

French Marriage Annulled for Lack of Virginity

On April 1st 2008, a first instance court of Lille (Northern France) set aside a marriage because the wife had concealed to her husband that she was not a virgin.

The husband found out on July 8th, 2006, that is the night of the wedding. Contrary to what she had told him, the wife was not a virgin. That was not only a problem for him, but for the whole family, so much so that his parents had been waiting outside sipping mint tea so that, at some point, they could hear the good news, if not see the bedsheets with blood on them. At 4 am, he went to see them, but only to say that there was no blood. She may have recognized then that she had lied, or did shortly after. The groom's father brought her back to her parents, saying that his family was now dishonored. Two weeks later, the husband initiated proceedings to set aside the marriage.

What does this judgment have to do with conflicts? Arguably nothing, as the newly wed were both French nationals and the wedding had taken place in Roubaix, France. But the reason why the virginity of the wife was a big deal to both her husband and his family was because they were all muslims, and French muslims are overwhelmingly of Algerian or Moroccan origin (by far the biggest groups of immigrants in France). Origin of people is taboo in France, so it is not known whether this couple is indeed third generation immigrants from North Africa. But chances that they are are very high. Indeed, it is customary for the family to wait to see the blood on the sheets during the night in North African weddings. (Update: it has now been reported by several sources that the spouses were of Moroccan origin)

So after all, this case is not completely unrelated to conflicts. The demand for virginity was the result of a social norm governing a group of people. These people may be French nationals living in France, and thus entirely subject to French law, but the norm governing their community is of foreign origin. A not so uncommon case of legal pluralism.

Now, the interesting question was: how do you enforce this social norm? And that

where the case gets interesting: by finding an equivalent French legal norm and, most importantly, a remedy attached to that French norm.

Under French law, marriages can be set aside when there has been a “*mistake on a material quality of the person*” (French Civil Code, art. 180). The doctrine was famously applied in cases where the spouse had served jail time, or where he could not/would not have sexual relationships. Here, the court of Lille held that the mistake was that the bride was not a virgin, and annulled the marriage, noting that the wife was in agreement with the decision.

Here is an excerpt of the judgment in French:

[...] Attendu qu'il importe de rappeler que l'erreur sur les qualités essentielles du conjoint suppose non seulement de démontrer que le demandeur a conclu le mariage sous l'empire d'une erreur objective, mais également que cette erreur était déterminante de son consentement.

Attendu qu'en l'occurrence, Y acquiesçant à la demande de nullité fondée sur un mensonge relatif à sa virginité, il s'en déduit que cette qualité avait bien été perçue par elle comme une qualité essentielle déterminante du consentement de X au mariage projeté; que dans ces conditions, il convient de faire droit à la demande de nullité du mariage pour erreur sur les qualités essentielles du conjoint.

Par ces motifs, prononce l'annulation du mariage.

The vast majority of French politicians and intellectuals have severely criticized the judgment.

UPDATE: the French government has decided to lodge an appeal against the decision of the Lille court.