Legal ban on transnational cousin-marriages because of marriage force: political debate in the Netherlands

Edien Bartels, VU University Amsterdam, Department of Social and Cultural Anthropology
e.a.c.bartels@vu.nl

“In the Netherlands a man is allowed to marry a man but we are forbidden to marry our cousin.,” Gülsem, a Turkish Dutch woman.

In 2010 the Dutch government announced that: “in principle, cousin marriages will be prohibited” (Regerakkoord 2010 [Governmental agreement VVD-CDA] 2010: 22). This proposition was taken over by the formation of the current government in September 2012 (Regerakkoord 2012 [Governmental agreement VVD-PvdA] 2012:29). Subsequently the government agreed to a change of the Civil Code in relation to cousin marriage (Act combatting forced marriages). On February 7th, 2013 these plans were discussed in a closed session of the parliamentary committee of justice and security. With this change of Civil Code the Netherlands follows Denmark which knows the ‘rule of presumption’. In this proposed change of the Civil Code cousin marriages are labelled as high risk factor in relation to forced marriages.

In this paper we will argue that a ban on consanguineous marriages should be seen within the context of debates and policies about migration, citizenship and transnationalism in the Netherlands and that, therefore, these measures amount to an attempt to restrict migration from countries with an Arab and/or Muslim majority. As we will explain the process in which the cultural integration of minorities is becoming increasingly important for obtaining full citizenship. This so-called ‘culturalisation of citizenship’ is largely taking place in the realms of gender and sexuality as a basis for the construction of alterity, i.e. ‘otherness’. The legal ban on cousin marriage fits in this pattern and creates a moral boundary on the entrance to the Netherlands by marriage: partner choice is not free anymore but restricted by prescriptions of the state. This is noteworthy because internationally free partner choice is the starting point.

As we will show, most of the consanguineous marriages pertain to transnational marriages from the Middle East and North African area, it can be seen as a measure to restrict migration from MENA. Marriage migration is already decreasing because of developments within the Moroccan an Turkish migrant groups in the Netherlands and by other limitation measures against family migration, but this change of the Civil Code shows the intention that the state will seriously hinder marriage migration. In reality this change of the Civil Code will not prevent forced marriages, as most of the advisory committees explain (for instance by the Advisory Committee on Migration Affairs and the Council for the Judiciary). The only real prescription is the signing of a declaration that the marriage is not forced. So a consanguineous couple should sign two declarations because all marriage candidates have to declare that they enter the marriage voluntarily. Consanguineous couples from Dutch origin will have to sign such a declaration as well. By this a discrimination claim can be prevented. By focusing on transnational marriages we will contribute to debates about transnationalism within a context of nation-states that are increasingly inward focused and the consequences thereof for migrants and their family-life.

Outline

In the paper first cultural citizenship is addressed. Then scientific studies on forced marriages and consanguineous marriages in the Netherlands are treated. The proposed measures will be explained and be considered what these measures will deliver. The conclusion is that it is a way of symbolic legislation that makes Muslims as the ‘cultural other’.