contrary to French law. The Ba-Sarr marriage offers further proof that *originaires* and veterans who served the French in the Great War and achieved the rank of officer, understood that as residents of the colonial towns governed under French law they were entitled to the rights of French citizenship without renouncing their faith as Muslims. Celebration of their marriage according to Islam may or may not have been conceived as an act of overt resistance to French law but nevertheless pierced a whole in the notion of France as a color-blind republic.

The discourse of assimilation in French colonial policy played out through legal matters such as the legitimacy of an officer of the French civil registry to record a marriage between Muslims. It also played out within the arena of representation in political institutions such as local departmental assemblies and the National Assembly. Caribbeans and Africans of the colonial towns shared common concerns with the field of electoral politics. The meeting point of these issues often occurred through 'unlikely encounters,' such as those between Caribbeans and Africans in the Senegal colony. Despite the formal and informal ways that French officialdom sought to

regulate and control marriage and domesticity that crossed the color line, the colonial archive rarely captured the intimate encounters between people of color in empire. The official register also ignored or turned a blind eye to encounters and interactions between French Caribbeans and francophone Africans that planted the seed for the development of race consciousness and solidarity through anti-colonial struggle.

While this chapter concerns the period prior to the emergence of anti-colonial movements that brought French Caribbean and French West Africans together, it does elaborate on the common ties that bound the *métis* of Senegal's colonial towns and French Caribbeans who traveled to West African colonies for work. The fact that Caribbean men served as military police and as officers in the colonial service opened a new field of cross-cultural and trans-imperial interaction. The 'Antilleans' of Saint Louis, Senegal were the products of such encounters who constituted part of the ambiguous population of people of mixed racial ancestry who conformed to the expectations of French men and French women in colonial society but who were viewed through the prism of race within metropolitan society. In the case of the 'local' centenary celebration of abolition, these Caribbean children served as a symbolic representation of the French Republic as the guarantor of freedom and equality.

Despite the regulations imposed by French authorities to deal with the 'problem' of inter-racial intimacies between Frenchmen and African women in the interior by sending 'abandoned' children born of these unions to orphanages, the policies implemented in Dakar had little concern for 'abandoned' children of French Caribbean fathers and African women. While colonial authorities concerned themselves with 'abandoned metis,' through their travels and interactions in the metropole and in African colonial towns, French Caribbean and African political leaders forged solidarities around the struggle for equality in politics and as citizens. For Caribbean political leader Aimee Césaire and West African political leaders like Lamine Guèye, 1948 provided an opportunity to champion the rights of Africans and Caribbeans to the same privileges and responsibilities afforded to French citizens. The 1946 law of departmentalization advanced the struggle of people of color in the francophone colonial world to claim their place as equal members of the French Republic. The colonial ministry's denial of the request by West African leaders to attend the centenary celebration of abolition in Martinique signaled the unwillingness of the Fourth Republic to widen the scope of French law to include Africans and Caribbeans as equal citizens while simultaneously professing the value of the French Republic as a region of freedom and equality. The regulation of inter-mixture in French West Africa revealed the underlying contradiction between maintaining colonial hegemony and upholding the ideals of the republic. For French West Africans, the resolution of this contradiction only occurred through the dissolution of the colonial regime.

## Notes

1 In the 1890s, Senator Vincent Allègre of Martinique and Senator Alexander Issac of Guadeloupe developed draft legislation to make the Old Colonies part of overseas France. The idea was considered by legislatures during and after World War I. The law passed on March 19, 1946, with instructions for immediate implementation.

2 For the full text of the law see, Loi 46-451 du 19 mars 1946 tendant au classement comme départements français de la Guadeloupe, de la Martinique, de la Réunion et de la Guyane française [Law 46-451 of March 19, 1946 for the Designation of Guadeloupe, of Martinique, of Reunion, and of French Guiana as Departments of France], *Journal Officiel de la République Francaise* [J.O.] [*Official Gazette of France*], Mar. 20, 1946, p. 2294.
3 Désirée, Mireille. 16 February 2001. Interview with author, Saint Louis, Senegal.
4 De Hart's 'Typology of legal regulations of mixture,' include 1. Prohibitions, 2. Spatial and legal segregation, 3. Regulating consequences of mixed relations. 4. Marriage Counseling, 5. And Migration law.
5 The category of *Originaire* posed a problem for French officials. On the one hand they recognized the fact that all permanent residents of Senegal's Four Communes of Full Exercise (Saint Louis, Gorée, Dakar, and Rufisque) were afforded status as naturalized French citizens because they were born in territories administered under French law. On the other hand, Muslim *originaires* claimed that they were citizens who had the right to adjudication under Koranic law. Muslim *originaires* based their claim on the Islamic policy orchestrated by Governor Louis Faidherbe who established a Muslim Tribunal in Saint Louis, Senegal led by esteemed Muslim authorities Bou el Mogdad Seck and Hamet Ndiaye Anne. According to David Robinson, the creation of the Muslim Tribunal was a component the Islamic policy developed by Faidherbe in the 1850s as a strategy of accommodation and cooperation with Muslim authorities who opposed French conquest.
6 For documentation on this case, See Archives Nationale du Senegal (hereafter ANS) file #17G 47 (17), 'Statut des indigènes de l'AOF Conséquences juridiques des lois Diagne 1916–1930.' All translations from French original to English are by the author.
7 *Grande Dictionnaire Universel Larousse*, 1873–1874. See also Kandé (1999, 15).
8 'Décret du 27 avril 1848 relatif à l'abolition de l'esclavage dans les colonies et possessions françaises.' See Article 1 and Article 3 pertaining to abolition and implementation of the law in French overseas territories, including Senegal.
9 For the full text of the law see Loi du 29 septembre 1916 étendant aux descendants des originaires des communes de plein exercice du Sénégal les dispositions de la loi militaire du 19 octobre 1915 [Law of September 29, 1916 Extending the Dispositions of the Military Law of October 19, 1915 to the Descendants of the Indigenous Inhabitants of the Full Municipalities in Senegal], *Journal Officiel de la République Francaise* [J.O.] [Official Gazette of France], October 1, 1916, p. 8667.
10 'Envoi d'une étude relative à l'état juridique des indigènes du Sénégal,' 6 août 1913, ANS 17G47 (17), 'Statut des indigènes de l'AOF Conséquences juridiques des lois Diagne 1916–1930.'
11 The French word *Habitant* appears in documentation of the late eighteenth and early nineteenth century to describe the propertied class of people of color and black Africans who lived near the '*l'habitation*' or the French fort on the island of Saint Louis. See Procès-verbal, M1 ANS.
12 'Le lieutenant de l'infanterie coloniale Bebel se voit refuser de l'entrée du club a cause de son origine antillaise,' Incident du 'Soudan Club' de Bamako, Aout 1928-mars 1929, ANS. 17G 243 #1.
13 'Incident du Soudan Club,' ANS 17 G 243 #7.
14 'Incident du Soudan Club,' ANS 17 G 243 #4.
15 'Incident du Soudan Club,' ANS 17 G 243 #4.
16 (ANS, 17G/482.132).
17 (ANS, 17G/482.132).
18 Celebration Centenaire 1848, Programme Ville de Saint-Louis-du-Sénégal, Fête du Centenaire de l'Abolition de l'Esclavage, 29 avril 1948 and Programme École Victor Diop, ANS, 17G/482.132.

19 Ministre de la France d'Outre-Mer. Ministre des Colonies, 17 avril 1948. Celebration du Centenaire de l'abolition de l'esclavage. Notice sur Victor Schoelcher à Messieurs les Hauts-Commissaires de la République, Commissaires de la République, Gouverneurs des Colonies et Chefs de territoires. ANS 17G/482.132.

20 Désirée, Mireille. 16 February 2001. Interview with author, Saint Louis, Senegal. All translations are by the author. 'Il y a eu le Gouverneur qui nous avait fait une grande fête, on s'était déguisé, on s'était habillé à l'antillaise, on avait le costume antillais, le mouchoir, la blouse, la jupe, et on avait fait un grand bal, une danse, on nous avait appris une danse, puis des chants, un chant patois, patois créole.'

21 Conversation with Louis Camara, Saint Louis, Senegal April 13, 2023.

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# 9 Gender, Citizenship, and Regulating Mixed Intimacies in West Germany

*Julia Woesthoff*

## Introduction

In May 1961, the Embassy of the Federal Republic of Germany in Bagdad queried the Federal Foreign Office 'if not more should be done to prevent relationships [between German women and foreign Muslim men] as much as possible.' After all,

> as a general rule, the disappointment is great and "crying and gnashing of teeth" the usual outcome. Unfortunately, [West] Germany has the largest contingent of foolish virgins, since ignorance, eccentricity, and shortsighted disregard for the [more advantageous] circumstances at home are apparently much more common among [West] German female youth than among [young women] in any other country.[1]

Officials, denouncing such relationships, highlighted the need to intervene because West German women could not be trusted to use good judgment or be able to make decisions about their own lives. In doing so, they asked the state to act as paternal authority in ways not demanded for other unions. How do we explain these concerns and the concerted efforts to regulate these unions, primarily by discouraging them, and the mechanisms of regulation? This chapter considers how the tenets of the fledging West German democratic state, including and especially Article 3 ('Equality before the Law') of the Basic Law, were brought to bear on the intermarriage discourse and regulatory efforts. It is based largely on unpublished sources from governmental entities, including correspondence between the Ministry of the Interior, the Federal Foreign Office, regional governments, diplomatic outposts of the Federal Republic, as well as ordinary West German citizens. It examines the lively and at times spirited exchanges that unfolded between various government officials as they discussed the implications of the statute and how to stay true to it, particularly in the decade after 1 April 1953, which was the deadline to bring the law—including citizenship law—into compliance with the equality statute. These officials debated in detail the consequences for West German women who planned to marry or were already married to foreign Muslim men: could these women retain (or regain) their German citizenship? Should they? And if so, under what circumstances?

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This chapter is informed by two strands of literature. One places race and gender at the center of postwar West German history, particularly in the exploration of the various facets of guestworker migration. It focuses on how the presence of foreigners, predominantly Turks, challenged long-held views of Germany as ethnically and culturally homogenous and therefore central to the process of (re)negotiating postwar German identity (Motte, Ohliger, and von Oswald 1999; Rieker 2003; Woesthoff 2004; Hunn 2005; Chin 2007; Miller 2018). It also includes scholarship that explores how subsequent debates about integration showed how central gender became by the early 1970s in marking migrants with a Muslim background (most of them of Turkish origin) as 'other' (Erdem and Mattes 2003, 167–185; Mattes 2005; Mandel 2008; Chin et al. 2009, esp. 80–101). The other strand of scholarship examines the centrality of gender in the context of citizenship in various national contexts (Bredbenner 1998; Cott 2000; Gardner 2005; Tabili 2005; DuBois 2013; Guerry 2016; Irving 2016). Bringing them together helps illuminate the ways in which regulating 'mixture' has been a central aspect of the Federal Republic's (ongoing) democratic project. Following an intersectional approach (Crenshaw 1989) that documents the debates about race, gender, and citizenship and that charts those debates as they happened across various offices of the West German state, this contribution demonstrates the centrality of racial and gendered hierarchies of difference to democratization processes and details the continuities and ruptures within them (Chin et al. 2009). Specifically, it focuses on the early decades after World War II, tracing how the state responded to marital unions between West German women and their male foreign Muslim partners. These unions seemed to challenge central aspects of the democratic state, including gender and racial equality before the law, the role of marriage and family, as well as the country's anti-immigration stance. Exploring these debates about the regulation of access to or retention of German citizenship exposes the ways in which state officials' seemingly sincere efforts to implement equality before the law were based on assumptions about West German women as vulnerable and therefore in need of special protection from foreign male Muslim partners who were considered inherently misogynistic and a threat to the women's well-being. In the process, officials helped to further reify inequities based on race and gender, thus contributing to the regulation of mixture within the bounds of the West German nation.

## Derivative Citizenship of Women

Since the publication of a variety of studies on the history of derivative citizenship in the US context in the late 1990s, scholarly attention to this phenomenon has grown to include a variety of nationally focused studies on the history of women's citizenship, particularly the phenomenon of women's denaturalization upon marriage to a foreigner. These works reflect some remarkable similarities in ideologies and actions related to regulating women's citizenship. Over the course of the nineteenth century, women in most countries lost their right to independent citizenship. According to Helen Irving, 'In 1900 … there were eighty or so sovereign states in the world; all practiced conditional marital nationality,

and virtually all had specific marital denaturalization laws' (Irving 2016, viii; on Germany specifically: Trevisiol 2006, 202–209).[2] As Irving and others have noted, state officials the world over were motivated by similar ideologies and concerns. Informed by patriarchal norms that upheld the principle of the family unit—in which women's citizenship depended on that of their husbands—as the bedrock of state and society in times of growing nationalism, countries were fundamentally opposed to granting women the option of dual citizenship that could result in split political loyalties. As 'nationality … only makes sense as a matter of international relations, in a system of reciprocal recognition of other states' citizens,' it is not surprising that law makers pointed to the ways it would challenge national sovereignty, causing problems in international relations due to conflicts of law, such as when women turned to their native country's diplomatic mission in case of divorce and the like (Irving 2016, 21).

Efforts to repeal derivative citizenship were transnational in nature, too. They were propelled by the efforts of a variety of women's organizations and, in the post-World War I context, yielded the reinstatement of independent citizenship for women in a number of countries—with some notable caveats, such as race-based naturalization policies in the United States—and reinvigorated calls for citizenship reform, also in Germany during the Weimar Republic, where those calls remained unheeded (Bredbenner 1998, 98ff; Cott 2000, 164–165; Gardner 2005, chap. 7; Irving 2016, 151ff; Lorke 2020, 283–299). Lobbying on the international stage, such as at the 1930 League of Nations Nationality Convention in the Hague, initially only yielded modest reform commitments such as the prevention of statelessness for women whose husbands' home country did not automatically extend citizenship to alien wives (DuBois 2013). Activists were undeterred, however, and continued their work. In Nazi Germany, considerable if rare exceptions to marital denaturalization occurred for a brief while in wartime, when some Polish men, who had been deemed suitable for Germanization, were allowed to acquire German citizenship and marry their pregnant German partners (Röger 2020, 296–297). The story of derivative citizenship finally came to an end with the United Nations Convention on the Nationality of Married Women in 1957, though it did not spell the end of the history of gender discrimination in nationality law (Irving 2016, 1). The FRG retained derivative citizenship, following the precepts of the 1913 citizenship law, until 31 March 1953, after which the equality statute went into effect (more about that below). From that point on, German women who had married a foreigner before the founding of the Federal Republic on 23 May 1949, could, under certain circumstances, re-acquire their German citizenship. Those who married a foreigner between 23 May 1949 and 31 March 1953 lost their citizenship only if they did not become stateless in the process. Thereafter, marriage to a foreign man no longer resulted in loss of German citizenship, though the realities were less straightforward and anything but gender and race neutral.

Exploring the postwar West German debates about the equality statute in the context of mixed marriages between West German women and foreign Muslim men illuminates another aspect beyond concerns about dual nationality and gender equality while informing both: the husband's culture of origin. The debates on how

to abide by gender equality, one of the cornerstones of the FRG's constitution, betrayed assumptions about hierarchies of difference that informed the discourse. As legal scholar Karen Knop (2001) has pointed out, independent citizenship for women did not spell gender equality without the opportunity for foreign husbands to take on their wives' citizenship (and for children from such unions to take on the citizenship of their mothers). Without such a provision, 'discrimination in the protection of women's relationship with family members' was the result, potentially threatening the unity of family (Knop 2001, 102). The special protection of the family was also written into the constitution of the FRG and particularly in conservative camps considered at odds with the equality statute. However, in the case of marriages between West German women and foreign Muslim men, state officials did not believe in the viability or desirability of such unions, and therefore did not consider these unions worth saving, quite the opposite. In these cases, rather than protecting women's relationship *with* their immediate family members, the state's priority was to find a way to protect women *from* family members, and they used citizenship law and accompanying administrative directives to do so.

## The Racialization of Muslim Men

Postwar fears among West German government authorities, church officials, and the media about romantic relationships between German women and foreign, particularly Muslim, men entered the public discourse in the second half of the 1950s. These postwar concerns seem puzzling, since the number of Muslim foreigners in Germany was exceedingly modest, and marital unions between German women and Muslim men even more so.

As a result of an educational aid program for Third World countries (Adelmann 1999; Schmidt 2003, 498, n. 104), the number of Asian and African students considerably increased, growing 25-fold in the decade between 1951 and 1961 to 8,300 students (Pfeiffer 1962, 9–10).[3] 43.9 percent of Asian students came from Iran and 58 percent of African students came from Egypt, both Muslim majority countries. Still, together the two groups made up less than 4,000 students—an exceedingly modest number in comparison with that of guestworkers arriving around the same time. For example, in 1962, 711,500 foreigners worked in West Germany, among them 18,600 Turks, accounting for around 2.6 percent of the foreign workforce (Herbert 2001, 198). And yet, it was the presence of Muslim students—rather than the quickly swelling ranks of guestworkers—that set the intermarriage debate in motion. To a certain extent, time of arrival (students started arriving before the West German-Turkish recruitment agreement was signed), living arrangements, and the reason for coming to Germany can account for the seemingly disproportionate concern about German women marrying Muslim men, and Muslim students from Africa and the Middle East in particular. In the early 1960s, the number of Turks in Germany was still comparatively small; most guestworkers at the time were southern Europeans. Moreover, guestworkers lived rather circumscribed lives that afforded fewer opportunities to forge relationships with German women. Class standing also likely played a role. Guestworkers were primarily employed in

male-dominated sectors of the economy, such as the iron and metal industry as well as construction, and most of them stayed in dormitory-style living quarters. And they had signed up to become workers in Germany due to their limited economic prospects in their respective home countries (Herbert 1990, 230). In contrast, foreign students were often enrolled in well-regarded degree programs like medicine and received stipends from their home countries (and to a lesser degree from the FRG) and at least appeared to be rather well off—which commentators also saw as making them rather attractive to German females (Pfeiffer 1962, 13–14).[4] Many also sought and secured private housing, and the university environment facilitated mingling with West German peers. As a result, many West German commentators thus initially focused on Muslim students rather than guestworkers as potential—and highly problematic—spouses for West German women.

However, marriages between West German women and Muslim men made up a very small fraction of the total number of marriages in Germany. Even among unions between German women and foreign men, totaling around 15,600 in 1960, their numbers appeared negligible. While statistics do not reflect the religious background of the foreign spouses, they tell us that the number of marriages with men from global regions with Muslim majority countries was quite small—and therefore the number of marriages between West German women and foreign Muslim men even smaller. By 1966, little more than 11 percent of all intermarriages in West Germany occurred between a West German woman and a man from Africa or Asia out of a total of 18,102 binational weddings between West German women and foreign men that year.[5] Americans, many among them soldiers stationed in the FRG, were by far the largest group of wedding partners at the time, accounting for over 30 percent of foreign grooms marrying West German brides in 1966, followed by Italians, accounting for over 15 percent of foreign grooms in intermarriages (Müller-Dincu 1981, 26). As these statistics show, concerns about unions between West German women and Muslim men were already voiced *before* the number of marriages between these two groups rose appreciably, remaining small in comparison to marriages with non-Muslim foreigners. Why, then, were male Muslim students with seemingly respectable educational, financial, and career aspirations, some of whom appeared attractive enough to young German women as prospective husbands, considered a threat and their marital unions with West German women in need of regulation?

In the postwar debate about these marriages, Muslim men's character and values were depicted to be inherently and diametrically opposed to those propounded in liberal Western states such as the FRG. Various West German government officials repeatedly invoked the issue of gender equality as enshrined in Article 3 (2) of the Basic Law (*Grundgesetz*, hereafter GG), the constitution of the Federal Republic of Germany: 'Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist.' According to Article 117 GG, 'any laws not in line with the equality principle have to be updated by the end of March 1953.'[6] In contrast, and drawing on well-worn, centuries-old tropes about the 'Orient' (Said 1978), officials pointed to supposedly essential cultural differences,

thereby racializing Muslim men. They portrayed Islam as an inherently misogynist religion in which marriage was considered an institution conducted exclusively on a physical plane, devoid of emotional intimacy. The postwar discussion also generally made no distinctions between the different Muslim majority home countries of the husbands (Lorke 2020, 107–115, 280–283; Röger 2020, 283–284, 296). Authorities often mentioned Africans and Asians in the same breath, as evident when talking about marriages with 'Afro-Asians' and using terms like 'Mohammedans' or 'Orientals' interchangeably.[7] Given these depictions of foreign Muslim men, their relationships with West German Christian women could be characterized as being viewed as interracialized intimacies, which were in dire need of regulation, ostensibly to protect vulnerable West German women from a dismal fate (Haritaworn 2012).

The supplement 'Muslim Marriage Contracts' in the *Bulletin for People Working Abroad and for Emigrants: Women's Emigration*, published for the first time in 1961 by the Office of Emigration within the Federal Administration Office (*Bundesverwaltungsamt—Amt für Auswanderung*), is a prime example of these continuities in orientalist thinking. It was one of the earliest pieces of postwar advice literature that attempted to regulate mixed marriages by discouraging women from entering into them, aiming to lift what authorities perceived as women's veil of ignorance about Muslim culture, a perception not unique among West German authorities but an outlook widely shared in other Western countries, as well.[8] The literature stereotyped and essentialized Muslim customs, focusing in particular on those relating to women's role in society: women were not allowed to leave the house without the husband's permission; men had the right to have up to four wives and to castigate them and often made use of this right; men could not be accused of adultery while women could be punished for it—with six months in prison in 'civilized countries.'[9] The document was a reader's digest of the informational literature that circulated at the time, culled from a wide-ranging transnational network of (mostly West German) people who had past or present experience living in the Middle East and Africa, including missionaries and clergy of expat religious communities, diplomatic officials, as well as private citizens of the Federal Republic. The information they provided was validated and their expert status established or reinforced through the process of sharing their insights among West German government officials and church authorities. It was collated and distributed in a variety of publications, meant to better advise women interested in marriage with a Muslim foreigner by discouraging them from such an undertaking. So, regulating mixture through these advising efforts was based on notions of racialized equality (in Western liberal states like the FRG) and inequality (supposedly reigning supreme in 'the Orient') (Fassin 2010; Bracke 2011; El-Tayeb 2012).[10]

However, the legal reforms that followed as a consequence of the equality statute and that were at the heart of West German authorities' arguments against mixed marriage, did not in fact result in a gender- or race-neutral law. For example, before 1970, acquiring West German citizenship was little more than a formality for foreign women marrying West German men; if they also kept their native country's citizenship depended on that country's regulations. Regulating access to citizenship

in this way—and, by extension, regulating mixture—was largely informed by a particular understanding of the gendered nature of essentialized notions of cultural difference, so that facilitating the naturalization of foreign wives reinforced rather than re-envisioned traditional understandings of the institution of marriage—in gendered as well as cultural-racial terms. The incredible ease with which foreign wives were able to gain citizenship compared to the incredible difficulty foreign husbands faced when trying to qualify for a residency permit, never mind citizenship, were two sides of the same ideological coin. As Karen Schönwälder (2001) has pointed out, in 1957, the parliamentary Committee on Internal Affairs deemed equality 'unnecessary' when considering the diverse rights to citizenship for foreign husbands and wives. The Federal Administrative Court upheld this view in its 1965 ruling, which did not even consider the matter 'in conflict with the equality statute of the Basic Law' (Schönwälder 2001, 516, n. 69). As one of the department heads of the Federal Ministry of the Interior explained,

> according to life experience, there is a much greater chance that the foreign wife will adjust to the West German living conditions as represented by her West German husband than that the foreign husband would [adapt] if the roles were reversed.[11]

Assumptions of gender and cultural difference therefore fundamentally affected the way the state thought about and implemented regulations of these marital unions beyond the nuptials via access to citizenship. In effect, it denied the native West German woman and her foreign husband the right to residency in the Federal Republic. By doing so, officials ignored that the precarious circumstances that they warned against and from which they wanted to protect women married to Muslim foreigners, were actually aggravated by the law. Rather, those advocating against West German women marrying foreign men faulted law and custom in Muslim countries as well as West German women's character for the difficulties if not tragedies the women faced abroad. Even if few were as forceful as the official from the embassy in Baghdad quoted at the top of this chapter, they were in general agreement that the women willing to engage in relationships with these men exhibited worrisome levels of naïveté, willfulness, and moral acuity. More often than not, they blamed such behavior on low class status, 'typical,' in the word of one official, 'for a young inexperienced girl from a poor background.'[12]

### The Debate on Gender Equality and the Citizenship Law

Official perceptions of these marriages raised the question of whether more should be done 'to prevent these kinds of relationships whenever possible,' though authorities also lamented that all too often, women either did not heed the advice they were given or waited to seek it until after they had married and found themselves in need of state assistance.[13] However, in order to receive such assistance from the West German state, the women's West German citizenship was an essential prerequisite. After the equality statute went into effect, West German women no longer

automatically lost their citizenship upon marriage to a foreign national if they first successfully petitioned the West German state to retain their original citizenship before requesting to be naturalized in their husband's home country. Additionally, if upon marriage, these women automatically received citizenship in their husbands' home countries, they did not have to surrender West German citizenship, making them dual citizens in either of those cases.[14] The expectation that these women would almost inevitably find themselves in dire straits and therefore in need of protection that could be extended only if they were citizens of the Federal Republic, necessitated that these women were allowed to retain (rather than apply for reacquisition of) West German citizenship, or, at the very least, that all were informed of and had access to this option *before* marriage.

As these considerations indicate, the reform of West German citizenship law had only partially fulfilled the promise of gender equality. Women indeed no longer automatically lost their citizenship upon marriage to a foreigner. However, patriarchal norms informed expectations if not mandates to follow their husband and settle in his country of citizenship, even if officials doubted that marital unity could last or even be truly established, emotionally and culturally, in the case of marriages between West German women and foreign Muslim men. For state officials, this raised the fundamental and vexing question how to stay true to the equality statute while supporting West German women married to foreign Muslims and preserve the principle of the family unit. Government officials discussed granting exceptions to the law such as automatic retention of citizenship even when applying for naturalization in another country as one possible solution. After all, it seemed to be necessary for West German women married to Muslim foreigners. However, this idea was quickly discarded, since the law was supposed to work the same for every West German woman no matter the marriage partner's national origins. Moreover, the logical outcome of such an exception—dual citizenship—was also not considered a desirable outcome for all the reasons debated earlier in the century. Officials continued to be concerned that it could potentially signal West Germany's willingness to meddle in another state's affairs—not ideal for harmonious international relations, especially not for a state such as the Federal Republic trying to rehabilitate itself after the devastation that World War II and the Holocaust had wrought. Also, those officials already concerned about the impact of the equality statute on the family as the bedrock of social order were quite outspoken in voicing their concern that women's dual citizenship could further undermine the principle of family unity understood in patriarchal terms, as it was feared that it would make them more independent from their husbands.

Given the (unacknowledged) contradictions between the theoretical ideal of family unity and the assumed impossibility of achieving it in practice, while also contending with the implications of the equality statute, different governmental entities initially took different approaches when responding to the increasingly frequent calls for help from (former) female constituents who had married foreign Muslims. While the Ministries of the Interior at the federal and state level followed legal precedent established in the European context, the Foreign Office and its consular outposts were guided by the contemporary realities as they perceived

them to exist in the Middle East. As a result of these various points of reference, the Ministries of the Interior preferred to approach requests to retain West German citizenship with great restraint.[15] When the Minister of the Interior of Northrhine-Westfalia denied such a request for retention of citizenship made by a woman who had married an Egyptian national and felt pressured to apply for naturalization in her husband's home country, the ministry defended its decision with reference to a 1960 judgment that had been circulated among various governmental offices by the Hessian minister of the interior. In that case, an ethnic (*Sudeten*) West German woman who had lost her German citizenship upon marriage to a Polish national in 1947 had sued to retain her German citizenship, a claim that was ultimately denied. The proper path to regain German citizenship, according to the court decision, was to apply for its re-acquisition (*Wiedereinbürgerung*) in accordance with paragraph 8 of the nationality law.[16]

Informed by the cultural racism so prominent in the discourse on intermarriage discussed here officials from a variety of West German consulates in the Middle East and those in the Foreign Office viewed the situation of women in the 'Orient' as a special case that deserved particular attention; they considered it only inadequately addressed in previous court decisions, such as the one from 1960 that served as the reference point for the Ministries of the Interior. The Consulate in Alexandria did concur that 'strict standards' should be applied 'under normal conditions' as they existed in 'European countries or countries with somewhat comparable conditions …. In the Orient, however, where women's status in the context of family and especially in public life is fundamentally different, other reasons should be determining factors,' too. Rather than leaving women vulnerable since they had given up many legal and customary rights afforded them in West Germany, the consulate argued that it would be 'irresponsible to take away from them possibly the only protection' they still had in the form of West German citizenship. Both the consulate in Alexandria and the embassy in Cairo had granted all requests for retention of citizenship they had received since opening their doors in the early 1950s.[17] The Foreign Office concurred with the assessment of its outposts abroad and supported the decision to continue the generous granting of retention of citizenship permits. Entirely unselfconsciously, the Office echoed the embassy's assertion that 'due to marriage, the wives are forced to live in a completely alien culture under circumstances where the legal and social status of women is much less favorable than in Europe.'[18] It thus denounced the circumstances abroad that West German women had to endure when marrying a Muslim man without any acknowledgment that the West German state was largely responsible for generating the conditions that led to this outcome in the first place. Also, and ironically, breaking with the precepts of the equality statute that informed nationality law was considered more just in this case, as it allowed women continued (albeit limited) access to the protection of the West German state. It also betrayed government officials' assumptions about membership in the West German body politic that perpetuated racial and gendered inequalities. The idea of granting citizenship rights to West German women's foreign spouses as a possible solution to upholding the principle of the family unit—understood

in interracialized terms—within the bounds of the West German nation seemed beyond the imaginable. Instead, staff at the consulate in Alexandria argued for the 'special worthiness of protection [*besondere Schutzwürdigkeit*]' of the female applicants, since the officials '[knew] from experience that many of the marriages between European women and Orientals [did] not last.'[19]

By late 1963, concerns about the impermanence of these unions and the associated repercussions for West German women received wider attention among politicians when they became the topic of an oral question in federal parliament. Member of Parliament Kaffka of the left of center *Sozialdemokratische Partei Deutschlands* (Social Democratic Party of Germany, or SPD) queried the head of the Foreign Office Carstens if the federal government was aware that 'for German women married to Muslims and living in Arab countries difficulties arise when the marriage ends or, as the case may be, the women are repudiated and the children have to stay with the father, specifically.' He further asked why they were 'not bestow[ed] greater security by allowing [these] women to keep their German citizenship upon marriage to a foreigner.'[20] Carstens acknowledged the challenges these marriages (and their demise) created and agreed to explore the possibility of changing the nationality law, given the concerns Kaffka had voiced.

Over the next few months, the Foreign Office and the Ministry of the Interior jointly explored Kaffka's request and debated internally about how to respond to it while staying true to the parameters of the equality statute. A draft response by legation councilor von Borries indicated that a change in the nationality law was not appropriate to respond to the challenges West German wives faced abroad if they had not taken full advantage of the opportunity to request retention for citizenship before applying for naturalization in another country. As von Borries maintained,

> Due to gender equality, this maxim also must apply to women who marry foreigners. It does not seem possible to make a general exception for special categories of wives who, as is the case in Mohammedan countries, acquire a less equitable legal status by surrendering their West German citizenship.[21]

Van Borries repeated his standpoint in a later note, once again warning that making exceptions for West German women who marry foreign nationals was 'not compatible with Article 3 Section 2 of the Basic Law.'[22] Handwritten responses by Carl Carstens in the margins of the text indicate that he severely disagreed with van Borries's point of view: if it was not equitable to make exceptions for women only, 'Then men should benefit from it, too! The argumentation is absurd.' Carstens's point of view was progressive in that it challenged the sexism in van Borries's argumentation by suggesting extending retention of citizenship upon marriage to a foreigner also to the foreign partners of West German men, and thus ostensibly staying within the bounds of gender equality. However, it ignored the fact that West German men were not likely to find themselves in need of the rights as proposed, due to the patriarchal understanding of the principle of the family unit. They also benefited since the legal context regulating access to citizenship was not just informed by particular assumptions about gender but cultural difference, as well.

West German officials were not unaware of the messy realities that might make it difficult if not impossible for women to take advantage of the option to apply for retention of citizenship. Carstens, for example, also pointed out that it was not enough for the option to exist, but women also had to know about it.[23] And what if women only learned about the right to apply for retention of citizenship after they had married and elected to take on the citizenship of their husbands' country? In another note, he maintained that women who had not known about the option in time should not lose their citizenship.[24] Some women also could not afford to reject the theoretically voluntary act of acquiring their husband's country's citizenship in a state where a wife with foreign citizenship might be viewed with suspicion, causing economic and political hardships for the family.[25] Last not least, women had no right to retain their citizenship if they also wanted to accept the citizenship of their husband's country—or reacquire it if they had already surrendered it—, they only had the right to petition the state to do so. Granting the request was ultimately up to the discretion of individual bureaucrats within West Germany's state apparatus.

Ultimately, the approach initially favored by the Foreign Office and its various branches was also sanctioned by the Ministry of the Interior, though it did not go so far as to incorporate Carstens' suggestions. The official response by the Federal Minster of the Interior Höcherl to Kaffka's query steadfastly rejected any revisions to the citizenship law: 'For the protection of German women who are married to Muslims and living in Arab countries, a change to the nationality law is not necessary.' Pointing out that due to the equality statute women no longer automatically lost their citizenship upon marriage to a foreigner unless they applied for naturalization in their husband's home country, West German women were advised against such a move. If they felt pressure to do so anyway, they had the option of applying for retention of West German citizenship and potentially become dual citizens. As the unpublished draft of the statement revealed, the Federal Ministry of the Interior had ultimately been swayed by the reports from the consular offices of the Federal Republic and the statement from the Foreign Office to take into consideration the 'worthiness of special protection of women in Mohammedan countries,' and applicants were assured that their requests would be given 'favorable consideration [*wohlwollend berücksichtigt*].'[26] Despite these assertions, the reality looked different, and subsequent requests were granted rather sparingly (Hailbronner and Renner 2005, 778; de Hart 2012, 45).

## Conclusion

Drawing on literature that places questions of race and gender at the center of postwar West German history as well as scholarship that highlights the significance of gender in citizenship law and its applications, this chapter expands on both by illuminating the ways in which regulation of mixture became a part of postwar West German democratization processes, implemented via the citizenship law. Policymakers, considering the implications of the equality statute, had decided (at least in theory) to look favorably upon requests by West German women for retention or reacquisition of citizenship if they married a foreign Muslim man, but the equality

reflected in the compromise, struck between the various state and federal ministries, was limited at best. While West German women no longer automatically lost their citizenship upon marriage to a foreigner, a variety of factors, legal as well as cultural in nature, effectively resulted in regulation of mixture by denying foreign husbands (and the couple's offspring) West German citizenship, thus precluding the realization of true gender equality.

Sexist attitudes as well as perceptions of insurmountable cultural difference about the Muslim partners informed the officials' decision-making process. For one, West German women in relationships with Muslim men were viewed as seriously foolish and misguided in entering such unions in the first place, since it was considered a fact that they could only end in misery. This view was informed by the idea that Muslim culture was deeply illiberal and Muslim men therefore incapable of relationships that honored gender equality, resulting in abusive, loveless unions. The issue was compounded by the fact that the image of the mixed couple informing the debate was based on the expectation that the woman would move abroad after marriage to her husband's home country rather than vice versa, thereby ensuring the unity of the family. These expectations reflected German authorities' adherence to patriarchal views of gender roles despite condemning similar views in Muslim culture and despite the existence of the equality statute. The idea that the mixed family would establish a life in West Germany, and that the husband (and children) could become West German citizens, never entered the discussion, reflecting how notions of cultural difference informed the debate, as well. Particular visions of race and gender relations guided policymakers. These visons revealed their inability to imagine the central institution of marriage as a union between West German women and foreign—particularly Muslim—men. Government officials could not conceptualize of a way that such marriages could legally exist within the borders of the West German nation in a way that would put husband, wife, and children on equal legal footing. As long as the state was invested in regulating mixture by discouraging women from establishing such a family unit rather than protecting the equality for which they so strenuously advocated as one of the bedrocks of the democratizing state, that equality could only—and did—remain incomplete.

## Notes

1 Botschaft der Bundesrepublik Deutschland in Bagdad, an das Auswärtige Amt, 13 June 1961, BArch B141/49488.
2 Irving (2016, viii). For the German context specifically, see Oliver Trevisiol, *Die Einbürgerungspraxis im deutschen Reich, 1871–1945* (Göttingen: V & R Unipress, 2006), 202–209.
3 Heide-Irene Schmidt (2003, 498); see also Karin Adelmann (1999).
4 Two-thirds of Iranians and half of all Egyptians enrolled at German universities at the time studied medicine. Pfeiffer, *Ausländische Studenten*, 13–14.
5 See Bundesverwaltungsamt – Amt für Auswanderung Rundschreiben Nr. 51/68, dated 10 February 1968, Archiv für Diakonie und Entwicklung (hereafter ADW), HGSt 2991.
6 These translations of the German original are from the official site of the Ministry of Justice of the Federal Republic: https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html

7 See, e.g., correspondence between Gerhard Stratenwerth [vice president of the Kirchliches Aussenamt der EKD] to Baldwin Sjollema [Executive Secretary of World Council of Churches' Migration Secretariat], 16 June 1966, Evangelisches Zentral Archiv in Berlin EZA 6/9558.

8 For the Dutch context, see Betty de Hart (2017); for the British context, see Gail Savage (2008), Lucy Bland (2013), and Ginger S. Frost (2019). For a comparative and more contemporary study, see Francesco Cerchiaro (2022).

9 The text also mentioned the threat of death by stoning in countries such as Saudi Arabia and Yemen. This is one of the only times that distinctions between different countries are made within publications concerned with Christian-Muslim marriages. Given that this was the exception that proved the rule in light of the general tendency to provide undifferentiated, highly tendentious representations in other published and unpublished sources, one could speculate that it was meant to allow to temper claims to that effect. See *Merkblätter für Auslandstätige und Auswanderer: Frauen-Auswanderung. Beilage: Islamische Eheverträge* no. 10 (Köln: Informationsstelle für Auswanderer und Auslandstätige, Bundesverwaltungsamt, 1961).

10 See Julia Woesthoff (2013).

11 Bundesministerium des Innern (Dr. Lechner) an den Vorsitzenden des Innenausschusses des Deutschen Bundestags, 2 February 1968 (Ausschußdrucksache Nr. 56 vom 6 February 1968), in: Archiv der sozialen Demokratie (AdsD), SPD Bundesfraktion, 5. Wahlperiode, Arbeitskreis Rechtswesen, Akte 1242, quoted in Schönwälder (2001), *Einwanderung*, 70 n, 516.

12 Von Borries, Entwurf, Aufzeichnung, Betr: H.R. geb. S., Bezug: Schreiben der Mutter, Frau S. [names annonymized to protect privacy], Hamburg, vom 16 February 1964, PAAA B82 Nr. 445.

13 Botschaft der BRD in Bagdad, an das AA unter Bezugnahme auf den Erlass vom 12. Mai 1961, 13 June 1961, BArch, gez. v. Bargen, B 141/49488 (1955–1964).

14 See Paragraph 25, section 2 of the Reichs- und Staatsangehörigkeitsgesetz on the issue retention of citizenship.

15 See Innenminister des Landes Nordrhein-Westfalen an den Bundesminister des Innern, Betr: Beibehaltungsgenehmigung nach §25 Abs. 2 RuStaG, 10 April 1962, PAAA B82 Nr. 902; Bundesminister des Innern an das Auswärtige Amt, Betr.: Beibehaltungsgenehmigung nach §25 Abs. 2 RuStaG, 9 July 1962, PAAA B82 Nr. 902.

16 Bundesverwaltungsgericht Urteil vom 25 October 1960, Az.: BVerwG I C 222.58.

17 Konsulat der BRD Alexandrien an den Herrn Regierungspräsidenten in Detmold, Betr.: Beibehaltung der deutschen Staatsang.; hier: Frau BB verh. Z. [name annonymized to protect privacy], wohnhaft in Alexandrien, 8, rue Pietri, Saba Pach, 5 March 1962, PAAA B82 Nr. 902; Botschaft der BRD Kairo an das AA, 8 October 1962, PAAA B82 Nr. 902.

18 Konzept, an den Bundesminister des Innern vom AA, im Auftrag gez. Scheel, [30 October 1962], PAAA B82 Nr 902; Botschaft der BRD Kairo an das AA, 8 October 1962, PAAA B82 Nr. 902.

19 Konsulat der BRD Alexandrien an den Herrn Regierungspräsidenten in Detmold, Betr.: Beibehaltung der deutschen Staatsang.; hier: Frau BB verh Z. [name annonymized to protect privacy], wohnhaft in Alexandrien, 8, rue Pietri, Saba Pach, 5 March 1962, PAAA B82 Nr. 902.

20 Kaffka also maintained that citizenship could be conferred to their children, as well, 'as it should be in accordance with the Basic Law.' Frage des Abg. Kaffka, 'Mit Moslems verheiratete deutsche Frauen,' Drucksache IV/1887, Deutscher Bundestag, 4. Wahlperiode, 96. Sitzung, Bonn, 14 November 1963, 4373.

21 Durchdruck als Reinkonzept, Aufzeichnung [AA] Abteilung V, Ref.: VLR I Dr. von Borries, Betr: Ehen deutscher Frauen mit Moslems, Bezug: Weisung des Herrn Staatssekretärs I vom 12.12.1963 auf der Aufzeichnung vom 9. Dezember 1963, 30 December 1963, PAAA B82 Nr. 902.

22 Durchschlag als Konzept, Aufzeichnung [AA], Abteilung V, Ref.: VLR [vortragender Legislationsrat] I Dr. von Borries, 7 January 1964, PAAA B82 Nr. 902.
23 Aufzeichnung [AA] Ref.: VLRI Dr. von Borries, Betr. Ehen deutscher Frauen mit Moslems, Bezug: Weisung des Herrn Staatssekretärs [Carstens] vom 15 November 1963, 29 November 1963, PAAA B82 Nr. 902.
24 [AA] Abteilung V, Ref.: VLR I Dr. von Borries, Aufzeichnung, Betr: Ehen deutscher Frauen mit Moslems, Bezug: Weisung des Herrn Staatssekretärs I vom 3.12.1963 im Anschluß an die Aufzeichnung vom 29.11.1963, 9. Dezember 1963 [Carstens handwritten note dated 12/12), PAAA B82 Nr. 902.
25 Konsulat der BRD Alexandrien an den Herrn Regierungspräsidenten in Detmold, Betr.: Beibehaltung der deutschen Staatsang.; hier: Frau BB verh Z. [name annonymized to protect privacy], wohnhaft in Alexandrien, 8, rue Pietri, Saba Pach, 5 March 1962, PAAA B82 Nr. 902.
26 Referat I B 5, Vermerk, Betr: Verlust der Staatsang. Deutsche Ehefrauen von Ausländern aus mohammedanischen Ländern, Bezug: Vermerk des Auswärtigen Amtes (V 3) vom 13.2.1964 [?], February 1964, PAAA B82 Nr. 902; Anlage 15, Schriftliche Antwort auf die mündliche Anfrage des Abgeordneten Kaffka (Drucksache IV/1887, Frage 1), Deutscher Bundestag, 4. Wahlperiode, 115. Sitzung, 19 February 1964, 5294.

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# 10 Mixed-Race Children, Eugenics and Labels of Defect and Handicap in Britain, 1920s–1950s[1]

*Lucy Bland*

In 1938, the official history of the Liverpool University Settlement (a charity to help Liverpool's poor) declared that 'mixed parentage' was 'a handicap comparable to physical deformity'. The organisation was 'in no doubt that the presence of increasing numbers of half-caste children inheriting disharmonious mental and physical traits, depresses very considerably the life of the Dockland population of Liverpool' (King and King 1938, 132, 129). ('Half-caste' was the derogatory British term for 'mixed-race' then widely in use.) The linking of 'handicap' and 'disharmony' to those of mixed-race was still occurring in the 1950s. Phil Frampton, a mixed-race boy who soon after his birth in 1953 was placed in a children's home of the British charity Dr Barnardo's, quotes in his memoir from the home's reports: in July 1953, under 'other physical defects or maladies' the report states 'half-caste', while in January 1957 the matron writes that he 'appears intelligent … But is half negro which may be a handicap' (Frampton 2004, 58, 82). What were the roots of this labelling of 'half-caste' as a physical defect/deformity/disharmony and handicap? How and why did such classifications occur?

## Polygeny, Eugenics and 'Race Riots'

The notion of a mixed-race person as a 'misfit' was rooted in ideas about the inadvisability of interracial sex. Polygenists (who believed human races had different origins) initially asserted that interracial sex produced infertile offspring (a mixed-race person seen as analogous to an infertile mule), but in the face of mixed-race people's obvious ability to reproduce, the assertion shifted to sub-fertility and degeneracy: regression to an earlier stage of evolution. In 1871, Charles Darwin's claim in *Descent of Man* of a common human ancestry seemed to establish monogeny, but belief in polygeny continued. One twentieth century proponent was Reginald Ruggles Gates. A eugenicist, geneticist and first husband of birth controller Marie Stopes, he asserted that: 'evidence indicates that the Mongoloid, Australoid, Negroid and Caucasoid types of man have been evolving independently since the beginning of the Pleistocene … they should be regarded … as separate species' (Gates 1936, 462). Arthur Keith, President of the Royal Anthropological Institute and proponent of the later discredited 'Piltdown Man' was also a polygenist. Likewise eugenicist doctor K.B. Aikman held that 'so great are the

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differences between [the] three Primary Races that they are comparable to the differences between the species of the zoologist rather than to those between the varieties' (Aikman 1933, 161).

By the early twentieth century the idea of three to five 'primary races' positioned on an evolutionary hierarchy was widely accepted by scientists and anthropologists, with each race identifiable by certain permanent somatic racial markers. They were frequently colour coded, as for example in eugenicist, geologist and polygenist J.W. Gregory's 1925 *The Menace of Colour*, which listed four primary hierarchically descending races: (1) white or European, (2) yellow or Mongolian, (3) brown or non-Mongolian Asiatic and (4) black or Negro (Gregory 1925, 19). But even where eugenicists, biologists or geneticists were not self-proclaimed polygenists, they were often against inter-breeding between 'primary races' for reasons of potential physical and/or mental disabilities, believing that while breeding between races defined as 'close' in evolutionary terms might potentially be a good thing (leading to 'hybrid vigour'), breeding between races defined as 'distant' was disastrous, leading to degeneracy or 'disharmony'. Self-defined 'Eurasian' Cedric Dover in 1937 claimed that the 'half-caste' is widely seen 'as an undersized, scheming and entirely degenerate bastard. His father is a blackguard, his mother a whore' (Dover 1937, 130). His summary delineated the various elements that made up the negative representations of the 'half-caste': 'undersized' (physically inferior), 'scheming' (underhand and immoral), 'degenerate' (physically, mentally and morally regressed), 'bastard' (illegitimate, if not *de jure* then certainly *de facto*), with highly undesirable parentage.

Eugenicists were at the forefront of opposing interbreeding. The term 'eugenics' had been coined in 1883 by Charles Darwin's cousin, scientist Francis Galton, from a Greek root meaning 'good in birth'. Galton defined eugenics as 'the study of agencies under social control that may improve or impair the racial qualities of future generations' (Galton 1904, 82). ('Racial' in this period might refer to the human race, 'white race' or 'Anglo-Saxon race', the meaning often vague.) Eugenics was the 'science of selective breeding': how to encourage the 'fit' or 'desirable' to breed and discourage, even prevent, the 'unfit'. It presented itself as a very modern way of explaining social problems in hereditarian terms. Its popularity related to British middle- and upper-class anxieties of the period: challenges to the economic supremacy of Britain's empire, colonial resistances and internal disruptions in the form of organised labour unrest, socialist revival and the women's suffrage movement. Further, the differential fall in the birth rate (far higher among the middle- and upper-classes), coupled with high infant mortality, the extent of poverty revealed in social surveys, and the significant rejection level (37%) of British volunteers for the 1899–1902 Boer War, all contributed to a widespread concern with British 'fitness'. 'Fitness' generally implied good physical and mental ability, with most eugenicists assuming that the middle classes, ideally Anglo-Saxon, were the 'fittest'.

While it is true that eugenics in Britain, unlike the United States, was more explicitly concerned with class than race, it would be wrong to underestimate its interest in race and its assumption of a white ideal. After all, Galton had argued in 1883

that the improvement of stock involved not simply selective breeding, but 'cognisance of all influences that tend … to give *more suitable races* or strains of blood a better chance of prevailing speedily over the less suitable' (Galton 1883, 25). In July 1919, at the annual general meeting of the British Eugenics Education Society the Society's President, Major Leonard Darwin (a son of Charles Darwin), announced that 'what is urgently needed is a thorough scientific study of the mental and physical characteristics of mixed races' (*Eugenics Review* 1919). In January that year there had been a series of vicious clashes in several British ports, characterised as 'race riots'. Focus on the populations of men of colour in these ports, their relationships with local white women and the children of these relationships was no doubt central to why the Eugenics Education Society was now so interested in looking at those of mixed-race.

These violent, racially motivated 'race riots' ran from January to August 1919 in nine of Britain's main ports. There were running battles between whites and Blacks, five deaths, numerous injuries, often serious, at least 250 arrests and extensive damage to property, especially to houses in which Black men were lodging (Jenkinson 2009). During the war, the greatly increased demands for labour had led to a huge rise in seamen from the Indian sub-continent, Africa, the Caribbean and China. While men of these nationalities had been present in the nineteenth century in Britain's main ports, their numbers had always been small. Britain's shipping industry, central to the country's rise (and fall) on the world stage, had recruited seamen from the colonies as cheap labour, and was thereby largely responsible for their presence in Britain, along with the concomitant racial hierarchies (Tabili 1994). In Cardiff the Black population increased from about 700 on the eve of the war, to about 3,000 in April 1919, while in Liverpool numbers rose to as many as 5,000. Nationally the number may have been in the region of 20,000, with approximately 2,000 Chinese. Given that their presence was almost entirely due to shipping and soldiery, this population of colour was predominantly male (Fryer 1984, 304, 299). From April to June 1919 the worst rioting occurred in Liverpool, Cardiff and London. In nearly all cases the fighting was instigated by white men, although it was Black men who were disproportionally arrested. The police, other officials and the press all saw the riots as due to men of colour and white men competing for the same jobs, women and housing. It was acknowledged that unemployment was a key factor, many men having recently returned demobbed. Yet repeatedly the press and the authorities cited white men's fury at interracial relationships as an equal, even key, instigator of the riots. The white women with Black men were attacked too for their 'treacherous' choice of partner (Bland 2005).

There was also concern with children born of these interracial relationships. The very name given to mixed-race children indicates their pathologising. Mixed-race children in Britain had long been labelled 'half-caste', the word 'caste' coming from the Latin *castu* meaning pure or guiltless, and the derivative Spanish *casta* meaning race (Bethencourt 2013, 163–172). To be 'half-caste' thus implied impurity. The term was widely used in Britain right up until the 1990s and so normalised that few perceived it as pejorative at the time. The existence of 'half-castes' represented a challenge to national and racial boundaries and to the neat

polarity between the white British and the non-white colonised racial 'other'. As historian Sonya Rose suggests, their presence blurred 'the racial lineaments of British national identity' (Rose 1997, 155). However, mixed families had existed in Britain for centuries, but only in small numbers and generally integrated into working-class communities (Bressey 2013; Caballero and Aspinall 2018). They had not caused the stir that now arose after the 'race riots'. These riots led to certain interwar organisations and authority figures local to portside communities taking a voyeuristic interest in interracial relationships and mixed-race offspring. The local police in particular campaigned for Black seamen to be deported, supportive of the Coloured Alien Seamen Order of 1925 (Tabili 1994, 113–114). As I have suggested, these interracial relationships and their offspring were also of concern to the scientific and social scientific community. As will be shown, portside local organisations and authorities drew freely on the claims of these scientists to argue for the regulation of mixed intimacies.

## 'Disharmonies', 'Hybrid' Diseases and 'Mongolian Imbecility'

In the early 1930s, Leonard Darwin's 1919 plea for 'a thorough scientific study' of mixed races was incorporated into 'The Aims and Objects of the Eugenics Society'. The new aim was a focus on 'Race Mixture':

> In certain circumstances race mixture is known to be bad. Further knowledge of its biological effects is needed in order to make it possible to frame a practical eugenic policy. Meanwhile, since the process of race mixture cannot be reversed, great caution is advocated.
>
> (*Eugenics Review* 1934a, 134).

However, a 'race crossing' project (studying mixed-race children) was already in process, set up by the Society in 1924 and employing two anthropologists, Professor Fleure and Rachel Fleming; they deployed anthropometry (Bland 2007). The alliance of quantification and evolution, with its obsessive measuring and ranking of racially 'other' bodies, had been central to the development of 'scientific' racism from the eighteenth century onwards. Anthropometry was one key form of calculating racial difference which had grown increasingly popular in the nineteenth century, particularly the measuring of head shape and size, notably the 'cephalic index' (the ratio of length to breadth of the skull). Anthropometry was, in essence, a *comparative* methodology, which in the nineteenth century had involved the comparison of white people to Black people, and men to women. It had contributed to various political agenda, including, through asserting measured differences, a justification for the ruling of Black, Brown and indigenous peoples in the colonies, and for women's lack of political rights at home (Stepan 1982; Russett 1989).

For many eugenicists, including Galton and his disciple Karl Pearson, anthropometry was a key methodology in their attempt to measure human heredity. However, by the interwar, Pearson's work aside (Galton having died in 1911), anthropometry was in decline, largely because physical anthropology was being

eclipsed by social anthropology and relegated to a subsection of archaeology, and genetics was directing the measurement of racial difference away from visible somatic signs and towards internal, unseen (to the naked eye) genetic structures (Stocking 1982; Urry 1992). Despite this decline, Fleure and Fleming were keen anthropometrists. Fleming measured children with white mothers and Black and Chinese fathers in Liverpool, Cardiff and East London. In all, by her final report in 1939, she had measured 119 children with Chinese fathers, 110 with 'Negro' fathers and 49 'back-crosses' (those with 'Anglo-Negroid' mothers and 'Negro' fathers) (Fleming 1939, 60).

Fleming wrote up the first stage of the research in an article for the *Eugenics Review* in 1927 (Fleming 1927). The measurements were said to show that for both groups studied – those children with Chinese fathers, those with Black – characteristics from the father's side were more markedly inherited than those from the mother's. Fleming occasionally used the concept of physical 'disharmonies', including 'a feature common in cases of Anglo-Negro intermixture – marked disharmony of the jaws'. However, unlike certain eugenicists she did not see such disharmonies as referring to mental disability. She had refused to deploy mental tests (a newly developed technique) despite pressure from the Eugenics Society (Bland 2007, 69–70). Comparing the two categories of mixed-race, Fleming argued that the children with white mothers and Black fathers were more disadvantaged than those she termed 'yellow/white hybrids', although she did not explain how she was measuring 'disadvantage', and whether it covered social, economic, even physiological factors. But she refused to speak out against mixed relationships: 'It seems useless to argue the pros and cons of the "advisability" of an interracial cross, since our Imperial Commercial system is linking all possible races in our seaport towns and has been doing so for some generations' (Fleming 1927, 301). She was certain that 'there was nothing in anthropology or in biology to indicate that racial mixture was bad. Each race brought something of value' (Caballero and Aspinall 2018, 40). So despite her measurements of physical 'disharmonies', she must have thought these relatively insignificant in their effects.

In the 1930s the Eugenics Society created a two-year 'Leonard Darwin Research Fellowship' to be devoted to 'race crossing'. The Fellow, Jack Trevor, presented a paper to the Society in 1938 in which he drew no conclusions as to the advisability or otherwise of interracial relationships. But the *Eugenics Review* editorial gave a note of caution, approvingly quoting J.B.S. Haldane:

> I would urge the extraordinary importance of a scientific study of the effects of racial crossing for the future of the British Commonwealth. Until such a study has been accomplished … there can be very little reason … to encourage it, as between widely different races of mankind
>
> (*Eugenics Review* 1938, 8)

While Fleming noted certain physical 'disharmonies' in mixed-race peoples, there were others linked to the Eugenics Society who made assertions about other kinds of disharmonies. Gates proclaimed that 'miscegenation commonly results in

disharmony of physical, mental and temperamental qualities, often leading to disharmony with the environment, and consequent unhappiness. A hybridised people will tend to be restless, dissatisfied and ineffectual'. He asserted that the 'blending of many races is regarded as the most destructive agency in the downfall of Rome' (Gates 1923, 236, 238). In using the term 'disharmony', he was drawing explicitly on the work of prominent American eugenicist Charles Davenport (as presumably was Fleming, although she did not mention him by name).

Charles Davenport, a biologist and Mendelian geneticist, was the leading US interwar eugenicist. His and Morris Steggerda's 1929 *Race Crossing in Jamaica* analysed the characteristics of three groups (with a hundred adults per group): 'full-blooded Negroes (Blacks), Europeans (whites) and hybrids (Browns)'. They asserted that:

> Disharmonies in the mental sphere … are apparently common in the adult Brown …. There was among them a greater number of persons than in either Blacks or whites who were muddled and wuzzle-headed. The Blacks may have low intelligence, but they generally can use what they have in a fairly effective fashion; but among the Browns there appear to be an extra 5 per cent who seem not to be able to utilize their native endowment.
>
> (Davenport and Steggerda 1929, 468–469)

Another eugenicist strongly opposed to mixed-race relationships and who, like Gates, approvingly quoted Davenport and Steggerda, was Dr Jon Mjöen. A Norwegian biologist, his work was published by the British Eugenics Society and widely cited. He presented a depressing image of where miscegenation was leading, claiming that 'clean, open racial features are becoming more and more rare … All unity of form is dissolved, and a hideous confusion of all possible colours and shapes from all the races of the earth has taken its place'. He looked at crossings between Nordic and 'Mongol' (by which he meant those of Asian descent, but especially focused on the Sámi, then also known as 'Lapps') and 'found more disharmonies, both physical and mental, than in the two parent races' (Mjöen 1931, 31). As geneticists, Gates, Mjöen, Arthur Keith, Davenport and certain others supported a theory of 'mosaic' as opposed to 'blended' genetic inheritance. They held that over time, the genotype of a 'race' had developed genetic harmonies that would, through racial mixing, be destroyed. In the offspring of interracial unions, Mjöen argued, 'every cell, every organ becomes a mosaic composed of heterogeneous hereditary qualities … which gives rise to the series of disharmonies'. Mental instability and a proneness to criminality was also mentioned (Mjöen 1931, 33,36). Historian Theodore Porter points out that 'the frequent appearance of pauperism, mental defect, criminality and bodily abnormalities together in a single pedigree chart was common knowledge in the new eugenic era' (Porter 2018, 239). Adding 'mixed heritage' to this bundle of co-existing negative attributes was a logical further step, given the long history of defining hybridity as dysgenic. Eugenicists assumed a hierarchy of human worth, with class, race, gender and physical, mental and moral capacities/abilities as the criteria to be measured.

Genetic disharmonies were claimed to lead to, and were manifest in, a greater susceptibility to certain diseases – all presented as 'evidence' of the degenerate and unfit nature of racial mixedness. However, this proclivity was 'established' not through genetic investigations but through (largely unsubstantiated) claims of empirical observation. Mjöen asserted that 'resistance to certain diseases is a racial characteristic, strengthened in all probability through long periods of selection. This resistance seems to be lost in the crossing of races, owing in all probability to the disturbed functioning of the glands' (Mjöen 1931, 38). In 1933, Aikman approvingly quoted American Professor Shaler: 'the offspring of a union between pure black and white parents is, on average, much shorter lived and much less fertile than the race of either parent' (Aikman 1933, 162). To Gates: 'the high death rate in middle life [of 'hybridised people'] may be due to bodily maladjustments' (Gates 1923, 236). There were also specific diseases to which mixed-race people were thought especially prone. One was tuberculosis. Davenport asserted: 'Since the War tuberculosis has become the great scourge of "the race", especially among hybrids' (Davenport 1931, 161). In Liverpool, social scientist and probation officer Muriel Fletcher (of whom, more below) reported several cases of 'a bad family history for tuberculosis' when visiting 'half-caste' families (but she did not offer medical records to substantiate this claim). Fletcher also quoted the chief constable of South Shields who claimed there were only about 65 'half-caste' schoolchildren in his town because 'the Arab child dies at a very young age on account of the prevalence of tuberculosis and venereal disease' (Fletcher 1930, 15,53). Diabetes too, Mjöen asserted, was more prevalent 'amongst hybrid types than amongst families of purer races' (Mjöen 1931, 36). And Gates insisted that 'sickle cell anaemia, a fatal disease, occurs with much higher frequency in American Negroes having some white ancestry than in African Negroes of pure descent' (Gates 1952, 894). Syphilis was also alleged to be more prevalent and severe among mixed-race people (Caballero and Aspinall 2018, 30). Whether or not there were in fact actual health differences is unclear as so many of the claims were unsubstantiated. But even had there been differences, the social causes of health inequalities, especially poverty and housing, are ignored, with biology and genetics cited as the determinants.

Not only were the bodies of mixed-race children deemed physically and mentally 'disharmonious' with a proclivity to certain diseases, but in Dr Francis Crookshank's 1924 treatise *The Mongol in our Midst* there was a direct link made between interbreeding and mental defect. Dr John Langdon Down had coined the term 'Mongolian imbecility/idiocy' in 1866 to refer to those Caucasians (he thought it only affected Caucasians) that had, he believed, atavistically degenerated to an earlier racial type (Mongols). Down claimed that this confirmed monogenesis. However, Crookshank, an epidemiologist and eugenicist, argued that, on the contrary, the condition demonstrated polygenesis, for it could be traced back to the Mongols' conquest of swathes of Europe, during which time they had had sex with Caucasians, including through rape. Thus the 'iniquity' of miscegenation between Caucasians and Mongols had led, according to Crookshank, to a form of degeneracy ('Mongolian imbecility') (Crookshank 1924). Crookshank's theory was largely well-received at the time and fairly widely debated.[2] Although his ideas

might not have been known beyond scientific circles, the link between mixedness and disability often took a common-sense form in the popular designation of 'half-caste' children as mentally inferior and 'handicapped', as this chapter's opening quotes demonstrate.

## The Percolation of Eugenics into Wider Society

If eugenical ideas and the claims of hybrid dysfunction had remained simply discussion points between eugenicists, eugenics in Britain could be dismissed then and now as a cranky side-line. But these ideas and the language in which they were couched bled into newspaper reports, organisational and policy statements and actions and wider society more generally, thereby impacting the lives of mixed-race children. The take-up of Fleming's research is a case in point. Before publication of Fleming's findings in her 1927 article, she gave a public talk organised by the Liverpool University Settlement. Present were various Liverpool dignitaries, police and welfare organisations. The talk led to the immediate establishment of the 'Liverpool Association for the Welfare of Half-Caste Children'. While earlier in the decade the chief concern had been Black men in relations with white women, by this time the focus had widened to include the children of those relationships. In 1930, under the authorship of social scientist Muriel Fletcher, the Association produced the notorious *Report on an Investigation into the Colour Problem in Liverpool and other Ports* which demonised mixed-race children and their parents. Picking up on a remark by Fleming on mixed-race girls' difficulty in finding work (it was not explicit but it was clear that Fleming – and Fletcher – were referring to girls with Black fathers), Fletcher turned the blame away from the labour market and onto the girls themselves and their inheritance:

> All the circumstances of their lives tend to give undue prominence to sex; owing to the nature of the houses in which they live, their moral standards are extraordinarily low … From her mother the half-caste girl is liable to inherit a certain slackness, and from her father, a happy-go-lucky attitude towards life. She has not therefore much incentive to work.

Fletcher accused both parents of immorality – that the mothers were often prostitutes and/or 'mentally weak', and the fathers 'promiscuous in his relations with white women', and twice as likely to have venereal disease than white men. The mixed-race children were often ill and mentally backward, the report said, due to inheritance from their parents and the disharmony of being mixed. In addition to Liverpool, Fletcher looked at certain other ports, noting:

> The fact that all the ports have a number of coloured men resident in them, that a number of half-caste children are growing up in surroundings both morally and economically undesirable, and that the problem will considerably increase because the children cannot be assimilated into our industrial

> life, show that it is imperative to consider some way of checking the growth of the problem and also of *minimising the evils* already in existence.
>
> (Fletcher 1930, 48)

The 'problem' of mixed-race families was seen in terms of their pathology rather than their experience of high unemployment, poverty and racism.

Fletcher called for immigration control of men of colour (to check 'the growth'), although the vast majority of Black men in Liverpool were from the Caribbean and West Africa and were British subjects and thus not supposedly deportable under the 1925 Coloured Alien Seamen Order. John Harris, secretary of the Anti-Slavery Society and Welfare of Africans in Europe Fund, was highly impressed by the Fletcher report and made a similar statement to Fletcher's about mixed-race children:

> Though relatively small in their dimensions the nature of this sordid evil is so appalling and its consequences so alarming and even tragic that the government cannot continue to ignore it … Of these children there are some 2,000 in Liverpool and Cardiff alone … Certain philanthropic organisations in this country might assist in *liquidating* the remaining problem of half-caste children and that of the parents who for various reasons cannot leave the British Isles.
>
> (John Harris, n.d. (December 1931): no pagination)

Fletcher's idea of 'minimising the evils' and Harris's of 'liquidating' could be read, given the credibility of eugenics at the time, as a possible proposal for sterilising white women who 'consorted' with Black men, and maybe even sterilising their mixed-race children. This may sound far-fetched, but sterilisation was a key proposal of the Eugenics Society at the time and was gaining wide support, with a range of national organisations around the country passing pro-sterilisation resolutions. A 1934 Departmental Committee Report supported legalised voluntary sterilisation of mental defectives, but the government held that public support was insufficient (Macnicol 1989). That same year in an interview with birth controller (and eugenicist) Marie Stopes it was noted:

> she believes that all half-castes should be sterilised at birth. Thus, painlessly and in no way interfering with the individual's life, the unhappy fate of he who is neither black nor white is prevented from being passed on to yet more unborn babes.
>
> (Stopes 1934)

The Eugenics Society initially welcomed Germany's 1933 compulsory sterilisation of the physically and mentally dysgenic, although it was strongly opposed to the sterilisation of Jews. However, it did not comment on the Nazi sterilisation of mixed-race Germans (Weindling 2022).

The Fletcher Report was sent to government departments, MPs, the media, the police and various welfare organisations (Sherwood 1994, 13). Professor

Percy Roxby, Chair of the Liverpool Association of Half-Caste Children, in his Foreword to the Report praised Fletcher's 'acumen, tact and sympathy'. That the Report was endorsed by the university and the Liverpool University Settlement meant it carried weight. But unsurprisingly the Black community reacted in fury, Margaret Simey, a prominent Liverpool activist and one-time classmate of Fletcher at Liverpool University, telling historian Mark Christian that Fletcher was actually 'stabbed and ran out of the city'. Christian was also informed by a woman whose house Fletcher had visited that Fletcher had 'betrayed the trust of Black people' (Christian 2008, 236, 222). Given that Fletcher claimed personal contact with 100 families for her survey, it is likely that many of the mixed community in the city would have known about her work and must have expected the research to have benefitted them in 'welfare' terms. When historian Jacqueline Nassy Brown undertook her research in Liverpool in the early 1990s, 'Black people in Liverpool referred to it [the Report], denounced it, made me photocopies of it' (Brown 2005, 31). The Report's lasting negative impact was not simply one of Black anger, but also a cementing of mixed-race families as a 'social problem', an excluded and outcast group, while the derogatory term 'half-caste' became synonymous with a pathologised, stigmatised identity, indicative of moral decline.

John Harris attempted to work with various contacts across the nine ports to raise a national, as opposed to simply local, lobby against Black immigration and to deal with 'half-castes' as a moral problem (Harris 1930–1938; Rich 1990, 135–143). One contact was Cardiff's Chief Constable James Wilson, who in January 1929 wrote a report for the Cardiff Watch Committee in which he stated that hundreds of 'half-caste' children were being born 'with the vicious hereditary taint of their parents' (*Daily Herald* 1929a January 10, 5). Rev J.H.G. Bates of St Michael's Church in Butetown, Cardiff, likewise declared that 'the Anglo-Negroid mixture is vicious and a menace to the community' and proposed the prohibition of marriage between Blacks and whites (*Daily Herald* 1929b January 11, 2). Wilson also advocated anti-miscegenation laws, suggesting they be similar to those recently introduced in South Africa: 'our race has become leavened with the colour strain to such an extent as to call for action' (*Daily Herald* 1929c November 30, 5). In the May of 1929, several months after the report was made public, a national conference on the welfare of merchant seamen was organised by a Joint Committee of the British Council for the Welfare of the Mercantile Marines and the British Social Hygiene Council (which had been founded in 1914 as the National Council for Combatting Venereal Diseases, changed its name in 1925 and was peopled with eugenicists). The *Liverpool Echo* reported that 'one of the greatest problems facing the conference was that of the half-caste child in ports, a problem that must be tackled promptly' (*Liverpool Echo* 1929, 9). The Joint Committee appointed Captain F.A. Richardson to produce an investigation of the 'colour problem' in the ports of Cardiff, Liverpool and London. Reporting in 1935, Richardson predominantly used information from local police such as Wilson, unlike Fletcher who had had personal contact with mixed families. Like

Fletcher, Wilson and Bates, Richardson was very concerned about the growth of 'half-castes':

> there are now in each of the dock areas of London, Liverpool and Cardiff sufficient of them [the 'coloured population'] mated to the white women of the districts to produce hundreds more of this unfortunate half-caste population as each year passes.
>
> (Richardson 1935: no pagination)

The local press took up his findings and declared: 'We can no longer tolerate the […] burden on our doorstep', advocating repatriation of colonial immigrants in order to cease 'the ethnological experiment of cross-breeding' (*Western Mail* 1935, 8).

The Richardson report, like Fletcher's, also got out into the wider world. It was sent to Prime Minister Stanley Baldwin, who forwarded it to the Minister of Health and municipal authorities in Liverpool, Cardiff and London. It was discussed in Parliament that year and the next, with several MPs asking about the employment problems of 'half-castes', worrying that 'the standard of living is lowered owing to the unfortunate position of these people'. (It appears they were only concerned with the standard of living of white people.) David Logan, a Liverpool Labour MP of working-class background, sarcastically responded: 'Are the words "half-caste" a misprint? Should it not be "half-fed"?' (Caballero and Aspinall 2018, 73–74). MP Captain Arthur Evans of Cardiff South requested a small Royal Commission, as too did John Harris (now knighted). Although this was not forthcoming, there were various local and government officials who were keen to reduce the numbers of people of colour in British ports through repatriation and immigration control (Balachandran 2014). National newspapers took up the report too. For example, Journalist F.G.H. Salusbury studied various British ports for the *Daily Express*, and on examining Cardiff, he quoted Richardson's assertion that 'half-caste' girls, 'have very little chance but to sink to an even lower level' (Salusbury 1936, 13). This negative account would have undoubtedly influenced public opinion. And although I do not have access to evidence on the ground, it is possible that both Fletcher's and Richardson's reports were referenced to justify greater policing and social work intervention in Black and mixed-race port communities. Further research is needed.

Labelling 'half castes' and their mothers as 'mentally weak' drew on current ideas about mental deficiency. The Royal Commission on the Care and Control of the Feeble-Minded 1904–1908 had been an important impetus to the formation of the Eugenics Education Society (Thomson 1998, 13, 7, 33). The Commission's recommendations led to the Mental Deficiency Act 1913 which delineated four categories of persons liable to detention in mental institutions: idiots (mental age of 1–3 years); imbeciles (mental age of 3–5 years); feeble-minded (mental age 5–8 years). The fourth category was 'moral imbeciles' (Overy 2009, 109). Of the four hierarchical categories, 'feeble-minded' was thought to be by far the

biggest group and very largely born to parents similarly afflicted, inferring inheritance (King 1999, 70, 79). The group 'moral imbeciles' applied particularly to girls or young women thought to have acted immorally or 'waywardly', for example bearing an illegitimate child. As eugenicist Mary Dendy, co-founder of the 1896 National Association for the Care and Protection of the Feeble Minded, informed the Royal Commission: 'The first test [of feeble-mindedness or moral imbecility] I think is that if a woman comes into the workhouse with an illegitimate child, it should be considered evidence of weakness of mind' (quoted in Bland 1995, 241). As sociologist Nikolas Rose points out: 'Feeble-mindedness was a psychological state which was knowable only on the basis of the social behaviours which it induced' (Rose 1985, 108).

Eugenicists tended to see those displaying 'anti-social behaviour' as a sign of inherited disability (especially mental deficiency). 'Anti-social behaviour' included prostitution, bearing an illegitimate child and sexual perversion. Having interracial sex would have been classed as sexual perversion by eugenicists. And women in relations with Black men, already labelled 'prostitutes', or 'of a very low type', were also designated mentally deficient, as too were their mixed-race children, given the assumption that mental deficiency was very largely inherited. Further, two of the forms of 'mental deficiency' outlined in the 1913 Act had been historically racialised from the late 18th century: 'idiots' was a term applied to 'savages' and 'imbeciles' to 'barbarians' (which included 'Mongols'), a central element in the justification of colonial domination and control of supposedly 'childlike', 'backward' non-white peoples (Bethencourt 2013, 78–82; Jarrett 2020, 212). Thus, well before Crookshank, and indeed before Down, the linkage of 'Mongolism' and 'imbecility' was already in place.

If not actually deemed 'mentally deficient', white women with mixed-race children were seen as part of 'The Social Problem Group', a term coined by the Mental Deficiency Committee of 1924–1929. Its Report declared:

> Though the large majority of its members are not so low grade mentally that they can be actually certified as mentally defective, it is possible that a not inconsiderable number of them might prove, if examined by expert and experienced medical practitioners, to be certifiable and subject to be placed under care and control.
>
> (quoted in Mallet 1931, 205)

The report commended eugenics highly. The term 'social problem group' was, as historian Greta Jones suggests, a medicalisation of the late nineteenth century term 'residuum' (Jones 1982, 723). In 1934, as one of its 'Aims and Objectives', the Eugenics Society took the 'Social Problem Group' (along with 'Race Mixture') as 'in need of further investigation': 'The Society seeks to determine if such a group can be distinguished and defined, and if any of its characteristics are of a hereditary nature' and it suggested that sterilisation would be particularly appropriate for this group (*Eugenics Review* 1934a, 134; *Eugenics Review* 1934b, 217). Further research is needed to discover whether any of the women in relationships

with Black men, or their mixed-race children, were affected by legislation on 'mental deficiency', but there seems a possibility, given the Act's remit. The legislation remained on the statute books until 1959.

### Exclusions from the Education System and from Britishness

Under the 1913 Act, schoolteachers were one of the groups assigned to assess the 'mental state' of children. From 1913 until well into the 1970s, teachers tended to categorise mixed-race and Black children as mentally inferior, 'dull' or backward. A reporter for *The Keys*, the journal of the civil rights organisation the League of Coloured Peoples, took issue with this in the 1930s, adamant that 'the general testimony of teachers and people who have had contact with coloured children is that they are as bright and intelligent as any' (Hare 1937, 25). Through interviews for my own research, I learned of how Babs Gibson Ward was one example of a mixed-race child categorised as mentally inferior. Babs was born in 1944 in East Anglia, England, to a married white woman and a Black American serviceman. She was given up to a Dr Barnardo's Home. To quote Babs on her school experience:

> Aged about six or seven there was a teacher in the school when I was in Sudbury, [Suffolk], he was obviously very racist and I hated this school and one day … he sat me at the back of the school classroom and he gave me a box of jigsaw pieces to play with and turned around and announced to the rest of the children that I didn't have the same ability to learn and so all I knew what to do was to play and they could be taught.
>
> (Bland 2019, 144)

The racist underestimation of Black and mixed-race children's intelligence unfortunately persisted in British schools for many years. The 1944 Education Act introduced a new term: 'Educationally Subnormal' or ESN. As more Black and Asian children started to attend British schools in the 1950s, 1960s and 1970s, after the arrival of their parents from the Caribbean and the Indian sub-continent, many of these children were classified as 'subnormal' and put in 'special' schools (as they were known euphemistically), namely ESN schools. In 1967, there was almost double the number of immigrant children in such schools than in mainstream schools, the vast majority Caribbean. Grenadian Bernard Coard, working as a London youth leader, wrote his influential book, whose title sums up his discovery: *How the West Indian Child Is Made Educationally Sub-Normal in the British School System* (1971). This galvanised Black parents to form a campaign group and set up Black supplementary schools (Andrews 2013, Shannon 2021). Why had these children been classified as subnormal? In addition to racist assumptions, the children often did not perform well in IQ tests (based on the idea of inherited intelligence),[3] which used culturally specific terms (for example, for those children coming from the Caribbean, the term 'tap' was unfamiliar; they were used to referring to a 'pipe'), their patois was not recognised as a language and Asian children

were frequently speaking English as a second language. Coard discovered that Black, Asian (and presumably mixed-race) children were four times more likely than white children to be wrongly placed in ESN schools.

Effectively excluded from the education system, mixed-race children were also excluded from a full 'belonging' to their country of birth. The Army Bureau of Public Affairs educational pamphlet *The Colour Problem as the American Sees It*, produced in 1942 for the British troops, announced:

> We need not go into a long discussion as to whether mixed marriages between white and coloured are good or bad. What is fairly obvious is that in our present society such unions are not considered desirable, since the children resulting from them are neither one thing nor another and are thus badly handicapped in the struggle for life.
>
> (Rose 2003, 261)

In 1946, the Secretary of the Marriage Guidance Council, Dr David Mace, warned a man who had written to his local newspaper (*Lancaster Daily Post*) for advice about interracial marriage that the children would 'suffer all the tension that is the fate of the "betwixt and between"' (quoted in Caballero and Aspinall 2018, 268). For mixed-race people to be labelled 'neither one thing nor another', or 'betwixt and between' had real implications for a (lack of) sense of belonging in a country that equated Britishness with 'whiteness'.

## Conclusion

Eugenicists' concern with 'national fitness' and the reduction or exclusion from the nation of the 'unfit', informed their desire to investigate the progeny of mixed couples. Mixed-race children were deemed to be innately disharmonious and to have inherited genetically the proclivity to certain diseases from their Black fathers. Their upbringing was condemned as immoral, degraded and chaotic, with interracial couples labelled deviant. Mixed families and their offspring carried the burden of pathologisation and condemnation, and in 'common-sense' thinking, an association, conscious or unconscious, of racial mixedness with disability and handicap. The term 'handicap' is ambiguous in its meaning, as it can appear to apply both to individual affliction and to social disadvantage. When the Barnardo's matron cited at the beginning of this chapter writes that Phil 'appears intelligent … But is half negro which may be a handicap', it appeared to be a reference to societal attitudes. Yet she cites his being 'half-caste' under 'other physical defects or maladies', implying impairment (Frampton 2004, 82, 58). This is explicit in the Liverpool University Settlement's declaration that 'mixed parentage' was 'a handicap comparable to physical deformity' (King and King 1938, 132).

As historian Laura Tabili points out: 'the disabilities attached to race were not biological, hereditary, eugenic, or cultural, but instead economic, political, historical, imperial and gendered' (Tabili 1996, 190). Historian Coreen

McGuire notes that: 'when we read studies that purport to demonstrate a biological basis for inequality, it is worth thinking about the underlying motivations for classifying their subjects into different groups' (McGuire 2020, 46). To geneticist Adam Rutherford: 'those criteria that sat in the foundations of eugenics were not absolute metrics of human worth but were often arbitrary value judgments issued by the powerful. Undesirable, defective, disabled – these are political terms, which change with time, whim and culture' (Rutherford 2022, 249).

Journalist Natalie Morris reflects on the social impact of mixedness: 'To be mixed is to challenge the limited categories of race from the moment you are born. So it is no wonder that we have been subjected to both stigmatisation and disproportionate celebration at different points in history'. She cites Caballero and Aspinall's important insight: invoking mixed people's exceptionality and superiority, as some people do today, 'raises the spectre of recreating a biologically determined racial hierarchy' (Morris 2021, 485, 493). Caballero and Aspinall end their wonderful book by hoping that their historical account of mixed people in Britain has 'helped illustrate how racially mixed people … are "neither pathological nor perfect"' (Caballero and Aspinall 2018, 293). Had the British mixed-race children of the 1920s to 1950s been understood in such terms they are unlikely to have been so scrutinised and so negatively labelled.

## Notes

1 Thanks for very helpful comments from Chamion Caballero and my two writing groups: the History Girls and the Emmets.

2 See *Lancet* 23 January, 6 November, 13 November 1926; *BMJ* 7 November, 4 December 1926, 1 January 1927.

3 The 'twins study' research of eugenicist and psychologist Cyril Burt, used to validate IQ tests, was exposed as fraudulent by medical correspondent Oliver Gillie in the *Sunday Times* 25 October 1973.

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# 11 'The Obvious Dangers of this Relationship'

## Interracialized Relationships between Underage Swiss Women and Italian Men and the Implementation of the Swiss Child Protection Laws (1960–1980)

*Mira Ducommun*

### Introduction

Nations reproduce themselves culturally and biologically through the family (Moret, Andrikopoulos and Dahinden 2021). Joe Turner argues that 'the family is the site for the continuity of labour, the nation and imperial civilization' (2020, 11). Regulating society thus often means regulating the family (Bonjour and Block 2016). This gives rise to the state's interest in controlling and managing how children grow up to become the 'adults of tomorrow' (Roux 2014). A specific measure of state intervention in families is the placement of children and adolescents in foster families or homes. As historical studies demonstrate, during the 20th century, these measures mostly concerned socially marginalized families, and gender-specific arguments played a crucial role in the assessments of both parents and their children (Hauss 2008; Vehkalahti 2017). More specifically, throughout Western Europe, young women were placed in educational facilities and homes due to their perceived deviant sexuality (Ericsson and Jon 2006; Germann 2014; Garðarsdóttir 2020). In Switzerland during the 1960s and 1970s, this assessment of female sexuality started to become intertwined with xenophobic discourses, as young women were increasingly in the focus of the authorities for having engaged in a relationship or sexual activities with non-Swiss men (Germann 2018). However, little is known regarding how these decisions came about. In this chapter, I aim to untangle the bureaucratic decision-making process that led to these decisions as well as the roles that intersectional categorizations of nation, race, and gender played in them.

Switzerland – like many other European countries – saw an upsurge of nationalist and xenophobic discourses in the 1960s and 1970s (Skenderovic and D'Amato 2008). This period was marked by political debates charged with the right-wing buzzword of *Überfremdung* (overforeignization). While these discourses date back to the 1920s (Kury 2003), they regained momentum in the 1960s (Skenderovic and D'Amato 2008). In the context of rising numbers of foreign workers, both trade unions and right-wing populist movements constructed

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a cultural, economic, and political threat to Switzerland and 'Swiss culture' (Jain 2018, 92). The political debates were accompanied by racializing ascriptions against 'others' and 'foreigners', on the basis of which their proponents saw the 'uniqueness of the Swiss' to be under threat (Maiolino 2012). This is especially striking since Switzerland – due to its federal structure, four language regions, and two dominant religious groups – has often been considered inherently heterogeneous (Wimmer 2011).

During this time, the preferred figures against which to construe this social imaginary were 'the Italians' (Falk 2022). In the 1960s and 1970s, Italian citizens constituted the largest group of foreigners living in Switzerland.[1] Through racist references to 'ancestry and external characteristics such as skin and hair colour' (Espahangizi 2020, 3), they were depicted as inherently different – as *Ausländer* (foreigners) (Maiolino 2012). Crucially, these discourses also made use of patriarchal, gendered, and racialized narratives, arguing that Swiss women needed to be 'protected' from Italian immigrants (Fischer and Dahinden 2017). However, according to marriage statistics from 1970, for instance, only 3% of all marriages were between Italian men and Swiss women (Ritzmann-Blickenstorfer 1996).

In this chapter, I aim to explore whether and how these narratives and discourses reverberated in state measures concerning families and particularly young women. At the heart of this chapter lies a close reading of a decision-making process that eventually led to the placement of a young Swiss woman in an educational home after she had engaged in an intimate relationship with 'an Italian'. I analyse this placement process, drawing on intersectional feminist perspectives on the relationship between the nation, gender, and race (Yuval-Davis 1997; Collins 1998), which I combine with insights derived from studies on the anthropology of the state (Trouillot 2001). Including these perspectives in the analysis highlights how the control of supposedly 'mixed' relationships is anchored in the intersectional categorization of the 'unintelligent Swiss woman', the 'incapable parents', and the 'dangerous Italian male' as well as the bureaucratic logics and processes from which these categories emerged and became manifest in.

In doing so, the chapter adds to the discussion of the regulation of interracialized relationships on two levels: First, while scholarship on 'mixed relationships' or 'mixture' has mostly focused on marriage or prostitution (De Hart 2019b), this chapter sheds light on the regulation of these relationships through family and child protection policies. Second, this chapter demonstrates how the intersectional construction of a 'dangerous' relationship emerges from and within the concrete practices of implementing a specific legal framework – in this case, the Swiss 'child protection measures'.

The remainder of this chapter is structured as follows: After a discussion of my theoretical and analytical framework, I provide some more contextual information on child placements in Switzerland. Then, I present the methods and data that I worked with, before undertaking an in-depth discussion of my case study. In conclusion, I offer avenues for future research.

**Intersectionality and the Control of Female Sexuality**

As Nira Yuval-Davis demonstrates in her seminal book on gender and nation, women are widely considered the 'reproducers of the nation' (1997, 4). By producing 'the population for the national "family" or nation-state' (Collins 1998, 75), the bodies and sexuality of women come into focus – opening up avenues for policing the relationships that women (and girls) engage in. This has led to a wide variety of measures for addressing the sexuality of women, which have been accentuated even further by racial and class hierarchies (De Hart 2006; Mottier 2008).

The contributions of this volume illustrate that state regulations of 'interracialized intimacies' (Haritaworn 2012) are prevalent across various geographical and historical contexts. They take the form of explicit legal regulations of marriages (De Hart 2006; Moret, Andrikopoulos, and Dahinden 2021); however, they also become apparent in more indirect regulations, such as housing and immigration policies (Mustafa 2023). The regulation of both interracialized and binational relationships also becomes visible in state measures towards families and their children (Vehkalahti 2017; Garðarsdóttir 2020). The gendered aspect of this is striking: State interventions in families that occur due to the perceived deviant sexual relationships of their children with racialized 'others' and foreigners mainly concerned daughters (Vehkalahti 2017; Germann 2018; Garðarsdóttir 2020). As Bland demonstrates 'anxiety about "mixed" relationships' were often 'asymmetrical along lines of race and gender' (2005, 31).

Thus, the problematization of supposedly 'mixed' relationships lies in both gender-specific attributions towards the partners as well as in their racialization (i.e., the assumption that they belong to inherently different groups and entities; De Hart 2019a). Like the construction of race itself, interracialized intimacies depend on social construction processes that change over time and space (De Hart 2019a; Mustafa 2023; see also Jones 2025). Regarding these processes in Western Europe in particular, nationality often serves as a 'placeholder' (Lutz 2018, 141) for race (see also Jain 2018; Zambelli 2023). While also considered an administrative category, depending on the social context, nationality is used and referred to as a racial category (Anthias and Yuval-Davis 1993). The racialization of Italians, as already described in the introduction, is emblematic of this (Maiolino 2012; Lavanchy 2015; Zambelli 2023). In Switzerland, this interplay between race and nation also becomes visible in the ethno-nationalist discourses that underlie the Swiss assimilationist citizenship regime (Wicker 2004), and also in the fact that nationality is still transmitted through the principle of descent (Kury 2003; Argast 2009).

An intersectional perspective (Crenshaw 1991; Collins 1998) is necessary for grasping the complex processes through which intimate relationships are assessed and categorized and also for analyzing how they are problematized, calling for state action. Intersectionality reminds us that there is no such thing as a 'genuine core' (Walgenbach 2007, 61) to categories such as gender, race, and class. Rather, they are always intertwined with other categories (dos Santos Pinto et al. 2022). In this sense, categories of difference, such as race, gender, and nationality,

are often co-constructed with other dimensions of difference (Khazaei 2018). As Crawley and Skleparis argue, we should thus investigate 'the process by which [the categories] are constructed and the political purpose(s) that they serve' (2018, 60). I propose doing so by examining the decision-making processes that lead to state intervention in families. As I will demonstrate in the next section, the perspective of the anthropology of the state is particularly insightful for this endeavour.

## Intersecting Categories in Street-Level Bureaucrats' Discretionary Practices

Findings derived from the anthropology of the state suggest that in order to understand the reality of the state one must examine the practices of those who are responsible for the tasks and representation of the state (Trouillot 2001; Brodkin 2012). Drawing on the work of Michael Lipsky (2010, xi), they are often referred to as 'street-level bureaucrats', namely

> the schools, police and welfare departments, lower courts, legal service offices, and other agencies whose workers interact with and have wide discretion over the dispensation of benefits or the allocation of public sanctions.
> (Lipsky 2010, p. xi)

Street-level bureaucrats make decisions that may alter the life and situation of the persons being addressed (Hupe and Hill 2007, 283; Lipsky 2010; Miaz and Achermann 2021, 4). It is through their actions that policies – whether they are migration laws, welfare policies, or other forms of state regulation – become manifest and effective for the people affected by them (Brodkin 2012). Through their implementation law comes to life (Moore 1978; Calavita 2010). Investigating policies from this perspective thus allows one to ask what members of authorities and other actors have done 'in the name of policy' (Wedel et al. 2005, 35).

A crucial focal point for examining the implementation of policies lies in the analysis of discretion (Brodkin 2012; Baer and Elsuni 2017). As legal texts are often neither exhaustive nor formulated for all eventualities, decision-makers must apply the existing law to often complex situations (Calavita 2010; Lipsky 2010; Miaz and Achermann 2021). In doing so, members of public authorities do not act in a vacuum. Rather, legal frameworks are applied through the complex interplay of different actors (Hawkins 2003; Halliday et al. 2009; Miaz and Achermann 2021). More specifically, decision-making authorities often depend on other actors who produce and provide the knowledge they require for their decisions and their legitimacy (Hawkins 2003; Rosset 2019). Considering the decision-making process, I thus follow Keith Hawkins in understanding decisions as 'serial decision-making': 'What is described as a "decision" finally reached is sometimes nothing more than a ratification of an earlier decision or set of decisions made in the handling of a case' (2003, 197).

Based on these insights, I investigate the intersectional dynamics at play in placement decisions with a focus on both the discretionary practices of street-level

bureaucrats and the interplay of different actors, narratives, and discourses in a decision-making process. According to Jenkins,

> [the] discretionary nature […] permits the inevitable entry into the process, whether explicitly or implicitly, of a range of social categorizations which in principle should be irrelevant (gender, 'race'/ethnicity, age, sexuality, models of respectability, and so on).
>
> (Jenkins 2000, 18)

It is thus through these relational and discretionary practices that discriminatory attributions and stigmatising categories can find their way into official decisions (Baer and Elsuni 2017; Achermann 2018). However, it is also important to note that laws themselves are not neutral texts and that family policies rather reflect social imaginaries about the 'good' family (Baer and Elsuni 2017; Purtschert 2019). They establish the circumstances under which the state will intervene in families. The next section provides some insights about how these processes played out in Swiss civil law during the 1960s and 1970s.

## Legal Framework and the Swiss Interventionist State

In Switzerland during the 1960s and 1970s, the authorities responsible for deciding on placements according to the Swiss civil law were guardianship authorities and legal guardians (Schoch et al. 2020). Based on the Swiss Civil Code (SCC), two avenues existed for the guardianship authorities to decide on placements: First, until the revision of the law in 1978, all children whose parents were not married upon their birth were automatically put under *Beistandschaft* (tutelage).[2] The *Beistände* (tutors) were to represent the 'interests' of the child in paternity proceedings or regarding the payment of aliments.[3] In the majority of cases, this tutelage was extended to a *Vormundschaft* (legal guardianship) either directly or shortly after the birth of the child.[4] This led to a situation where unmarried mothers and their children were observed systematically by the responsible authorities, which in turn resulted in major discrimination towards families that did not correspond to the patriarchal and respectable heteronormative family norm of the time (Droux and Czáka 2018). In their position as legal guardians, the latter could propose placing the child in a foster family or an educational home – regardless of whether the parents consented to it or not. Formally, however, the guardianship authority had to approve the measure.[5] Second, the local guardianship authorities themselves could decide to intervene in a family and place their children in a foster family or an educational home, even if they were under custody of one or both parents. For this purpose, they could refer to one of the following three provisions of the 'child protection measures': Minor interventions such as an *Erziehungsaufsicht* (educational supervision); placement, if the children were considered 'endangered' or 'neglected'; or the withdrawal of parental authority.[6] These child protection measures could be applied to all underage persons – ranging from newborns to 19-year-olds, as until 1996, the age of majority was set

at 20 years (Dubler 2009). These measures thus concerned babies, children, and teenagers alike.

Historically, the introduction of the SCC in 1912 and with it the child protection measures marked a decisive change in the Swiss welfare state towards a 'strengthening of the intervention state' (Germann 2014, 5). For the first time in Swiss history, the state's responsibility for the upbringing of children was explicitly enshrined at the federal level (Schoch et al. 2020). The introduction of the child protection measures came at a time where the perceptions of childhood were experiencing a shift; that is, throughout Western Europe, children were increasingly viewed as the 'synecdoche for a country's future' (Moeller 2002, 39), which emphasized their well-being and upbringing. For many authors, the child protection measures nevertheless had a certain ambiguity: What was to be protected were both the children *and* society from supposedly harmful influences (Lengwiler et al. 2013; Droux and Czáka 2018; Gabriel, Hauss, and Lengwiler 2018). One such influence was considered the problematized sexuality of underage women. I demonstrate this in my empirical discussion, which follows the presentation of my research methodology in the next section.

## Methods and Data

In this chapter, I focus on an analysis of various archival data that I collected from different archives in the canton of Bern between 2018 and 2021 as part of a broader study conducted for my PhD thesis.[7] Following the principles of Grounded Theory (Strauss and Corbin 1996), the data collection process was iterative. I started in the archives of four different institutions, approaching the material inductively without prestructuring considerations. Two of the institutions were educational homes that admitted boys, while two were educational homes for girls.[8] The *Personendossiers* (personal files) often provided insights into the arguments and reasons that were given for the children's placement in the home. I then 'followed' these placement processes back to the city and communal archives to retrace the decision-making process.[9] The city and communal archives hold the files of the local guardianship authorities, including the minutes of the authority and, in some cases, the case files of the persons addressed. Moreover, the files of the welfare authorities are stored in some archives, in which I also had the opportunity to contrast the placement decisions for the home placements with other decisions made by the same authority.

The collected data were analysed continuously through a coding and memo-writing process (Strauss and Corbin 1996; Charmaz 2006), for which I used the qualitative coding software MaxQDA. Starting from the idea that placement decisions were the result of 'serial decision-making' (Hawkins 2003), I not only considered the final decisions of the guardianship authority but also analysed reports, correspondences, and other documents from other actors and authorities. My aim was to understand placements as a process, from the first articulation of a perceived problem to the placement decision and its eventual revocation. In doing so, I mobilized two central Grounded Theory principles – namely the constant *contrasting of data* and the *asking of questions to the data* (Strauss and Corbin 1996). I considered

the different actors' perspectives within a placement process as well as contrasted the different placement processes with each other.

The following discussion of one specific case of child placement is the result of this continuous analytical condensation. It is based on the analysis of the personal files concerning a young woman, which I retrieved from two archives. The analysed material consists of the archival data of the educational home in which the young woman was placed (retrieved from the state archive of the canton of Bern)[10] and the guardianship authority's file on her (retrieved from the city archive of Bienne).[11] As I aim to demonstrate, the analysis of this case provides exemplary insights into the intertwined practices and discourses through which young women, their intimate partners, and their parents were assessed and categorized within and through the processes that led towards a placement in the 1960s and 1970s in Switzerland.

## 'Dangerous' Relationships

While examining the files of the guardianship authorities and those in the archives of the educational homes, I came across various arguments that had been mobilized and the various pathways that had led to the placement of children and youth.[12] One particular aspect quickly became evident: While the archival files of the girls' homes revealed how invested the authorities were in controlling and disciplining them for their sexual activities, I could not trace the same logic where boys were concerned. In line with international findings (Ericsson and Jon 2006; Vehkalahti 2017), some authorities were concerned with the sexuality of young men, especially when they were accused of homosexual acts. However, compared with the arguments in the girls' home admissions, they remained rather scarce, which underlines the gendered dynamic that informed the problematization of sexuality.

Furthermore, throughout the archival documents, I did not find a single case of a young Swiss man placed in an institution after engaging in an intimate relationship with an Italian – or any other non-Swiss woman for that matter. It was always the other way around: Young Swiss women were judged for engaging in 'improper' sexual relations, which were condemned even more strongly if they had engaged in such relations with non-Swiss men. In an admission form for one of the two girls' homes, for example, the guardianship authority stated that a 14-year-old girl had 'run away from home to meet Italians'.[13] In a different admission to the same home, another guardianship authority argued that a 13-year-old girl was 'sexually endangered' since she was 'looking for contact with Italians at every occasion'.[14] In yet another case, a 15-year-old girl was admitted after having had 'intimate relations with numerous men, mainly Italians'.[15] All of these decisions occurred between 1967 and 1973 – at the height of the political debate on 'overforeignisation'.

How did the authorities come to admit the concerned girls to these institutions? To unpack the complex intersectional dynamics at play and the interwoven bureaucratic processes that led to the placements, I focus on one specific case: the placement of Anna J.[16] I argue that providing a close reading of this decision-making process enables one to disentangle both the intersecting categorizations and the contexts in which they are situated (see Brodkin 2012). Furthermore, the placement

process that concerned Anna is not only exemplary regarding the reason why she was admitted to an educational home. As we will see, it is also illustrative of the different dynamics and logics that lie at the heart of placement processes per se.

***The Placement Process of Anna J.***

Anna J. was born in 1954 to an unmarried Swiss woman. She was first placed under tutelage and then shortly afterwards under guardianship. From then on, the assigned (male) guardian had the task of monitoring the circumstances in the family and regularly reporting to the guardianship authority on Anna's situation. Throughout the years he served as her guardian, he compiled the file that I accessed during my research in the Bienne city archive. It tells the story of the many interventions that shaped Anna's administrative biography – how she was placed in different foster families and homes during the first years of her childhood and how in 1961, at the age of 7, she moved back in with her mother and stepfather.

While reports by the guardian in the years after Anna returned to her family are infrequent, they intensified in 1970, when she was 15 years old. In February 1970, Anna ran away with a female friend from school. After the pair were reported missing, the police began an investigation to find them. Finally, the two girls were found by the police in Basel, a city in the northwest of Switzerland. According to the police, they were found in a 'room of [male] Italians' whom they had met at the city's train station. Furthermore, and even more importantly for the guardian, Anna seemed to have had sexual intercourse with one of these men. This incident led to a variety of assessments from different actors, which I discuss in more detail in the following paragraphs.

After being brought back to Bienne, Anna was questioned by a female police assistant. In her report, she stated that Anna 'admits to having been used by the Italian in Basel'. Interestingly, instead of inquiring whether any violence had been involved – as the phrase 'having been used' might suggest – she proceeded to question Anna about whether she had had other intimate relationships in the past. Even though she did not inquire explicitly about prostitution, it seems that the police assistant was first and foremost interested in Anna's sexual behavior and whether she would engage in – what at the time were considered – 'immoral relationships'.

After the police intervention, it seemed already clear to the guardian that Anna could not return to her family. He admitted her to the *city youth home* – a temporary admission facility that was intended to host 'endangered' youths while deciding where they should be placed. The goal of Anna's stay at the youth home was to have her assessed and, ultimately, to decide what the consequences of this incident should be. The guardian took Anna to a gynaecologist to have her examined for a possible pregnancy as well as sexually transmitted diseases (STDs). This highlights what scholars have demonstrated for various contexts, namely that women having extra-marital sex were often suspected to be in prostitution and, more broadly, that female sexuality is the object of intrusive and stigmatizing societal control (Skeggs 1997; Zambelli 2023). These assumptions are even more striking as Anna was only 15 years old at the time, which could instead have opened considerations of her

vulnerability. Moreover, the STD test is reminiscent of how 'deviant' sexuality and (alleged) prostitution were perceived and regulated in Switzerland and beyond (see, e.g., Ericsson and Jon 2006; Zambelli 2023). Sexual intercourse – especially when it contradicted patriarchal norms of premarital chastity and was with men considered 'foreign' – was seen as 'dirty' and 'unhealthy'. It thus seems as though the guardian sought to investigate whether the young woman's (national) virtue had been 'spoiled' from the intercourse with a 'foreign man'. This invokes both imaginaries of (white) purity and respectability (Collins 1998; Lavanchy 2015).

In addition, the suspicion of prostitution was also evident in the assessment of Anna's parents: After some weeks in the youth home, the youth welfare service of Bienne addressed Anna's guardian.[17] The service had heard that Anna's parents had contacted 'the Italian' in Basel and that they had arranged for Anna and him to meet:

> The Italian with whom [Anna] had sexual intercourse in Basel occasionally stayed with the [J.] family and visited [Anna] in Bern with them on Sundays. We consider these activities of the parents [J.] to be *Zuhälterei* [prostitution].

Although there was no indication of money being involved, the facilitation of contact between Anna and the Italian man was clearly condemned, as were the parental capacities of her mother and stepfather. The report of the youth welfare service further illuminates the broad monitoring of the parents' actions and how the accusation of (female) prostitution found its way into the bureaucratic process from yet another angle.

In addition to the clinical examinations and condemnation of her parents, the guardian submitted Anna to an assessment through an educational counsellor.[18] The counsellor's report presented to the guardian what can be considered an all-round view of the life and situation of the young woman and her family: It started with an anamnesis on her birth and the first years of her life, and went on to narrate how she had spent several years in an educational home and lived in a foster family for a while. The report considered how she performed at school and whether she 'obeyed' her parents. Furthermore, the counsellor included his own observations: 'During the examination, the patient showed little capacity to communicate, the basic mood was dull and uninterested. Her facial expression was not very intelligent, her speech undifferentiated'. This impression was complemented with both an intelligence test and an electroencephalogram.[19] Based on these assessments, the educational counsellor argued that 'brain damage' was likely and that her intelligence was 'below average', which reflects eugenic discourses that linked bodily assessments with presumed 'deviant' behavior (Mottier 2008; see also Bland 2025). Referring to Anna's alleged relation to the Italian man from Basel, the educational counsellor stated the following:

> The mother has made contact with [Anna's] Italian boyfriend and intends to continue supporting this relationship. She does not realize or does not want to realize the obvious dangers of the relationship. Basically, she would probably be happy if [Anna] got married as soon as possible.

Even though the terms 'boyfriend' and 'relationship' were now used, thus marking a difference from the accusation of prostitution, the educational counsellor evidently strictly condemned the relationship and with it the actions of Anna's mother.

The guardian's report is illustrative of how psychiatric and moral diagnoses as well as gendered and racialized categorizations overlapped in this process (see also Bühler and Ducommun 2023). In combining seemingly natural scientific test results with the moral diagnosis of the 'obvious dangers' of the relationship, its condemnation is charged with what was seen as expert knowledge at the time. The educational counsellor thus provided the necessary information and scientific legitimation for the guardian to decide that Anna should be removed from her family.

In addition to the rigorous assessment of Anna's sexuality as well as her cognitive abilities, the reference to the young man as 'the Italian' is striking. The documents produced during these months of assessments and negotiation – by the police, the youth welfare service, the guardian, and the educational counsellor – are haunted by this racialized and gendered figure. This is all the more remarkable because the authorities could have also referred to the fact that the man was older than Anna, who was still underage, and that he had had sexual intercourse with her after knowing her for only a short time. However, to put forward their respective arguments against the relationship, it seemed sufficient to simply refer to the man as 'the Italian'. Apparently, the gendered racialization of the man trumped any other consideration – or subsumed it.

In this process, the nationality of the man became more than a mere reference to his presumed national belonging – it also became a metaphor (Foroutan 2016) for the 'dangers' that he and the relationship posed to Anna and, more crucially, to society and the nation. This also explains why marriage was not considered an option in this case. It is in the naturalization, homogenization, and hierarchization of this national category (see Hummrich and Terstegen 2020) that I see the racialized imaginaries of the overforeignization discourses reverberate. The momentous classification of the relationship as an 'obvious danger' was based on the intersection of nation, race, and gender (Anthias and Yuval-Davis 1993) but also informed by disability and class (Ericsson and Jon 2006; Mottier 2008).

Eventually, the direct consequences had to be borne by Anna and her family. Both the guardian and the educational counsellor argued for Anna's permanent placement in an educational home. Taking a variety of arguments into consideration – namely the situation in the family as 'never having been ideal', Anna's poor performance at school, and the fact that she had run away and slept with 'an Italian' – the guardianship authority reached the conclusion that

> [the parents] blatantly failed by contacting the Italian in Basel, accommodating him in Bienne and driving with him to Bern and bringing him together with [Anna] without the knowledge of the [educational] home's management and guardian. They believed they had to promote and 'legalize' the relationship so that a marriage would be possible in the foreseeable future. With this behaviour, the couple proves their incompetence as educators.

With this argumentation, Anna's placement in the girls' educational home was decided – and could not legally be revoked unless the guardianship authority approved of it. Ultimately, this highlights two critical aspects: First, the decision of the guardianship authority underlines the ascribed tasks of the family towards their underage daughter – namely that 'proper' parenting involves controlling their daughter's sexual relations, including by preventing her from having 'improper' intimate relationships with racialized others (see Zambelli 2025). Second, judging the parents as incapable, the guardianship authority saw the need to intervene as legitimized: If parents did not control their daughters, then state actors were 'compelled' to intervene. This demonstrates that, in fact, state actors seemed to transpose what they considered to be parental duties to their own repertoire of governing. Notions of 'good parenting' were translated into notions of 'good governing' – which ultimately resulted in the regulation of interracialized relationships through placement decisions.

## Conclusion

In this chapter, I set out to investigate the regulation of interracialized intimacies in the field of family policies that concerned underage women and their families in the Swiss canton of Bern. Even though the SCC did not explicitly mandate the control of the sexual relationships of young women through child protection measures, representatives of the state indeed did so in placement cases such as that of Anna J.

Based on the close reading of the placement process that concerned Anna J., this chapter adds to the discussion on the many ways in which relationships were interracialized, problematized, and regulated. To understand these practices, I argue that it is necessary to dive into the complex processes through which legal frameworks such as child protection laws were implemented. In Anna's placement process, different actors and their expert status provided the necessary grounds for the intersectional construction of the problematized relationship between a Swiss woman deemed to have 'lesser intelligence' and 'the Italian' as well as the disqualification of her parents. These assessments and categorizations were situationally produced and made effective through the 'serial decision-making' (Hawkins 2003) of the different actors involved, which allowed the racialized discourses on overforeignization of the time to enter the practice of child placements.

The analysis of these decision-making processes has further highlighted how the interracialization of intimate relationships is intertwined with other categories, especially class and disability (see also Bland 2025). Thus, examining what can be considered micro-practices of street-level bureaucracies allows us to shed light on the question of how larger dimensions of social inequality and power operate and reproduce (see also Brodkin 2012). The present discussion underlines how deeply the governance of families and the governance of the nation were intertwined during the 1960s and 1970s. To further this conversation, I call for a continued analysis of family policies, including how they were implemented and, ultimately, how their implementation shaped the nation.

## Notes

1 In 1970, 54% of foreign residents in Switzerland were Italian citizens (Wanner 2001).
2 Art. 311 para. 1 of the SSC of 10th September 1907. Apart from the SCC, placements could also be ordered on the basis of criminal law – or be decided by the parents themselves (see also Lengwiler et al. 2013).
3 Art. 311 para. 1 SCC.
4 Art. 311 para. 2 SCC.
5 Art. 421 SCC.
6 Respectively, Arts. 283, 284, and 285 SCC.
7 Through a multi-perspective approach, my PhD project reconstructed 170 placement processes between 1960 and 1980 in the cantons of Bern and Ticino, as part of a wider research project titled 'The "Good Family": Normality and its Vicissitudes in Swiss Welfare after 1950' conducted within the National Research Program (NRP) 76 'Welfare and Coercion'. The project was funded by the Swiss National Science Foundation (SNF) (project number 177391). Additionally, my PhD was funded by a Doc.CH grant from the SNF (project number 199877). This chapter is based on chapter 4.4 of my thesis (Ducommun 2023). The NRP project was cleared by the Ethics Committee of the canton of Bern.
8 These were *Schulheim Aarwangen* and *Schulheim Ried* for boys and *Mädchenheim Kehrsatz* and *Mädchenheim Viktoria-Stiftung* for girls. Their archives are part of the state archive of the canton of Bern, where educational facilities and homes were often segregated by gender in the 1960s and 1970s (Germann 2018).
9 This led me to conduct research in the city archives of Bern, Thun, Bienne, and Langenthal as well as in the communal archives of Grindelwald, Köniz, Langnau im Emmental, and Unterseen.
10 State archive of the canton of Bern (StABE), Verein 17.102, file 'Anna J'.
11 City archive of Bienne (SABB), file 'Anna J'.
12 Here, I am unable to go into detail about the many reasons and arguments mobilized for deciding on a placement in the 1960s and 1970s. For an overview, see Ducommun (2023).
13 StABE, BB 02.10.24, Zöglinge B, file AK. All of the cited archival documents were in German, and I translated them into English.
14 StABE, BB 02.10.25, Zöglinge C-E, file AB.
15 StABE, Verein 17.106, file BC.
16 All cited names are pseudonyms.
17 In addition to the guardianship authorities, the welfare authorities in the canton of Bern were central actors in placement processes (see Ducommun 2023).
18 During the 1960s and 1970s, the Bernese *Erziehungsberatung* (educational council service) played a crucial role in assessing children and counselling families, schools, and authorities on children's education and upbringing (Bühler and Ducommun 2023).
19 Electroencephalography is a medical method that measures the electrical activity in the brain and was often used to determine the presence of epilepsy (see Hafner 2022). In those years, in the canton of Bern, it was widely used to assess children's presumed 'deviance'.

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# Part IV

# Migration Law

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# 12 Regulating Interracialized Intimacies in 1950s–1960s Britain through Deportation and Immigration Policies

*Nawal Mustafa*

## Introduction

This chapter explores the role that immigration and deportation policies played in the 'regulation' (Thompson 2009) of 'interracialised' (Haritaworn 2012) intimacies in 1950s–1960s Britain. By enabling the deportation of racialized British subjects, the British state aimed to uphold its established racial order, which it perceived to be threatened by their presence and by their engagement in intimate relationships across the colour line. Therefore, the chapter will show how, during this period, the British government explored the feasibility of adopting various legislative avenues that would grant the Home Office powers to restrict the number of racialized immigrants residing on Britain's soil.

Stuart Hall and Doreen Massey's concept of conjunctural analysis and moral panics (Hall and Massey 2010) are useful to understand the social and political context of the time. Stuart Hall defined 'conjuncture' as 'a period during which the different social, political, economic, and ideological contradictions that are at work in society come together to give it a specific and distinctive shape' (Hall and Massey 2010, 57). I suggest that the moral panics surrounding the visibility of interracialized relationships in post-WWII Britain, the implementation of immigration laws, and deportation calls should all be viewed as constituting a conjuncture in the broader context of Britain's imperial history, within which the management of interracialized relationships consistently occupied a significant role (Tabili 1996; Bland 2005). Therefore, in this chapter, I analyse the historical conditions under which deportation legislation was developed, showing its relationship to the regulation of interracialized relationships. I place these developments in a complex emerging national context where British authorities had to balance a wide range of contradicting political, economic, and social interests. I argue that one of the ways in which British authorities achieved this balancing act was by creating and applying deportation laws through fragmented and vague bureaucratic processes informed by racialized and sexualized categories.

This chapter is based on my doctoral dissertation,[1] for which I conducted extensive archival research (Mustafa 2023). More specifically, I draw from my analysis of the conclusions and reference materials of the British Cabinet, materials from the closed discussions of the ministerial Working Party on Colonial

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Immigrants monitoring the immigration of Black colonial citizens (hereinafter 'Working Party'), and the racial and societal tensions associated with the latter's arrival (Spencer 2002). The Working Party consisted of the Ministers of Labour and Health; the Secretaries of State for the Colonies, Scotland, and Commonwealth Relations, and the Attorney-General, with the Home Secretary as its chair.[2] It reported directly to the Cabinet, and it held significant influence on the development of its immigration and deportation policies. Its minutes and memoranda show the various positions present within the British government and the justifications that politicians used in favour or against deportation legislation. I concentrate on sources produced throughout 1949 to 1961 because the deliberations made by the Cabinet in this period played a crucial role in shaping later legislative developments.

This chapter is structured as follows. First, I provide some theoretical and historical elements necessary to contextualize the tensions characterising post-WWII Britain regarding citizens' rights, national identity, and belonging, with a particular focus on the role that the increased visibility of interracialized intimacies played within these. Next, I discuss the centrality of the sexist and racist construction of the Black male 'pimp' and the White female prostitute in the policy-making debates of the time, and in the discussion and development of numerous laws. Subsequently, I discuss how the government pursued its aspirations to deport 'undesirable' racialized citizens first through the development of an ad hoc Deportation Bill 1959 and subsequently, by folding these aspirations into laws restricting their rights to settle into Britain, starting from the Commonwealth Immigrants Act 1962.

## Britain's Racialized Boundaries of Belonging

Nandita Sharma explains that the goal of imperial states was to enfold as many subjects and territories as possible within their expanding boundaries (Sharma 2020). While imperial states did regulate the mobility of people living in the territories they ruled over, the logic behind such measures was not to prevent their immigration towards the 'motherland,' but rather their emigration from the territories of the empire. In order to facilitate such containment, a range of systems of movement were created within the empire (Sharma 2020). By contrast, nation states, such as the British nation emerging after WWII, are characterized by a 'logic of constraint,' where immigration controls and borders have become coterminous with national sovereignty (Mongia 2018). Categories such as 'migrants,' 'citizens,' 'subjects,' and 'aliens' demarcate the distinction between those who are imagined and made to belong to a territory, and are endowed with a set of rights accordingly, and those who can be and are placed outside of the borders of the nation, who are subjected to constrained mobility and rights (El-Enany 2020; Sharma 2020). Within this context, deportation functions as an instrument in service of enforcing and reproducing the distinction between citizens and non-citizens (Walters 2002; Tambakaki 2010). Therefore, citizenship rights, entry restrictions and deportations are crucial elements in establishing and sustaining the nation as a collective entity representing those belonging to it, and in enforcing their distinction from those who do not.

The increased immigration from the colonies in the 1950s produced the opportunity for the British government to rethink who belonged to the newly emerging British nation (Anderson 2013). During this time, politicians started constructing and defining British national identity as juxtaposed to the colonial 'other.' In this new articulation of the nation state and its citizens, 'race' became a central feature, with concerns about immigrants' employment and housing in Britain unfolding alongside increasing anxieties about the increased visibility of interracialized relationships, and especially those between White women and Black men.

'Miscegenation' or 'race mixing' was a recurring theme in local and national political debates and the media (Fryer 1984; Malik 2001; Spencer 2002; Ramdin 2017), revealing the widespread concern about Britain becoming 'a coffee-coloured nation' (Hiro 1992; Bowling and Phillips 2002; Brooke 2017). The image of a 'mixed race' society functioned as a symbol, a warning and foreboding of what Britain should not become as a nation. The danger that interracialized relationships were seen to pose, therefore, was not only their visible, contingent trespassing of 'the colour line,' but also their longer-term unsettling of the reproduction of the white British nation through the blurring of the boundaries between purportedly discreet racial categories. As this chapter will show, this view of interracialized relationships as dangerous and undesirable is revealed in how the British government recurrently justified the deportation of men from 'undesirable' or 'suspect' communities based on their sexual conduct.

Already in 1950, the British Cabinet had asked the Prime Minister Clement Attlee to prepare a review regarding possible legislation to restrict the immigration of Black British people to the United Kingdom, and the Working Party was purposefully appointed to carry out this review. In its first report, produced in 1951, the Working Party presented its views on three possible legal routes through which 'the entry of British subjects into the United Kingdom could be controlled.'[3] These were: entry restrictions; the repatriation of British stowaways, and a deportation Bill – the latter having their preference. The report's authors also classified deportable British subjects into distinct groups, including individuals dependent on social welfare, those with convictions for serious criminal offenses – such as living on the earnings of (female-to-male) prostitution,[4] and those who contributed to industrial unrest.

The Working Party became a permanent committee in 1955, and between 1956 and 1958, it published three reports in which it advised the government on the introduction of restrictive immigration legislation.[5] These reports were based on various data it collected on key issues such as unemployment, housing, welfare fraud, and, in two of these, on societal tensions pivoting on the occurrence of interracialized relationships between Black men and White women.[6] The authors of the 1956 report noted that there was no evidence at the time of a trend towards 'miscegenation,' but warned that, if such a trend occurred, it 'would be an important factor' in deciding whether to implement immigration and deportation legislation.[7] In the 1957 report,[8] attention towards interracialized relationships increased. Firstly, their offspring was described as 'illegitimate'[9] – a label which provided a justification for the British government's intrusion into their intimate lives. Government

officials assumed that these children were born out of wedlock. As a result, their parents were not regarded as respectable married couples, but rather as individuals involved in undesirable casual relationships. Secondly, the report noted that, although 'miscegenation' was not yet widespread, police data indicated that the overall number of interracialized relationships was on the rise.[10] Thirdly, the report stated that in areas where Black British people lived, 'many coloured men […] married or lived with White women of low social standing or low morals' – thereby lending support and reproducing in government policies and legislation entrenched racist and sexist stereotypes pivoting on the White British women's character and status (Tabili 1996), and more broadly the immorality and undesirability of interracialized intimacies. Additionally, the Working Party saw the immigration of Black British women as a means to contain any further increase in the number of interracialized relationships between Black British men and White British women – the assumption being that Black British men would 'naturally' gravitate towards Black British women if the latter were present in sufficient numbers. Nevertheless, neither the 1956 nor the 1957 Working Party reports suggested that the so-called 'problems' caused by Black British citizens were such that they required the introduction of immigration legislation. In 1958, two months before the outburst of the so-called 'race' riots, the Working Party published its third report.[11] The document did not explicitly mention interracialized relationships but only referenced the existence of tensions between White and Black British people in certain areas in London as well as the problem of overcrowded housing; it also continued to oppose the introduction of any immigration or deportation legislation.

Views around the opportunity to restrict the mobility and presence of Black British citizens in Britain changed rapidly after the 1958 Nottingham and Notting Hill race riots.[12] In Notting Hill (a district of London), the trigger for their outburst was identified in a public argument between a pregnant Swedish woman and her Jamaican husband (Moore 2013; Curiel 2021). Despite the woman's attempts to explain that they should be left alone, the crowd insisted that her husband was harassing her; eventually both endured physical and verbal violence (Pilkington 1988; Olden 2011; Curiel 2021). In the subsequent days, hundreds of White British people attacked Black British people and their homes.

Consistent with what was argued by historian Marlou Schrover in relation to similar events that occurred in several Dutch cities such as Rotterdam, Tilburg, and Utrecht in the 1970s–1980s (Schrover 2011), I understand the violence of the 1958 race riots in Britain as productive, in a Foucauldian sense. Its outburst, I suggest, enabled the British government to strategically bolster public support for its incipient plan to legally constrain postcolonial migration. Schrover argued that especially immigrant men are seen to cause problems with their presence, while politicians and the press downplay the White people's racism (Schrover 2011). Similarly, in Britain, it was the presence of Black British citizens and in particular Black men that was identified as the underlying source of the problems and tensions of which the riots were considered a symptom. Therefore, by demonstrating a firm stance on curtailing immigration from the former colonies, the British government aimed to address racial tensions linked to presumed increases in the

number of interracialized relationships. The press and politicians framed immigration restrictions and deportation as effective measures to alleviate these tensions, foster stability, and preserve Britain's existing racial order.

In September 1958, during the first Cabinet meeting after the 'race' riots, the Home Secretary informed the Cabinet that White men instigated 'violence because of competition over housing and employment.' He said these tensions were further 'aggravated […] by disputes about women.'[13] While in the parliamentary debates, the Home Secretary seemed reluctant to depart from the so-called 'British tradition' that allowed colonial citizens the right to travel and live in the 'mother country,' in closed Cabinet meetings, he suggested that it was time to reconsider the 'possibility of taking statutory powers to deport undesirable immigrants.'[14] The Home Secretary looked at three legislative possibilities: the inclusion of a deportation clause in the Street Offences Act 1959, the introduction of a stand-alone Deportation Bill, which the government had already drafted, and the implementation of a more general immigration legislation, which became the Commonwealth Immigration Act 1962. In the following sections, I turn my attention to these measures, starting from a discussion of the racialized construction of immorality at their core that they shared.

## Black 'pimps' and White 'prostitutes'

As already hinted at in the previous section, racist and sexist assumptions on the character and status of the White British women dating Black British men, and specifically their labelling as prostitutes, has a long history (Tabili 1996). As Zambelli suggests in this volume (Zambelli 2025), this construction reflects the workings of the 'whore stigma' (Pheterson 1996), which regulates the relationship between women's sexuality and their status (Zambelli 2023), and which is deployed onto women transgressing the 'respectability line,' to which colour is integral. Contextually, and consequently, Black British men who dated White British women were consistently framed as their 'pimps,' and thus as criminals.

The association between male immigration from former British colonies to Britain and the perceived rise in the offense of living off the earnings of female prostitution has long existed, along with its connection to deportation measures. Over time, only the specific racialized immigrant group associated with these issues shifted. Even before WWII, following the advice of the metropolitan police, the British government had considered deporting men from other immigrant groups, such as the Maltese and the Cypriots, who were accused of living off the earnings of female prostitution. (Oakley 1987; Jenkins 2016).[15] However, in their case, the government rather opted for emigration restrictions and voluntary repatriation. In the early 1950s and 1960s, it was the more recently arrived immigrant groups, i.e., Black British citizens from Africa and the Caribbean, that became the target of this governmental 'ambition to deport,' and as this chapter will show, it was only when they became the target that legislation changes were implemented.

This connection between (female-to-male) prostitution and the criminalization of male immigration recurred systematically in government documents and

proposals of the time. For example, in a 1954 memorandum, the Home Secretary David Maxwell Fyfe (a key figure, of which I will say more later in this section) stated that one of the key problems associated with Black British citizens was the issue of 'living off immoral earnings of White women,' which was a serious criminal offence.[16] It resurfaced again forcefully in the aftermath of the 1958 race riots as one of its root causes: for example, when the Home Secretary Rab Butler contacted the Commissioner of the Metropolitan police, the latter informed him that 'much of the hostility was caused by coloured men known to be living on the immoral earnings of White prostitutes' (Macleod 2006, 104). In the 1958–1959 parliamentary debates, such criminal offence was also linked to unwanted immigration (Self 2004). Numerous MPs indeed stressed that the number of convictions for it had increased due to the arrival of Black male British citizens, and they suggested their deportation as a possible solution.[17] For instance, in the House of Lords debate on 'colour prejudice and violence' that took place in November 1958, The Earl of Swinton, Philip Cunliffe-Lister, stated that:

> There is a more despicable set of offenders—the miserable pimps who live on the earnings of prostitutes. That is shocking and disgusting, and if ever there was an abuse of the hospitality of this country, it is the actions of these people. I say, without hesitation, that people who are guilty of offences like that ought certainly to be deported from this country. They are abusing our hospitality and they are also bringing discredit to their fellow-immigrants.[18]

This racist and sexist construction featured also during two key House of Commons' debates, both unfolding in 1959[19]: the debates of the Street Offences Act – which the British government introduced following the recommendations of the Wolfenden committee,[20] and of the Repatriation of Criminals. During these, MP Mr. Pannell stated that in 1956, colonial citizens and immigrants from the Republic of Ireland were responsible for '70 per cent of the offence of living on immoral earnings;'[21] he also added that he considered Black British citizens to be responsible for over half of the convictions (n. 77 out of n. 136) for living on immoral earnings in the London metropolitan area.[22] Pannell attempted to introduce an amendment to the Street Offences Bill of 1959 to allow the deportation of colonial citizens,[23] but unsuccessfully so. Indeed, within the government there was considerable resistance against such a deportation clause, and in fact, the majority of MPs rejected his amendment. The Working Party also had reservations against the introduction of such clause. In fact, it did not deem the Street Offences Act to be an

> appropriate vehicle for introducing a power to deport British citizens' due to its limited scope of covering only crimes relating to prostitution and it noted that the inclusion of deportation powers within it would mean that 'the exercise of that [deportation] power would not extend to other […] offences.[24]

Although the Street Offences Act 1959 did not eventually give the Home Secretary the power to deport Black British citizens, it introduced legislative changes

that exposed Black British men to harsh punishments if they were found to be connected to prostitution. For instance, it increased the punishment for living on the immoral earnings of prostitution from two to seven years of imprisonment (Williams 1960). Also, it lowered the thresholds for the evidence needed to prosecute men and women in relation to prostitution offences (Williams 1960).[25] Moreover, this Act enabled police officers to charge women for soliciting by giving them two warnings on suspicion of prostitution or loitering, after which, the police could classify and charge them as 'common prostitutes.'

Before the Street Offences Act 1959, the phrase 'common prostitute' appeared in various legislations.[26] The House of Lords defined this as 'a woman who offers her body commonly for lewdness by payment in return.'[27] In the context of the 1959 Street Offences Act, the Lord Chancellor, David Maxwell Fyfe, defended the government's intention of using this term by stating that the law targeted 'prostitutes who ply their trade in the street,' and argued that it was not intended to penalize women who engaged in 'occasional or casual immoral encounters.'[28] Fyfe was the Home Secretary of the United Kingdom from 1951 to 1954. In this role, he was one of the key British politicians who associated Black British male citizens with the offence of 'living off immoral earnings of White women.' As the Lord Chancellor, he was the head of the judiciary, the speaker of the House of Lords, and a member of the Cabinet (Woodhouse 2001). Through his various positions he helped shape legislations that disproportionately impacted individuals in interracialized relationships by allowing and defending law enforcers' usage of vague terms such as 'common prostitute.'

Some members of the House of Lords objected to the use of the term 'common prostitute' because it gave police officers excessive discretion in its application.[29] They feared this could lead to its arbitrary use against all women, risking an overburdened judicial system. Nevertheless, the term 'common prostitute' remained in the Street Offences Act 1959. White women seen walking or residing with a Black British men were often labelled as such by the police, sometimes leading to their surveillance to ascertain if they were engaging in solicitation (Self 2004; Laite 2017). Overall, the discretion allowed to the police in the application of the term 'common prostitute' contributed to institutionalizing police officers' informal practice of addressing White women in interracialized intimacies as prostitutes.

### Deportation as a Standalone Proposal

Already in the late 1940s, the British government wanted to introduce deportation laws targeting British colonial subjects to remove political agitators and to prevent increases in the number of interracialized intimacies. Three important political constraints shaped the context within which it pursued this goal. First, the already-mentioned long-standing British tradition of granting people from the colonies the right to travel and live in the 'mother country,' which the British government was neither capable nor willing to easily discard. Second, based on the new tripartite classification created by the Nationality Act 1948,[30] colonial subjects became Citizens of the United Kingdom and Colonies (CUKC). While in theory

their permanent residency was in the colonies, this status recognized their right to enter and reside in the metropole, and when there, they shared the same citizenship status as White British people (Dummett and Nicol 1990). Third, among the different ministries and the Working Party, there were continuous debates about how to specifically deal with the immigration of Black CUKCs. The existence of different approaches and ideas on this issue delayed the introduction of immigration and deportation laws.

In 1949, the British Cabinet requested Home Secretary James Chuter Ede to submit a memorandum on the feasibility of introducing deportation legislation. This legislation's aim was to enable the government to deport British subjects who were not British nationals and who were involved in subversive activities.[31] In his memorandum, the Home Secretary opposed this suggestion based on three grounds.[32] First, he stated that departing from the 'traditional policy of giving all British subjects the right to enter the metropole, [and] to enjoy the same privileges as British nationals' would be a mistake because Britain was 'the mother country' to people in different parts of the Commonwealth. This did not mean that immigration to Britain was desirable; rather, he considered Britain to be a country of emigration; evidently, though, the right to travel was seen to mainly or exclusively belong to White Britons (Paul 1995). Second, the Home Secretary considered that the benefits potentially ensuing from this measure were 'immeasurably less than the damage which would be done' by departing from this established policy. Third, he stated that the introduction of such legislation would contradict the single citizenship status shared by CUKCs under the Nationality Act 1948. At the same time, he argued, if Black CUKCs could not be deported, neither should Citizens of Independent Commonwealth Countries (CICCs), such as Canadians and Australians, who would also become the target of these measures. Indeed, alienating these increasingly powerful Commonwealth countries by denying their citizens' entry in Britain was not a risk the British government was willing to take because it would impact its position in international politics (Paul 1997). The Home Secretary thus advised the government against the introduction of deportation legislation.

After the 'race' riots in 1958, the Home Secretary Richard Austen Butler asked the Working Party – which was preparing its fourth report – to heed the public concerns regarding the 'social problems' arising from 'the large numbers of immigrants arriving' in Britain and their 'criminal activities'[33] – by which he alluded to their presumed living on immoral earnings. The Working Party's report showed that the overall number of arrivals from Commonwealth countries had decreased in 1958.[34] Yet, it saw the immigration of Black British citizens in the metropole as a real problem because it could change the demographic composition of Britain. Rather than deporting the already present population, the Working Party wanted to restrict further immigration to Britain. Its report stated that the public was focused on 'the criminal activities of a small minority, in particular on those convicted of living on immoral earnings' who were already in the metropole, but found this panic to be 'inflated out of all proportion.'[35] Nonetheless, the Working Party was willing to consider the desirability of introducing legislation to provide the Home

Secretary with the powers to deport 'undesirable [colonial] immigrants' by drafting a Deportation Bill in 1959.[36]

In view of the upcoming General Election of 1959, the main goal of the Deportation Bill was to curb further racial disturbances and to show the electorate that the government was taking action against the problems caused by colonial citizens (Macleod 2006; Bailkin 2008). Although many Working Party members were in favour of the Bill, they disagreed on what its focus should be and how it was to be implemented. Therefore, the Working Party gave the British government three options.[37] Option one, the government could immediately implement legislation for the deportation of 'undesirable [colonial] immigrants' convicted of living on immoral earnings.[38] Option two, the government could prepare a Deportation Bill and implement it only if 'events make it unavoidable.'[39] Option three, the government could package deportation measures together with entry restrictions under a more general immigration law.[40]

The Working Party stated that the criteria for 'undesirability' under option one could only be met if a person was 'recommended for deportation by a court on conviction of an offence punishable by imprisonment or offences relating to prostitution.'[41] It advised the government to also make citizens of the Irish Republic liable under the Bill in the same circumstances as Black colonial citizens for 'presentational reasons.'[42] Indeed, citizens of the Irish Republic sometimes received preferential treatment due to them being considered as White by British politicians. The Working Party's reference to 'presentational reasons' shows that the British government was not so much interested in having the power to deport Irish people but rather considered their inclusion in the Bill to shield the British government from Black colonial citizens' accusations of racism.

Eventually, the Deportation Bill was never implemented as a standalone legislation because the Cabinet felt it would delay the introduction of immigration restrictions, i.e., the Commonwealth Immigration Act of 1962 (Macleod 2006),[43] to which I move on next.

### Deportation Within a Restrictive Immigration Policy

After the Deportation Bill and the deportation clause in the Street Offenses Act 1959 both failed, the British government considered the implementation of immigration restrictions. With the immigration numbers increasing at the beginning of the 1960s, the Home Secretary was forced to inform the Cabinet that administrative measures, such as refusing to issue passports in the colonies to prevent emigration, had failed. He stated that the rising immigration numbers would lead to more pressure on housing and 'jealousy' which would create a 'dangerous situation.'[44] Jealousy was, yet again, a euphemism to address concerns about interracialized intimacies. In May 1961, the Working Party unanimously supported the introduction of immigration and deportation legislation. A member of the Working Party stated that if legislation was not introduced, the United Kingdom would be faced with a 'colour problem' similar to the United States,' alluding to the civil rights era and the fight for racial equality in the United States.[45] The British government

was aware that introducing immigration legislation that only targeted Black British subjects would mean it was discriminating 'against coloured people.'[46]

The immigration legislation created in the 1960s was in theory applicable to all types of immigration, but in practice it predominantly targeted Black British subjects (Paul 1997). The Commonwealth Immigration Act of 1962[47] is often characterized as a racialized piece of legislation because it introduced stricter immigration controls that, in practice, disproportionately affected individuals from Commonwealth countries, particularly those in the Caribbean and Africa (Dummett and Nicol 1990). The racialized aspect of the Commonwealth Immigration Act of 1962 is evident in the selective restriction of entry for non-white British subjects, reflecting the prevailing racist attitudes and policies of the time (Layton-Henry 1987; Nasar 2020).

Under Part II of the Commonwealth Immigrants Act 1962, the Home Secretary could deport Black British citizens if they were convicted of an imprisonable offense, had resided in the United Kingdom for less than five years, and were recommended for deportation by a court.[48] Rather than restricting deportation powers to individuals involved in immoral earnings, the 1962 Act adopted a more comprehensive approach. Aligning with the Working Party's viewpoint that limiting deportation to cases of prostitution made it applicable to only a small fraction of the Black British population, the Act extended the Home Secretary's deportation powers to cover a broader range of offenses. Hence, it established that, in addition to living on immoral earnings, deportation could be justified for any criminal offense punishable by imprisonment, including petty theft, gambling and drug possession.[49] With regard to the residency requirement, the government initially wanted the law to allow the deportation of individuals who had lived in the United Kingdom for less than seven years because otherwise Black British citizens, the majority of whom arrived in the early 1950s, would remain outside the scope of the legislation.[50] However, upon comparing the deportation powers of independent Commonwealth countries like Australia and Canada, and considering the British government's commitments under the European Convention on Social and Medical Assistance, the duration of seven years was deemed an anomaly.[51] The five-year residency requirement served as protection from deportation; however, it was not strictly checked or applied by the courts and the police (Bailkin 2008), and sometimes, people who had lived more than five years in the metropole were deported.

This legislation did not affect everyone equally. For example, in July 1962, the case of a Jamaican woman who was convicted of theft was discussed in the House of Commons. [52] The woman had been living in the United Kingdom since 1960, and she pleaded guilty to theft charges. After she was convicted, she was detained and recommended for deportation to Jamaica.[53] Members of the House of Commons argued against her deportation, saying that deportation should only be possible for serious offences, which according to them, theft was not.[54] And yet it was considered so in the Act. Thus, the controversy in the House of Commons concerning the Jamaican women's case revealed the underpinning racialized and gendered notions that informed the deployment of deportation measures. For women, these possibly included stereotypical assumptions on women's essentially harmless

nature, and the strategic uses of Black British women in pursuing the goal of diverting Black British men's attention away from White British women. On the other hand, in the 1950s and 1960s, Black British men were depicted as a threat to British social life, primarily due to their perception as sexually threatening, and their intimate relationships with White British women, which were seen as destabilizing the existing racialized sexual order. Whether an individual was recommended for deportation depended on how magistrates used discretionary powers, and whether, how, and when the magistrates and the police used these depended on their views on the immigration of colonial citizens and interracialized intimacies (Macleod 2006; Bailkin 2008).

The Commonwealth Immigrants Act of 1968 built upon the racialized framework adopted in the 1962 Act and tightened immigration controls further (Hansen 1999). One key change was the introduction of the concept of 'patriality' which meant that those who could prove a close familial or ancestral connection to the United Kingdom or the Republic of Ireland were given preferential treatment and faced less stringent immigration restrictions compared to individuals without such demonstrable ties (Solomos 1989). This preferential treatment aimed to regulate immigration by favouring individuals with a perceived 'stronger' connection to the country. Since the ties of Black British subjects with no ancestry in the United Kingdom or Ireland were considered weaker, race, and specifically Whiteness, evidently constituted the grounds for assessing this connection. Thus, 'race' was not only constructed and deployed as ideological or attitudinal but rather worked as a structuring 'regime of power' (Bevir 1999).

## Conclusion

The parliamentary debates and the formulation of Britain's immigration and deportation policies throughout the 1950s and 1960s, as well as their enforcement, were rooted in and reflected a complex interplay of racialized narratives, legal manoeuvres, and socio-political considerations. In this chapter, I have argued that the dangers that the government saw in the spreading of interracialized relationships on British soil, and particularly relationships between Black British men and White British women, played a key role in whether, when and how they were enacted.

Whereas deportation powers and immigration restrictions had long been in the making, I have argued that it was the outburst of the 1958 race riots that created a fertile terrain for their adoption, which broke with the till then long-standing traditional policy of granting entry and residence rights in the 'motherland' to all British subjects. While the proposal of a standalone Deportation Bill failed, ample deportation powers were subsequently folded into the Commonwealth Immigrants Act of 1962. This law, I suggest, symbolizes the calculated use of immigration controls to uphold a racialized social order and address public apprehensions surrounding interracialized relationships.

This historical analysis underscores the British government's efforts to assert control over the narrative of nationhood, citizenship, and racial, gender, and sexual order amid evolving social dynamics. The interplay between immigration policies,

interracialized relationships, and deportation strategies serves as a revealing lens into the broader socio-political fabric of mid-20th century Britain. In essence, this exploration showcased how the British government, in shaping its immigration and deportation policies, responded to and shaped the societal perceptions of the time. The tension inherent in these policies reflects the broader socio-political landscape of the time, offering insights into the complexities of power, identity, and governance during a crucial juncture in Britain's historical trajectory.

## Notes

1 My research was part of the project 'Regulating Mixed Intimacies in Europe (EUROMIX)', which has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 Research and Innovation programme under grant agreement No. 725238.
2 TNA: CAB 128/17 Original Reference CM 1 (50)-40 (50): post war conclusions for the Labour government under Attlee (1 Januari–30 June 1950). Minute No. 2. Coloured People from British Colonial Territories, 19 June 1950.
3 TNA: CAB 129/44 Original Reference CP 1 (51)-75 (51): post war memoranda for the Labour government under Attlee (1 Januari–8 March 1951). Immigration of British Subjects into the United Kingdom No. 51: Report by a Committee of Ministers, 6 February 1951.
4 While prostitution itself was not criminalised, offenses associated with it, like living on 'immoral earnings' derived from this activity were.
5 TNA: CAB 129/81 Original Reference CP 101-150: post war memoranda for the Labour government under Attlee (20 April–21 June 1956): Colonial Immigrants No. 145. Report by a Committee of Ministers, 22 June 1956.
6 TNA: CAB 129/81 Original Reference CP 101-150: post war memoranda for the Labour government under Attlee (20 April–21 June 1956): Colonial Immigrants No. 145. Report by a Committee of Ministers, 22 June 1956.
7 TNA: CAB 129/81 Original Reference CP 101-150: post war memoranda for the Labour government under Attlee (20 April–21 June 1956): Colonial Immigrants No. 145. Report by a Committee of Ministers, 22 June 1956.
8 TNA: CAB 129/88 Original Reference C (151-200): post war memoranda for the Conservative government under Churchill. Colonial Immigrants: Report by the Committee of Ministers, 12 July 1957.
9 For example, one of the report's headings was 'Miscegenation and illegitimacy of children.'
10 Note that the use of police data attests to the fact that police surveillance and monitoring efforts made their way into the Working Party's report and recommendations to the government.
11 TNA: CAB 128/30 Original Reference CM 1-104: post war conclusions for the Labour government under Attlee (Januari 3–20 December 1956). Minute No. 10, Colonial Immigrants 11 July 1956 and Minute No. 8 Colonial Immigrants, 20 November 1956.
12 TNA: CAB 128/32 Original Reference CC 1 (58)-88 (58): post war conclusions for the Conservative government under Churchill (3 Januari–23 December 1958). Minute No. 6, Commonwealth Immigrants, 1 July 1958 and Minute No. 3 Racial Disturbances, 8 September 1958. [Electronic version] and CAB 129/93 Original Reference C 101-50: post war memoranda for the Conservative government under Churchill (9 May–15 July 1958). Commonwealth Immigrants. Memorandum by the Lord President of the Council No. 129, 20 June 1958.
13 TNA: CAB 128/32 Minute No. 3 Racial Disturbances, 8 September 1958.
14 TNA: CAB 128/32 Minute No. 3 Racial Disturbances, 8 September 1958.

15 TNA: CAB 129/36 Memorandum by the Home Secretary NO 164, 25 July 1949.
16 TNA: CAB 129/66 Original Reference C 51 (54)-100 (54): post war memoranda for the Conservative government under Churchill (10 February–13 March 1954). Deportation of British Subjects: Power of Commonwealth Governments: Note by the Secretary of State for Commonwealth Relations No. 54, 11 February 1954.
17 Hansard: HL Deb vol 212 col 32-724 (19 November 1958), HC vol 603 col 1116-7 (16 April 1959) and HC Deb vol 598 c147-8W.
18 Hansard: HL Deb vol 212 col 32-724 (19 November 1958), HC vol 603 col 1116-7 (16 April 1959) and HC Deb vol 598 c147-8W.
19 TNA: CAB 128/32 Minute No. 3 Racial Disturbances, 8 September 1958.
20 The Wolfenden Committee was installed in 1954 and it studied the legislation on homosexuality and prostitution (Summers 2004). The Committee considered prostitution as an example of the 'general loosening of former moral standards' (Wolfenden 1957, 20) that encroached on the heterosexual, nuclear, and reproductive character of family and society.
21 Hansard: HC Deb vol 598 col 267-386 (29 January 1959).
22 HC vol 603 col 1116-7 (16 April 1959).
23 Hansard: HC Deb vol 598 col 267-386 (29 January 1959).
24 Hansard: HC Deb vol 598 col 267-386 (29 January 1959).
25 The court accepted the uncorroborated evidence provided by police officers as the only proof to meet the required threshold for evidence (Smart 1995) and (Rose 1998).
26 Vagrancy Act 1824, s 3; Metropolitan Police Act, 1839, s 54, Town Police Clauses Act 1947, s 54, s 28 s, 35; Criminal Law (Amendment) Act 1885, s 2.
27 Hansard: HL Deb vol 216 col 777-857 (09 June 1959).
28 Hansard: HL Deb vol 216 col 777-857 (09 June 1959).
29 Hansard: HL Deb vol 216 col 777-857 (09 June 1959).
30 The three categories were: Citizens of the United Kingdom and Colonies (CUKC), Citizens of Independent Commonwealth Countries (CICC), and the residual group of British subjects without citizenship (Anderson 2013).
31 TNA: CAB 129/44 Immigration of British Subjects into the United Kingdom No. 51: Report by a Committee of Ministers, 6 February 1951.
32 TNA: CAB 129/44 Immigration of British Subjects into the United Kingdom No. 51: Report by a Committee of Ministers, 6 February 1951.
33 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
34 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
35 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
36 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
37 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959, page 23.
38 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
39 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.

40 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
41 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959, page 24.
42 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
43 TNA: CAB 129/96 Original Reference C 1-50: post war memoranda for the Conservative government under Churchill (7 Januari–13 March 1959). Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
44 TNA: CAB 129/102 Original Reference C 101-150: post war memoranda for the Conservative government under Churchill (2 July–14 October 1960). Coloured Immigrants. Memorandum by the Home Secretary No. 128, 19 July 1960.
45 TNA: CAB 129/105 Original Reference C 51-100: post war memoranda for the Conservative government under Churchill (12 April–19 July 1961). Commonwealth Migrants. Memorandum by the Lord Chancellor No. 67, 26 May 1961, and The Secretary of State for the Commonwealth No. 69, 26 May 1961.
46 TNA: CAB 129/105 Original Reference C 51-100: post war memoranda for the Conservative government under Churchill (12 April–19 July 1961). Commonwealth Migrants. Memorandum by the Lord Chancellor No. 67, 26 May 1961, and The Secretary of State for the Commonwealth No. 69, 26 May 1961.
47 The Commonwealth Immigrants Act 1962. https://www.legislation.gov.uk/ukpga/1962/21/pdfs/ukpga_19620021_en.pdf
48 The Commonwealth Immigrants Act 1962. https://www.legislation.gov.uk/ukpga/1962/21/pdfs/ukpga_19620021_en.pdf, Part II.
49 The Commonwealth Immigrants Act 1962. https://www.legislation.gov.uk/ukpga/1962/21/pdfs/ukpga_19620021_en.pdf, Part II, article7.
50 TNA: CAB 129/96 Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959.
51 TNA: CAB 129/96 Commonwealth Immigrants. Memorandum by the Lord Chancellor No. 7, 20 January 1959. Also see: European Convention on Social and Medical Assistance (ETS No. 014), 1 July 1954. https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=014
52 Hansard: HC Deb vol 663 col 635-41 (19 July 1962).
53 Hansard: HC Deb vol 663 col 635-41 (19 July 1962).
54 Hansard: HC Deb vol 663 col 635-41 (19 July 1962).

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# 13 Borders, Intimacy and Colonial Dispossession

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## Introduction

On August 10, 2021, a controversial charter flight took off from Stansted airport to Kingston, Jamaica carrying British residents forcefully removed by the UK government because they were deemed to be 'foreign national criminals' (FNOs). This included people such as 31-year-old Akeem Finlay who had lived in the United Kingdom since he was 10 years old. Whilst deportees are often labelled 'serious criminals' this includes offenders of visa infractions, driving offences and drug possession (De Noronha 2020). Removal flights of FNOs have become more frequent since 2001 with recent developments brought about in part by closer ties between policing and border enforcement under the UK's 'hostile environment' (Bhatia 2020). This has included further restricting the possibility for appeals against both detention and deportation.

Despite this context, in the last days and hours before the Kingston flight was scheduled to depart, activist groups and migration lawyers made last minute attempts to stop the deportations. One of the last remaining individual legal cases used against state deportation is often that of the 'right to family life'.[1] Extensive documentation, pictorial and oral testimonials are amassed in such cases to demonstrate how a person's intimate social relations can evidence so-called genuine connections of 'family' (Right to Remain 2021). The recognition of someone being a part of a family in European border regimes has long been a site of struggle over rights to settlement and mobility. In the context of imminent deportation, judgements made over the familialness of a person's intimate social relations are thus increasingly a focal point for attempts to resist border violence and equally a codification of state's ability to enact and legitimate the violence of detention and expulsion.

Whilst, in this instance, almost 48 appeals were successful, the flight still left with 12 people on board.[2] In the wake of such enforced 'removals' are lives destroyed, kinships torn apart, children left parentless, with those subject to removal desperately seeking to rebuild their lives in countries they often left when they were minors and with minimal support networks and means of survival (Bulman and White 2021; Griffiths and Morgan-Glendinning 2021). Successful appeals are also not an end to deportability (De Genova 2002). In this example, and others like

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it, certain intimacies are recognised by the state within its restrictive heteronormative and gendered claims to 'family' and offered (brief) reprieve. Whilst others are deemed 'unfamilial'. Not only were those on the flight subject to expulsion, but this was justified by depicting deportees through the racialised, gendered and sexualised codes of criminality and deviancy (De Noronha 2021). In the media spectacle surrounding deportation flights, the Home Office is regularly depicted as protecting the British public from predatory sex offenders and rapists through acts of forced removals (Sales 2021).

In the context of moves by European states to further enforce and expand restrictive immigration regimes, it is perhaps more important than ever to understand how claims to 'family life' can work to organise border violence. This chapter thus asks: (1) how can we understand the role of dominant formations of socio-sexual intimacy in contemporary UK border regimes? (2) What role does intimacy play in structuring border violence? (3) And then, how should we understand the legacies of colonialism in the context of the increased scrutiny and embedding of claims to 'family' within border regimes such as the United Kingdom? Engaging with the 'postcolonial turn' (Tudor 2018) in migration and citizenship studies and recent moves to reinvigorate a material analytic of racism (Tilley and Shilliam 2018; Bhattacharyya 2018; Walia 2021), the chapter seeks to place the role of intimacy in organising border regimes in the uneven power relations and inequality of late capitalism and the ongoing racialised, imperial and colonial violence that accompanies this. In doing so, it offers a reading of historical and contemporary border practices which aims to provide a historically grounded conceptualisation of the role of intimacy in UK border regimes today. Foremost by arguing that normative intimacy and its regulation play an important role in organising ongoing forms of colonial dispossession. This means being attuned to how the relationship between intimacy and colonial dispossession works to hide the way that race and sexuality continue to reproduce local and global forms of inequality (Balani 2023). Dispossession is treated here as loss resulting from different forms of violence – structural, biophysical and social – that are targeted at people who are negatively racialised or minoritised (Vergara-Figueroa 2018). Examples of contemporary border practices, such as deportation, detention, visa regimes and citizenship rules, need to be considered in light of their function within global racialised inequalities which regularly target those who have been historically subject to colonisation and to new regimes of dispossession through immobilisation. What the chapter argues is that the place of normative intimacy within border regimes is not only about attempts to protect the limited rights of those with precarious migration status, but also a force which equally energises and naturalises forms of dispossessive border violence.

The chapter thus engages the wider themes of this edited collection by thinking through the force of colonial dispossession and the politics of intimacy together. It does so by exploring how the governance of 'interracialised intimacies' reproduces violence (Thompson 2009). This can be seen in the way that border regimes increasingly attempt to police hyper masculinised subjects who are represented as threatening white women and 'white families' (see more on this in the following

and De Hart 2017). At the same time, this chapter develops the key themes in this collection, by being attuned to how numerous kinship and social relations are deemed unfamilial not only those categorised as 'interracialised'. For example, it explores how family itself is racialised in immigration regimes around an ideal of European bourgeois familial intimacy and how this deems colonised people and later black and Asian families as incapable of 'genuine' heteronormative family (also see Balani 2023). This means being attuned to how interracialised intimacy is policed and how this relates to how intimacy was racialised more generally within the crucible of European colonialism and slavery where different social groups where categorised as more or less capable of reproducing European models of familial intimacy.

Thus this chapter develops work on the productive and regulatory role of normative intimacy (Luibhéid 2013; De Hart 2017; D'Aoust 2018; Bonjour 2018) by capturing both how intimate relations are intervened upon and destroyed through border violence, but equally how border violence is energised and naturalised through appeals to normative intimacy (Farris 2017; Balani 2023, 59–77). This means treating intimacy as a set of socio-sexual attachments which are governed by their relationship to capitalist and colonial ideals (heteronormative and homonormative) of family (Stoler 2010; Peterson 2020). The chapter further develops our understanding of borders and intimacy by arguing that this must be viewed in the wider context of the continuity of colonial violence and the material politics of race (Wolfe 2016; Tilley and Shilliam 2018; Bhattacharyya 2018). It does this by exploring how racialised and interracialised intimacy plays a role in rationalising dispossession and reproducing material inequalities. In this way, it brings work on the materiality of race, intimacies and colonial histories together. To do this means demonstrating how we need to pay attention to both the colonial histories that underpin the contemporary policing of intimacy through border regimes and as part of global structures which continue to produce racialised violence, dispossession and socio-economic inequality. It also offers a further contribution in that it highlights the need for questions of intimacy to be taken more seriously by those engaged in materialist critique of border politics (for example, Walia 2021; Danewid 2021). It does so by understanding intimacy as a key mechanism through which racialisation is restructured and hidden.

This chapter is structured as follows. In the first section, I further elaborate on material analytics of race which stresses the role of racism in the history of both colonial, capitalism and the control of movement. Here I elaborate on the relationship between race, intimacy and dispossession. In the second section, I show how race was built around demarcations of intimacy under European and specifically the British Empire and how this became tied up with emergent border regimes in the imperial core. In third section, I further stress the role of intimacy in contemporary border regimes in Britain and in the state's response to people crossing the English Channel to claim asylum. I conclude with why it is important to understand these connections as ongoing forms of colonial dispossession.

**Race, Intimacy and Empire**

One of the burning issues that cuts through debates in contemporary critical scholarship on race and colonialism, is how to understand the continuity of race in the absence of formal empire (Go 2021; Bhambra 2021; Kundani 2023). Recent critical scholarship has reemphasised the materiality of race, in part inspired by a return to and the development of work on racial capitalism (Robinson 1983; Bhattacharyya 2018; Wilson-Gilmore 2022) and the need to analyse the categories of racial differentiation, class and the accumulation of wealth and inequality together (Tilley and Shilliam 2018). I don't have space to do justice to this body of work or debates in full but following Gargi Bhattacharyya's (2018) reworking of racial capitalism, I take this focus on materiality as less a rejection of the importance of representational practices but instead a focus on the interests that propel, shape and profit from racial formations. The focus here is on recognising the centrality of race to capitalism and capitalist social relations, both within and after the formal period of European empire. Bhattacharyya (2018) defines 'interests' carefully, as both material and symbolic. Racial formations have been central to regimes of accumulation, profiteering, the hoarding of wealth as well as modes of exploitation. For example, race has historically legitimated the hyper exploitation of certain human beings for the profit and power of others, or the dismantling of claims to territory or sovereignty to justify acquisition, invasion and settlement (Wolfe 2016; Vergara-Figueroa 2018). But equally, investment in racial differentiation isn't solely reducible to modes of accumulation, or the direct expansion of profit or territory. Investment in racial categories of personhood can also be about symbolic and ideological investment (which often reinforces modes of exploitation, accumulation and a particular social order but this remains politically contingent and historically produced). In this way interests are attached to but relatively autonomous to the economic base through symbolic and ideological registers. At its broadest, we might consider the materiality of race as best articulated by Patrick Wolfe when he asks us to consider 'how are races constructed, under what circumstances and in whose interests?' (Wolfe 2016, 6).

A focus on the materiality of race opens up a particular reading of the relationship between colonialism and capitalism which is generative for our understanding of contemporary borders. Global racial formations were experimented with and expanded because European capitalists were able to extract profit, open markets and increase trade through the use of slavery and indentured labour through colonisation. Whilst certain peoples have been valorised as labourers and others devalued as surplus labour this relies on also producing 'surplus populations' under capitalism (Marx 1997, 798) – aka those deemed without social or economic value. Categories of 'value' became inherently linked to processes of structural exploitation but also opened up certain populations to be exposed to dispossessive and even genocidal violence. In this context, intimacy provided a key site through which racialised value and worth could be categorised and made meaningful (more on this in the following).

***Colonial Dispossession***

It is in this context that I want to consider the role of dispossession in histories of racialised and sexualised control. I argue that borders were forged as modes of colonial dispossession and to maintain global divisions of labour and humanity. They were forged as tools of colonial governance which produced racial categories of human worth and actively sought to control movement around these categories, including around dominant conceptions of social-sexual intimacy. Dispossession is often defined in terms of loss of and/or removal from lands, territories, communities, homes. So in turn dispossession is the extraction of resources, land, territories, peoples, through violent and forceful means. But dispossession isn't only experienced territorially but also socially. Dispossession defined as loss should also include loss of access to political and social rights, shelter, spiritual practices, basic means of social reproduction and with this personhood and human dignity (for more on 'social death' see Patterson 1982).

David Harvey (2003) famously argued that 'accumulation by dispossession' is central to late imperial capitalism. As crises of capital intensify (and as we reach the limits of ecological extraction), the accumulation of wealth occurs through opening up new markets and forms of extraction which rest on force and violence. This was explicitly manifest in what Marx called primitive accumulation but Harvey argues that this remains central to how wealth is hoarded by elites in both the Global North and South today. Whilst Harvey left the racialised and gendered dimension of accumulation by dispossession underdeveloped (Kundani 2023), in conceptualising colonial dispossession it is necessary to interrogate the historical conditions under which dispossessive violence is targeted and legitimated through intersectional categories of oppression. For example, how categories of human value and normative intimacy are created and reproduced in conditioning certain populations as expendable, or their movement as 'dangerous' and thus vulnerable to dispossession. Importantly, as Bhattacharyya (2018) argues, these hierarchies are always in flux and continue beyond the formal end of European empire because differentiation continues to serve particular interests of social groups and states under imperial capitalism. Dispossession, I suggest, is cyclical, intergenerational but also contingent, and borders provide one node through which dispossession is organised and legitimated. It is in this context that we need to think through the role of intimacy in border regimes.

## Borders, Family and Dispossession

Empires were created and maintained through the control of movement (also see Mayblin and Turner 2021). Systems of borders emerged to trap, immobilise racialised populations but also created patterns of forced movement. The modern system of state immigration control and citizenship we have today was built out of these attempts at control and the categories of value and extraction they enacted. As Radhika Mongia (2018) has recently argued, this was formalised in the push to

regulate the movement of indentured labourers and 'free' Asian labourers across the British Empire at the end of the 19th century.

State border regimes emerged because they served a constellation of local elite, colonial and imperial interests. From maintaining the control over indentured labour (Turner 2020), to providing cheap and expendable labour to open new markets or run plantations after the formal end of slavery, or to crush revolutionary and anti-colonial movements in port cities (Khalili 2020). Why intimacy becomes important to think with in this context is because the calculation around the introduction of border restrictions was in many settings tied up with normative framings around the promotion of white heteronormative family life and the sexualised dangers posed by colonised peoples. In settler colonies (such as South Africa, Canada, United States), indentured Asian men were frequently presented as a racialised-sexual threat to white women and to white settler social order hinged as it was on the promotion of white domesticity and 'superiority' (Shah 2012). Local and imperial elites presented practices of encampment, deportation and mobility restrictions as tools to curb such 'dangers'. At the same time the emergence of state controlled international border regimes and visa systems demanded that judgements be made about dependents (such as children, spouses, partners, parents, nannies, etc.) travelling with contracted labourers to work in settler states. This entailed further codifying of racialised conceptions of what constituted normal/abnormal 'family life' into state border regimes which was nearly always modelled on white heteronormative domesticity (Rifkin 2011).

Whilst the gendered household was viewed as essential for the reproduction of bourgeois social relations of Europeans (at least from the mid-19th century) this was not true of colonised population (or the domestic working class). Instead, domestication worked to pacify populations into village/household structures (Owens 2015, 173–208) under colonialism and often worked to create land for settlement, plantations and pools of mobile labour, leading to the destruction of kinship patterns. This was exemplified in the slave trade where kinship and communities were destroyed through enslavement and equally, where plantation systems of property wrote slaves out of family law. Hortense Spillers (1987, 75) argues that these processes involved not only the demonisation of black intimacy but that the black family became rendered unthinkable with the 'dominant symbolic order' of what is considered 'family'. The dominant mode of intimacy which was European and white was based on denying the enslaved access to such rights of personhood. But equally as Patricia Hill-Collins (1998) argues, what this has meant is that whilst the structure of black intimacies may have been deemed deviant by dominant power structures, black kinship and homes have emerged as forms of resistance and survival in the face of dispossession.

As I noted previously, when border regimes emerged in the late 19th century they were concerned with managing racialised, exploitable and surplus mobility, but as we can see hierarchical forms of personhood and value were equally produced through claims to 'family'. In this way it is worth considering how ideals of white bourgeois family were part of the spatial and temporal markers of Empire which borders worked to police. The imperial mapping of the world into spaces of

civilisation and spaces of underdevelopment or savagery was frequently premised on accounts and imaginaries of perversions from European ideals of 'family' and domesticity (McClintock 1995). This was used in colonies to justify and shore up colonial dispossession, violence and subjugation. But it was also networked into metropoles in regard to who was identified as 'civilised' and how people were incorporated into capitalist political economy (Rifkin 2011). This was central to how imperial metropoles, like Britain, formed immigration regimes which worked to codify and categorise the movement of people into former imperial powers throughout the 20th century.

## The UK Immigration Regime and the Regulation of Intimacy

In early practices of bordering from 1905 in Britain we can see how the categorisation of who was a 'genuine' family was networked into the strategic interest of colonial and imperial rule. Border decisions over who could be 'family' were both shaped by what sanctioned intimacy and social relations looked like by conditioning who could move with whom and who was structured as valuable within the broader patterns of capitalist accumulation. As noted previously, being identified as non-familial could lead to being exposed to forms of colonial dispossession including deportation, imprisonment, abandonment, destruction of social relations and kinships.

The role of intimacy in imperial border regimes boomeranged back to structure the formalisation of immigration controls in European metropoles, with deportation being one of the many tools repurposed in this period. One of the earliest pieces of state deportation legislation in the United Kingdom was brought in the 1920s. This emerged in the wake of a so-called 'race riot' which occurred in the Northern English city of Liverpool in 1919 and resulted in the murder of a man from Trinidad called Charles Wooton who was drowned in the river Mersey (May and Cohen 1974). Elite explanations at the time justified violent attacks on black commonwealth sailors and the black community in the city as stemming from fears about the threat of inter-racialised intimacies. *The Times* newspaper argued that white men were merely defending their 'instinctive certainly that sexual relations between white women and coloured men revolts our very nature' (cited in May and Cohen 1974, 114).

The 1920 Aliens Order and later the 1924 Coloured Alien Seaman Act which followed this racialised violence, allowed for the forced deportation of Black 'foreign' sailors, many of whom were Crown subjects (i.e. with imperial citizenship) but without formal documentation to prove their status. Such acts created a more exploitable work force within Liverpool, at a time when the British imperial state had heightened concerns about anti-colonial resistance emerging across the British Empire (May and Cohen 1974). After the violence in Liverpool, Black sailors were excluded from parts of the labour market as companies in the docklands, often backed up by racist unions, began further prioritising white workers on higher wages (Bean 1980). The extra powers given to the police and port authorities in Liverpool docks and across English cities, allowed for opportune suppression of collective activity that looked 'anti-colonial' in character.

In such examples, we can see how borders were energised by normative appeals to racialised intimacy and fears over inter-racialised sex, born as this was out of colonial tropes around dangerous sexuality (De Hart 2017; Mustafa 2023). In this sense, both borders and street violence were viewed as a means of preserving and policing the limits of a racialised and natalist conception of the 'white family' both against black masculinity and 'racial degeneration' (Stoler 2010). Equally, borders worked to produce modes of dispossessive violence. Black sailors with a right to reside in the United Kingdom could be removed through de facto police and immigration powers just as those within the Black community who were not caught up in removals were made precarious within existing systems of racialised exploitation. To return to Spillers' conceptualisation of family I touched upon previously, despite protests by Black community members the dominant social calculus of 'family' could not recognise Black families and inter-racialised families as intimacies worthy of protection, but instead problems to be destroyed through removal and separation.

This relationship between intimacy and colonial dispossession was further developed through the numerous immigration acts that limited the right of citizenship and settlement of commonwealth citizens who moved from former colonies to the UK metropole throughout the 1960s–1981. Nawal Mustafa (2023) identifies how the perceived racialised-sexualised threat of black and Asian men to white women was deemed a risk to 'race relations' in the 1960s after the arrival of commonwealth citizens (notably from the Caribbean and South Asia), which lead to the development of the 1962 Immigration Act and the intensification of deportation powers which often targeted black men (Mustafa 2023, 182). Equally, what often concerned state elites was how far commonwealth citizens could replicate the heteronormative and bourgeois ideals of 'Englishness' exemplified by the (white) nuclear family. From the 1960s, bordering practices fluctuated from facilitating the movement of family members of Commonwealth citizens, to delimiting the mobility of family members because of raised anxiety about the 'unfamilial' character of black and Asian communities. Whilst patriarchal family structure was viewed as producing a compliant, orderly workforce and containing racial disorder, alternative and communal kinship structures were viewed as the remnants of underdevelopment, 'primitive' culture and 'savagery' (Turner 2020). The 1971 Immigration Act further intensified this racialised vision of intimacy by restructuring settlement around a familial and biological attachment to the British nation, by ensuring that access to citizenship was based on patrilineal ties to a British citizen. This fixation on both the biological inheritance of citizenship and fears over non-normative family structures was exemplified in the ideology of Enoch Powell, who feared that Englishness was being threatened by the communal values and kinship structures of commonwealth citizens (in which Asian communities were made hyper visible, Shilliam 2021). Here non-nuclear family support structures were viewed as undermining the values of self-reliance and market discipline that structured liberal capitalist society (Kundani 2023). The 1981 Nationality Act would solidify this nationalist world view by formally dispossessing millions of former commonwealth subjects of the right to access a British passport and residency. In this period, border

practices worked to produce certain types of families by making heterosexual kinship and marriage a mandate for settlement and citizenship, at the same time as restrictions and removals policed the boundaries of who could be a 'modern' and productive family within the new market order of late liberalism.

This is why we need to think both with the work on inter-racialised intimacies alongside the structure of colonial dispossession to make sense of this. Because whilst an idealised and elite fantasy of 'white family' was to be protected at all costs through state violence, the intimacies of inter-racialised relations, non-normative kinship structures and the life worlds of many previously colonised people were deemed a threat to even running an orderly society based on self-reliance and the needs of capitalist exploitation and accumulation.

These historical examples help us understand how restrictive definitions of intimacy and family organise border violence in the UK today. As I noted in the introduction, whilst appeals against deportation are often based on claims to 'family life', states often produce strict, heteronormative and highly moralistic legal definitions of family through which such appeals are judged and upheld. As De Noronha (2020) observes, over 80% of FNO deported from the United Kingdom are men. Here we can think about how notions of patriarchal masculinity are embedded within the UK immigration system. Fatherhood for example is defined by the UK Home Office as being in self-sufficient paid employment, and tied to monogamous intimacy within a nuclear family unit (De Noronha 2020; Griffiths 2021, 109). So, considering who can be recognised as familial within this system reworks historical structures of 'family' under empire. De Noronha demonstrates for example, that this definition organises the dispossession of young black men in particular. The structural conditions of a racialised labour market and precarious migrant status often excludes young Black men from fulfilling patriarchal ideals of fatherhood, whilst at the same time, the framing of Black and particularly Black Caribbean masculinity is utilised to argue that these individuals fail to fulfil principles of 'genuine' relationships and family life (De Noronha 2020, 109). This leaves this group particularly vulnerable to fail appeal processes and left to be deported by the state. But, as Melanie Griffiths and Candice Morgan-Glendinning (2021) have demonstrated, this also has a wider impact on the friendship and kinships of communities threatened with deportation which are destroyed through removal and which leave intergenerational damage on deportees' wider social groups and dependents and unequally impact feminised care responsibilities. Despite liberal and legalistic tendencies to support the principle of 'family rights' (often justifiably), we also need to interrogate the role dominant concepts of family play in justifying the ongoing dispossession of people from their dependencies, kinships, lives through practices such as deportation (De Noronha and Bradley 2022).

## The Contemporary Nexus of Borders, Intimacy and Race

In this context, we can begin to see how colonial dispossession in the forms I have begun to outline previously continue to be enacted by border regimes in the United Kingdom (and beyond). Despite the best attempts of states, elites and mainstream migration studies scholars to deny the continuity of empire in the contemporary

politics of movement, the vast majority of people moving across international borders from the Global South to Europe (and other Northern beneficiaries of imperialism such as settler colonial states) move along what De Noronha calls 'imperial grooves'. This is exemplified in the UK governments post-Brexit immigration regimes and the treatment of people crossing the English Channel to claim asylum, where the majority of people claiming asylum are from countries which have been exposed to colonial, warfare and imperial interventions.[3]

As with other examples of migration 'hotspots' across Europe, a complex array of border infrastructure, surveillance and policing actively forces people to make increasingly perilous journeys across the English Channel (Tyerman 2022), just as these border practices I argue, are naturalised and justified by dominant conceptions of racialised intimacy. The increasing numbers of people crossing the Channel have become a spectacle for the right wing and pro-Brexit British press and UK Home Office (see Davies et al. 2021). Alongside the Islamophobic construction of 'terrorism', those crossing the Channel are frequently depicted as a racialised and sexualised threat, a drain on the UK welfare state and an 'invasion'.

A prominent case here illustrating how normative claims of intimacy organise and justify border violence, is the moral panic (Cohen 2011 [1972]) around child refugees. In 2016, a number of child refugees were given settlement in Britain through what became known as the 'Dubs Amendment'. However, rather than receiving welcome on arrival they were turned into a national scandal when several MPs and national newspapers accused these children of being 'burly men' in disguise. *The Daily Mail* infamously argued that these 'youth' (it refused to acknowledge them as anything but 'Burly Men', 'Lads' and 'youth') would pose a danger to English school girls if they were allowed into the country to settle, be housed and have access to education. Subsequently, right wing elites have consistently argued for the need for dental examinations, skull measurements and x-rays to 'scientifically' assess child refugees' true ages (Weaver 2016) to regulate this encroachment into British schools, playgrounds and homes. Not only was the child resettlement scheme ground to a halt in the aftermath of this moral panic but this set the scene for the further ramping up of border infrastructure to dispel dangerous Black and Brown men making irregular journeys across the Channel. Often this is directly/indirectly linked to the need to defend the sanctity of British (read white) families and the intimate relations of 'genuine' children. Such as in 2023 when Deputy Chair of the Tory Party Lee Anderson (Hansard 2023a, column 156) claimed border restrictions and deportations were needed to stop 'rapists and murderers' from staying in Britain. Or when the Immigration Minister Robert Jenrick (Hansard 2023b) argued that the 'evil' of 'young adult … posing as children, and ending up in our schools, in foster-care families and in unaccompanied-minor hotels, living cheek by jowl with genuine children', needed to be 'stamped out'. This 'stamping out' was enacted by The Nationality and Borders Act and the Illegal Migration Act which allow for interventionist practices to 'test' the ages of asylum seekers and the reintroduction of children and families being placed in detention. From 2016 there has already been a ramping up of age disputes by the Home Office and local authorities (2,513 in 2022), leading to hundreds of children being wrongly assessed

as adults and leaving them vulnerable to deportation (Joint Committee on Human Rights 2022, 4).

The representation of all those who claim asylum in Britain as 'single men' follows similar patterns of racialised border politics across Europe (Gray and Franck 2019). Because of the increasingly poor conditions of informal settlements in the Aegean Islands, across Southern Europe and in Northern France, men remain more likely to make these long and dangerous journeys (but they still only represent 70% of those who make such journeys), with the hope they will be able to bring their dependents over safely. However, the hyper-visibilisation of single men has created a manufactured racialised-sexualised crisis where right-wing politicians can use the colonial logic of the 'failed' non-European family to seek to destroy the rights of those claiming rightful sanctuary (often from the very dispossessive forces which are enacted by the same state they are travelling to). In 2018, whilst defending his use of racialised propaganda during the Vote Leave [the EU] campaign, Nigel Farage, then leader of the far-right Brexit party, argued that those coming to the United Kingdom were not 'genuine refugees': 'where are all the women and children, the old people … these aren't refugees, not in the real sense of the word' (BBC 2018) he argued. This far-right rhetoric has become normalised in British politics with successive Conservative party Home Secretaries using the higher proportion of so-called 'single men' crossing the Channel as evidence that they are economic migrants and are from cultures with 'values at odds with our country' (Adu and Syal 2023). Through the propagation of such arguments, the refugee is made 'bogus' as both a hyper-sexual masculinised danger and/or a failed patriarch, abandoning his country and family to war and ruin.

In these examples, we can consider how racialised intimacy energises border violence. The Illegal Migration Act further intensified failed deterrence policies, with automatic detention for people entering the United Kingdom through irregular and criminalised routes including families, women and children. The United Kingdom already has one of the largest detention estates in the world, making millions in profits for private contractors and state subsidiaries (Corporate Watch 2018). This is on top of the £800 million spent on the securitisation of the French/UK border since 2015 with a further, and linked to a further 3 billion spent on drone surveillance technologies, with companies such as the Israeli defence contractor Elbit making huge profits from supplying drones to monitor the English Channel (Allison 2022). Whilst the British 'tax payer', British values and the (white) 'family' are presented as threatened by 'illegal migration' those subjected to detention and deportation lose the right to healthcare, subsistence, social relations, intimacy and social reproduction. The ideological and material investment in the 'family' is posed against depictions of racialised sexuality and the 'failed' family structures of those travelling from the Middle East and Africa, who in turn are confined and subjected to dispossessive violence and potential exploitation. As with other border systems, structures of incarceration not only destroy kinships and intimate relations but create the conditions for hyper-exploitation. For example, detainees in the United Kingdom are paid as little as £1 to maintain detention centres with many people forced to leave the asylum system to gain illegal work

in the informal economy (aiding in the profitability for private contractors), which mirrors practices in Europe such as in Germany where asylum seekers are hired on 'one Euro' job schemes (Danewid 2021, 156). This violent bordering and precarious rights, creates further sites of exploitation through the informal economy as asylum seekers are neither allowed to work for their survival, nor given the security of formal rights.

The legal and violent regime of 'illegal migration' and deviant masculinity equally work to obscure the political economy and historical context of people moving across the Channel and the global racialised division of labour these systems reproduce. It confounds the need to ask, for example, why Syrian, Afghan, Eritrean, Iranian refugees are needing to seek asylum and make perilous journeys in the first place. Lest we forget that defence contractors such as UK-based BAE systems and Rolls Royce holdings, made over £6 billion in profits from arms deals in 2019 alone, much of which was made in conflicts ranging from Afghanistan, Syria to Yemen. The machinery of imperial and racialised capitalism is naturalised and camouflaged through such appeals to intimacy. Just as electoral coalitions are domestically brought together through the scapegoating (Burton-Cartledge 2021) and appeals to non-normative intimacy and inter-racialised intimacies as a potential social and economic threat.

## Conclusions: Border Violence, Intimacy and Colonial Dispossession

It is through these examples that I want to illustrate the productivity of reading borders, intimacy and race through the concept of colonial dispossession. In her work on deracination Aurora Vergara-Figueroa (2018) asks us to consider how the same people, in the same parts of the world have been subject to immobilisation, imprisonment, exploitation, landlessness and forced removal and violence over generations. Vergara-Figueroa makes the case that dispossession, resource/wealth extraction and forced mobility – as connected forces – may always be in flux but are also often cyclical and intergenerational. Whilst important to recognise the contingency of racisms and the flexibility of processes that lead to dehumanisation through the production of new surplus populations (Bird and Schmid 2023), we are also reminded that 'old racisms are not wiped away and populations carry the burdens of previous dispossessions' (Bhattacharyya 2018, 148). Through historical forces of imperialism, racial capitalism and colonialism, it has been profitable to continue the dispossession of the global poor in land grabs, structural adjustment programmes, slum clearances, plantation economies and in colonial warfare as those people often subjected to dispossession are trapped, imprisoned and expelled by border systems. Borders need to be situated in this context of overlapping cycles of dispossession but also to recognise the forms of dispossession that border systems themselves historically enacted and to continue today. In the context of increased scarcity, they remain tools to create the conditions for exploitation and expulsion but also to provide barriers through which extracted wealth and resources are kept to maintain a system of relative privilege (Bhattacharyya 2018, 148). Raced conceptions of intimacy as 'family' do the work of both subjecting people to these

practices and justifying and obscuring such processes. In the mass mobilisations of decolonisation and the movement of people to former imperial powers, borders today still continue to immobilise these populations and, in line with citizenship laws, strip former colonised peoples of their right to mobility and settlement. As we saw with the cases of Black sailors and more recent constructions of dangerous masculinity inter-racialised intimacy was a key site through which border systems where justified. But equally, dispossession is violently expressed and experienced through the loss and destruction of kinship structures, intimate and social relations.

Accumulation through dispossession continues to create the conditions under which mobility is propelled and desired today, just as imperial linkages shape patterns of mobility – particularly to Northern European former metropoles, where language, kinships ties and links of economic dependency, colonial warfare and relative wealth propel patterns of movement. We should think here of how these forms of mass mobilisation of peoples driven from their lands and communities are what Ambalavaner Sivanandan (2008) called the 'flotsam and jetsam' of late imperialism and colonial war. The attempts by people on the move to Europe and the United Kingdom (on North America see Walia 2021) and even neighbouring states, are met with increasingly carceral and militarised border practices and systems of detention and expulsion and the reduction of safe and secure routes to settlement. Intimacy, as I have argued, is networked through these forms of border violence, whether through the tightening of asylum rules, detention practices or the deportation of FNO, because it allows a form of racialisation to continue which appears race neutral, it works to resuscitate and remake patterns of racial thinking through appeals to the normal and good 'family'. To understand contemporary border regimes and the links to socio-sexual intimacy as part of systems of colonial dispossession is to stay attuned to the wider structural and historical forces that shape who is subject to border violence and in whose name.

Borders continue to work to not only create precarious populations who can be exploited, but also to close off routes to access settlement and resources in Northern states whose inherited wealth is not only a result of direct imperialism and colonisation but ongoing modes of extraction globally (El-Enany 2020). In a cruel cycle, often the very same peoples and communities subjected to historical forms of dispossession are subject to border violence today, which again dispossesses them of historical rights to move and settle. Dominant conceptions of intimacy work to obscure these histories, whether through instrumentally working to argue that borders are needed to stem a threat to feminised populations, or to the continuity of 'family' to justifying violence (i.e. because those people and communities fail at proper 'family', or to track and expel and destroy suspicious intimacies). What occurs here is the naturalisation of the border and the camouflaging of the histories and economic systems that create the conditions for movement, through appeals to 'family'. 'What is enabled here', argues Bhattacharyya (2018, 146), 'is not only the smash and grab of immediate dispossession but also the creation of a political space in which it is all but impossible to make justice claims'. We might think here then, how hiding and normalising of border violence through appeals to normative intimacy

enables the closing down of space for the exploration and contestation of such unequal and violent systems. And, in doing so also provide space to consider how we can rethink and drastically expand the socio-sexual relations, intimacies and kinships that are deemed 'genuine' (for more on this see De Noronha and Bradley 2022).

## Notes

1 The right to family life being enshrined within national and international human rights law see The Human Rights Act 1998, article 8.
2 Despite limited successful appeals on average the UK government has deported 5,300 FNOs every year from 2010 and 2019.
3 The top sending countries for those seeking asylum in Britain over the last decade were Iran, Iraq, Eritrea, Afghanistan and Albania, with the exception of Albania all these countries were part of the British Empire and/or sites of recent colonial and imperial intervention.

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# Part V

# Shadow of Law

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# 14 Improper Couples, Suspicious Mobilities

## Sexuality as Currency and Stigma in Black-White Couples' Everyday Lives in Europe

*Elena Zambelli*

### Introduction

In recent years, scholarly interest in the study of 'mixed' couples in Europe has been growing. Historians and socio-legal scholars have been documenting the role of state laws and bureaucracies in regulating marriages crossing the boundaries of nation, race, and/or religion in specific times and places, further highlighting the underpinning political economies.[1] Sociologists and anthropologists have been exploring couples' relationships with kith and kin, parenting practices, and their uses of space and ways of making place.[2] However, particularly scholarship set in twenty-first century Europe is characterized by a range of often overlapping limitations. First, the nation state by and large remains the most widespread unit of analysis, and transnational approaches are underutilized (but see De Hart 2017). Second, the analysis offered rarely situates the inequalities observed in the present within the longer colonial histories of oppression and dispossession from which they emanate.[3] I argue that this intertwinement of methodological nationalism (Wimmer and Glick Schiller 2002) and methodological presentism (Schmidt 2017) underpins the prominence attributed to the analytics of nationality/citizenship, 'culture' and/or religion over race (Zambelli 2020); the latter's elision, in turn, participates in the reproduction of Europe's colourblind self-(re)presentation (Goldberg 2006; Lentin 2008). Third, and lastly, the couples at the centre of this body of scholarly work disproportionately consist of partners of the opposite sex and gender (but see Zambelli 2020; 2023a).

Drawing from my multi-sited ethnographic research, this chapter contributes to this scholarship in three ways. First, rather than analysing 'mixed' couples' perceptions and experiences from within the boundaries of a discreet nation state and/or comparatively (i.e., inter-nationally), it uses a transnational lens to foreground their Europe-wide similarities and recurrences. This analytical move is underpinned by an understanding of Europe as a 'racial formation' (Omi and Winant 1994) materially, ideologically and discursively constituted through its nation states' shared colonial histories (Balibar 1991; Fitzpatrick 1992; Small 2018), and contemporary afterlives (Dabashi 2019).

Second, departing from the mystifying division of time into colonial pasts and postcolonial presents, the chapter illuminates some of the colonial continuities

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underpinning the contemporary problematization of (some) 'mixed' couples. To this end, it theoretically draws and builds on Ann Laura Stoler's concept of 'duress' (Stoler 2016). 'Duress,' Stoler posited, encapsulates the 'colonial histories of the present: the hardened, tenacious qualities of colonial effects; their extended protracted temporalities; and, not least, their durable, if sometimes intangible constraints and confinements' (Stoler 2016, 7). These include Europe's 'border barricades installed as colonialism's parting gestures' (Stoler 2016, 6), which profoundly shape societal perceptions of the 'mixed' couples featuring in this chapter, and more broadly, those of couples cutting across Europe's fortified external borders.[4] Duress, I suggest, similarly characterizes the deployment of sexuality as a device of power (Foucault 1990) and organizing principle of gendered and racialized hierarchies of morality and status (Stoler 1995). In this chapter, I trace such continuity in the regulation (Thompson 2009) of 'interracialized' (Haritaworn 2012) couples crossing the overlapping boundaries of race, nation, and Europe, in a context where marriage and more broadly family migrations have become one of the very few legal migration routes available to Europe's former colonial subjects (Moret, Andrikopoulos, and Dahinden 2021). Against this background, I will argue that sexuality remains a device of power through which states regulate interracialized couples' lives, and more specifically in this chapter, their cross-border movements. This happens, I posit, through the deployment of intersecting racist and sexist stereotype, which produce *some* of these unions as 'improper couples,' that is, couples constituted by subjects of lower morality and value due to their purportedly 'disrespectable' sexuality.

Third, and finally, this chapter moves beyond the currently disproportionate focus on opposite-sex couples – and within these, on those constituted by white women and black men, to consider a broader spectrum of subjects. Compounded by an intersectional approach (Combahee River Collective 1977; Crenshaw 1989; Collins 1998), this breadth of scope will enable the surfacing of the uneven distribution of the racist and sexist 'improper couple' stereotype, showing how different combinations of partners' race, gender and sexuality result in couples' different likelihood of being subjected to it.

This chapter is structured as follows. In the next section, I make the case for understanding sexuality as 'duress' by looking at its continuous operativity as a device of racialization and hierarchization spanning Europe's colonial past and present. Next, I present my research methodology and sketch research participants' profiles. Subsequently, drawing from their narratives, I highlight and discuss instances showing the functioning of the 'improper couple' stereotype; connect its roots to Europe's durably colonial regulation of people's spatial and social mobility, and offer interpretations to explain its uneven deployment.

## Sexuality as Regulation of Racial Boundaries

Race is a fundamentally intersectional category, co-constituted through heteronormative ideas about gender and sexuality and class ideology, and etched to the body. This constitutive entanglement underpins Europe's colonial ideologies

and hierarchies of rule and the ensuing dispositions towards intimate relationships crossing the boundaries of whiteness.

In European lore, the people inhabiting the distant lands visited by European adventurers and merchants were portrayed through markers of sexual 'excess' located in their bodies and mores (Gilman 1985; McClintock 1995; Nagel 2003). In nineteenth-century evolutionary social theory, and in the context of Europe's expanding colonial dominions, these markers were ascribed to a primitive stage of humankind's development, along a linear progression culminating in the 'modernity' then represented by Victorian morality (Lyons and Lyons 2011). Subaltern groups in the European metropole were analogously subjected to this racializing gaze (Mosse 1997). Under white middle classes' eyes, white women selling sex embodied a lower developmental stage (Lombroso and Ferrero 1903), bringing them closer to people living under European colonialism than to their colonizers (Gilman 1985; McClintock 1995).

These tropes of sexual abnormality and deviance recurrently featured in European scientific knowledge, informing hegemonic societal perceptions of intimate relationships in the metropole particularly between white European women and black men of African origin or heritage. White women were portrayed as either 'disrespectable' (Skeggs 1997) due to their improper uses of sexuality – indexed by their sale of sex, engagement in premarital sex and/or single motherhood, and/or mentally insane (Tabili 1996; Bland 2005), whilst black men were believed to be 'sexually uncontained' (Tabili 1996, 183), to have 'stronger sexual urges than white men' and to be capable of giving 'greater satisfaction to their [female] sexual partners' (Fryer 1984, 374). Contempt for white people's engagement in interracialized relationships, however, was highly gendered. Entrenched disapproval for white women dating outside of their race, it has been argued, reflects their ascribed role as their symbolic, cultural and material reproducers (Yuval-Davis 1997; Ferber 1998). Whereas leniency for white men (Bland 2005) arises from their sedimented gendered and racialized entitlement to autonomous partner choice. However, as I will show, such leniency does not extend to their black opposite- or same-sex partners.

This chapter foregrounds the durable deployment of sexuality as a device of power, hierarchization and regulation by interrogating present-day societal perceptions of *some* interracialized, and specifically black-white couples,[5] as 'improper couples.' It brings particular attention to two different albeit sometimes complementary devices. The first device is the fetishization of black sexuality (Fanon 1967; Collins 2004; Donham 2018), which circulates as a currency in a highly unequal political economy connecting Europe and its former colonies. Within it, black men and women are recurrently stereotyped as entrepreneurs of their 'exotic value' (Zambelli 2023b), which they would purportedly exchange to access white people's economic wealth and European passports. The circulation of this stereotype nevertheless significantly varies based on gender and race. The second device is the patriarchal signification of female sexuality, which finds expression both in women's subjection to the 'whore stigma' (Pheterson 1996) – which regulates the tension between their uses of sexuality and their status (Zambelli 2023b), and

in the assumption of women's 'naturally' lower sexual desire than men (Jackson 1987). The sexuality of (straight) women dating interracially is thus always already improper *qua* deviant: it either expresses their 'abnormal' lust or their transactional use of sexuality – both stereotypes effectively undermining the possibility for their engagement in a 'genuine' and long-lasting relationship. On the other hand, since female sexuality is seen as 'naturally' tame (at least compared to male's), the 'improper couple' stereotype is not easily, equally deployed to interracialized lesbian couples – and indeed, my research preliminarily suggests that it does not.

In the next section, I outline my research methodology and my research participants' sociodemographic profile. In the rest of the chapter, I draw from their narratives to illustrate when, how and for whom the 'improper couple' stereotype did and did not manifest in their everyday lives.

## Methodology

In this chapter, I interchangeably refer to the couples whose experiences I discuss as interracialized, mixed-race or black-white. Whilst cognizant of these terms' enmeshment in the tension between ontologizing and deconstructing race, I also acknowledge their importance in capturing and describing racisms' durable effects on people's everyday lives (Gunaratnam 2003), and thus in conducting antiracist research.

This chapter is based on the multi-sited ethnography (Marcus 1995) I conducted on black-white couples' everyday negotiations of race and racism in several metropolitan and urban sites in England, Italy and the Netherlands between June 2018 and October 2019.[6] Couples consisted of a white European partner, and a black or mixed-race European partner of African heritage or who is (or was at birth) the citizen of an African country. Partners could be of the opposite or the same sex and gender, and they were (or had been) either married, civil partnered or in a cohabitation arrangement. Consistent with the transnational approach earlier outlined, I designed my field using a flexible definition of the relationship between participants' country of residence and nationality/citizenship. Hence, whilst couples lived at the time in one of the countries where I undertook research, no partner needed to be a national/citizen of theirs. In this way, I could include EU citizens in the exercise of their 'freedom of movement' – which is a defining feature of contemporary European identity, privilege, and exclusionary border regime.

My research methods consisted of participant observation and in-depth, open-ended interviews. Participant observation revolved around occasions and spaces of 'conviviality' (Gilroy 2010) and antiracism. I developed contacts for interviews in these settings, as well as by drawing on my personal and professional networks. Participants themselves decided their interview method (joint, separate, or individual) – a choice that I enabled for intertwined epistemological, ethical, and pragmatic reasons.[7] In my analysis, I accounted for this flexibility through a careful consideration of the different constellations of power shaping the interview setting from within and from without, including my own presence and position as a white European cis female researcher. I obtained participants' informed consent based on

prior sharing, in writing, of information on the research purpose and procedures, followed by signature of the consent form on interview day. Interviews took place mainly in people's homes and were audio-recorded with their permission, lasting between one and three hours. Questions addressed couples' self-presentation and their experiences of racism and discrimination (if any) in housing, work, mobility and (when relevant) parenting. I transcribed interviews verbatim, pseudoanonymized them and sent transcripts to partners for their validation. Subsequently, I analysed data thematically using qualitative coding software.

Across the three countries, I conducted fifty-four interviews with a total of seventy-four people (i.e., twenty couple interviews plus thirty-four separate or individual interviews). I interviewed more women than men, but equal numbers of white partners and black or mixed-race partners. Most couples included a migrant from within or without the EU and consisted of married partners of the opposite sex and gender; approximately half had children; age-wise, partners were approximately equal and prevalently in their 30s–40s. I used housing tenure as an indicator of their economic security, which most couples I interviewed enjoyed in varying degrees. However, their prevalently homeowner status did not necessarily coincide with their class identities and positions, and at times, the presence of significant intra-couple disparities in economic and/or cultural capital were apparent. The people I interviewed for this study, however, do not constitute a 'sample' from which to derive generalizable findings – both ethnography (Small 2009) and intersectionality (Collins 2015) acknowledging that people's biographies, identities and social locations are too complex, situated and shifting to be reduced to any 'average' experience. In what follows, my purpose is rather to foreground and discuss some of the many ways in which the 'improper couple' stereotype surfaced in (some) couples' everyday lives, as they moved within and across Europe's fortified borders.

## Improper Exchanges

A black Ivorian citizen, Malick travelled to Europe at the turn of the last century. A professional musician, he entered France with an artist visa that he was granted to play in a prestigious music festival. Upon its expiry, he opted for staying in Paris, living from then on as an irregularized migrant. One day, at a hotel he frequented with his friends, he met Lorella – a white Italian woman who had recently moved to Paris for work and lodged there whilst searching for a rental property. Quite serendipitously, the flat she eventually found was very close to his: 'I just had to get out of my place, cross the street, and I was at hers' … I took it as a sign from heaven!' Malick exclaimed.[8] The neighbourhood they lived in, however, was 'a very hot *banlieue*.' Anticipating feeling unsafe in walking back home at night after work, Lorella asked if he would agree to pick her up from the metro station and escort her home. 'After a while, we started to see each other … as girlfriend-boyfriend,' Malick recalled, his lowered gaze and tone suggesting some embarrassment for the sexual implications of this shift in their relationship. 'So, that is how our [love] story was born … It was a bit special, yes,' he concluded. As their bond intensified, Malick's irregularized status became cumbersome, especially since Lorella longed

to move back to Italy and lead their joint couple life there. As Italy offered no long-term work visas for artists, they saw in marriage the only avenue they could pursue to obtain a regular residence permit for him. So, they married, moving to Milan soon thereafter. For Malick, however, this relocation proved troubling:

> [in Italy] I really felt I was *different*. I have never lived *myself* as a problem. But when I arrived here, I did, because people make you understand, in any possible way, that there is something wrong [with you], that you don't fit in the landscape …

Anti-Black and anti-immigrant racisms in Italy are overt, widespread and violent (Hawthorne 2021; Quassoli, Muchetti, and Colombo 2023), and Malick relayed experiencing recurrent episodes of racialized policing when moving in public spaces on his own, as opposed to when moving with Lorella, whose whiteness shielded him from their occurrence (Zambelli 2023a). Racism also seeped through the intimacy of family. Visibly upset, Malick further recalled how, under Lorella's relatives' (white) gaze, he felt

> as someone who comes to steal something, you know? Because it all starts from the propagandised image of someone like me, within the North-South relationship: [we are looked down upon as] 'poor things.' Like that. So, [they assume that] you come to steal something. And this is in your immediate proximity. You are not [taken as] a credible person.

Malick's rage was palpable as he laid out how, in his experience, the structural inequalities between economically wealthier and poorer countries articulated with race and racism, engendering the suspicion that he may be a prowler and a thief encroaching on white property via intermarriage. Similar complementary representations of white women's vulnerability, innocence and naivete and of their racialized male migrant partners' opportunism and deceitfulness are common tropes in the regulation of interracialized binational couples in Europe, past and present (Odasso 2021; Andrikopoulos 2021; De Hart and Woesthoff 2023). At their core, they imply male migrants' transactional use of sex, love and intimacy to obtain a legal passageway into an increasingly fortified Europe, and then seize from within any opportunity to further their own and their family of origin's upward social mobility. As will become evident, in this racialized and gendered political economy, black male migrant partners' currency is assumed to be their fetishized sexuality, triggering the couple's classification as 'improper.'

The duress (Stoler 2016) of the global mobility regime structuring relations between Europe and its former colonies featured recurrently as the backdrop for interracialized couples' tales of their social perception as 'improper couples' both in Europe and in the black migrant partner's country of origin.

Alioune, a black Senegalese male citizen, is married to Simona, a white Italian woman of approximately his age – late 30s. I interviewed them in London, where both had been regularly living and working long before they met based on

freedom of movement provisions (Lorella) and obtainment of a work visa first and an indefinite leave to remain next (Alioune). Each summer, they travelled together to Senegal to visit Alioune's family and enjoy some seaside holidays. It was especially when staying at these coastal tourist resorts that, recurrently, Alioune's fellow countrymen remarked to him that

> 'Your wife is young.' […] because *that* is what they see around. There is sexual tourism. So, old white women go to get young black boys, you know? They [the young men] live in a situation that is quite hard, financially – no work, nothing. The easiest way for them is to start going to the gym, and then to the coast, because they know there is sexual tourism coming in. So, the mixed couple you see [there] the most, is a young black man with an older [white] woman or an old white man with a young black woman. So, as a general concept, everybody else will [look at us and] say, 'Oh! They are young. One must be hard to get then!' [he laughs] That is true, because it is unusual. A lot of [black] people that come to Europe and go back [to Senegal] with their [white] wives are married to older people […] If you see couples like that, most of the time the reason is either money or papers, documents. You know, that is what it is. *Reality*. So, it is hard to find … I am not even going to say [that] 'it is hard.' The percentage of young mixed couples that are genuine – based on love, not on papers, not on documents – is low. So, they say, 'Oh! She is young …'[9]

Indignation and empathy blend in Alioune's account of how his relationship with Simona is recurrently mistaken for one of the many instrumental ones reportedly emerging in sites that have become integrated in global circuits of white women's sex and/or romance tourism (Kempadoo 2001; Herold, Garcia, and DeMoya 2001; Jacobs 2016). The meaning of their marriage thus shifts from a love seal into a means to another end: his spatial and social mobility. Underneath Alioune's visible irritation, there nonetheless laid some implicit flattery for his recognition as a particularly valuable man ('hard to get'), who could marry not just *any* white woman, but a *young* one – in a context where significant age gaps between partners and white women's older age function as markers of opportunistic (versus 'genuine') relationships (Longo 2018; Sportel 2025). Importantly, these reactions did not stick to that particular place, but travelled across borders: 'Even here [in London] sometimes people ask me, for example, my boss [whom Alioune described as "a Pakistani dude"]: "So, your wife, what does she do?"' Alioune paused for a moment and turned to look at Simona as if to pre-emptively apologize for the content of what he was about to share. He continued:

> I am sure he heard from my previous boss that you were a journalist. [I replied] 'My wife is a journalist' [His boss exclaimed] 'Wow! How did you get a journalist?' Do you know what I am saying? So that is the type of mentality even here [in London], and that [question, doubt] can be repeated anywhere else. […] Even my [Senegalese] brothers do it.

Again, we see through Alioune's tale the entanglement of his annoyance for the presumption of opportunism projected on his marriage with his male peers' appreciation for his 'achievement' – i.e., marriage not with *any*, but with a particularly valuable white woman ('a journalist,' i.e., a highly educated professional). By contrast, as shown in the next section, this ambivalence was generally unavailable to women in interracialized relationships, across race, for whom negative judgements were the norm.

The pervasiveness of the 'opportunistic black male migrant' trope in Europe's governance of marriage migrations has been widely documented in opposite-sex interracialized couples. What follows shows that it can similarly affect gay couples.

Philippe is a black dual Saint Lucian and British male citizen. He and his partner George, a white British man approximately ten years older than him, met in London at the turn of the twenty-first century. After a period of dating and cohabitation, and as soon as English law allowed, they got civil partnered. In their joint interview,[10] both were adamant to stress that gay spaces and communities in England, past and present, were not immune from racisms (Han 2022). For example, Philippe recounted being frequently looked down upon as someone who was 'sponging off' his white partner – a racist assumption which, in presuming a particular distribution of power, wealth and status in his relationship with George, also implied his purported opportunistic motives and thus, his immorality. Philippe's impatience with these occurrences became even more apparent when I asked him to describe the bureaucratic journey leading to his acquisition of British citizenship. This was a question I consistently raised in interviews with non-EU migrants and people with a non-EU migration background to assess the role of race, if any, in shaping their experiences of the law and family life.[11] As soon as I pronounced it, however, Philippe suddenly took an upright posture on the sofa where he had till then relaxedly seated next to George, suggesting that he may have found my question disturbing, or in other ways uncomfortable. With a palpably stiff tone, Philippe thus explained to me that, whilst he 'waited to apply for it [British citizenship] *after* we got civil partnered,' he could have asked for it well before and independently from his relationship with George. Nonetheless, he hadn't been that interested in 'the UK [which] wasn't my first choice of settling, but rather Canada or Germany,' where he had already 'spent quite a lot of time.' It was only when his relationship with George became serious that the United Kingdom became the place where he wished to make home.

Philippe's response clearly shows how the temporalities of legal status changes constitute a prime scene for the projection of state and society's racist imaginary of black male migrants' opportunism. To resist against it, he thus felt compelled to underline that love, and only love, was the end of his relationship with George – British citizenship constituting just a means to secure their capacity to live it on their own terms. Similarly to Alioune and Malick (see next section), Philippe's currency in this racialized and gendered sexual economy was assumed to be his fetishized sexuality. Indeed, George reported how he recurrently faced

> the assumption that, as a white person, I am with a black person just because of some sexual preference. Ehm … you know, there are sort of stereotypes, 'Oh, black men are great in bed, aren't they?' you know, this kind

> of … [laughing] And some things like that nasty little ditty, 'Once you've had black, you can't look back.' Which is sort of silly … but it is revealing, actually, of a certain attitude, which is engrained in racism going back centuries – the myth of black male potency in relation to the white man and the threat that that poses. It's fascinating that it still resurfaces in seemingly innocent ways, but they are actually not that innocent! [laughing]

Sitting next to him, Philippe accompanied George's account with sounds and gestures of support and approval – for his body was the site on which these racist fantasies of black men's hypersexuality were projected, triggering the deployment of the improper couple stereotype.

As I show next, lust, sexual excess and transactional sex were similarly central in the stigmatization of women in interracialized opposite-sex couples, and in the devaluation of their relationships.

## Improper Women

Recurrently, white women I interviewed relayed episodes where they felt that people around them – friends, acquaintances and strangers alike – made disturbing inferences on their sexuality solely based on their being in a relationship with a black man.

Angela is a white Dutch woman in her late twenties. At the time of the interview, she lived in Rotterdam with Youseph, a Senegalese man approximately fifteen years older than her. Both passionate about the *sabar* – a dance, music and celebration of the Wolof people in Senegal and Gambia, they frequently travelled together in Senegal for the summer holidays. During one of these holidays, in seeing her with Youseph, a fellow white Dutch woman unbeknown to her brazenly asked her whether she was 'thus going to make beautiful children [sic].'[12] Taken aback by the question, Angela told her to 'calm down,' for she '[did] not know.' The woman, however, continued:

> 'Oh, so it is just for fun then?' she said. So, these were the two options you could have for being with a black man – because that is all what it was about: either [you want] to make [have] 'beautiful mixed [race] children' or to have 'fun.' I was so insulted ….

Angela then went on describing the coastal site where this conversation happened in terms very similar to Alioune's, i.e., as sites where

> all the [white European] women go, and you have the Senegalese boys – who are actually [not locals] but go there because they know that many European women do – and they just … it *really* is sex tourism, and everybody knows it, and you see *so many* of them! [original emphasis]

Angela's distress as she recounted this episode signalled her awareness of the disturbing likelihood that the couple that she was in may likewise be misread as

consisting of a 'lustful' white female sex tourist and a black male sex worker, and thus 'improper.'

Within this gendered and racialized economy of interracialized intimacies, being a woman systematically emerged as a cause of societal contempt. White women's purported lustful desire for black men's fetishized body and sexuality, for example, compellingly emerged also in the interview with Malick (introduced in the previous section). Malick recounted that once, a white male work colleague disparagingly called him 'Big Bamboo' due to the presumed 'special' favour he encountered among their white female colleagues.[13] Disoriented at first, he felt deeply hurt upon realizing the term's racist underpinning:

> Can't I have something that another human being likes? Can't I be interesting beyond this? So, that is what they see: that if you are with a white girl, it is because you have a 'Big Bamboo' … and vice versa, if a black girl is with a white man, she is a *puttana* [whore].[14] And on the other side, on the black side, if you are [a black man] with a white girl, it is because your girl likes sex too much. They also cannot exit that frame.

Gendered contempt for women in interracialized opposite-sex relationships similarly affected black women. Alessandro, a white Italian man, met his wife Aissa, a black Senegalese woman, in Senegal, where he travelled to attend a drumming course with local musicians. The structurally unequal nature of the global mobility regime largely dictated the rhythm and flow of their time together. For years, it was exclusively Alessandro, who enjoyed visa-free travel to Senegal, who could go and visit Aissa. It took many years of rejections and a fervent love plea to the Italian consul in Senegal before Aissa was eventually allowed to travel in the opposite direction. They got married as soon as she did, living in Italy ever since. Recurrently, Aissa expressed Alessandro her longing to return and live in Senegal, but he relayed being hesitant about this prospect. 'There is this thing that, anyway … a Senegalese woman who is with a white man is [seen as] a bit of a slut … because she's [supposed to be] with him for the money … for the money …' Alessandro explained, visibly troubled.[15] Evidently, Aissa's intimate relationship with a white man is at risk of being socially perceived and stigmatized as transactional and thus a form of prostitution (Pheterson 1996), triggering their subjection to the 'improper couple' stereotype.

## Conclusions

In this chapter, I have highlighted the durable circulation of racist and sexist stereotypes concerning the morality and value of *some* partners in interracialized couples. These negative judgements are encapsulated in what I have termed the 'improper couple' stereotype, implying societal ascription of partners' immoral, 'disrespectable' sexual conduct. The roots of this stereotype are twofold. First, they lay in Europe's colonial histories and particularly colonial governments' attempts at reproducing a hierarchy of rule along racial lines, resulting in laws prohibiting or attempting to discourage the formation of intimate unions crossing the boundaries

of race and specifically those of whiteness. Second, they lay in patriarchal notions of female chastity and honour, and women's ascribed role of the symbolic, cultural and material reproducers of race and nation.

The chapter has shown that black male migrants' entry into interracialized relationships with white partners is recurrently interpreted by family members, colleagues and strangers alike as an instrumental act driven by their social and/or spatial mobility aspirations. They are imagined as entrepreneurs of their exotic value, through which they seek access to white wealth, privileges and status. Whilst scholars have widely discussed the deployment of the opportunistic black male migrant trope within opposite-sex binational couples, this chapter has originally shown that it is similarly deployed onto interracialized gay couples. Importantly, the chapter has also shown that the emotions associated with this trope vary depending on the position of the beholder of the gaze within the uneven global mobility regime that these couples navigate. These emotions consist of white contempt for black male migrants' purportedly 'real' intention to come and 'sponge off' their white partners or 'steal something' from them, and black male migrants' appreciation for their peers' capacity to secure marriage with a white woman, particularly when she matches markers of value (e.g., age, professional occupation).

For women in interracialized opposite-sex couples, I argue, there is no space for such ambivalence. Both white and black women in such relationships are negatively judged by white and black people alike because they 'like sex too much,' they just 'do it for the money' or because they are assumed to be engaged in international sex tourism economies as either consumers or workers. Whether it be for pleasure and fun or in exchange for money and status, women in interracialized opposite-sex relationships are consistently positioned as disrespectable female subjects, and thus subjected to the 'whore stigma' (Pheterson 1996; Zambelli 2023b).

Nevertheless, the 'improper couple' stereotype does not seemingly 'stick' (Ahmed 2004) to interracialized couples evenly, and two subjects in particular appear to be sheltered from its experience. The first, unsurprisingly, is white heterosexual men, whose choice to date from within or from without the boundaries of whiteness remains shielded under the cloak of their racialized and gendered privilege – a cloak that nonetheless does not stretch to protect also their black female partners. The second is women in interracialized lesbian couples, for reason that, I suggest, lay in the patriarchal imagination of female sexuality as 'naturally' tamer than male's (Jackson 1987), making lust and sexual 'excess' unlikely 'explanations' of their entry into an interracialized same-sex relationship; this suggestion nevertheless warrants further research.

The scope of the improper couple stereotype, this chapter has conclusively shown, is transnational. It circulates within Europe and in its former colonies and it is deployed by white European citizens and Europe's former colonial subjects alike. Everywhere, a black migrant's intimate relationship with a white woman or man is perceived as opportunistic. Today, the ubiquitous circulation of the improper couple stereotype contributes to reproducing a racialized and gendered political economy of suspicious cross-border intimate mobilities, feeding into European governments' attempts at reducing racialized migrants' entry and settlement in Europe.

## Notes

1 Historical and socio-legal scholarship on this topic is too extensive to be adequately referenced; the volume within which this chapter is situated (Zambelli and De Hart 2025) nonetheless contains numerous relevant contributions discussing cases set in a wide range of national and colonial contexts.
2 Among others, for the United Kingdom see Bauer (2010), Twine (2010), Caballero et al. (2012), and Zambelli (2023a); on the Netherlands, see Andrikopoulos (2023); on Spain, see Rodríguez-García (2006); on Italy, see Cerchiaro (2016), and Odasso (2016) for a comparison with France.
3 Scholarship showing the afterlives of colonialism and contesting the coloniality of the present is immense; among others, see Achiume (2019) on migration, Robinson and Gilmore (2019) on racial capitalism, and Sharpe (2016) on Blackness.
4 Among others, see Bonjour and de Hart (2013), Wray, Agoston, and Hutton (2014), Neveu Kringelbach (2015), and Scheel and Gutekunst (2019).
5 I capitalize the terms 'black' and 'white' only when referring to racial/ethnic categories, such as in use in some European state's censuses (e.g., Black/White British).
6 The research, part of the ERC-funded project 'Regulating Mixed Intimacies in Europe (EUROMIX),' received ethical clearance by the Ethics Committee of Juridical and Criminological Research of the Faculty of Law, VU Amsterdam on 24 May 2018.
7 Epistemologically, any interview is always a 'social situation' (Allan 1980, 205), in which the contents shared are always already mediated by the researcher's presence. Ethically, this flexibility minimized the risk that partners' different attitudes and interests in participating in the research may have engendered tensions among them. Practically, it allowed me to align with partners' work-life arrangements, including childcare, when relevant.
8 Interview with Malick, 1 August 2018, Milan, Italy.
9 Interview with Alioune and Simona, 13 April 2018, London, England, United Kingdom.
10 Interview with Philippe and George, 22 May 2019, London, England, United Kingdom.
11 Note that at the time of my fieldwork the United Kingdom was still part of the EU, as the Brexit negotiations were still ongoing.
12 Interview with Angela and Youseph, 23 August 2018, Rotterdam, Netherlands. Whilst unable to discuss in-depth this reference to interracialized couples' 'beautiful' offspring, it broadly hints at changes in the social value attributed to mixed-race individuals in contemporary Europe, as the notion of 'the "best of both worlds" supplants the "worst of both worlds"' (Haritaworn 2012, 91).
13 The 'Big Bamboo' was a calypso song originally sung by the Duke of Iron celebrating black men's sexual potency, which circulated widely among the African diaspora in the Caribbean and elsewhere.
14 Note that in Italian as well as in English, this term similarly applies to both women who transgress chastity norms for pleasure and/or for work (Pheterson 1996; Zambelli 2023b).
15 Interview with Alessandro, 27 July 2018, Milan, Italy.

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# 15 ‘How Could I Have Been so Blind?’

## Love, Money, and Victimhood in Transnational Interracialised Relationships between Dutch Women and Men from MENA Countries

*Iris Sportel*

### Introduction

Intimate relationships between people living in the Global North and the Global South tend to be treated as suspect, especially when such relationships cross racialised or class boundaries. In Middle Eastern and North African (MENA) beach resorts as well as in Western media and online communities, many stories circulate about white Western female tourists having relationships with racialised local men resulting in financial exploitation and deceit. In these stories, tourist women are cast as naïve victims while local men figure as predators, involved in so-called *bezness*.[1] The term *bezness* is used to describe ‘romantic entrepreneurs’ (Dahles and Bras 1999), racialised men who seek relationships with Western tourist women (often but not exclusively white) for personal gain, such as financial gain and/or an opportunity to migrate. In alarming stories, circulating online, in news media, and among European communities in MENA countries, these men are often portrayed as engaging in multiple profitable long-distance relationships simultaneously, tricking naïve, often older or physically unattractive Western women into sending them large amounts of money and sometimes even becoming violent.

Despite, or even because of their greater resources in terms of wealth and the mobility and status their European nationality brings them, it is European women who are seen as vulnerable in relationships with MENA men. These fears of exploitation of vulnerable European women to obtain entry to the privileged position of European citizenship link back to colonial history. As Ann Stoler describes in her analysis of the Dutch colonial mixed-marriage law of 1898, where proposals were made to give native men marrying Dutch women European privileged status, lawmakers at the time were afraid this would ‘encourage marriages of convenience at the expense of both European women who were drawn to such unions and those who prided themselves on the cultural distinctions that defined them as European’ (Stoler 1992, 543; see also: de Hart 2014; de Hart and Woesthoff 2023). In addition to fears for marriages of convenience, *bezness* stories also tie in with colonial tropes of racialised Muslim men as being dangerous, violent, and controlling, and therefore constituting a threat to women, in particular white women (Bhattacharyya 2009; de Hart, Sonneveld, and Sportel 2017). As I will show below, current

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alarming stories on *bezness* show remarkable similarity to these older colonial discourses. These stories gain new vigour in the current migration context where strict migration policies make marriage to an EU citizen one of very few ways to gain legal entrance to the EU for citizens of Global South countries (Scheel 2017).

In this chapter, I will analyse *bezness* discourses relating to relationships between Dutch women and men from the MENA region, particularly Egypt and Morocco, and (to a lesser extent) Tunisia. I will contribute to current literature on sham marriages by focussing on the important role these narratives play in the experiences of Dutch women who have been in such transnational interracialised relationships. I will show how these narratives are not only important when seeking state permission for marriage migration but also have an impact on the relationship between partners from the start. Not all relationships suspected of *bezness* are aimed at marriage and/or migration. Secondly, drawing from critical victimology theories, I will demonstrate how Dutch women use *bezness* narratives to give meaning to experiences of loss and disappointment after the end of a relationship and to claim a position of victimhood.

Below, I will first describe my theoretical framework, arguing that *bezness* stories can be seen as transnational narratives of victimhood, following classic patterns of perfect victims and offenders. Subsequently, I will discuss the methodology and sources used in my analysis. Then, I will show how (1) *bezness* narratives warn European women against engaging in relationships with men from MENA countries and urge those in relationships to distrust their partners and (2) provide women whose relationships failed with a way to give meaning to their feelings of loss and betrayal and connect to 'fellow victims' for support.

## *Bezness* as Victimhood: Ideal Victims and Offenders

In the *bezness* stories in this chapter, European women feel they have been the victims of MENA men who, for ulterior motives, claimed to love them. To understand their stories, I turn to critical victimology, where several authors have shown how the positions of victim and offender are socially constituted (Christie 1986; Holstein and Miller 1990; Dignan 2004; Strobl 2010; Jacoby 2015; Jarnkvist and Brännström 2016). According to Rainer Strobl (2010, 3) the most important part of becoming a victim in a socially relevant sense is not 'suffering from inflicted wounds or experiencing a norm violation (although these factors are certainly important) but rather being seen as a victim by others and adopting a victim role with certain rights and obligations'. In other words, it is not so much the norm violation (or crime) committed, but rather being *recognised as a victim* by others by behaving in a certain way. '[B]ecoming a victim presupposes the successful communication of a harmful experience' (Strobl 2010, 3). Tami Jacoby differentiates between 'victimisation' as an act of harm and 'victimhood' as 'a collective identity based on that harm' (Jacoby 2015, 513).

In this literature, authors describe several conditions that influence whether people who have experienced 'norm violations' (such as crimes or harm inflicted by others) can successfully adopt a victim role and be deemed worthy of empathy and

support (Jarnkvist and Brännström 2016). The most important of these conditions are perceived innocence and vulnerability. In his famous description of 'the ideal victim', Nils Christie (1986) gives the example of a little old lady being robbed by a stranger in the middle of the day on her way home from taking care of her sick sister. An ideal victim should be in a weak position and should not be in any way able to be blamed for their victimhood (for example by dating the wrong person or taking unnecessary risks), and they should have put 'reasonable energy into protecting' themselves (Christie 1986, 19). Or, as Strobl concludes in his review of the literature on ideal victims: 'The gist of these descriptions is that the ideal victim is a weak person of flawless character and behaviour' (Strobl 2010, 11).

This explains why it is more difficult for people in some positions to claim victimhood from certain crimes than for others. For example, historically, many women experiencing partner violence were not seen as 'good' victims (due to having a personal relationship with the offender), nor were women who experienced sexual violence while being out in the streets alone late at night (they should have protected themselves by staying at home). Studies of intimate partner violence have shown that gendered characteristics of ideal victims in these situations not only include women being physically and economically vulnerable during the relationship, but also their behaviour afterwards: being fearful and acting rationally to escape abuse (Jarnkvist and Brännström 2016). As I will show in the second part of this chapter, the fact that transnational interracialised relationships are seen as risky means that, in order to claim a position of victimhood, Western women who engage in such relationships despite the warnings stress how they were careful to protect themselves from harm, for example by demonstrating that they investigated their partner and found no 'red flags'.

An important counterpoint to this victim ideal type is the offender, who is both gendered and racialised (Long 2021). According to Christie 'He is a dangerous man coming from far away […] the ideal offender is a distant being. The more foreign, the better. The less humane, also the better' (Christie 1986, 26, 28). Tying in with colonial and current social discourses othering Muslim and MENA men (Razack 2004; Bhattacharyya 2009; Abu-Lughod 2013; de Hart et al. 2017), the ideal type of the perfect offender fits very well with the depiction of MENA men in *bezness* stories.

### Bezness *and the State*

*Bezness* narratives also affect – and are affected by – state policies and border regimes. Helena Wray (2015) uses the concept of 'moral gatekeeping' to describe how sham marriage controls by UK migration officers function to protect 'the cultural and moral heart of the nation from invasion through exploitation of the naive and against corruption from within by foolish citizens intent on making unsuitable matches' (Wray 2015, 142). Gina Longo (2018) describes how in a US internet forum on immigration for transnational couples, American women with MENA partners use gendered criteria of love to police the transnational relationships of fellow forum members as genuine or fraudulent, warning their peers to protect themselves

(and the nation) from scams by predatory MENA men. In France, the concept of *marriage gris* (grey marriage – relationships where the French partner marries for love while their foreign spouse only pretends to love them) was made an issue of national morality, declaring that 'the state had a duty to protect its citizens from the abuse of "grey marriage"' (Kringelbach 2013, 8–9; see also: Cole 2014; Odasso 2021).[2] An ethnographic study by Maïté Maskens found that Belgian civil servants also see it as their job to protect unsuspecting women from 'grey marriages' (Maskens 2017, 2015). While in the Netherlands the term *bezness* has not gained as much political power and attention as *marriage gris* in France or Belgium, these narratives of opportunism and deceit do influence state actors, such as embassy personnel and migration officers, and thereby still contribute indirectly to state regulation of mixed relationships (Bonjour and De Hart 2013; Kulu-Glasgow et al. 2016; de Hart 2017a; Severijns 2019; Andrikopoulos 2021).[3]

## Methodology and Sources

In this chapter, I use a wide variety of sources. First of all, I analysed a range of popular media (published between 2005 and 2021) on the phenomenon of *bezness,* including documentaries broadcast on Dutch television; newspaper and magazine articles; and popular and 'true-story' books.[4] Secondly, an important source for this chapter are interviews I conducted in the Netherlands, Morocco, and Egypt between 2009 and 2012 with lawyers, embassy personnel and other professionals involved in transnational divorce cases (n. 31), as well as with divorced Dutch, Moroccan, and Egyptian men and women (n. 26), as part of a project on transnational divorce in Dutch-Moroccan and Dutch-Egyptian families (Sportel 2016).[5] Most interviews were audio recorded and transcribed[6] and analysed using qualitative data analysis software Atlas.ti.

Interviewees included people from a diversity of ethnic and racial backgrounds, such as Moroccan Berbers and Arabs, Egyptians of European origin and Bedouins, and Dutch originally from former colonies such as Suriname or Indonesia. Hence, not all Dutch partners in this study identified as white, while some Egyptian interviewees identified as European and/or white.

Interlocutors were recruited in a variety of ways: through my own network, through (online and offline) networks of NGOs, migrant communities, lawyers, and – in a few cases – courts. I also spent time at locations and events relevant to transnational couples, especially for the Dutch communities in Morocco and Egypt. For this chapter, I focus on interviews with people who used a *bezness* discourse (with or without actually using the term *bezness*) to explain the end of their relationship, aiming to understand how these narratives affect their understanding of their relationships.[7] These were all Dutch women, and most – but not all – were white, while their former partners were Egyptian or Moroccan, most of whom were Muslim.[8] I also interviewed Moroccan or Egyptian partners in transnational marriages who had experienced violence and financial exploitation by their former spouses. They, however, blamed their former wife or husband individually rather than as part of a racialised group, and did not use the racialised *bezness* discourse

when describing *their own relationship*. This means that this chapter predominantly discusses *bezness* from the perspective of Dutch women in a relationship with men from Morocco and Egypt.

I also collected and analysed relevant Dutch-language blogs and discussions on online forums, especially an anonymised series of personal stories posted on the website of the Dutch NGO Bezness Alert, with the intention of gaining attention for the issue and warning Dutch women about relationships with MENA men.[9] Such online discussion forums (also known as message boards) were especially popular in the 2000s and early 2010s. The forum discussions I collected consist of anonymous posts by users in travel forums/discussion boards between 2009 and 2014. For this chapter, I only use material from online spaces which were visible and accessible for anyone without registration or passwords at the time of research.[10] Following Townsend and Wallace, I treat this data as public rather than private (Townsend and Wallace 2016).[11] Considering the sensitivity of this topic, I have chosen not to name the forums involved and have removed other identifying information such as usernames, dates, places, or occupations.

## Interracialised Intimacies, Deceit, and Victimhood

The primary function of *bezness* stories is to warn European women away from interracialised relationships with men from the MENA region or, secondarily, urge them to carefully and continually investigate their partners to make sure they are not being deceived. This is also the core message of most publications on the topic. For example, on March 9, 2014, the Dutch commercial television channel SBS6 broadcast an episode of their undercover television show *Oplichters in het buitenland* (scammers abroad), filmed in a Tunisian beach resort. In the opening scene we see the male presenter, together with a female colleague, seeking out a couple consisting of a Tunisian man and a French woman. The images are slightly grainy and lack colour, filmed at night by a hidden camera. The voiceover explains:

> In an all-inclusive resort in Tunisia, we are about to roughly disillusion a woman. Her twenty-year-younger lover turns out to be a common imposter who has been a parasite on her wallet for years.[12]

The show's presenter confronts the French woman [in French]: 'did you know he has a date with her [the presenter's colleague] tomorrow?' The Tunisian man vehemently denies this, and a heated discussion with the television crew and his French partner follows. In this scene, the fact that the Tunisian man is interested in going on dates with other women during his marriage, combined with the age difference with his wife, is interpreted as clear proof that his marriage to her was only for a residence permit in Europe.

In what follows, we see several scenes, filmed with a hidden camera, in which the presenter's female colleague visits tourist attractions where Tunisian men try to pick her up. Meanwhile, the presenter looks for signs that these men are involved

in *bezness*. The scenes filmed in Tunisia are alternated with interview fragments with Noor Stevens, chair of the NGO Bezness Alert and author of a book on her marriage to an Egyptian man (Stevens 2011). Stevens explains MENA culture and how '*bezness*men' work. The show ends with Noor Stevens' assurance that there are also good Arabs, but that it is important to 'look before you leap'.

This warning, which returned in almost every discussion on interracialised relationships between Dutch women and MENA men I encountered in my research, is based on the implicit (or sometimes explicit) assumption that women in love are either 'blind' or not thinking straight (see also: de Hart 2003, 2017b). For example, an employee of the Dutch embassy in Cairo explained how, when women visited the embassy to arrange for the documents needed for their marriage, she occasionally warned them not to marry particular men:

> The majority of marriages between Dutch and Egyptians are sham marriages. […] We see so many problems with mixed marriages. […] In one case, I advised a Dutch woman not to marry a particular Egyptian man. This man was on our blacklist, he had been married to a Dutch woman before. I wanted to warn her that he was only interested in a residence permit. But she was in love and did not listen to my advice.[13]

Not just embassy employees, but also many long-term European residents in Egypt saw it as their responsibility to inform and warn new arrivals against having relationships with Egyptian men, similar to the policing acts performed by online forum members described by Longo (Longo 2018; see also: Kulk and De Hart 2013). For example, in an email conversation with a Dutch woman who was a key member in an informal network of European women living in a particular Egyptian beach resort, she wrote that she regularly warned Dutch women against marrying an Egyptian partner:

> I tell them they should know what they are letting themselves in for, and I often also lend them the book *Grenzeloze liefde'* [Love without borders (Rozema 2005)],[14] and refer them to the newspaper article by Alexander [Weisink (2009)].[15] Often they jump out of their skin, but others keep thinking that their Ahmed or Mohamed, etc., really is different, unfortunately that generally is a miscalculation, but then it's usually too late […] Like I always say: *bezint eer ge begint* [look before you leap], because here it is a kind of an industry to 'get hold' of Western women, sometimes even next to a marriage with an Egyptian wife …[16]

Such stereotyping phrases, essentialising MENA men as being all the same bad characters were incredibly pervasive and often repeated in remarkably similar ways.

#### *Looking for Signs and Red Flags*

These warnings had a large impact on Dutch women in the early stages of their transnational interracialised relationships with MENA men, as well as on their

ability to claim a position of victimhood after divorce. Therefore, it is not surprising that an important part of discussions on *bezness* concerns signs to determine whether or not a partner is involved in *bezness*. Many posts on discussion forums ask very similar questions: is this a real relationship or is it just an illusion? How can one know whether this is a 'good man' or a scammer? As such, an important effect of these *bezness* narratives and warnings is that they lead to a continuous sense of suspicion from European women – and their family and friends – towards their Egyptian partners. Due to the repeated insistence that these men can 'fake it for a very long time' and are 'master manipulators', these suspicions can remain present for a long time in the relationship, even after many years of marriage. Such notions also strengthen the potential of these men to be seen as a threat: despite their familiarity and seemingly good intentions they always remain unknown and dangerous Others, and as such, ideal-typical perfect offenders.

One of the most engaged-with posts on the NGO Bezness Alert blog, was an English-language letter entitled 'The key to marrying a good Egyptian man is to test him'.[17] The letter was signed by an anonymous 'foreigner male living in Egypt' and posted in June 2014 by the website's admin, with new comments being posted until 2017. The letter discusses a number of 'red flags' aimed at weeding out 'the good catches from the not-so-good [ones]', such as men's ability to admit errors and their views on polygamy and religion. The letter suggests that European women should 'test' their partner, for example, by being friendly with other men in his presence to make sure he is not controlling or jealous and by expressing a wish to live together in Egypt rather than migrate to Europe. In their reactions, readers point out other red flags, such as gendered age differences, where men are (much) younger than their partners, which are also connected to women's fertility.[18] These gendered age differences have also been described as being cause for suspicion by migration authorities looking for 'sham marriages' (Bonjour and De Hart 2013; Eggebø 2013; Wray 2015; Maskens 2017; Longo 2018), demonstrating that this is a transnational discourse focussed on protecting Western women – and their nations of origin – from fraudulent men.

Another red flag present in this and other online discussions is when men ask for money or let women pay for expenses, such as meals. A recurring suggestion is that Egyptian men are culturally complied to pay everything for their female partners. It is unclear where this notion comes from, but there might be a connection to Egyptian (and more generally Islamic) family law, which obliges husbands to pay all household costs while separating marital property. The expectation that men should pay for everything to prove they are good men is particularly problematic in a context of large welfare and wealth differences between Europe and the MENA region. Especially for men working in the tourist industry, even the poorest European tourists tend to have an income many times higher than their own.

Finally, some comments also mention checking online 'blacklists' of 'bad' MENA men working in the tourist industry.[19] The assumption behind these blacklists is that these men are inherently 'good' or 'bad' – a disposition which can be determined by looking at other European women's experiences with them.

Although many of these red flags concern behaviours which are generally seen as undesirable in (male) partners – such as cheating, controlling behaviour, financial dependence, or an inability to admit errors – the comments and stories posted on these blogs show how, in the context of a transnational, interracialised relationship between an Egyptian man and a European woman, cheating, or controlling behaviour, is seen as a sign that the entire marriage has been fake, *bezness*, all about the man's aspiration to obtain a residence permit in Europe. Even when men only turn out to be controlling or ask their spouse for money after several years of marriage, this is still interpreted as a sign that they have been in the relationship solely for money or a residence permit from the start. As such, *bezness* discourses not only warn Western women away from relationships and urge them to investigate their partners at the start of a relationship, they also serve as a way to make sense of failed relationships and bad experiences and to claim a position of victimhood after a marriage has ended. I will further elaborate on this below.

**Becoming a Victim of *Bezness***

As explained above, becoming a victim is a social process, where victims need to meet certain norms to be able to be recognised as genuine, such as not placing themselves in a dangerous situation. In interviews, informal discussions during fieldwork and online discussions, many interlocutors reflected on what does and does not count as *bezness*, and who could legitimately claim to be a victim of it or not. For example, Latif, an Egyptian business owner living in the Netherlands and divorced from a Dutch wife, spoke about how he occasionally helps Dutch women in Egypt through the NGO Bezness Alert, for example, with translations of documents:

> Men who [date] a much older woman, like sixty [years old] and [they are] twenty, are gigolos and thieves. What does she expect? She is complicit. 'Age is a number' [English in original] they say. If they have had a relationship for two years, if they lived together, and then theft happens, okay.[20]

From Latif's description of the women who cannot be seen as genuine victims, deserving of his support, two criteria emerge. Firstly, age, describing older women dating (much) younger men as 'complicit' in *bezness* and, secondly, the length and closeness of the relationship before giving an Egyptian male partner access to the woman's money; implying that women should protect themselves from committing too quickly or easily. In other words, women need to demonstrate that they were in a believable relationship, especially with regard to age and the length of the relationship (see also: Longo 2018).

These criteria were also visible in the narratives of Dutch women who felt they had been deceived in their relationship with a Moroccan or Egyptian partner. In these narratives, they position themselves as genuine victims and their former partners as offenders. However, as I will show below, these stories are not just aimed at claiming a position of victimhood, but are also a way for those whose relationships failed to

give meaning to their feelings of loss and betrayal and connect to 'fellow victims' for support. Narratives of *bezness* helped them make sense of their experiences.

Divorce stories of women who feel they have been a victim of *bezness* tend to have a clear turning point, an incident which makes interlocutors re-evaluate their relationship and reinterpret earlier events as signs that they were deceived. These turning points are an important part of *bezness* stories, as they prove that – up to that moment – these women were in a believable relationship and had no reason to be suspicious, thus strengthening their claim to victimhood.

In one of these stories, Inge, a Dutch woman in her late forties, recounted meeting her 40-year-old former husband, Hicham, during a holiday in Morocco. After their marriage, Inge remained living in the Netherlands, while Hicham stayed in Morocco until his procedure for a residence permit in the Netherlands was finished. During that waiting period, Inge had the impression that the behaviour of her husband started to change. She mentions a series of moments which caused her to start doubting their marriage, for example, when Hicham asked her for money:

> Then he had bought something and asked me for money. […] In Islam, it is absolutely not permitted that a husband asks his wife for money, right, to make a certain purchase for him. So that did not feel right to me. I gave him the money, it was three hundred Euros, so it did not run into thousands right away. It was very strange for me. I asked him: is there something wrong? You never asked me for money before. You have always provided for yourself. We are trying to build something together, and this is very unfortunate. It just did not feel right to me.[21]

The culturalised argument of husbands' obligation to provide for their wives Inge uses here is very similar to those used by other Dutch and European women in discussions on internet forums, as discussed above. The true turning point came after their application for a residence permit to live in the Netherlands was rejected and Inge's husband 'subsided into a kind of lethargy'. Combined with the uncomfortable feeling she already had about money in their relationship, Inge came to the conclusion that, for him, the relationship had been about the residence permit rather than love.

In other stories, this turning point was a sudden discovery. For example, Monique, a Dutch woman in her late thirties who lives in the Netherlands but owns a second home in an Egyptian beach resort, discovered that her partner stole from her after she spent some time in the Netherlands:

> I only found out after I came [back] to Egypt. That was his mistake. Because he called every day, in any case picked up the phone every day. And at some point, I did not hear from him for a week. Supposedly he was in the army. But probably one of his playthings was there. And he did not answer his phone. And I became very suspicious. And I booked a ticket to [city in Egypt]. And the first thing I did was go to the bank. And then I saw there was only [a small amount] left. He denied. […] And he knew the code [of the bank card].[22]

The theft Monique discovered made her see her (now ex) partner and their one-year relationship in a different light, and made her start to investigate other aspects of his life as well, discovering further lies.

Anna, a Dutch woman in her fifties who worked in an Egyptian beach resort, also ended her relationship after she discovered her Egyptian husband had been stealing from her to cover pressing debts after he lost his job and became addicted to alcohol. Her moment of discovery happened when she came home one day to find that he had disappeared, taking the rest of her valuable possessions with him. She also discovered he had further debts with family and friends. After recounting a story her ex-husband told her to explain his debts at the beginning of their relationship – supposedly caused by co-signing the mortgage of a friend who then fell seriously ill, which she no longer believed – Anna reflected:

> I did not know how those things work here. So, I had no reason to distrust him. Now, in retrospect, of course, I think: what is true of any of it [anything he said]?[23]

As explained above, to be recognised as genuine victims these women need to demonstrate how, regardless of the horrible things that happened to some of them, they were not to blame for their victimisation and had taken precautions to protect themselves. In the *bezness* narratives I analysed, both in interviews and in online discussions, this mostly takes the form of women stressing that they truly believed theirs was a legitimate relationship, and that they had no reason to doubt their partner. In their stories, similar themes arise as in the online discussions outlined above and some of the literature on sham marriages (Longo 2018), such as age differences in line with gendered expectations and the time partners had known each other before starting a migration procedure or sharing finances. In their interviews, both Monique and Anna spoke at some length about getting to know their partner first, before committing to a relationship. For example, Anna explains below that she was reluctant to trust men again after an earlier divorce in the Netherlands, and how she had known her partner as a friend for over a year before they started dating:

> You know, I've seen so many bad things happen [in interracialized relationships]. I think that that's been a reason for me why I played a waiting game for so long. But see, it can still go wrong.

Monique met her partner through a friend who had known him for a long time. She stressed theirs was a serious relationship, between people of equal age:

> He was acting. He was the perfect son-in-law. Really, how he behaved in the Netherlands [when visiting her parents]. He had learned to do the dishes … the dryer had broken down, he completely took it apart [to fix it]. The shutters were broken, he tried to fix them. He was the perfect son-in-law, and my parents were so happy.

Both Monique and Anna had already lived in Egyptian beach resort towns for quite some time before meeting their partners, and were familiar with *bezness* narratives. Interestingly, both women explained that they had discussed the phenomenon of *bezness* with their partners:

> Friends who [saw us together] at first could not believe it. 'You seemed to be such a perfect couple.' He was able to come to the Netherlands and this and that. He was not a *bezness*man and he hated everyone who did that. And eventually he was the perfect *bezness*man himself. Those who say 'I don't do that, I don't steal,' those are the worst.
>
> (Monique)

> He always said like: 'I don't understand how those other men can do such a thing. I'm not like that, I'm honest through and through. I have never wronged someone.' In the beginning I fell for it with my eyes open. […]. Well, now I think: 'how could I have been so blind, why didn't I see that.' Well, especially because he tried so hard for such a long period of time. To build something together.
>
> (Anna)

Finally, both women also put some blame on themselves that they had failed to see their partners 'for what they really were', calling themselves 'blind' and 'stupid', which fits the *bezness* discourse perfectly. Claiming a position of victimhood did not just enable them to 'be released from guilt and responsibility' (Jarnkvist and Brännström 2016, 11), but also served as a way to connect to others with similar experiences for support:

> Helping fellow-sufferers, well, that gives a lot of hope.[24] It brings people into contact who have gone through that. You recognise [things], because eventually they all take the same approach. You recognise so many things from Noor's [Stevens] stories, and in other stories.
>
> (Monique)

*Bezness* narratives thus provide these women with a way to make sense of what happened in their relationship and deal with their loss. By reinterpreting their marriage as *bezness*, women change the entire story of their relationship in hindsight as having never been about love, excluding any other reasons for the break-up of the relationship. For example, outside of a transnational, interracialised context, Anna's story could have just as well been interpreted as a partner spiralling into addiction and mental illness and hurting all those around him. She even kept in touch with her former in-laws – whom her ex-husband had also stolen from – after he disappeared. But in the context of an interracialised relationship in an Egyptian beach resort, the pervasive presence of *bezness* stories – which portray Egyptian partners

as potentially dangerous Others – overpowers any other possible explanations for relationship breakdown, especially when conflicts over money are involved.

## Conclusions

Welfare differences between the Global North and the Global South make relationships between local men from MENA countries and tourist women from Europe suspect, as other scholars in this collection also note (Zambelli 2025). *Bezness* narratives describe local men in beach resorts preying on naïve European women aiming to exploit them financially or to secure visas for Europe. Positioning women in these relationships as victims emphasises their vulnerability through love, despite the power inherent in their nationality and financial means, linking back to colonial discourses on interracialised marriages. As such, these relationships become a matter of public discussion and policing: by other transnational interracialised couples, their social environment – particularly in holiday destinations and beach resorts – and government officials. The *bezness* discourse is a public, transnational discourse, reproduced time and again by different actors. Individual *bezness* stories become public through sharing on platforms and in European communities in MENA countries. As studies of other European contexts show, public and political attention to *bezness* narratives lead to increased surveillance of mixed couples by state actors such as marriage registrars and migration authorities, legitimising state policies and practices (Neveu Kringelbach 2013; Cole 2014a; Maskens 2015; 2017).

At the same time, this public discourse also impacts European women's understanding of their own interracialised relationships. The strong presence of *bezness* narratives serves as a warning for European women in relationships with Muslim men from MENA countries, urging them to start looking for signs that their partner is untrustworthy. Their suspicions are not so much rooted in the behaviour or character of their individual partners, but rather in their racialised and class positions. For women who feel that they themselves have been the victim of *bezness*, the narrative also serves as a way to give meaning to negative experiences in mixed relationships and to connect with others in similar situations.

As the critical victimisation literature demonstrates, becoming a victim is a social process. Central to this process is not so much what has happened to someone or the extent to which they have been hurt, but rather who is able to claim the social position of victim and be worthy of support and empathy (Jarnkvist and Brännström 2016). Looking at *bezness* stories through the lens of critical victimology theories helps to make visible how women need to position themselves to get recognition and support. In the *bezness* narratives I analysed in this chapter, the women stressed that they truly believed this was a legitimate relationship and that they cannot be blamed for what happened.

Without denying the genuine hurt and victimisation the women described in this chapter experienced, or the existence of fraudulent 'romantic entrepreneurs', the explicitly racialised and racist discourse of *bezness*, recasting MENA men as

dangerous predators, remains highly problematic. *Bezness* narratives raise such an amount of suspicion that any misbehaviour by a partner from the Global South, even after years of marriage, raises the question of whether their love had ever been authentic after all.

## Notes

1 The origins of the term are unclear. According to NGO Bezness Alert, it is derived from a combination of the German *Beziehung* (relationship) and the English *business* into an Arabic-sounding word. Others claim it is just an Arabic-sounding version of business. The first mention I have been able to find is the Tunisian Film *Bezness* by Nouri Bouzid (1992). In the Netherlands, the term has gained popularity since the publication of the 'true-story' book *Kus kus, Bezness* (Stevens 2011).
2 Neveu Kringelbach also points out the racist connotations of 'grey', being a mixture of black and white as well as a pejorative term for people of North African descent (Neveu Kringelbach 2015).
3 The only reference I could find for the term *bezness* or similar terms in Dutch parliamentary debates is in a 2016 report on sham marriages in the Netherlands by the research department of the Ministry of Justice (for which I was myself one of the experts interviewed), which primarily uses the term 'unilateral sham marriages' (Kulu-Glasgow et al. 2016).
4 Newspaper articles were mostly sent to me by interlocutors during and after my fieldwork. I also conducted a systematic search in the nexis uni database, using search terms such as *Bezness* and *Love Fraud*. The true-story books included in the analysis were Noor Stevens (2011). Kus kus Bezness. Een Nederlandse vrouw gevangen in het web van een Egyptische liefdesfraudeur [Kiss Kiss Bezness, A Dutch woman trapped in the web of an Egyptian love fraud]; Hanneke Rozema (2005). Grenzeloze liefde [love without borders]; Alexander Weissink (2011) *Egypte. Habibies, helden en huichelaars* [Egypt, Habibies, Heroes and Pretenders]. Heike Wagner (2002). *Gevangen in het land van mijn geliefde. Een westerse vrouw verstrikt in een uitzichtloos huwelijk in Egypte* [Imprisoned in the country of my beloved. A western woman trapped in a dead-end marriage in Egypt; translated into Dutch from German].
5 This research was conducted as part of the project *Transnational Families between Dutch and Islamic Family Law*, led by Betty de Hart and financed by an NWO-VIDI grant (File 452-07-014). Since same-sex couples cannot legally get married (or divorce) in Morocco or Egypt, this study was limited to heterosexual couples.
6 Some interlocutors did not want to be recorded, so I took notes during their interviews.
7 While the *practice* of *bezness* was well-known, I encountered this term only after Noor Stevens published her book (Stevens 2011), which gained some media attention. Interviews done before its publication did not use the term.
8 On the racialisation of Muslims in Europe see, for example: De Koning (2016); Meer (2013); and Garner and Selod (2015).
9 The NGO posted these stories with permission from/ on behalf of the women involved. Sadly, Bezness Alert founder Noor Stevens passed away in 2019, and the website has since become inactive.
10 Most forums/discussion boards have since been taken offline, often to be replaced by Facebook groups or other social media.
11 See also Bond et al. (2013), who have conducted a study of how users of health discussion boards view the use of their writing in academic research.
12 'Oplichters in het buitenland'. Season two, episode 2 'Tunesië': 0:03': https://youtu.be/JU1lhL6GTJA?si=YTC08dT1I1-A_A4L

13 Interview with employee of the Dutch embassy in Cairo, Egypt, 2010.
14 While the book does not condemn these relationships in general it stresses the need for European women to inform themselves and protect themselves from Egyptian law and customs.
15 *NRC Handelsblad*, 'Uitgekleed en kaalgeplukt. Reportage badplaats aan de Rode Zee', [*Undressed and stripped. Report from a Red Sea beach resort*]. by Alexander Weisink, 29 August 2009.
16 January 2011, email conversation with author.
17 Formerly available through: http://www.beznessalert.com. The website is no longer active.
18 The underlying assumption is that racialised men from MENA countries will want children. A relationship with an older woman past reproductive age is therefore seen as an indication of being fraudulent. See also Longo (2018).
19 There are many blacklists mentioned in online discussions, dedicated websites and Facebook pages where European women post names, pictures, and personal information of their former partners, often in a very angry tone and sometimes in dehumanising terms (see for example: https://www.tunisianloverats.com).
20 Interview with Latif, Netherlands, 2012.
21 Interview with Inge, by phone, 2011. See also Sportel (2013, 2016).
22 Interview with Monique, Belgium, 2011.
23 Interview with Anna, Egypt, 2011. See also Sportel (2016).
24 She uses the Dutch term *lotgenoten*, which is used for people who have gone through similar difficult experiences, such as fellow-sufferers of illnesses or fellow survivors of violence.

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# Afterword

## Love, Domination, and All Things in Between

*Debra Thompson*

Boundaries are an essential part of both life and the law. Boundary creation, crossing, shifting, reification, politicization, and dismantling implicate a range of social processes and phenomena that employ symbolic resources, such as conceptual distinctions or cultural traditions, to create, maintain, contest, or even dissolve social differences (Lamont and Molnár 2002, 168). An integral part of the function of the state is to create distinctions that become institutionalized and embedded in social life – to separate legal and illegal behaviour, citizens from non-citizens, to define and bind its territorial jurisdiction and those it considers to be "we the people."

Nowhere is role of the state in defining boundaries between "us" and "them" clearer than in the conceptual history of race and the regulation of interracial intimacies. "Race" itself is, of course, a mode of categorizing humanity into supposedly discrete segments, but one that has long been marked by instability and incoherence. It was the desire and need to create distinctions to justify and expand the scope of the transatlantic slave trade and European colonialism that created our modern understandings of race and racial difference (Mills 1997; Hesse 2011; Weiner 2012). The precise nature of racial categories and the location of their boundaries were at the core of the explosion of pseudo-scientific debates between ethnologists and anthropologists of the nineteenth and early twentieth centuries, giving way to the eugenics movement and the belief in racial superiority that shaped Nazi Germany (Winant 2001). Even as the post-war era witnessed increased wariness of explicit racism in global and domestic spheres, racial hierarchies were sutured to citizenship policies, the development of welfare states, colonial administrations, economic development, and international relations.

So, too, the state has long had a vested interest in governing race through the intimate sphere. In North America, anti-miscegenation laws in nineteenth- and twentieth-century America and Canada's Indian Act regime prohibited and punished particular kinds of interracial relationships, and also reaffirmed racial and gendered hierarchies, shaped colonial discourses of civilization and progress, micromanaged women's sexuality and, especially, white women's sexual behaviour, heralded monogamy and heterosexual marriage as the only legitimate forms of intimacy, confirmed white male access to property and patriarchal ideas of economic

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responsibility, and policed racial boundaries (Thompson 2009). In European colonialism throughout Africa, South America, the Caribbean, and Asia, racial membership in the nebulous category "European" was measured less by one's public persona than how one conducted their private lives, as intimate relationships of friendship, love, sex, cohabitation, childbearing, and child-rearing were used to access gradients of "civility" (Stoler 2002). The micromanagement of intimate arrangements went hand-in-hand with moral judgements about the in/appropriateness of certain types of interracial relationships. These were not simply instruments to rationalize unequal power dynamics between the colonizer and colonized but were deeply and mutually constituted by shifting gendered and racialized moral narratives that sustained colonial domination.

Race is now widely understood as a social construction, but one that nevertheless shapes political, legal, material, and social conditions across time and space. It is a complex of social meanings as well as consequential material conditions and subjective identities, constantly shifting and churning in accordance and direct contradiction with social, historical, and contextual contingencies (Omi and Winant 1994; Morning 2009; Fields and Fields 2012; Winant 2015). Critical race theory, emerging in the fields of law and education in the 1990s, posits the law as an important site where racial hierarchies are institutionalized, even as laws themselves appear to be neutral and universal (Delgado and Stefancic 2012). So, too, racial boundaries are made, challenged, manipulated, reified, obscured, and undone, by and through legal processes.

This much is clear in the United States, where race scholars have examined the legal and political constructions of race in law and legal discourse (Haney-López 2006), census classifications (Rodriguez 2000; Thompson 2018), and other institutional arrangements (Fox and Guglielmo 2012) for decades. Similarly, the study of interracial intimacies (Wallenstein 2002; Pascoe 2009) and multiracial identification (Daniel et al. 2014) has long demonstrated the role of the law in determining membership in racial groups and restricting access to the privileges associated with whiteness (Gross 2008).

While there is much to learn from the case of American racial exceptionalism and other extraordinary circumstances of institutionalized racial apartheid (Wilkerson 2020), it is the *unsuspecting* cases that have the greatest potential to reveal the dynamics of transnationally textured and domestically nuanced efforts to regulate race. Given the stubborn "silence about race" in the European context (Lentin 2008), the chapters of this volume deliberately combat the hegemonic invisibility of European whiteness, which is frequently unnamed but universally consequential, as well as contemporary positionings of European racial discourse as colourblind and/or post-racial.

To engage with questions of race comparatively, however, necessitates that one takes questions of time, space, and context seriously, while not succumbing to the seductive pull of methodological nationalism. In varied colonial, metropolitan, and postcolonial contexts, surprising similarities mark distinct forms of racial regulation, implicating transnational forces at play in the formulation of racial discourses. For example, the chapter by Lorke demonstrates how communism and

international relations shaped the regulation of interracialized relationships in the German Democratic Republic, a noteworthy addition to scholarship that theorizes the relationship between the Cold War and civil rights discourses, pressures, and activism in the United States (Dudziak 2000; Von Eschen 2004).

The detailed historical analyses in several chapters nevertheless demonstrate that domestic factors, such as regime type, can influence approaches towards interracial relationships and mixed-race progeny. De Napoli elucidates how the priorities of the Italian fascist government, for example, reveal a foreclosure of social norms that permitted, though did not encourage, interracial relationships, while Tarchi demonstrates that the same fascist transformation of Benghazi from a militarized space to a setter colony contributed to policy and paradigm shifts in the Italian Empire of the 1930s. In an interesting contrast, Woesthoff details how the postwar West German democratization process involved limiting foreign Muslim men's acquisition of West German citizenship through marriage, a shift from the automatic loss of citizenship for white women in interracial relationships, but nevertheless still a regulation of interracial intimacies that maintained racial hierarchy. Across regime types, then, the transition from one form of government to another often intensified the perceived need to regulate intermixture, and necessitated innovative, and sometimes insidious, approaches to do so. The regulation of interracial intimacies also illuminates the complex interplay of transnational and domestic factors, as Jones demonstrates by bringing the metropole and colony into a single analytic frame, in his discussion of the Dutch politics of intimacy in Netherlands and its colonial administrations in Suriname, Curaçao, and Indonesia.

The long and complicated history of racial classifications – and, frankly, racial inequality in diverse societies – leads directly to the doorstep of the state, which has had an unparalleled role in creating the boundaries that separate supposedly distinct races. The subsuming notion of "regulation" is meant to implicate state action as well as purposeful inaction designed to identify and control population groups and their behaviour(s) by mandating conformity with rules or principles (Thompson 2009). The law is the clearest example of how states regulate interracial intimacies, whether through narrowing the scope of who can access marriage or civil unions or by criminalizing and punishing deviant behaviour, for purposes associated with colonial domination (Stoler 2002), affirming racial ideologies (Pascoe 2009), exploiting African labour and appropriating Indigenous land (Wolfe 2001), or demining access to divorce, property and other assets, inheritance, and child custody and legitimacy (Gross 2008; Bhandar 2018). Sometimes the definition of relationship itself was the subject of intense scrutiny; marriage – often the only officially sanctioned form of conjugal relationship – is not the same as sex, cohabitation, polyamory, concubinage, or even, in contemporary parlance, a situationship.

The chapters in this volume have elucidated the wide array of instruments the state has at its disposal. Interracial intimacies and multiracial people were regulated through governing institutions such as the army, bureaucracy, census, courts, police, and border agents; governing arrangements in the colony, metropole, and

settler society; citizenship access and revocation; migration, deportation, and repatriation laws; international humanitarian law and foreign aid; limitations on the freedom of movement; marriage applications, licenses, and other paperwork politics of the state; prostitution laws and the regulation of commercial sex; urban segregation, zoning policies, and the production of racialized urban spaces; policing, surveillance, containment, coercion, and extra-legal violence; equality statutes; child adoption, protection, welfare, and abandonment laws; and contemporary multiculturalism, assimilation, and diversity management policies. Regulations also shape social norms, discourses, and customs; for example, De Napoli's use of "living law" to analyse the *madamato* in the Italian colonies in the Horn of Africa demonstrates that state action is supplemented, and sometimes contradicted, by informal but highly consequential social norms that also serve to regulate interracial intimacies.

These regulations frequently differentiated among target populations, highlighting fundamentally intersectional subjectivities and modes of domination (Crenshaw 1991; Carbado et al. 2013). Given its origins in Black feminist legal thought, an intersectional analytical lens clearly reveals the necessity of centring the experiences of Black and Indigenous women in issues surrounding, for example, rape and consent, which Gross's chapter demonstrates is critical to understanding the different ways that the regulation of intimate affairs constrained the lives of Black and white women. Beyond the intersection of race and gender, however, these extrapolations of metropolitan and colonial formations and regulations of interracial intimacies also engage those vectors of identity that are too often positioned on the margins of the margins. For example, H. Jones considers the intersections of race and ethnicity in African and Caribbean encounters and the forging of pan-African ideologies, while Turner and Ducommun examine the interplay of race and gender in the conceptualizations of family. Similarly, Bland's examination of mixed-race children also draws on family life, but additionally speaks to the ways that disability was instrumentalized to constitute racial discourses of moral, behavioural, and intellectual degeneracy. Age forms an important component of Franco's analysis of interracialized same-sex encounters as well, including with North African male minors and white men, and this chapter alongside Zambelli's contribution seeks to move beyond the heteronormative, hetero-exclusive documentation in official archival records.

Somewhat ironically, these efforts to regulate interracial relationships are often unsuccessful. The lines that define racial categories are always blurry, always much more porous, flexible, and contested than they appear to be. Rigid taxonomies and stringent rules to govern the private lives of individuals will nearly always be insufficient to capture the messy realities of racial identification and the full range of intimate connections that define the human experience. Racialized subjects do not simply accept the classificatory demands of state power; there is always the disruptive potential of a reimagining of belonging, membership, solidarity, and allegiance that exceeds the state's racial imagination. In post-colonial theory and cultural studies, the concept of liminality refers to an in-between, ambiguous, or hybrid space of being neither here nor there; that threshold moment, position,

circumstance, or environment in which the border itself is a recognized legitimate space of existence where radical transformations can occur (cf. Bhabha 1994). For some, this is the essence of multiraciality – embodied evidence that the fixity of racial categories never fully captures the mutability of their content. But it is these ambiguities and uncertainties that are often deemed to require the most stringent restrictions and vigilant forms of surveillance.

The regulation of interracial intimacies, and those who challenged and defied the boundaries, restrictions, and stigmas set in law, exposes the ways that race is fundamentally constituted by and through relations of power. As Gross's discussion of cases involving sex between white men and enslaved Black women in the antebellum American south demonstrates, the legal regulation of interracial intimacy must engage with questions of coercion and consent, and therefore issues of control, domination, and violence. Power also manifests in the creation and enforcement of norms that dictate appropriate and acceptable behaviour, the determinants of what makes a "good" citizen, and the moral character of the once deemed civilized, now begrudgingly multicultural, nation. And yet, now as then, there is always the potential for disruption, dissent, rebellion, and, thus, transformation. Law can also be shaped from below.

Finally, let us end with a focus on that "below," those individuals who are not simply archival data, obscure findings or outlying cases. At the heart of these scholarly interventions is people – those who, in the face of formidable opposition and deadly state violence, and often against all odds, sought intimacy, respect, freedom, choice, hope, and dignity. Intimacy is most often associated with romantic love and sex, and together, these chapters ask: Are genuine love, romance, friendship, and adoration truly possible in circumstances of extreme domination? These issues remain unresolved in the twenty-first century which, Zambelli reminds us, still features deep and long-lasting social, political, and economic inequality in many democratic societies. Love is, nevertheless, "an important public good, and loving is a significant political act, particularly among those stigmatized and marked as unworthy of love and incapable of deep commitment" (Iton 2008, 8). Be that as it may, intimate relationships also encompass the full emotional range of the human experience. And so, the challenge is to both question the possibility of intimacy and love, while also paying heed to racism, to domination, to stolen agency, constrained choices, hate, and fear. In short, we must write about life (Brand 2001). And in doing so, we write of lives that experienced subjugation and struggle, as well as hope, hate, anxiety, serendipity, faith, forgiveness, jealousy, courage, and all the things in between.

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