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# **Intimate citizenship and the tightening of migration controls in the United Kingdom**

## **ABSTRACT**

This article examines recent changes in British family migration policy. It explores the reasons for these policy changes. It highlights that these changes have affected the legal, financial, social and lived experiences of transnational couples. It uses primary research to exemplify these changes. For example, it highlights that the changes in policy have had some negative impacts on the ability of transnational families to have intimate relationships with each other. Some of these changes have led to the separation of couples. Other changes have led to what couples outline as an involuntary separation from the UK. This research has current and future relevance in the context of the focus of the current government, and the likelihood that policy will be tightened even further in the aftermath of Britain leaving the EU, post-Brexit.

Keywords: Migration, migration policy, intimate citizenship, cross-border marriage, transnational families

## **1 INTRODUCTION**

In this article, we explore how transnational marriages are represented in UK migration policy, and we consider how UK migration policy shapes transnational married couples' experiences of intimate citizenship. Transnational marriages have become a significant social phenomenon in a world that is marked by high levels of mobility, 'global loves' and the extension of intimate life across borders (Elliott & Urry, 2010). For example, in the European Union, an average of 8.4% of all marriages between 2008 and 2010 involved a foreign-born and a native-born partner (Lanzieri, 2012). This trend should not be seen as purely a European phenomenon. In many countries in East and Southeast Asia, the proportion of transnational marriages seems to be similarly high or higher (Jones, 2012). Therefore, it is readily apparent that transnational marriages are becoming increasingly commonplace phenomena in the early 21st century. However, highly significant to this is the fact that, as we shall see below, legislation and policy have been focussed on restricting such unions in a variety of ways and this article explores the implications of these policy changes at a time of increasing transnational marriages.

It should be noted here that the focus in this article is specifically on transnational marriages, as opposed to either transitional families or transnational intimate relationships. Definitions of these three terms are shown below:

[Insert table 1 here.]

These definitions are somewhat simplified, but they highlight important sociological differences to individuals in terms of expectations, obligations and social spaces. The significance of these differences should become evident later on in the paper. The focus of this article is on transnational marriages, as this has important legal and policy implications which will be detailed below.

It should be noted at the outset that while the academic study of transnational marriages has been increasing in recent years, this is still a contested field in terms of what a ‘transnational marriage’ is. This is because the term can refer to marriages within a country, across countries, across continents, and marriages within and outside ethnic groups regardless of where they live, as exemplified by Charsley’s (2012) anthology on transnational marriages, through which the authors use a variety of definitions of transnational marriages. More specifically, when talking about such marriages in Asian societies, Lu (2007) identifies two distinct ways in which the phenomena has been conceptualised. The first relates to where the focus of attention is on issues of geography, nationalism, race, class and gender and where particular attention is paid to marriages occurring in exploitative situations. The second is where the individuals marry with an intention of creating and shaping their future together, but their choices are mediated by actors such as the state. It is this second conceptualisation which this paper is analysing the transnational marriage of its participants.

A significant reason for the growth of such transnational marriage is that economic globalisation has mobilised large populations, facilitating the extension of intimate ties across borders, through faster and cheaper travel and new means for long-distance communication

(Elliott & Urry, 2010). At the same time, socio-economic disparities and the precariousness of employment in many parts of the world has impelled individuals to cross borders for economic reasons (Lu, 2007). Transnational marriages are an increasingly common result of this new mobility (Charsley, 2012). In an international legal context, Article 16 of the United Nations' *Universal Declaration of Human Rights* (UDHR) seeks to guarantee the right to family life.

However, perhaps not surprisingly in relation to the UDHR, at the national level these rights may be guaranteed less unequivocally, as transnational family relationships, whether married or unmarried, may be complicated by migratory regimes that restrict transnational couples' joint residence in the same country or otherwise restrict their personal lives. Public policies, laws and bureaucratic regulations may articulate cultural norms that demand homogeneity in terms of nationality and cultural and ethnic origin from intimate partners. In the European Union, these norms have come to be expressed in growing legal restrictions that result from public concern over "sham marriages" that serve as a pretext for immigration control (Kringelbach, 2013).

It should be noted that the UK is not the only country in the OECD in which the issue of marriage-related migration is seen as problematic, as evident from the restricting of spousal immigration in countries including but not restricted to Austria, Belgium, Denmark, France, Germany, the Netherlands, Norway, and Sweden, (Block, 2015; see also Bonjour and de Hart 2013; Eggebø, 2012). However, what is particularly evident in the UK is how transnational marriages are frequently challenged as illegitimate in both public and political discourse. Publically, D'Aoust (2017) has observed how newspapers in the UK continually publish stories about 'sham marriages' with conspicuous regularity, casting transnational couple relationships in a clearly negative light. These media reports form a pronounced association between marriages between partners of different national origins and economic migration, rendering such relationships illegitimate as intimate bonds and rendering invisible the specific needs of

transnational couples and their families. This socio-cultural marginalisation remains an important feature of transnational couple relationships, and has been reinforced by changes to migration policy that imposes tightened restrictions on marriage migrants and their dependents, entailing a substantial decline in family-related migration into the UK, in contrast to an overall increase in net migration in the same period (Sealey, 2016). Additionally, political discourse has increasingly become ‘shrill’ on migration in general, with links being drawn by the former Prime Minister between immigration and social ills (Robinson, 2013). Perhaps not surprisingly, this generalised negative perception of migration in general permeated into the discourse on transnational marriage migration, as will be detailed below.

While, as stated above, transnational marriages have attracted considerable attention among scholars of migration and elements of this process of tightening restrictions on family migration have been documented in the academic literature, some of the attendant publications precede the outlined changes since 2010 (Wray, 2009). Accordingly, in this article, we build on this earlier research to ask how *current* British migration policy represents and impacts on transnational marriage. At the same time, we add an original and so far under-explored perspective to attendant academic debates, by asking how marriage migration policy may affect transnational couples’ experiences of intimate citizenship. Intimate citizenship refers to the scope of legitimacy of specific practices of intimate life, in social, cultural, political and legal terms. The term citizenship is used generally to refer to the rights and responsibilities that individuals have within a nation, as elucidated most famously in T H Marshall’s (1950) tripartite formulation of citizenship. The key point about Marshall’s analysis is its focus on the importance of social rights to citizenship. Ken Plummer builds on Marshall’s significance of social rights to analyse public conflicts and personal choices concerning issues of love, sex, reproduction, marriage, family and so forth, in a world in which each of these issues involves considerable uncertainty and complex decision:

[...] intimate citizenship looks at ‘the decisions people have to make over *the control (or not) over one’s body, feelings, relationships; access (or not) to representations, relationships, public spaces, etc.; and socially grounded choices (or not) about identities, gender experiences, erotic experiences.* It does not imply one model, one pattern or one way. (Plummer, 200: 13f.)

While the concept is grounded in sexualities and queer studies, it can be usefully extended to look at migration policy and its impact on migrants’ experiences of intimate relationships. Analytically, intimate citizenship draws attention, on the one hand, to the ways in which such marriages are publicly recognised or contested in political debate, law, mass media and everyday social interaction. On the other hand, intimate citizenship also highlights the ways in which individuals make decisions about their transnational intimate lives within the institutional constraints of the societies in which they live. If we accept Plummer’s argument that such intimate citizenship is an important component of social rights, then we can argue that any negative policy changes exemplifies the point made by Marshall that a denial of such rights is a denial of citizenship. Given the tightening of migration controls in the United Kingdom over the last 10 years, and the likelihood of further tightening from the 2016 EU referendum result, it seems important to analyse, from the perspective of intimate citizenship, the ways in which transnational marriages are represented in migration policy and the consequences which these representations have for transnational couples.

## **2 METHODS**

Our analysis is grounded in multiple data sources. Firstly, we analyse migration policy and attendant publications and official reports. We draw mainly on 2 government publications issued in 2011 by the Home Office and the Migration Advisory Council, as these have had a major influence on policy as will be detailed below. We analysed these documents using qualitative policy analysis to highlight where policy changes occurred specifically from these

documents, which does not always happen. To do this we draw on McConnell's (2010) typology of policy success and failure, wherein he outlined how the extent to which government goals and instruments are implemented as an important criterion for success or failure. As will be seen below, the government publications utilised have been highly instrumental in government policy in this decade. Secondly, we analyse narratives of migration and intimate life of transnational married couples, to understand their experiences of intimate citizenship. These personal narratives form part of a larger study on transnational Chinese-Western marriages in London and Beijing.

At the time of the interviews, all the participants shared specific characteristics. This included the fact that all participants, first, were in a long-term, either married or unmarried, intimate relationship with a Chinese respectively Western partner. At the time of the interview, these couples were resident in either London or Beijing. All participants were highly-skilled professionals, with education to at least degree level and white-collar employment in a range of professions, including, among others, banking and finance, human resources, the arts and academic research. Participants' age ranged from the mid-20s to the late 40s. Interviews were conducted by the principal researchers or by research assistants between early 2016 and early 2017. Wherever possible, interviews took place in participants' native language.

In this article, we focus on two of these interviews. We have chosen to focus on these two interviews in so far as they bring to the fore the relationships between migration policy and intimate citizenship with particular clarity. The relatively small sample size differs from the majority of qualitative-based research which normally entails 30+ participants. However, the small sample size reflects a focus on critical case sampling, outlined by Cresswell (2014) as the selection of a small number of important cases chosen specifically as the ones most likely to explain the phenomena of interest. Additionally, critical case sampling has the advantage

of ensuring that the data does not become repetitive and the analysis does not lose its depth (Guetterman, 2015).

Critical case sampling is applicable where the largescale existence of a phenomenon is not readily apparent, as in this study. This is relevant here as the primary focus of the interviews concerned narratives of transnational intimate relationships at large, rather than specifically the impact of migration policy on intimate citizenship. The latter was particularly salient in the narratives of the two couples on which we draw here, which points to an underexplored aspect of research on intimate citizenship. The application of critical case sampling through these two case studies has allowed this issue to be analysed in depth, and the wider implications of this is outlined in the conclusion. The combination in our research of multiple sources of data and analysis has enabled us to provide a multilevel account of public policy focused not just on why policy changes, but on the specific outcomes from these policy changes.

An important limitation of this sampling technique is wider statistical generalisations from the sample are not possible, although logical generalisations can be made. Accordingly, it is not our aim to formulate empirical generalisations as to the frequency with which visas are granted or denied to transnational couples or immigration policy affects transnational marriages in any other way. Rather, this element of our analysis seeks to bring to the fore how migration policy may shape transnational couples' experiences of intimacy, belonging and citizenship.

### **3 MARRIAGE MIGRATION POLICY IN THE UNITED KINGDOM**

Consterdine (2018) draws a distinction in the UK's historically restrictive migration policy between wanted and unwanted migration, and locates marriage migration in the UK squarely as unwanted when comparing it to economic migration. In particular, in the UK's long post-colonial history of migration, such unwanted migration was specifically targeted at non-white immigrants, suggesting a racialised migration regime (ibid), within which family migration has been policed as 'a potential danger to border integrity by providing an entry point



for difference' (Gedalof, 2007: 84). Gedalof specifically highlights the problematising of extended families within other cultures as a marker of how policy has sought to maintain the primacy of the nuclear family at the expense of less traditional family types. Thus, underpinning this anxiety has been a desire to regulate the suitability of migrants entering the country, wherein, according to Yuval-Davis et al. (2005: 516) 'the myth of common origin and a fixed immutable, ahistorical and homogenous construction of the collectivity's culture and/or religion as an encapsulating totality is central to such constructions.' Consequently, policy has exhibited racialized undertones in terms of which type of family is acceptable. For example, Turner (2015) observes how marriages were banned in colonial India between the colonist and the native population because of the 'unsuitability' of the native population. More recently, Turner also observes how family migration restrictions has frequently targeted the South Asian community, due to a focus on the behaviours and cultural practices of these communities, and wherein 'these practices were viewed as antagonistic to those values and principles underlying British society' (Turner, 2015: 636).

Turning to more recent policy, the year 2011 was a significant year for the general direction of current legislation and policy concerned with transnational marriage migration. It was in this year that two significant Reports were published by the then Coalition government which have and continue to contribute directly to policy. The most significant of these was the proposals for reform of family migration entitled *Family Migration: A Consultation* (Home Office, 2011). This Report was a response to a government commissioned consultation process overseen by Theresa May, the then Home Secretary and current (at the time of writing) Prime Minister. As the Report states, its focus was on 'preventing and tackling abuse, promoting integration, and reducing burdens on the taxpayer', (pg.6), and made a number of significant general policy proposals in these regards, more of which below. The second Report was also commissioned by the government, and was conducted by a government appointed Migration

Advisory Committee (MAC). The title of the Report was ‘*Review of the minimum income requirement for sponsorship under the family migration route*’ (MAC, 2011), with a focus on determining a minimum income threshold for those wishing to bring their spouses/partners and dependants into the UK so that they did not become a burden on the State. Although this Report had a specific financial emphasis on policy, a key observation that the MAC made was that ‘the issue of family migration is complex with economic, legal, moral and social dimensions’ (MAC, 2011: 7), and this should become evident below.

The context of these Reports cannot be separated out from wider general issues with migration that were occurring then and continue to occur at the time of writing. There was a rising concern within the general population with continued large increases in net migration over a number of years, a concern that led to a focus on restricting migration and restricting benefits paid to migrants (Sealey, 2016), and ultimately led to the June 2016 EU referendum that voted for the UK to leave the EU (Consterdine, 2018) The 2010 Coalition government put in place a number of specific policies geared towards this focus, restricting entry to students, skilled workers, unskilled migrants and spousal migration (see Sealey, 2016 for a summary). An interesting point to note however is that due to EU freedom of movement rules, most of these restrictions could only focus on non-EEA nationals, particularly from Commonwealth countries and regions such as Asia and Africa.

The *Family Migration: A Consultation* Report made this focus on restricting non-EEA spousal migration evident in its two main proposals to:

1. Introduce a new minimum income threshold for sponsors of spouses, partners and dependants
2. Define more clearly what constitutes a genuine and continuing relationship, marriage or partnership for the purposes of the Immigration Rules.

Source: Home Office, 2011a

What should be evident from the list of proposals above is the explicit focus on limiting migration through the marriage/civil partnership or spousal entrance route, and there have subsequently been a number of policy and legislative changes that reflect this explicit focus. The observation of the Home Office (2013: 5) is very pertinent here, as it stated that ‘as the requirements for non-EEA nationals seeking to remain in the UK to work or study have become more selective, it has become more attractive for non-EEA nationals to try to use marriage or civil partnership as a means to remain and settle in the UK’. This study highlights that the recent focus in policy has been on closing down this route through changes to the legal and financial context of transnational marriage migration, and thereby seeing controls on transmigration marriage migration as primarily an immigration concern above anything else.

#### **4 LEGAL CHANGES**

The legal term for someone wishing to stay in UK due to relationship ties whether married or not is ‘spouse/civil partner’. There are essentially two main immigration categories for someone who wishes to enter the UK as a spouse/civil partner. The first is *leave to enter or remain*, which means that they are able to enter and leave the country for a set period of time, usually up to 33 months. The second category is *indefinite leave to remain*, which means that there is no time restriction on the amount of time they are able to remain in the country, they effectively have a permanent right to reside in the country. Which category an individual is assigned to is first dependent on a) whether and where marriage/civil partnership took place and b) where the individual(s) lived prior to the spouse/civil partner application for entrance to the UK. In general terms, it is easier to enter the UK as married or in a civil partnership than it is if you are in an unmarried relationship. It is also easier the longer the relationship has lasted and if individuals have been living together for a period of time as a couple, and also if the application is made by a resident UK national rather than where both individuals live abroad.

Where transnational marriages have taken place abroad, the question of validity is not applied in a restrictive manner, meaning that the focus is not on whether the marriage is legal in the UK. Rather, it focusses on whether the marriage is legal in the relevant country, as evident from the fact that marriages can be deemed as valid even if polygamous, even though polygamy is illegal in the UK (Home Office, 2013). Also, the requirement of ‘evidence of an intention to live together’ does not mean actual evidence of living together prior to the application. This is from an acknowledgement that in some cultures, living together prior to and after a civil ceremony is not possible without an addition religious ceremony, and so the evidential requirement is only receipt of a religious and civil marriage certificate (UK Visas and Immigration, 2013). The Marriage (Same Sex Couples) Act 2013, which legalised same sex marriage in some parts of the UK, effectively extended these provisions to married same sex couples.

There is however no such cultural leeway for marriages that occur in the UK, and a major theme of policy over recent years has been to tighten the UK’s legal definition of marriage in general, which has had an implication for transnational marriages. This means that there is a more restrictive regime that exists for marriages that take place in the UK between transnationals. All marriages which take place in the United Kingdom are governed primarily by the Marriage Act 1949, but the Immigration Act 2014 made some important changes to the marriage requirements between transnational. Its main focus was to limited the incidences of ‘sham marriages’ between EEA nationals and non-EEA nationals, wherein a sham marriage is defined as ‘a marriage or civil partnership entered into for immigration advantage by two people who are not a genuine couple’. Home Office (2013: 5) states that ‘A sham marriage or civil partnership is to be distinguished from a marriage or civil partnership entered into by a genuine couple from where it may be convenient for immigration or other reasons for the couple to be married or civil partners.’ Prior to the Act, the Home Office identified sham

marriages as ‘a significant threat to UK immigration control’ (Home Office, 2013:3), with an estimate that between 4,000 to 10,000 applications a year to stay in the UK are made on the basis of a sham marriage or civil partnership (Home Office, 2013: 5). Some of the measures introduced included:

1. Increasing the waiting period between the notification of a marriage and the actual marriage ceremony;
2. A power to investigate suspected sham marriages;
3. An inability to get married or enter into a civil partnership for non-compliance with an investigation;
4. And action where it was deemed that a sham marriage would or had taken place, including refusal, deportation and prosecution.

The important points about these changes is that they apply to all marriages where the immigration status of a non-EEA national could benefit from the marriage or civil partnership, meaning in effect, the responsibility is on individuals to prove that the marriage is not a sham, not the other way around. This means that all non-EEA transnational marriages in the UK has come to be seen as an immigration issue, with legislation put in place to deal with it as such. Analytically, Charsley and Benson, (2012) have argued that perhaps the real sham in sham marriages has been the lack of quantifiable evidence of its existence and the lack of an empirical definition of what it is, and it is this sham which has been used to push through ever tightening measures to control it. Additionally, Bonjour and de Hart (2013) have argued that the construction of ‘sham marriages’ in legislation has the dual intention of both rejecting other cultures and reinforcing the ‘superior’ native culture and values. A possible reason for this is that ‘false marriages’ and ‘forced marriages’ are often conflated in immigration policy (Chantler et al., 2009), which serves to reinforce negative perceptions against family migration in general in debates and policies.

It should be noted that the currently policy outlined above has a remanence to the ‘Primary Purpose’ rule, which was abolished in 1997. When this was in place, it required

foreign nationals married to British citizens to prove that the primary purpose of their marriage was not to obtain British residency. This is very similar to the policy of limiting sham marriages outlined not just in content but also in application, because within both the Primary Purpose rule and the ‘sham marriages’ legislation, the emphasis is on the those applying for residency to disprove a negative, not on immigration officials. Thus, as with the primary purpose rule, arguably the focus with sham marriages legislation is on ‘regulating the migrant-citizen family as suitable and genuine’ (Turner, 2015: 633) which can be seen as the continuation of the racialized focus in family migration policy outlined above.

The case of Ying from China and Thomas from Austria can be used to illustrate these points. They met 2012 when they were both studying at a university in London, and their relationship developed when they were nearing the end of their studies. Ying explained that her parents, although open minded, had warned her against dating a foreigner, as they feared that a transnational relationship would complicate her life and make it difficult for her to settle down. She attributes the fact that she nevertheless fell in love with and ultimately married Thomas to her exposure to foreign culture from an early age.

Ying’s account suggests that her relationship with Thomas may be seen as a direct result of the easy, well-planned transnational mobility of studying abroad. However, Ying’s relationship with Thomas faced serious complications almost right from its beginning. As Ying’s studies were nearing their end, she soon had to leave the UK. Until April 2012, it had been possible for non-EU foreign students to remain in the country for a period of up to two years to find work, through the Post-Study Work Scheme (PSW), which was a way for international graduates from UK universities to remain in the UK for 2 years after graduation. However, just as Ying’s studies were nearing their end, this scheme was cancelled. Due to Ying’s inability to find work in the UK without already having a visa, she left the country, while Thomas took a job in London. As a result, she and Thomas had to continue their

relationship long-distance. This highlights the point made above about the relative difficulty of entering the UK in an unmarried relationship. As a consequence, the intimate bond that resulted from their encounter turned out to be less easy to maintain. They lived in an uneasy long-distance relationship for some time, as Thomas did not speak Chinese and felt unable to find employment in China. In the end, they decided to marry:

The external pressure [on us] is relatively large, and the other issue is that he did not know how to be back together. [...] In Britain I would not be able to find a job, so that there was little hope. And although he is more traditional, he still felt too young to get married. His father and mother did not agree with him to marry so early. He is now 27 years old, and his father was married at the age of 27, and so he found a reason to convince his father. His parents expect that I will go to the UK to find myself a job, so that the two of us can continue together. I have told them, how can that be, it is very difficult.

Ying's account makes it seem as if their decision to marry was a result as much of their involuntary geographical separation as of their love. The act of getting married itself turned out to be difficult, as most of the countries they considered for their wedding – the United Kingdom, Austria, Denmark and China – required one of them to obtain visas and provide a complex set of documents for these visas to be granted. This was very likely linked to the changes made in relation to sham marriages outlined above. In the end, they decided to marry in China. However, even after their marriage, Ying found her visa application to the UK rejected due to a technicality:

I have been refused a visa once before. But as we are married, we now hope to get a visa and hope to settle there [i.e. in the UK]. [...] My husband is not English, he is Austrian. In this case, there is a condition that, although my husband has been there for nearly a decade, he needs to submit proof. He did not include documents for his student stage, only for his work of two or three years.

At the time of our interview, Ying and Thomas had been married for three years, but they had never been able to live together. They pinned their hope on a future successful visa application, and they had already begun work on this application with the assistance of a British immigration lawyer.

Ying's and Thomas's story renders visible a fundamental contradiction of globalisation's current stage. On the one hand, young, highly-skilled individuals such as her and Thomas have become internationally mobile by the promise of foreign degrees and the resulting employment opportunities, or simply by the cultural appeal of living abroad. On the other hand, the intimate bonds they form in the context of their mobility are not easily recognised in migration law – as in the case of unmarried relationships – or face considerable legal barriers.

## **5 FINANCIAL CHANGES**

A second linked legislative factor that impacts on transnational marriage migration is income. Since July 2012, in another policy brought in by Theresa May as the Home Secretary, there has been a financial requirement in the form of a minimum income threshold that the UK resident spouse must meet in order that the non-UK resident spouse can come to live in the UK. This means that the EEA resident spouse has to have a minimum income of at least £18,600 per year and have been in salaried employment for at least 6 months prior for their non-EEA non-resident spouse to be eligible to enter the country. The threshold rises if the couple have dependent children. The income threshold is based on 2011 Report of the Migration Advisory Committee outlined above, and is designed with the intention that such migrants do not become a 'burden on the state', meaning having recourse to welfare benefits (Migration Advisory Committee, 2011: 1), as it is set at the income level at which a household is no longer eligible for tax credits or housing benefit while in employment. Where an individual is not able to meet the threshold, their spouse is not allowed to enter the country.



An interesting facet of this policy is that it is based solely on the income of the EEA resident spouse, as the income of the non-EEA spouse does not count towards the threshold if they are not in the UK, from a concern that they may stop working after they come to the UK, meaning a drop in income and therefore having recourse to benefits (Gower and McGuinness, 2017).

One direct outcome of the policy has been to reduce the number of transnational spouses entering the UK. The actual numbers that the policy has prohibited from entering the UK is not known, but as an example, between 2013 and 2014, approximately 4,000 applications were put on hold due solely to failure to meet the maintenance requirement (Sumption and Vargas-Silva, 2016). This 'is the most conservative estimate of the number of people prevented from coming to the UK due to the policy in a given year, since many will not have applied, knowing that they were ineligible' (Sumption and Vargas-Silva, 2016: 10). This is because of the level at which the income threshold has been set is at a level that is above the income of 40-45 % of the UK population (Gower and McGuinness, 2017) and means that someone working full time and earning the National Living Wage set by government does not meet this income threshold. Some groups in particular such as young people, females and those living in London are less likely to meet the threshold (Sumption and Vargas-Silva, 2016).

Byrne (2015) has noted that these new minimum income rules have been relatively uncontroversial within the general public, except when they restrict the immigration of a normative marriage to the UK; this suggests that 'only certain relationships (which are all also heterosexual) are held up as worth of defence in these campaigns against the new restrictions... [only]the racialized (white) British citizen transnational love should be protected' (Byrne, 2015: para 6.12). In other words, only certain transnational marriage types should be exempt from these rules, in order to protect the 'normal' or 'non-racialised, non-other'. The minimum income requirement should also be viewed in the context of the previous Highly Skilled programme, which was a scheme designed to allow highly skilled people to emigrate to the

UK for work. The emphasis in the programme on a high income had a specifically gendered impact, wherein it disadvantaged women more than men due to their generally lower income (Yuval-Davis et al., 2005). Likewise, it has been highlighted how the minimum income requirement particularly disadvantages women in a similar way. For example, ‘while 28% of British males working as employees did not earn enough to sponsor a non-EEA spouse, this rose to 57% for their female counterparts’ (Gower and McGuinness, 2017: 22). Similarly, the emphasis on no recourse to public funds reinforces the negative position of women in abusive relationships, as it necessitates them to stay in such relationships for up to two years (Chantler et al, 2009). This highlights how migration policy in general, and marriage migration policy specifically, is not only racialized, but also gendered (Byrne, 2015).

The case of Lilly and Dewei can be used to illustrate the impact of these changes. Lilly is British and had moved to China to conduct research for her PhD, with a joint British-Chinese scholarship, where she met Dewei, a Chinese national. At the time of the interview they had settled into a happy marriage, and they had recently had a baby. They were both conducting postdoctoral research at one of China’s most prestigious universities while also working to support their family.

It had not always been their plan to settle down in Beijing. Initially, they had intended to move to the UK, and Lilly in particular expressed a strong wish to give something back to the British academic system that had funded her studies with generous scholarships. However, they had to abandon this plan when Dewei’s application for a British tourist visa failed twice. Lilly explained that this was due to the suspicion that Dewei might intend to remain in the UK as an illegal immigrant:

The reasons they gave us were to do with – well, they were not satisfied that he was not trying to illegally immigrate or remain in the UK and work. Probably because we don’t have a lot of

money – we don't have a lot of savings. My salary is not very high even though it's a very demanding job.

Dewei attributed this rejection due to his and Lilly's relative lack of income, savings and real estate:

I basically did not save any money to apply for a visa to Britain. The first time I did not quite get the idea, and then we still had not fixed [our relationship]. We had not married, and we were boyfriend and girlfriend, and she was ready to return home [to the UK] together. [...] Then after we had married I thought it should be no problem, but the results was that the second application was rejected. It may have been the impression we gave or our income; we had not saved a lot of money at the time. We also had no real estate, and some people told us that we should have used an immigration adviser, but I did not want to make it so complicated.

It is striking that, according to Dewei and Lilly, their cultural capital as highly-educated academics and their status as a married couple was not enough to simply allow Dewei to visit the UK as a tourist. Dewei in particular attributed the ability to enter the UK with a valid visa almost entirely to economic considerations, and he pointed to his experience with Britain's costly expedited visa services as a reason:

For example, [there is] prime-time multi-pay, when the application is expedited after you pay more money, say two working weeks, holidays extend the wait, and you do not know by how many days, it is uncertain, and you are not able to check. You have to check how much you spend on calls anyway. These are fee-based services – a variety of fee-based services – [...] and you spend money in a variety of ways. As things were urgent, we seem to have spent more than a thousand dollars, but urgency does not guarantee any results. This is ok, but I do not think that it is humane. At least you have to focus on people, but [they are] not too concerned about the people [and] not too concerned about the specific situation they are in.

These experiences are understandable in the context of the establishment of an income threshold for foreign spouses from non-EU countries living in the UK. On the one hand,

decisions on visa applications are now routinely made according to economic criteria, such as the applicants' income and personal wealth. On the other hand, since the Conservative-led government took office in 2010, steadily increasing fees have become attached to many aspects of the visa application process, such as phone calls to speak to an official immigration advisor, the timely processing of a visa application, and so forth. Experiencing these economic dimensions of the visa application process first-hand, Dewei in our interview seemed deeply struck by the comparative lack of attention to his and Lilly's personal circumstances, and he articulated this as a basic lack of humanity.

The feeling of having been deprived of a vital right is tangible in Dewei's claim that the British visa system is not humane, and it might be attributed to the fact that the rejection of his visa deprived him of a chance to meet Lilly's elderly parents in the UK. He argued that the chances for him to ever travel to the UK were now clearly limited, as his visa application had already been rejected twice:

I have proof of work, and there is a marriage certificate and the baby's birth certificate. Is this not enough? Apparently not. So after two [rejected] applications, unless your economic situation has a significant improvement, you will not be reconsidered. Her father also discussed the matter with his member of parliament, to resolve the situation. However, we think that this was of now use. After the impression we have given [in the first two applications] we think that in the future it will be more difficult to apply.

Dewei attributed this outcome to pervasive anti-immigrant sentiment:

We certainly cannot go to England. We have a general understanding of this, because she has a British colleague is British who found it very difficult to settle with his [Chinese] wife. You see, the United Kingdom is relatively conservative [...], and it is also particularly drastic in this regard. [...] In Europe there is a widespread rejection of immigrants. This problem cannot change; this is public opinion and the attitude of the community. [...] If we ever considered

going abroad, I would have gone to England to see her parents in the past. Basically this possibility is now very small.

Dewei and Lilly's story points to a notable contradiction between the ostensibly universal right to marriage and family life and the visa system that prevented Dewei from meeting his parents-in-law and develop ties with his extended family in the UK. Policies created to prevent illegal immigration thus may limit marriage migrants' intimate citizenship in significant ways, by curtailing their mobility and their ability to spend time with or live with family members. Underpinning this policy is a pervasive belief that migrants in general, including family migrants, are an economic drain on the social policy, such as in relation to the notion of benefit tourism (Sealey 2015). However, the evidence base for such benefit tourism has been shown to be largely baseless and irrelevant (Portes, 2016). Furthermore, according, such a policy reflects the fact that some family migrants are more wanted than others, which highlights the priority given to the labour market above other concerns, and through which policy makers selectively choose the most economically acceptable migrants. According to Siriyeh (2015:230), this is also cognisant with the drive towards 'good citizens' who 'live within their means and take responsibility for their lives consuming service'. In effect, it reflects a distinction between 'deserving' and 'undeserving' migrants, wherein those with economic means are automatically seen as deserving of their migrant status, and those without the economic means as undeserving (ibid). As a consequence, such a focus on income elides the 'bureaucratic principle of equal treatment', designed to eliminate governance based on power and privilege (Eggebo, 2012), as privilege is at its core. One particular criticism has been from the Children's Commissioner for England, Anne Longfield (2015) who identified the rules as creating "Skype families", whereby spouses were only able to interact through email as a consequence of not being able to come to the UK. However, a Court of Appeal judgement in 2014 ruled the threshold lawful and compatible with Article 8 of the European

Convention on Human Rights, as a rational and reasonable means of achieving the legitimate aims of reducing taxpayer burdens and promoting integration. Although there were some changes made to this policy in August 2017 in the light of a Supreme Court decision, the broad thrust of the policy as initially implemented still remains in place despite the fact that it was acknowledged that the policy causes ‘significant hardship’ for many couples (Gower and McGuinness, 2017).

From a sociological standpoint, the outlined tightening of marriage migration policy raises questions about the delegitimization of cross-border marital relationships by way of legal changes and the public discourse used to legitimise these changes. The policy programme outlined on the preceding pages establishes stringent requirements for intimate partners from British/EEA and non-EEA countries to live jointly in the UK. These requirements, such as a minimum income, and the need to prove a genuine intimate bond, reach far beyond what is legally required of British/EEA couples to live jointly within the UK. As we have shown, they may prevent at least some couples from doing so. In this sense, it might be argued that British migration policy is instrumental in the socio-legal differentiation of marriages involving non-EEA citizens from marriages involving only British or EEA citizens, and in the curtailment of intimate citizenship among the former group. In this sense, the validity of certain marriages is called into question by the British authorities in the first place *because* they involve an ethnic, cultural, or national other, marked with a non-EEA passport. In contrast, questions about ‘genuine’ motivations underlying a decision to marry, the financial sustainability of a marital relationship, and so forth, are not interrogated in the same way by the British state. This differentiation of marriages along the lines of nationality, ethnic and culture is in keeping with the British government’s stated objective to create a hostile socio-legal environment for immigrants. For migration policy research, the analytical usefulness of the concept of intimate

citizenship lies in its ability to bring into focus such socio-legal differentiations of rights and the public discourses and political programmes that legitimise them.

## **6 CONCLUSION**

Transnational marriage migration has become increasingly commonplace in the early 21<sup>st</sup> century, and the likelihood is that they will continue to do so as economic globalisation facilitates a new mobility and the extension of intimate ties across borders. Paradoxically however, the past eight years have seen some significant change in legislation and policy relevant to transnational marriage migration which have aimed to limit this extension, with a particular focus on limiting sham marriages. The UK is an exemplar, but not an outlier, of such attempts to limit this extension. These changes have encapsulated changes to the legal, financial and social context of transnational marriage migration.

This article has attempted to add an original and so far under-explored perspective to attendant academic debates, by asking how marriage migration policy may affect transnational couples' experiences of intimate citizenship. We defined intimate citizenship as referring to the scope of legitimacy of specific practices of intimate life, in social, cultural, political and legal terms. Additionally, we argued that intimate citizenship provided researchers with a dual analytical focus to chart the changes outlined above.

Firstly, intimate citizenship draws attention to and enables us to analyse the ways in which such marriages are publicly recognised or contested in political debate, law, mass media and everyday social interaction. What the analysis above has shown is that the recent focus in policy has been on closing down this route through changes to the legal and financial context of transnational marriage migration, and thereby seeing controls on transmigration marriage migration as primarily an immigration concern above anything else. In practice, this focus has made itself apparent in the crackdown on sham marriages and the introduction of the minimum income threshold.

Secondly, intimate citizenship also highlights the ways in which individuals make decisions about their transnational intimate lives within the institutional constraints of the societies in which they live. The case study data has enabled us to do this, as it has illuminated the way that transnational couples have tried to negotiate the policy changes outlined above. What this shows is that these policy changes are having significant impact on how transnational marriages are formed and function, generally in a negative way. Perhaps not surprisingly, these impacts are limiting the development of intimate bonds that should bind transnational couples together and enable them to function as other married couples do. The accounts provided show that the changes have the dual perversity of potentially forcing transnational couples to marry earlier than they would normally do, and then absurdly to limit their ability to function as a married couple once married.

While caution should be drawn about making wider generalisations based on these case studies, nevertheless they have allowed this issue to be analysed in depth as they emerged from the data, and the combination of our research in multiple sources of data and analysis has enabled us to provide a multilevel account of public policy focussed not just on why policy changes, but the specific outcomes from these policy changes.

If the implicit aim of the policy was to reduce the number of transnational migration, then the changes should be seen as a success as there has been an appreciable reduction in the number of applicants for this migration route, particularly as a consequence of the financial requirement. However, when analysed through the lens of intimate citizenship, the changes point to a perversity and absurdity that perfectly reflects what we now know about Theresa May's 'hostile environment' era. As rising migration was the primary issue with the EU Referendum, it can only be assumed that controls on immigration will continue, meaning the likelihood that there will be even greater restrictions on migration in general and transnational marriage migration specifically, with attendant perversity and absurdity to be expected.



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Table 1. Distinguishing between ‘transnational marriage’, ‘transnational families’ and ‘transnational intimate relationships’

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|                                      |   |
|--------------------------------------|---|
| Transnational marriages              | This refers to marriage between the resident of one country to the resident of another country. It can include marriages where both individuals are the same ethnic group.  |
| Transnational families               | This refers to where ‘families that live some or most of the time separated from each other, yet hold together and create something that can be seen as a feeling of collective welfare and unity’ (Le <i>et al</i> 2014) |
| Transnational intimate relationships | This refers to a sexual, emotional and/or physical relationship between the resident of one country to the resident of another country. It can include relationships where both individuals are the same ethnic group.    |

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