



Juggling Paperwork Across Borders: Theorizing Transnational Legal Space

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ABSTRACT

Life events such as marriage, divorce or the birth of children are not just intimate family matters but also legal matters. For transnational families, such life events are influenced by multiple overlapping nation-state orders, each with its own set of laws and institutions. This contribution builds on the concept of *transnational legal space* to study the social workings of law across borders from a bottom-up perspective of transnational family members' lives. Linking two strands of literature – the literature on transnational legal space and that on transnational social space – it moves away from more top-down approaches centring on transnational processes of legal norm-making and, instead, uses a bottom-up approach focusing on family members who mobilize law in transnational social space and who thus create and apply new norms in response to the interaction – or, at times, collision – of different legal systems. The usefulness of this approach is illustrated by empirical evidence from two research projects on family law and dual citizenship. It contributes to research on transnational migration by demonstrating that, in transnational legal space, it is not the law that is transnational, given that the nation-state and national laws continue to remain highly relevant, and similarly that it is not just mobility and migration regimes but also a variety of different areas of law that impact the everyday lives of transnational families. How these families navigate transnational legal space differs, depending on the intersection of race, gender and class.

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Linda was a Dutch citizen living in Belgium with her Iranian husband, Behnam, a refugee who fled Iran during the war with Iraq, and their two sons. The family faced several legal hurdles when planning to visit Behnam's family in Iran for the first time together. As their civil marriage in Belgium was not considered legally valid in Iran, Iranian law regarded the couple as unmarried. This was not only socially but also legally unacceptable and could cause them serious trouble if they were to travel to Iran. Thus, they had to get married in a ceremony according to Iranian law and over which an imam in Belgium, who was approved by the Iranian authorities, officiated. This required Linda to convert to Islam, if only formally, even though her husband did not identify as Muslim. This conversion also resulted in her name being changed into an Islamic one. What is more, the marriage automatically resulted in her becoming an Iranian national, with the fact that she maintained her Dutch nationality meaning she became a dual national.¹

While Linda strongly disliked the wedding ceremony officiated over by the imam, which she found degrading, she was not bothered by the fact that she herself automatically became an Iranian national and, consequently, became subject to Islamic family law. Indeed, she resisted discourses in which mixed marriages were problematized, especially for women, and spoke out against what she called 'sad stories of "Not without my daughter"'. She considered such discourses, where mixed marriages with Muslim men are seen as doomed to fail because of problems relating to Islamic culture and law, as being far removed from her and her husband's own way of living and thinking.²

What did bother her, however, was that their Islamic marriage would also automatically turn their children into Iranian citizens. While the couple saw their children as being both Belgian and Iranian, and wanted them to be in touch with their multiple cultural backgrounds, they feared that their sons would later have to perform military service in Iran. In this respect, Linda described the country that they wanted their children to learn more about as 'a strange country with very different laws and rules'. Hence, their private interest in using law to strengthen family and cultural ties as a transnational family conflicted with the more public duties linked to citizenship (De Hart 2012).

The story of Linda and Behnam resonates with several issues that I address in this contribution, showing how life events such as marriage, divorce or the birth of children are not just intimate family matters but also legal matters. It also demonstrates how, for transnational families, such life events are influenced, at least potentially, by multiple overlapping nation-state orders, each with its own set of laws and institutions, normative orderings and bureaucracies that may at times be fundamentally different. Their story shows the complex interaction of different fields of law (family law, nationality law and religious law), as well as politics and discourses on law that impact transnational family ties and feelings of belonging.

¹ Eliyeh Delavari, Report on Citizenship Law: Iran, Globalcit, European University Institute, Country Report 2020/13, [Microsoft Word – Reports pg2 and 3revdGlobalcit.docx \(eui.eu\)](#).

² This comment refers to Mahmoody and Hoffer (1987). *Not without my daughter*, the story of an American woman who, with her daughter, was made to stay in Iran against her will by her Iranian husband. The book, which was widely popular in the USA and Europe, was later made into a film. For a critical discussion of this and similar 'true life-story' books, see De Hart (2001) and Abu-Lughod (2013).

The fact that transnational processes also affect law has been widely acknowledged; law has become ‘transnational’ because it regulates actions that transcend national borders (Jessup 1956; Zumbansen 2012). To understand such developments, concepts such as ‘transnational legal orders’ (Shaffer & Coye 2020) and ‘transnational legal spheres’ or ‘transnational legal processes’ (von Benda-Beckmann 2015; Burchardt 2017; Koh 1996) have been suggested. However, the lives of transnational families such as those of Linda and Behnam, which play a central role in this contribution, are largely absent from this literature. By contrast, there is the literature on transnational social space, in which the lives of transnational families and how they lead their everyday lives and relationships across borders are at the centre. But while it has been noted that transnational families’ everyday activities and relationships are at least potentially influenced by multiple sets of laws and institutions (Levitt & Jaworski 2007), systematic studies of how their lives, families and kinship patterns are influenced by these multiple sets of laws and institutions are often lacking, with the possible exception of migration and citizenship law (see, for example, Dreby & Adkins 2010; Mazzucato & Schans 2011; Scheel & Gutekunst 2019). My focus in this contribution is on studying the social workings of law across borders from a bottom-up perspective of the lives of transnational family members. In doing so, I build on the insights of the abovementioned two strands of literature so as to redefine and refine the concept of transnational legal space. Put briefly, I define ‘transnational legal space’ as a transnational social space that criss-crosses national borders and in which family members mobilize law, creating and applying new norms in response to the interaction – or, at times, collision – of different legal systems.

To demonstrate the added analytical value of the concept of transnational legal space for studying transnational families’ border struggles, which are more often than not legal struggles, this contribution addresses three issues: (1) What does a bottom-up study of transnational legal space entail? (2) How do transnational families navigate and negotiate this transnational legal space in their everyday lives? (3) How do their experiences differ, depending on the intersection of race, gender and class? The arguments developed with regard to these questions, which seek to flesh out the concept of transnational legal space, will be illustrated through interviews conducted in two research projects: a multi-sited study on transnational families and family law, and a study on dual citizenship.

METHODOLOGY

The first project discussed here (‘the transnational family law project’) involved multi-sited research on transnational families in three countries: the Netherlands, Egypt and Morocco, while the second involved research on the transnational ties of people with dual citizenship. Together, the two projects relied on a total of 107 interviews with transnational family members (67 women and 40 men). The transnational family law project included various sub-projects examining relationships between parents and children, and disputes relating to divorce and child custody. Interviews were also conducted with professionals involved in legal matters relevant to transnational families, such as lawyers, embassy personnel, translators and non-governmental organization (NGO) representatives. In the case of this first project, interviews were conducted between 2008 and 2012, while the dual citizenship interviews were conducted between 2002 and 2007. Respondents in both projects were approached through social networks, NGOs, media, communities and lawyers. The interviews

were semi-structured. In all cases, respondents' informed consent was acquired, and the transcripts of interviews were pseudo-anonymized and sent to respondents for their comments before being used.³

As argued in the introduction to this special issue, doing transnational research in a postcolonial world involves several potential pitfalls. The two projects aimed to avoid such pitfalls in several ways. First, they used the 'from below' perspective of transnational families and a law-in-everyday-life approach, with an emphasis on how 'normal people' respond to the laws they encounter (Ewick & Silbey 1998). This approach attempts to address the 'coloniality of power' by avoiding the 'legal orientalism' that dates back to colonial times and starts from the differentiation and opposition of legal norms of the 'Orient' and the 'Muslim world', which are seen as being 'based on custom, ritual, and religion in contrast to the so-called rational and scientific legal systems of modern Western nations' (Darian-Smith 2013). By looking at families rather than women and gender, the projects sought to avoid post-9/11 discourses justifying global power relations between states and the wars in Iraq and Afghanistan (Abu-Lughod 2013; De Hart, Sonneveld & Sportel 2017).

Second, both research projects represent efforts to 'de-migranticize' migration research (Dahinden 2016; Scheel & Tazzioli 2022). Although it has long been acknowledged that relatively immobile persons can be part of transnational social spaces (Faist 2002), these spaces are generally perceived as ethnically homogenous, and inhabited only by ethnic co-others (Dahinden 2016; Morosanu 2010). This ethnic homogeneity is seen as a strength in developing transnational ties, with many transnational studies looking at specific national groups around the world and their relationships with their home countries (Faist et al. 2015). In this contribution, however, migrant families, 'mixed families' and emigrants are all understood to constitute transnational families, given that they live in households where people, norms, materials from somewhere else and law are likely to be present on a daily basis, with the result that they may become involved in transnational activities (Bryceson & Vuorela 2002; Faist et al. 2015; Levitt & Jaworsky 2007) and develop a sense of transnational belonging (Childs et al. 2021; Fresnoza-Flot 2019).

The research sample in the transnational family law project included not only Global South–Global North migration (i.e. families where one of the partners migrated from Morocco or Egypt to the Netherlands) but also migration from the Global North to the Global South (i.e. where the partner from the Netherlands moved to Egypt or Morocco). It also included persons labelled in the Netherlands as 'second-generation migrants', i.e., individuals whose parents were migrants but who were themselves born in the Netherlands, with or without Dutch citizenship, and who married a partner from their parents' country of origin. The 'mixed families' included Dutch-born men or women without a migration background, but with partners from Morocco or Egypt.⁴ The dual citizenship study included, alongside migrant and 'mixed' families of all nationalities, families of Dutch emigrants who had moved abroad.⁵

³ At the time these projects were conducted, ethical review commissions were not yet common in the Netherlands, and no such commission existed at the Radboud University Nijmegen, where the projects were based. Nevertheless, interviews were conducted in line with ethical standards.

⁴ On the use and problematic character of such categories in the Dutch context, see Jones and De Hart (2020).

⁵ The author was the principal investigator in the first project, funded by a personal Vidi research grant awarded by the Dutch Research Council. The empirical research was conducted by Jessica Carlisle, Friso Kulk and Iris Sportel. Their work is acknowledged

For me, these choices were informed by my positionality: I came to academia from a previous career as a social worker and activist, working at an NGO for 'mixed' couples and families.⁶ These previous experiences brought me face-to-face with racism, sexism and the impact of law in people's daily lives, including my own. The analysis has been very much informed by critical legal and critical race studies. My academic work has often focused on 'mixed' families and the law, in an approach that I only later came to understand as intersectionality, 'de-migranticization' and writing against 'legal orientalism'. Although the projects in this contribution sought to avoid and challenge generalization and reproduction of the 'ethnic other', the political and social context of the research process and my own positionality as a white Dutch woman having been in a 'mixed relationship' demonstrate the difficulties of avoiding reproducing such dominant discourses.

A BOTTOM-UP APPROACH TO TRANSNATIONAL LEGAL SPACE

Shaffer defined a transnational legal order as:

A process bringing about legal norms that are exported and imported across borders and that involve transnational networks and international and regional institutions that help to construct and convey the legal norm within a field of law (Shaffer 2012).

Koh defined a transnational legal process as:

A 'complex process of interaction, interpretation, and norm internalization by which transnational law is made in the twenty-first century' (Koh 2016; 1996).

There is a wealth of empirical studies that explore transnational legal processes and that consider such processes to be non-static and dynamic (Jefferies 2020). New legal realism and cognitive approaches to transnational law have confirmed the need for empirical studies of transnational law-in-action: in other words, studies looking at how actors use and apply law, how law obtains meaning, and how it is practised. According to such approaches, greater transnational social connectedness translates into officials and stakeholders increasingly perceiving social and legal problems as transnational across various domains (Shaffer 2015).

However, most of this literature does not even mention 'ordinary people' as potential actors involved in transnational orders, spheres and processes. Even critics of such top-down approaches – who advocate a law-in-action, bottom-up approach at the micro level – still continue to focus on analysing transnational social networks of public officials, business representatives, NGOs and activists (Goodale & Merry 2007; Levitt & Merry 2009), religious communities (Rudolph 2018), courts and professionals

by referring to their publications. The dual citizenship project was my postdoc project, part of the Transnationalism and Citizenship research project coordinated by Prof. Kees Groenendijk and Prof. Thomas Spijkerboer, and also funded by the Dutch Research Council.

⁶ The concept of a 'mixed' marriage or relationship is not based on inherent characteristics of the marriage partners. As 'race' and 'ethnicity' are socially constructed, what is considered a 'mixed' marriage or relationship differs depending on time and place. Hence, a 'mixed' marriage is seen here as a marriage between partners from two groups that are considered to be distinct racial or ethnic groups by a society at a certain time and place.

such as police officers (Boister 2017; Bowling & Sheptycki 2015) who are developing and using legal regulations that are being applied across the globe (Jefferies 2020; Kahraman et al. 2020; Keck & Sikkink 2018; Levit 2017). Others, meanwhile, have drawn attention to how global human rights norms are translated to different localities, taking on some of the ideological and social attributes of the place, but also retaining part of the original formulation (Levitt & Merry 2009). Consequently, the ordinary, everyday lives of transnational families are largely absent from this literature and are not understood as being part of these transnational legal processes (De Hart, Van Rossum & Spertel 2013).

To address this gap, I turned to the literature on transnational social space (Faist 2000). This literature devotes considerable attention to the daily lives of transnational family members, as well as drawing attention to 'kin work': in other words, to the conception, maintenance and ritual celebration of cross-border household ties (Di Leonardo 1987). This may encompass sharing productive and caring work (Wilding 2006), rituals and material culture (Zontini 2004), and emotional and moral support (Baldassar 2007; Gardner & Grillo 2002; Stock 2024). As the story of Linda and Behnam demonstrates, a family visit as one of the forms of kin work (Horst 2006) requires a lot more than just 'hopping on the plane': A considerable amount of 'legal work' is also necessary, including, for example, arranging for a valid marriage and citizenship status. Building on the work on transnational social space, I have added law to the equation so as to provide a greater understanding of the role it plays in the lives of ordinary transnational families. Instead of focusing on the development of legal norms, law-making and the work of legal actors – which are central in the concepts of transnational legal processes, orders and spheres – a bottom-up approach directs our attention to the ways in which transnational families are confronted by and use the law. Hence, this redefinition of transnational legal space is about the mundane, daily experience of law in everyday lives of ordinary people (Ewick & Silbey 1998). This means it is not so much about courts and formal legal procedures – although sometimes it is – but, rather, more about bureaucracies and paperwork. Law is not an external factor independently impacting transnational families, but instead part of the social space they inhabit and, as legal pluralism has long taught us, merely one of the norms that are important for them in their daily lives (Canfield, Dehm & Fassi 2021). This is also why I prefer to use 'transnational legal space' rather than 'order' or 'process' because it grounds transnational families in the social environments in which they lead their daily lives.

Understanding transnational legal space in this manner innovates the concept in two important ways. First, a bottom-up approach to transnational legal space transcends boundaries between different fields of law, given that people's experience of the law is shaped by all their interactions with multiple legal systems and different fields of law. Much of the literature on transnational legal space focuses, however, on just one area of law, specifically the development of norms in this area and the professionals, experts and NGOs involved. And although the importance of law in transnational social space is increasingly acknowledged, this literature focuses largely on migration law and on migration or mobility regimes: in other words, on 'migration policies and their outcomes that collectively reflect the admission and settlement of foreign-born people over time' (Boucher & Gest 2018). Such increasingly restrictive migration or mobility regimes have been found to have a significant impact on how families are able to live transnational lives, with the result that inequalities create different opportunities and restrictions of movement (Barglowski 2019; Dreby & Adkins 2010).

Migration regimes may even immobilize transnational families' lives, 'blocking the physical mobility of some, while granting highly conditional mobility to others, resulting in situations of enforced and permanent temporariness and ontological insecurity' (Merla et al. 2020). The impact of migration law can be such that it results in transnational families being created: in other words, in families being forced to lead a transnational life because of being separated across increasingly stringent borders (Bryceson 2019; Carlisle 2013; Dreby 2006; Fresnoza-Flot 2009; López 2020). I suggest, however, that transnational families encounter a myriad of laws and regulations, and to understand the impact of law on such families, we need to move beyond migration or mobility regimes and to include other fields of law. This is because it is not just migration regimes but also family law that may restrict or create mobility across borders, including the ability or inability to marry legally or obtain a divorce (Constable 2003; Sportel 2016). Other relevant areas of law are, for instance, citizenship law (Baldassar 2011; De Hart 2021; Ho 2009) and social security law (Bilecen et al. 2019; Faist et al. 2015). Hence, multiple legal systems may determine the opportunities to lead transnational lives in equally significant ways (Sportel, De Hart & Kulk 2019; Lind 2024; Sonneveld 2021). The story of Linda and Behnam discussed at the start of this contribution is a case in point: Their decision to have their Belgian marriage validated by Iranian law impacted the nationality of the wife and children, the mobility of the family as a whole and also the future public duties of their children.

Second, contrary to what is generally understood by concepts such as transnational legal process or order, it is not necessarily the law and legal norms themselves that are becoming transnational; these may remain entirely national but be used by family members in transnational legal space. While some important international, regional and transnational laws obviously affect the lives of transnational families, life events such as marriage, divorce, birth and death continue to be predominantly regulated by national laws, even though such events may be experienced across borders (Sonneveld 2021).⁷ Hence, although the families in this contribution lead transnational lives, they are faced with the continued relevance of nation-states in their lives. Hence, transnational family members live in a complex normative context, comprising their own and their partners' wishes and desires; those of two extended families; public discourses on law, religion and migration; and multiple legal regulations of two or more nation-states and their national laws in different fields of law. Navigating this complex normative context thus becomes part of their everyday lives.

NAVIGATING LAW IN EVERYDAY LIFE

In transnational legal space as I understand it, transnational family members, too, are legal actors. Some of the interviewees in the two research projects had been involved in lengthy and complex court cases, especially cases relating to family conflicts such as transnational divorce and cross-border custody disputes (Carlisle 2013; Fresnoza-Flot & De Hart 2022; Sportel 2016). One of them was Rebecca (42 years), a Dutch woman who had married a man from the former Yugoslavia. Their

⁷ For the two research projects discussed here, the relevant international conventions include the 1997 European Convention on Nationality, the 1996 Child Protection Convention, the UN Convention on the Rights of the Child and the Women's Rights Convention, the 1985 Hague Child Abduction Convention and the 1961 Apostille Convention.

marriage quickly started deteriorating, and her husband then left her, taking their six-month-old daughter abroad with him to his parents and leaving her destitute and desperate. By the time she regained contact with her daughter through an international organization, the girl was 14 years old. Rebecca's renewed contact with her daughter was informed by gendered and racialized governance by the nation-state in two ways. First, Dutch law denied her daughter Dutch citizenship because the daughter was born at a time when gender inequality was still firmly enshrined in nationality law (De Hart 2015). Second, the war in the former Yugoslavia resulted in visa requirements being introduced, thus turning family visits to the Netherlands into a complicated and bureaucratic undertaking. At the time of the interview, Rebecca was involved in complex legal procedures with the Ministry of Foreign Affairs and the highest Dutch administrative court, aimed at obtaining Dutch citizenship for her daughter. What was at stake for Rebecca was not only that having Dutch citizenship would allow visa-free travel, such that developing the relationship with her daughter would be much easier, but also that, in her eyes, it would make up, at least partly, for what her ex-husband had done to her.

Another interviewee involved in lengthy court cases was Amal, an Egyptian woman whose husband had left her behind with her parents in Egypt during a family visit. He had also taken her Dutch residence permit with him and threatened to return to take their child from her. After attempts at reconciliation had failed, Amal, supported by her family, obtained a divorce in Egypt and gained custody of the child, while her ex-husband remained the child's legal guardian under Egyptian law. However, the fact that, even after the divorce, they shared custody under Dutch family law meant that the Dutch embassy could not provide her with travel documents for the child without her ex-husband's permission. It consequently took Amal several years to be able to return to the Netherlands, where she finally became a Dutch national and built a life for herself and her daughter (Carlisle 2013).

The point I want to make, however, is that law is not so much about court procedures and legal conflicts, but rather about the mundane paperwork needed to enable a transnational family life – in other words, the 'kin work' referred to above. As mentioned, such kin work is simply not possible without some kind of dealings with the law: To get married across borders, people may need to show birth certificates, identity documents and evidence that they are not or no longer married. Hence, the nation-state not only exists as an enforcer of laws and regulations but is also present in the documents that it produces and that enable state control of individuals (Hull 2012). Documents constitute family relationships both in a legal and a social sense and, as such, have a meaning in their own right (Hegel-Cantarella 2011; Kulk 2013; Mulla 2011; Yngvesson 2006). For some families, such documents have a symbolic meaning, as a form of making a 'reality' (Hull 2003: 645) of transnational family ties (Kulk 2013). Consequently, a considerable part of the interviews involved discussing dealings with bureaucracies and civil servants in the context of more than one nation-state. How interviewees dealt with these bureaucratic and legal issues depended on the social context and their kin ties, as well as on the intersection of race, gender and class.

Although the interviewees were legal actors, they showed little evidence of seeking to use strategic or calculating behaviour to maximize their position in dealing with multiple legal systems, labelled by some as 'forum-shopping' or 'cherry-picking' (Ackers & Dwyer 2004), or as 'greedy' (Plummer 2003: 58) or 'flexible' citizens (Ong 1999). Indeed, most of them had no strategic plan (long-term or otherwise), but

instead obtained information and took legal steps as they went through bureaucratic and legal procedures. As few families informed themselves of their position beforehand, they often lacked the information and knowledge needed to use law strategically. Despite dealing with multiple legal systems, they were not always aware of distinctions between these systems: Indeed, they were often not aware of whether they were dealing with, for instance, Dutch or Moroccan law; to them, it was just 'the law' (Kulk 2013).

Furthermore, even in the case of family conflicts such as a divorce, many interviewees had priorities other than strategic planning, with many of them simply wanting to arrange their divorce as quickly and as straightforwardly as possible (Sportel 2016). Interviewees tried to resolve their issues pragmatically by navigating multiple legal systems, social networks and practical concerns (Kulk 2013; Storms & Bartels 2017; Vigh 2009). Vigh (2009) aptly explained 'navigating' by saying that 'as we navigate, we are always in the process of feeling our way through the immediate convulsions of a fluid environment whilst simultaneously trying to gain an overview and make our way toward a point in or beyond the horizon.' The interviewees tried to reconcile the multiple legal systems, authorities and social norms and expectations in their social environment to the best of their ability, even if they did not share its norms. Their orientation was, therefore, *relational* and focused on relationships with *significant others* (De Hart 2021; Knop 2001): parents, spouses, children and the extended family.

Where strategic avoidance of law or exploitation of differences between multiple legal systems occurred, it was at times of political tension and intense problematization of transnational ties. Some Dutch–Moroccan parents, for instance, strategically chose first names for their children that they knew would not be accepted by Moroccan authorities because of the names' lack of 'Moroccan character'. They did this to prevent their children from acquiring Moroccan citizenship at birth, thus enabling them to be exclusively Dutch citizens. This was done in a context in which dual citizenship, especially dual Dutch–Moroccan citizenship, had become highly problematized in the Dutch political context. These parents were aiming to protect their children's future against any intention by vigilant Dutch authorities to withdraw Dutch citizenship from Dutch–Moroccan youngsters engaged in criminal or terrorist activities (De Hart 2011). This example illustrates that studying the workings of law in transnational legal space requires an intersectional approach, which is the topic of the next section.

INTERSECTIONALITY

Transnational legal space as understood here focuses on families with transnational ties across borders rather than on migrant groups of specific nationalities. This approach allows us to remain attuned to the intersection of inequalities in transnational spaces along the axes of race, gender and class (Crenshaw 1990). An intersectional methodology is especially indispensable for analysing life in transnational space (Amelina & Lutz 2019). As the social categories of gender, race and class are not distinct, but always permeated by each other, they are fluid and changing, and always in the process of being created by power dynamics (Cho, Crenshaw & McCall 2013). Mobility changes how intersectionality works, owing to changes both in the political, legal and national context as well as over time. The intersection of these social categories may change the position of a Moroccan husband in a transnational family: Living in Morocco may put him in a relative position of power within the family, but his position may change into one of dependency in the event of a move

to the Netherlands, where he may become part of a problematized category of migrants and dependent for his residence on his wife. Hence, it is not a person's identity that shapes their experiences with law in transnational space, but rather the social, legal and power structures that create differences and inequalities, and the colonial legacies that inform them. It is helpful, therefore, for us to move beyond what has been labelled the 'ethnic lens' that characterizes much of the literature on transnational families (Van Geel & Mazzucato 2018). The findings of the two research projects demonstrated that the intensity of transnational ties varied more *among* groups of migrants, mixed couples and emigrants than *between* them.

Structures of inequality at the macro level of transnational legal space impact the everyday lives and actions of transnational family members (Dreby & Adkins 2010). Much depends on the nationality of family members because the 'hierarchy of citizenship' (Castles 2005) and 'paper border regimes' (Van Houtum & Van Uden 2021) create racialized differences in the amount of legal work needed to manage transnational family ties. Racialized migration regimes make European visas and residence permits difficult for Moroccan and Egyptian family members to obtain, while it is generally easy for white Dutch family members to travel and reside both within and outside Europe. Gender, in turn, creates inequality in that legal systems are 'gendered' in different fields of law, be it migration law (Bonjour & De Hart 2013), social welfare (Bilecen et al. 2019) or family law (Sportel 2016), thus creating norms for what constitutes proper gender behaviour, with men being envisaged as breadwinners and women as housekeepers and carers. These norms disadvantage both women and men, albeit in different ways. At times, migrant men, for example, may find themselves at the 'short end' of law (Charsley & Wray 2015), such as when Dutch courts' efforts to protect women's rights made it nearly impossible for some men from Muslim-majority countries to have a foreign divorce recognized in the Netherlands (Sportel 2017), while migration law may separate migrant fathers from their children even if they are the primary carers (De Hart 2015). Class, too, played a major role because family members who migrated experienced a significant loss of economic, social and cultural capital that they could not always successfully rebuild over time. This not only caused power differences between partners but also impacted their ability to perform the cross-border legal work required (Sportel, De Hart & Kulk 2019). The paperwork involved in obtaining the documents needed for a marriage, divorce or naturalization can be a costly affair, and require travel, professional translations and formal legalization of documents by bureaucracies in two countries, as well as knowledge and experience in dealing with multiple bureaucracies, and prolonged support from family members in arranging for this legal work to be performed.

Such inequalities are demonstrated by the story of Marian. She had automatically lost her Dutch citizenship when she married her Turkish husband in the 1950s because, in accordance with official state policies at the time, her marriage was seen as a choice of national belonging. She had been trying to regain citizenship ever since, all the more so after the Netherlands introduced a visa requirement in 1980 that constituted a drop in the citizenship hierarchy for Turkish nationals. This made family visits from Turkey, where she and her family lived, to her Dutch extended family an increasingly difficult and, in her view, degrading affair. Every time she asked the Dutch authorities about reacquiring Dutch citizenship, she was told that this was possible only if her husband died or she got divorced. It took long-term support from her transnational social environment (an informal group of Dutch women married to Turkish husbands in Turkey) and her family in the Netherlands for her to finally regain her Dutch citizenship decades after she had lost it (De Hart 2012).

Inequalities based on the intersection of gender, race and class come not only from formal inequalities enshrined in law or transnational family members' ability to juggle these laws and bureaucracies. Popular discourses on law circulating within transnational legal space have linked a focus on women's rights, for example, with the problematization of migration and Muslims (De Hart 2017; Mustonen 2024; Sportel 2011; 2020). These gendered and racialized discourses on the bodies of women have circulated in transnational legal space for long periods of time and impacted on the shared norms developed for dealing with law and legal issues (Abu-Lughod 2013; Glick Schiller 2005; Janz & Schönpflug 2014; Razack 2007; Sportel 2022; Zwingel 2012). The 'Betty Mahmoody' narrative referred to by Linda in the vignette at the beginning of this contribution (De Hart 2001; Nazari 2017) is part of these discourses, in which global power and wealth inequalities translate into gendered and racialized framing, especially of family relationships comprising white Western women and racialized Muslim men, and which are framed as being doomed to fail. The Muslim men are constructed as authoritarian oppressors of white European women, who are seen as naïve victims of their love for a Muslim husband, as well as victims of the patriarchal family law system of his country of origin (see also Odasso 2021; Scheel & Gutekunst 2019; Sportel 2022), whereby the white European woman will inevitably lose her children and her wealth after divorce, as the Muslim husband is simply after her money and a residence permit in a European country. These narratives build on age-old colonial tropes and captivity stories (Nazari 2017), often focusing on law and how women can protect themselves against losing all their rights. Narrating these stories becomes a form of transnational gossip enjoyed by its members as a source of entertainment and information and as a mechanism for influencing members of the social group (Dreby 2009; Kulk & De Hart 2013), and informing how transnational family members navigated the law, even those, such as Linda and Behnam, who resisted it.

CONCLUSIONS

The concept of transnational legal space is of great analytical value in addressing the question of how law works in a transnational world. Taking account of insights from the transnational social space is vital, however, for 'grounding' the concept and understanding what law looks like from the bottom-up.

These insights show that, although cross-border family ties may have become increasingly easy, quicker, intense and lasting, law makes maintaining such ties complex and involves considerable amounts of legal work. The bottom-up approach adopted here shows how transnational families have to juggle a complex web of different subject areas of multiple legal systems. Although the literature on transnational law has looked at the development, circulation and vernacularization of transnational laws and norms (Levitt & Merry 2009), this bottom-up approach to law in the everyday life of transnational families has demonstrated that the laws and bureaucracies that these transnational families juggle remain largely national, thus proving the continued relevance of the nation-state in transnational legal space. And while these national laws may collide, they may also interact to the extent that the origins of the law are barely recognizable by transnational family members. To them, it is just 'law' or paperwork that they need to get done to manage kin ties; whether legal norms come from 'elsewhere' may not be so relevant to them. Instead, it is their hopes, fears and social norms and actions that create transnational legal space from the bottom-up.

DATA ACCESSIBILITY STATEMENT

In view of the sensitive and private character of the data obtained from interviews, these data have not been made publicly available.

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COMPETING INTERESTS

The author has no competing interests to declare.

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