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After the Visa: Intimate Migration, Dependency and the Unequal Consequences of Transnational Family Formation

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Abstract

International migration is commonly analysed through formal categories such as labour migration, student mobility, family reunification and humanitarian protection; less attention has been paid to migration that develops through intimate relationships, particularly where a partner from a relatively wealthier destination state becomes the practical pathway through which a woman from a lower-income country acquires international mobility. In such circumstances, the intimate relationship may function not only as a private emotional bond but also as informal migration infrastructure. This paper examines the vulnerabilities that may arise when intimate relationships facilitate migration between the Global South and the Global North, and it develops the concept of intimate migration dependency, defined here as a condition in which a migrant's ability to obtain, maintain or benefit from international mobility becomes materially or practically contingent upon an intimate partner. The paper argues that this dependency is multidimensional and may encompass migration status, economic resources, language, information, institutional knowledge and jurisdiction; these dependencies may remain largely invisible while the relationship is stable but can become consequential when the relationship deteriorates, particularly after children are born. The analysis is situated within scholarship on marriage migration, cross-border intimate mobilities, transnational families, migrant precarity, social reproduction and migrant women's labour-market incorporation. It draws on comparative immigration and family-law materials, including Kenyan legislation, Australian child-support mechanisms, the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and United Kingdom and German family-migration and domestic-abuse provisions, together with contemporary judicial decisions arising from transnational families. A 2026 decision of the High Court of England and Wales concerning parentage arising from the British Army Training Unit Kenya (BATUK) provides a particularly important illustration of how an intimate relationship formed during temporary military deployment can produce legal consequences years later. The paper further analyses comparative decisions from England and Wales, Australia and Germany. These cases demonstrate that custody, relocation, domestic violence, immigration status and transnational abandonment can become intertwined, but also that courts do not simply treat migrant mothers as automatically vulnerable or fathers as automatically abusive; rather, outcomes depend upon evidence, habitual residence, the child's welfare, parental rights and the precise institutional framework of each jurisdiction. The paper identifies several recurring contradictions: mobility may increase geographical opportunity while reducing personal autonomy; employment may produce participation without economic independence; legal rights may exist without practical accessibility; and the physical presence of a foreign embassy may coexist with institutional distance from the state. It concludes by proposing a migration-resilience framework centred on partner due diligence, independent financial capacity, language preparation, employment and qualification assessment, immigration literacy, child and family-law awareness, and independent exit planning.

Keywords: Intimate migration, Cross-border intimate mobilities, Marriage migration, Migration dependency, Migrant women, Transnational families, Migrant precarity, Family migration, Child support, Child relocation, Jurisdictional asymmetry, Kenya, BATUK, Migration governance

Introduction: When Intimacy Becomes a Migration Route

Migration is usually discussed through formal categories. A person moves for employment, education, humanitarian protection, family reunification or investment, and immigration law consequently asks familiar questions: what visa does the person qualify for; what is the purpose of travel; does the applicant meet the financial, character and documentary requirements; and what rights will the applicant possess after admission?

Yet many migration journeys begin with a question that immigration law only partially captures: who is the person you are following? A woman living in Kenya may meet a foreign national through a dating application, social media, tourism, professional networks or an ordinary face-to-face encounter. The relationship may initially be entirely private; over time, however, the foreign partner may become a source of financial support, international travel, visa sponsorship, accommodation and future family formation. At this point, intimacy begins to perform a migration function, and the relationship becomes the mechanism through which international mobility becomes imaginable and perhaps achievable.

A partner may say:
“Come and visit me.”
“I can sponsor you.”
“We can get married.”
“I'll take care of you.”
“You don't need to worry about anything.”

Such promises are not necessarily deceptive; they may reflect genuine affection, generosity or a sincere intention to build a life together. But when international mobility depends upon another person's continued cooperation, private trust acquires public consequences.

The central concern of this paper is therefore not whether women should date foreigners, marry across borders or migrate through family relationships. International relationships can be loving, mutually supportive and enormously enriching. The concern is what happens when an intimate relationship becomes migration infrastructure. Recent scholarship has increasingly moved beyond the narrower framework of marriage migration toward the broader concept of cross-border intimate mobilities, recognising relationships that develop through tourism, digital platforms and other forms of transnational movement. Statham and Sunanta (2026) argue that such relationships should be understood in relation to the opportunity structures that connect particular places in the Global South and the Global North, rather than solely through individual romantic choices. This broader framework is particularly useful for understanding contemporary relationships initiated through dating applications and social media, since the prospective migrant can form an emotional relationship with someone in another country before she has any meaningful understanding of the social, legal and economic environment into which she may eventually move. The risk is not simply deception; the greater problem is dependency. A woman may depend upon her partner for immigration sponsorship, money, language assistance, institutional navigation, accommodation and social integration, and once children are born she may also become dependent upon the same partner within a transnational family-law relationship involving custody, maintenance and residence. These dependencies may be benign while the relationship remains supportive, but when the relationship breaks down, the same structures that facilitated migration may become mechanisms of vulnerability.

This paper asks:
How does migration through intimate relationships reshape the economic, linguistic, informational, institutional and jurisdictional bargaining power of migrant women, particularly when children are born and the relationship subsequently deteriorates?
It advances five interconnected propositions: first, intimate relationships can function as informal migration infrastructure; second, international mobility does not necessarily produce individual economic independence;

third, migration creates forms of dependency that extend beyond immigration status to language, information and institutional knowledge; fourth, formal legal protection does not necessarily translate into practical access to justice; and fifth, migration policy should address not only admission but also integration, resilience and exit capacity. The paper therefore proposes a conceptual model of intimate migration dependency, composed of migration, economic, linguistic, informational and institutional/jurisdictional dimensions. The argument is deliberately differentiated from claims that foreign men are inherently dangerous, that interracial relationships are inherently exploitative, or that hostcountry legal systems are inherently biased against migrant women. The objective is to examine how otherwise ordinary intimate relationships can acquire structural risks when they become connected to international mobility.

Literature Review

From Family Migration to Intimate Migration

Family migration occupies an unusual place in migration studies. Kofman (2004) argued that family-related migration had historically been marginalised within mainstream migration research despite its importance as a route of legal entry and a major component of migrant mobility; she also demonstrated that states actively define which relationships qualify as families for migration purposes, making family migration both a private and a political category. Marriage migration scholarship subsequently drew attention to the gendered character of mobility between poorer and wealthier regions. Research demonstrated that women from the Global South entering marriages with men from wealthier countries could encounter unequal relationships shaped by economic disparities, gender norms and citizenship regimes. Piper and Lee's (2016) analysis of marriage migration and migrant precarity is particularly important because it connects marriage migration not only to romantic relationships but also to legal and socioeconomic precarity, social reproduction and unpaid care. Marriage migration, in this literature, is not an isolated event but a process affecting productive and reproductive labour, legal status and access to social protection. Recent scholarship broadens the field further. Statham and Sunanta's (2026) review call for research on cross-border intimate mobilities rather than marriage migration alone; their approach captures relationships formed through digital communication, tourism and other forms of mobility, and situates these relationships within wider global inequalities. This expansion is important because a contemporary migration relationship may begin long before formal marriage: it may begin with a dating-app match, an Instagram message, a holiday encounter, a foreign soldier on temporary deployment, a professional visit, or a friendship developed through social media. The analytical issue is what happens when that intimate relationship becomes connected to migration.

Global Inequality and Intimate Mobility

Cross-border intimacy does not occur randomly across geographical space. A woman living in Nairobi and a man living in Sydney, London or Berlin enter a relationship across significant differences in income, currency, citizenship, passport mobility, housing costs, social protection, labour-market opportunities and institutional power. This does not reduce the relationship to an economic transaction, but it does create an unequal opportunity structure surrounding the relationship. The foreign partner may possess a passport that offers extensive global mobility; he may be able to travel easily, earn in a stronger currency, and possess stable residence rights. The Kenyan partner may experience the relationship as offering not merely companionship but also a possible transformation of her geographic and socioeconomic circumstances. Mazzucato and colleagues' (2015) research on African–European transnational families is particularly relevant. Their study showed that migration motivations, gender norms, family-reunification policy, language, employment opportunities and education systems shape the forms that transnational families take. The implication is that intimate migration cannot be analysed solely through the emotional relationship; it must be analysed through the institutions surrounding the relationship.

Migrant Precarity and Social Reproduction

The concept of migrant precarity provides another important theoretical foundation. Piper and Lee (2016) connect marriage migration with precarious legal status, gendered social reproduction and unpaid care. This becomes particularly relevant once children are born: a woman may arrive expecting to work, but pregnancy may interrupt employment and childbirth may create childcare responsibilities. The language she needs to obtain employment may also be the language she needs to deal with schools, healthcare systems -

and government institutions, and consequently, permission to work does not guarantee meaningful labour-market independence. The OECD (2023) has documented substantially weaker labour-market outcomes for migrant mothers, including lower employment rates and significant representation in lower-skilled work. The relevant question is therefore not merely whether the migrant can work, but what work she can realistically obtain, under what conditions, and with what potential for long-term economic independence.

Transnational Families

Transnational-family scholarship further shifts the unit of analysis from the individual migrant to the family distributed across borders. Mazzucato and colleagues (2015) demonstrate that transnational families remain deeply interconnected despite geographical separation, and that the experiences of children, parents and caregivers must be studied together. This is critical because children produced through intimate migration are not merely consequences of adult mobility. They can possess multiple national affiliations, extended families across countries, multiple languages, different legal rights and competing parental claims over residence. Once children are born, a migration relationship becomes a transnational family-law relationship, and this changes the stakes dramatically: a woman can no longer simply say that the relationship is over and that she is going home. The question becomes whether she can go home with her children, and that is a different legal problem.

Language, Labour Markets and Occupational Downgrading Language is often treated primarily as an integration requirement, yet it is also a form of institutional power. Germany provides a straightforward example: the Federal Foreign Office states that spouses generally need to demonstrate basic German language knowledge before obtaining certain family-reunification visas, subject to defined exceptions. At the European Union level, language proficiency and qualification recognition are recognised as important determinants of migrants' labour-market integration. For professional migrants, this creates the possibility of occupational downgrading. An educated woman may arrive in a wealthy country and discover that her qualification is not immediately recognised; she may lack professional-level language skills, her previous employment network may not transfer, and she may also have childcare responsibilities. The result may be employment in an occupation well below her previous professional status. The issue is not the dignity of such work; it is whether the migrant's human capital is being converted into equivalent economic power. Research on migrant women in Europe demonstrates that foreign-born women are particularly exposed to occupation–education mismatch (Akgüç & Parasnis, 2023). This supports one of the central distinctions of the paper: migration can produce geographical mobility without equivalent occupational mobility.

Dependent Residence and Domestic Abuse

A further body of literature concerns the relationship between dependent immigration status and intimate-partner violence. Research on marriage migrants in Europe has demonstrated that legal dependency can intersect with vulnerability to domestic abuse, particularly where a migrant's residence is closely tied to the continuation of the relationship. Australian research likewise documents migrant women's experiences of visarelated coercion, including threats concerning deportation and manipulation of immigration information. This literature changes the conceptual framing of domestic abuse: the violence may not consist solely of physical assault, but may involve control over documents, money, housing, immigration information, transport, communication and institutional access. That is much closer to the broader concept of coercive control. The migrant relationship may therefore become a mechanism through which one partner exercises power over the other's ability to remain and function within the host state.

Digital Intimacy and Information Asymmetry

Digital platforms add another dimension. A dating application provides an individual with a curated identity: the prospective partner may know his photographs, occupation as presented online, hobbies, political views, family stories and future plans, but she may not know his real marital status, criminal history, financial position, previous relationships, history of violence or actual immigration circumstances. This creates what this paper terms transnational intimate information asymmetry. The problem does not arise because foreign partners are inherently deceptive; local partners can deceive each other as well. The difference is that cross-border relationships often lack the social networks through which a person's representations might otherwise be independently checked. Constable's work on internet-mediated international romance is relevant here because it demonstrated the complexity of online intimacy and cautioned against reducing international relationships to -

simplistic categories of victimhood or economic calculation. The challenge for contemporary policy is to preserve privacy while making meaningful pre-migration due diligence possible.

Methodology

Research Design

This study adopts an interdisciplinary qualitative research design combining conceptual analysis, doctrinal legal analysis and comparative case-law analysis. The purpose is not to estimate statistically the prevalence of unsuccessful or abusive international relationships; instead, the paper identifies structural mechanisms through which intimate migration can produce vulnerability. The research draws upon five principal categories of evidence: peer-reviewed scholarship on intimate migration, marriage migration, transnational families, migrant precarity and labour-market incorporation; primary legal sources, including legislation, judicial decisions and international conventions; official government and administrative materials; documented case reporting, used primarily for contextual evidence; and the Kenyan Nanyuki/BATUK context as a critical case-study setting. The comparative legal component focuses principally on Kenya, England and Wales, Australia and Germany, with reference to the wider international child-abduction framework.

Doctrinal and Comparative Analysis

The legal analysis examines family migration, immigration dependency, domestic abuse, parental responsibility, child maintenance, child relocation, habitual residence and international child abduction. The comparative case-law method is not used to claim that the legal systems are equivalent; rather, individual cases are selected because they illuminate different aspects of the proposed dependency model. The selected cases include:

- Re YZ (Declaration of Parentage: BATUK: DNA Evidence) [2026] EWHC 1601 (Fam)
- TK v SD [2026] EWHC 2220 (Fam)
- Re C (A Child: Transnational Abandonment: Wardship) [2026] EWHC 594 (Fam)
- U v U [2002] HCA 36
- Bundesverfassungsgericht, Order of 10 June 2025, 1 BvR 1931/23
- Bundesverfassungsgericht, Order of 23 March 2026, 1 BvR 580/26

Case-Study Method: Nanyuki/BATUK

Nanyuki is treated as a critical historical case rather than as representative evidence of all Kenya–United Kingdom relationships. The author's familiarity with the Nanyuki/Narumoru area informs the selection of the case context and motivates the inquiry, but personal observation is not treated as quantitative evidence of prevalence; instead, the Nanyuki experience is examined through judicial decisions, official sources and independently reported cases.

Researcher Positionality

The author's proximity to the Kenyan migration environment and personal familiarity with the Nanyuki region create a particular research perspective. This perspective informs the questions asked by the study, particularly concerning the relationship between race, class, migration and family formation. However, the paper distinguishes positionality from evidence: the author's experience provides context and motivation, while the substantive conclusions are grounded in documentary, legal and scholarly evidence.

Limitations

The research has four principal limitations. First, it does not measure prevalence. Second, judicial cases are inherently selective and should not be treated as representative. Third, family and immigration law vary significantly among jurisdictions. Fourth, the concept of intimate migration dependency developed here remains to be tested through empirical research involving migrant women, partners and children. Future research should therefore use interviews, longitudinal case studies and comparative datasets.

Conceptual Framework: Intimate Migration Dependency

This paper defines intimate migration dependency as: a condition in which a migrant's ability to obtain, maintain or benefit from international mobility becomes materially or practically contingent upon an intimate partner.

This definition distinguishes dependency from ordinary interdependence. Marriage necessarily involves some degree of mutual dependence; dependency becomes analytically significant where one partner's ability to remain, work, navigate institutions or maintain family life becomes disproportionately contingent upon the other. The framework contains five interconnected dimensions.

Migration Dependency

The partner becomes the source of immigration access. This can occur through spousal migration, partner migration, fiancé(e) routes, dependent visas or other familybased categories, and the legal system may thereby link residence to the relationship.

Economic Dependency

The partner provides income, accommodation or other financial support. This may become especially misleading where the income is earned in a high-income country but spent in Kenya: US$500 may represent substantial purchasing power in Nairobi without representing substantial wealth in Sydney or London. The migrant therefore needs to understand destination-country household economics, not simply the generosity she experiences in Kenya.

Linguistic Dependency

The migrant initially depends upon the partner to navigate communication. This may affect employment, healthcare, education, banking, government and legal services.

Informational Dependency

The migrant knows only the information the partner discloses. The problem is especially significant where the relationship is entirely online or geographically remote.

Institutional and Jurisdictional Dependency

The partner may understand the host country's institutions far better than the migrant does. Once children are involved, family life may become legally embedded in those institutions, and the combined dependency structure can become highly consequential when the relationship fails.

The Nanyuki/BATUK Case: Temporary Mobility, Permanent Consequences

The British Army describes BATUK as a permanent training-support unit based principally in Nanyuki, with British personnel undertaking permanent and short-term assignments. Its importance to this study arises from the asymmetry between temporary foreign mobility and permanent family consequences: a soldier's deployment may last months or years, but a pregnancy creates a permanent relationship between parent and child. The result can be a dramatic asymmetry, in which the foreign partner returns home, the mother remains, and the child remains connected to both jurisdictions. A 2026 decision of the High Court of England and Wales offers a particularly important illustration. In Re YZ (Declaration of Parentage: BATUK: DNA Evidence) [2026] EWHC 1601 (Fam), the court considered the parentage of a child born in Kenya after the mother alleged that the father was a British serviceman associated with BATUK. The judgment records that, in December 2024, a team travelled to Nanyuki to investigate claims by mothers concerning children allegedly fathered by British servicemen; DNA evidence ultimately provided overwhelming evidence of paternity and led to a declaration of parentage. The significance of this case is not that it proves widespread abandonment. It demonstrates something narrower and more important: that an intimate encounter associated with temporary foreign mobility can create a familial relationship whose legal consequences continue for years after the foreign partner has departed. Parentage, maintenance, identity and relationships with extended family may all remain unresolved, and the eventual legal process may occur in the foreign parent's home jurisdiction. The temporal asymmetry is therefore striking: the encounter may last weeks, while the legal consequence may last generations.

Comparative Case Law: What Happens When Transnational Intimacy Becomes a Legal Dispute?

The proposed framework becomes more useful when tested against actual judicial decisions. The cases below are not presented as proof of a universal pattern; they illustrate different mechanisms through which migration, family life and jurisdiction intersect.

England and Wales: *Re YZ (Declaration of Parentage: BATUK: DNA Evidence)* [2026] EWHC 1601 (Fam) The BATUK parentage case is fundamentally about informational and jurisdictional dependency. The child was born in Kenya, the alleged father was British, and the alleged relationship arose in a military-deployment context; the eventual parentage determination required scientific testing and legal proceedings in England. The case demonstrates a point easily missed in public discussions about absent fathers: establishing who the father is may itself become an international legal process. Before parentage is legally established, questions of maintenance, nationality, inheritance and family connection may remain uncertain, and the child therefore experiences the consequences of informational dependency at the level of parentage itself. The case also reveals how time can alter the balance of power. The foreign father may possess documentation, institutional familiarity and access to a legal system in which he lives, while the Kenyan family may have to cross the same geographical and institutional distance in order to obtain recognition. The case consequently provides an important example of why formal parental rights cannot be evaluated independently from the ability to establish parentage.

England and Wales: *TK v SD* [2026] EWHC 2220 (Fam)

A particularly striking illustration of the paper's argument appears in the recent TK v SD decision. The case involved five boys who had been in Kenya since July 2025; the mother sought their return to England, arguing that the trip had been a holiday and that their father had wrongfully retained them there, while the father argued that the trip had been a permanent relocation agreed by the family. The children were all British citizens and had also acquired Kenyan citizenship by descent, and the court had to consider habitual residence and jurisdiction. The case is especially relevant to this paper because the judgment records findings concerning the mother's documents and her ability to move between jurisdictions. The court found that the father had reported the mother's passport lost and had attempted to renounce her British citizenship; the judge concluded that these steps were intended to limit her ability to return to the United Kingdom or take the children there, and characterised the conduct as a form of “stranding” or “transnational abandonment”, which the court described as a serious form of domestic abuse. The court specifically noted that the consequences included the mother's inability to return to the United Kingdom and the resulting pressure on her to submit to the father's wishes. This case is particularly powerful for the present framework. The husband was not simply controlling money; the alleged control involved documents, citizenship, mobility, parental access and jurisdiction. This is a concrete example of multiple dependencies becoming mutually reinforcing: a woman's ability to travel can depend upon documentation, her ability to reside can depend upon immigration status, and her ability to live with her children can depend upon the children's residence, and all three can potentially be affected by the actions of the other parent. The concept of exit capacity therefore becomes more than theoretical. The issue is not simply whether the woman is legally free; it is whether she possesses the practical resources to exercise that freedom.

England and Wales: *Re C (A Child: Transnational Abandonment: Wardship)* [2026] EWHC 594 (Fam)

Another 2026 decision, Re C, offers a direct example of migration dependency, domestic abuse and transnational separation. The parents were Pakistani nationals; the father held a UK Skilled Worker visa and the mother joined him as a dependant, and their child was born in Birmingham. The family subsequently travelled to Pakistan, where the mother alleged that the father seized her and the child's passports, destroyed her phone and prevented their return to Britain. She eventually returned to the United Kingdom alone, while the child remained in Pakistan. The High Court found that the mother had been subjected to domestic abuse involving coercive and controlling behaviour and physical violence. Importantly, the court linked the conduct to transnational marriage abandonment, citing earlier authorities that define the core feature of stranding as the exploitation of one spouse's vulnerability to prevent that spouse from coming to or returning to the United Kingdom. The court concluded that the mother and child had been stranded in Pakistan and that the father's conduct had exploited her immigration vulnerability. This is almost a textbook example of the paper's five-dependency model. The mother had migration dependency through dependant status, institutional dependency through the foreign legal system, documentary dependency because travel documents were controlled, and jurisdictional dependency once the child was left abroad. The case is also important because it demonstrates that contemporary English family law has begun to conceptualise transnational abandonment itself as domestic abuse, rather than treating the issue merely as an immigration inconvenience. That development considerably strengthens the argument that migration-related vulnerability is not a peripheral issue within family law.

England and Wales: *S (Children: Transnational Marriage Abandonment)* [2025] EWCA Civ 1058

The 2025 decision of the Court of Appeal in S (Children: Transnational Marriage Abandonment) is even more revealing because it involved children taken from Afghanistan to the United Kingdom while their mother remained abroad. The father had moved to Britain and had a relationship with another woman living there; he later obtained immigration permission for the children and brought them to the United Kingdom without their mother's consent. The mother remained in Afghanistan and, according to the judgment, was unable to enter Britain. The Court of Appeal found that the first-instance treatment of the mother's allegations did not adequately account for the evidence and remitted the case for further welfare decisions. The case is analytically important for two reasons. First, migration status became part of the family dispute: the father was established in Britain, the mother was not, and while the children were in Britain, the mother remained abroad. Second, the court explicitly considered transnational marriage abandonment as part of the legal framework for understanding the family's circumstances, so that the mother's inability to reach Britain was not merely an unfortunate consequence of geography but became relevant to the analysis of whether the father had exploited the asymmetry between the partners. The Court of Appeal also emphasised that allegations of abuse must be evaluated carefully rather than assumed merely because one parent is foreign and the other is locally established. This is important for the methodological argument of the present paper, which does not begin with the conclusion that migrant mothers are always victims; it begins with a question: what happens when unequal mobility rights, institutional knowledge and family relationships interact? The case demonstrates why that question deserves independent analysis.

Australia: *U v U* [2002] HCA 36

Australia provides a useful counterpoint. In U v U, the parents were Australian residents of Indian origin; after the relationship deteriorated, the mother sought permission to return to India with their daughter. The mother had stronger family ties and employment prospects in India, while the father remained in Australia. The High Court considered whether the mother should be allowed to relocate with the child and ultimately upheld restrictions preventing her from relocating the child abroad. The case is important because it exposes a different kind of dependency. The mother was not simply an economically dependent foreign spouse; she was a parent whose freedom of movement could conflict with the child's relationship with the other parent. The Court treated the best interests of the child as paramount in deciding whether relocation should occur, demonstrating that migration resilience does not imply an automatic right to take children across borders when a relationship ends. A mother may have a legitimate desire to return to the country where she has family, cultural connections or employment opportunities, but the child may have established relationships in the current country, and the legal system must balance these competing interests. U v U is especially useful for this paper because it prevents an overly simplistic argument that all restrictions on a migrant mother's movement are forms of oppression; sometimes they are an expression of competing parental rights and the child's welfare. The real research question becomes whether the migrant parent had meaningful capacity to participate in that balancing process, and whether her migration history, cultural identity, economic position and caregiving role were adequately understood.

Germany: Bundesverfassungsgericht, 10 June 2025, 1 BvR 1931/23

The German constitutional court provides another useful contrast. The 2025 decision concerned parents and children who had originally lived in Ukraine before the family became established in Germany. The mother alleged serious domestic violence and death threats by the father; after separation, she and the children lived in a women's shelter, and German family courts had restricted the father's contact with the children on the basis of the risks arising from the violence they had allegedly witnessed. The Federal Constitutional Court did not simply endorse the lower court's reasoning. It held that the lower court's reasoning did not sufficiently explain the evidentiary basis and extent of the asserted threat to the children, and it required more precise reasoning concerning the factual foundations of the restriction. This case is valuable precisely because it complicates the narrative. The mother's allegations of violence were not irrelevant, nor were they automatically determinative; the constitutional court required careful evidentiary reasoning. For the present paper, the implication is that a discussion of “weaponisation” must distinguish allegations from findings of fact, from protective interventions, and from final custody outcomes. That distinction protects the study from making the same evidentiary mistake it seeks to identify elsewhere.

Germany: Bundesverfassungsgericht, 23 March 2026, 1 BvR 580/26

A second German constitutional decision in 2026 involved a father seeking a border restriction to prevent the mother from leaving Germany with the children for Ukraine. The parents shared custody; the mother had been living with the children primarily in Ukraine but had travelled repeatedly to Germany under an agreement allowing contact with the father. Following a dispute, she and the children moved into a women's shelter in Germany. The German courts ultimately declined to maintain a border prohibition, and the Federal Constitutional Court refused to accept the father's constitutional complaint. The case is important for the present discussion of exit capacity. A parent may seek state intervention to stop another parent leaving with children, and the state must then balance parental rights, children's welfare, risk and freedom of movement. The fact that a border restriction was considered at all demonstrates that international mobility itself can become a central object of family litigation. The case also shows why the paper should not conceptualise "exit" as an automatic good: a migrant woman's ability to leave a relationship does not automatically entail a right to take the children to another jurisdiction. The legal challenge is to determine who decides, according to which law, and with what evidence.

What the Comparative Cases Reveal

The six decisions expose a recurring pattern. The legal disputes look different, yet the underlying questions repeatedly concern who can move, who can remain, who controls the documents, where the children habitually live, who understands the institutions, which parent can access the courts, who has money and legal representation, and whether the migrant can leave without losing the children. These questions demonstrate why migration cannot be treated as separate from family law. In Re YZ, parentage itself required transnational legal intervention. In TK v SD, documents and citizenship were central to mobility and alleged coercive control. In Re C, immigration dependency and document control intersected directly with domestic abuse and separation from a child. In S, the mother's physical inability to reach the United Kingdom became part of the analysis of transnational abandonment. In U v U, relocation collided with the child's relationship with the other parent. In the German cases, courts had to balance parental movement, allegations of violence and child welfare while maintaining rigorous evidentiary standards. The comparative lesson is therefore not that courts systematically favour one side; it is that the legal consequences of intimacy become increasingly complicated when family life spans borders.

The Child Left Behind: Maintenance, Parentage and Jurisdiction

Kenya's Children Act provides an important legal baseline. Parental responsibility includes duties relating to nutrition, shelter, healthcare, education and other aspects of a child's welfare, and parents have equal parental responsibility and a joint duty to maintain their children regardless of whether they are married. The physical absence of a father therefore does not automatically eliminate legal responsibility; the problem is enforcement. Australia identifies Kenya as a reciprocating jurisdiction for child-support purposes. Services Australia provides mechanisms under which liabilities involving reciprocating jurisdictions can be registered and collected, while also acknowledging the procedural complexity of cross-border maintenance. The distinction is fundamental: reciprocity is not the same as accessibility. A mother may have a legal right, she may obtain a maintenance order, and the two countries may cooperate; yet she may still face documentation barriers, parentage disputes, administrative delays, legal expenses, language barriers and difficulty understanding the relevant procedure. This paper therefore distinguishes legal availability, procedural accessibility, institutional navigability and practical enforceability. A remedy is only fully meaningful when it can move through all four stages.

International Child Relocation and the Jurisdictional Trap

The maintenance problem becomes even more complex when the issue is the location of the child. The 1980 Hague Convention on the Civil Aspects of International Child Abduction provides a specialised framework for the wrongful removal and retention of children between participating states. The Convention currently has more than one hundred contracting parties, including several African states such as South Africa, Zambia, Zimbabwe, Botswana, Mauritius, Morocco and Seychelles. Kenya is not currently a contracting party to the 1980 Convention. That fact does not mean Kenyan courts have no authority or that Kenyan parents have no remedies; it means that the specific Convention return mechanism does not operate with Kenya in -

the same manner as it does between applicable contracting states. The distinction is important. A woman may feel that these are her children and that she is going home, but the foreign court may instead ask where the children are habitually resident, what parental rights exist, whether consent was given, whether there was wrongful removal or retention, and what is in the child's best interests. This is why international relocation should never be treated as an ordinary consequence of divorce: the child's legal position can become attached to the jurisdiction in which the child has become integrated.

Economic Participation Is Not Economic Independence

One of the most persistent assumptions surrounding migration to wealthy countries is that, at least, the migrant can work. That statement may be technically correct while obscuring the real labour-market problem. A migrant woman's ability to become economically independent depends on employment, wages, qualification recognition, language, childcare, working hours, tax, housing and legal status. A woman may therefore be employed without acquiring substantial bargaining power. She may pay part of the rent, buy groceries and contribute to childcare, but still lack enough resources to purchase a home, build meaningful savings, accumulate retirement assets, support several children independently, or fund prolonged family litigation. The distinction between economic participation and economic independence is therefore central: migration may improve the family's overall material standard while leaving the woman's individual exit capacity weak. This is why the question of whether she can get a job is insufficient; the more important question is what economic trajectory is realistically available to her.

The Expectation–Institution Gap

The economic expectations surrounding marriage can also change after migration. A woman may remain in Kenya while her partner sends rent, food money, transport, travel expenses, clothing, visa fees and other financial support. She may interpret these actions as evidence of a future provider arrangement, while the man may interpret them as courtship generosity. After migration, he may expect both spouses to work, shared rent, shared childcare and shared household expenditure. Again, there is nothing inherently wrong with either model; the problem is when the migration decision was made without discussing which model would apply. This paper calls the resulting divergence the expectation–institution gap. It is produced by moving between two socioeconomic systems: the cost structure changes, the labour market changes, the welfare system changes, childcare changes, gender expectations may change, and the woman's income-producing capacity may change. Consequently, the economic meaning of the marriage may change after migration. Pre-migration counselling should therefore include explicit discussion of who will work, who will provide, who will pay for housing, who will pay childcare, whether either spouse will be a stay-at-home parent, and what happens if the expected arrangement becomes impossible.

Partner Due Diligence and the Information Problem

The information asymmetry of online relationships deserves more direct attention. A prospective migrant may know the person emotionally while knowing comparatively little about the person institutionally; the government may know more about the visa applicant than the applicant knows about her prospective sponsor. The state may request financial evidence, identity documents, travel history, biometrics, police certificates, employment details and relationship evidence, yet the prospective spouse cannot normally obtain an equivalent complete record of the partner's private history simply by asking. This creates an unusual paradox: the state can investigate the migrant while the migrant may struggle to investigate the person who is central to her migration future. The appropriate policy response should not be unrestricted disclosure of confidential criminal information; rather, it should include stronger identity verification, verified marital-status information, clear sponsor-status information, better public guidance on lawful due diligence, and more accessible information about domestic-abuse and immigration protections. The goal is informed migration, not surveillance.

Bureaucratic Distance

Visa systems increasingly mediate the applicant's relationship with the state through technology and private contractors. The Schengen Visa Code, for example, permits Member States to use external service providers to receive applications, collect documents and biometrics, manage appointments and return travel documents, while consulates retain responsibility for examining applications and making decisions.

The arrangement has obvious administrative benefits: it can increase capacity, standardise collection and reduce congestion, but it also creates bureaucratic distance. A foreign state may be physically represented in Nairobi while the ordinary applicant encounters a website, an appointment system, a visa centre, a call centre or a web form. That is not inherently discriminatory, but it is a meaningful feature of contemporary migration governance. For applicants facing ordinary travel, the distance may be tolerable; for migrants experiencing family emergencies, custody problems or uncertainty about their legal status, it may become a substantial barrier. The foreign state is therefore geographically present but potentially institutionally distant. This is an empirical question deserving further research, particularly concerning how income, education, digital literacy and language affect applicants' ability to navigate outsourced systems.

Migration, Domestic Abuse and the Weaponisation of Legal Dependency

The language of "weaponisation" should be used carefully. Not every police report is false, not every child-protection intervention is discriminatory, and not every custody application is coercive. Yet the comparative cases demonstrate that immigration status and mobility can become tools within abusive relationships. The clearest example is TK v SD, where the High Court found that the father had taken steps concerning the mother's passport and British citizenship in order to limit her ability to return to Britain and to influence her behaviour; the court characterised the conduct as stranding and transnational abandonment. Similarly, Re C demonstrates how passport control, immigration dependency and physical separation from a child can operate together. But U v U and the German constitutional cases remind us that not every restriction on movement is evidence of abuse. A court may legitimately prevent a parent from taking a child abroad were doing so would undermine the child's relationship with the other parent or conflict with the child's welfare. The analytical distinction is therefore that state protection can constrain mobility legitimately, while coercive partners can also exploit that legitimate legal framework. The research task is to identify the difference.

The Exit Problem

Migration policy focuses heavily on entry. Family migration asks whether the relationship qualifies, and immigration law asks whether the applicant is admissible. But intimate migration creates another question: what happens if the relationship fails? Before migration, a woman may possess her home, her job, her family, her language, her banking relationships and her social network. After migration, she may have no independent home, limited employment, limited language, limited finances, limited social support, and children. The practical cost of leaving can therefore increase. This paper calls the condition exit vulnerability. Exit vulnerability does not mean legal imprisonment; a woman may technically be free to leave while lacking money, housing, legal status, childcare, transport, documentation, or a lawful route to relocate with her children. Thus, the relevant question is not merely whether she can leave, but whether she can leave safely, legally and with meaningful access to her children. That is a more useful migration-governance measure.

The Migration Illusion : The cases and literature expose a set of assumptions that can become misleading:

•Currency strength does not equal household wealth. Money earned in a highincome country has very different purchasing power in Kenya than it does where it is earned.

•Migration does not equal upward mobility. A woman may enter a richer country and experience occupational downgrading.

•Employment does not equal independence. A salary may permit participation without creating sufficient savings or assets to support an independent household.

•Residence does not equal security. A residence permit can coexist with linguistic, economic and relational dependency.

•Citizenship does not equal custody. A child can have nationality connections to two states without either parent possessing an automatic right to relocate the child internationally.

•Legal rights do not equal practical enforceability. A reciprocal maintenance framework can exist while the process remains difficult for a low-income parent.

•Embassy presence does not equal institutional accessibility. A foreign mission may be physically located in Nairobi while ordinary applicants interact primarily through digital systems and third-party providers.

•Visa approval does not equal successful integration. The visa is the legal beginning of migration, not the end of it.

An Intimate Migration Dependency Model

The argument can therefore be represented as a lifecycle.

•Stage One – Intimate encounter. Dating application, tourism, social media, military deployment, professional travel or other cross-border contact.

•Stage Two – Migration promise. The partner becomes a source of sponsorship, money, travel, accommodation and future plans.

•Stage Three – Relocation. The migrant encounters a new language, a new labour market, a new welfare system, a new legal environment and potentially different household expectations.

•Stage Four – Family formation. Pregnancy and children create parental obligations, nationality questions, custody claims, maintenance obligations and deeper jurisdictional entanglement.

•Stage Five – Relationship breakdown. The dependencies may become liabilities: immigration uncertainty, economic insecurity, language barriers, institutional unfamiliarity, custody disputes, maintenance claims, or inability to relocate.

The central proposition is that the accumulation of dependencies matters more than any single dependency.

Migration-Resilience Planning

The policy response should not be to discourage cross-border relationships. It should be to ensure that a migration decision is informed.

•Partner due diligence. Where lawful and practically possible, prospective migrants should independently verify identity, marital status, residence, employment and other material representations.

•Destination-country financial assessment. Partners should discuss income, housing, debt, tax, childcare, insurance, transport, savings and expected household contributions; the relevant question is not simply how generous the partner appears in Kenya, but what household economic capacity exists in the destination country.

•Language preparation. Migrants should begin learning the destination language where relevant before relocation, since language is not merely a visa requirement but an independence resource.

•Career planning. Prospective migrants should examine qualification recognition, professional licensing, employment pathways, expected income and childcare compatibility.

•Immigration literacy. The migrant should personally understand the visa category, work rights, duration of stay, conditions, relationship-dependent provisions, routes to permanent residence and domestic-abuse safeguards; the partner should not be the only person who understands the migration plan.

•Child and family-law preparation. Where children exist or are contemplated, migrants should understand birth registration, nationality, parental responsibility, maintenance, custody, habitual residence, relocation and the applicable international framework.

•Independent exit resources. Where circumstances permit, migrants should maintain some independent savings, copies of important documents, personal communication access, trusted contacts and information about legal assistance.

This is not an assumption that the relationship will fail; it is recognition that resilience requires preparation for adverse outcomes.

Discussion: Mobility Versus Independence

The central conceptual contribution of this paper is the distinction between mobility and independence. Migration measures geographic movement; independence measures capacity. A woman can travel from Nairobi to London, Sydney or Berlin and become geographically mobile while becoming economically and institutionally dependent upon her partner. She can enter a richer labour market and simultaneously experience occupational downgrading. She can acquire legal residence and still depend upon her husband for institutional navigation. She can have a child with a citizen of the destination country and discover that parental disputes must be resolved within a legal system thousands of kilometres from her family. She can possess legal rights and still lack the resources to exercise them. This paper therefore proposes five analytical distinctions: mobility is not independence; economic participation is not economic independence; legal availability is not practical accessibility; citizenship is not custody; and formal protection is not practical protection. These distinctions provide a framework for analysing intimate migration without reducing all cross-border relationships to victimhood. The five-dependency model also demonstrates that vulnerability is relational and cumulative.

The migrant may be relatively independent where she has an autonomous residence status, independent income, local language proficiency, recognised qualifications, social networks and knowledge of the legal system; another migrant may experience severe dependency where she possesses none of these resources. Thus, vulnerability should not be treated as an inherent characteristic of nationality; it emerges through the interaction of relationships, institutions and unequal resources.

Conclusion

Intimate migration is frequently narrated as a story of opportunity. A woman meets a foreign partner, they fall in love, he invites her abroad, they marry, they have children, and they establish a new life. Nothing about that story is inherently problematic. The difficulty is that the story can conceal the infrastructure upon which the new life depends. The partner may become the source of immigration status, income, language assistance, and the primary institutional navigator; he may become the woman's principal connection to the host society. Once children are born, the same individual may become the other parent in a legal relationship extending across jurisdictions. When the relationship is stable, these dependencies may feel like ordinary interdependence; when it breaks down, they become visible. The comparative decisions examined in this paper demonstrate that these consequences are not hypothetical. The BATUK parentage case shows that the consequences of temporary foreign mobility can persist for years and eventually require judicial determination of parentage.

TK v SD shows how passports, citizenship and mobility can become instruments of transnational control. Re C shows how immigration dependency, document control and separation from a child can intersect within transnational marriage abandonment. S demonstrates how the inability of a parent to enter the destination country can itself become part of a child-dispute and domestic-abuse analysis. U v U demonstrates the legitimate countervailing principle that a parent's desire to return to a country of origin must sometimes be balanced against the child's relationship with the other parent. The German decisions demonstrate another important point: allegations of violence deserve serious attention, but courts must still conduct rigorous evidentiary analysis and distinguish protective intervention from unsupported assumptions. These cases collectively suggest that intimate migration should be understood not merely as movement but as movement accompanied by changing distributions of power.

A migrant may gain geographic mobility, access to a wealthier economy, new educational opportunities, new citizenship possibilities and a new family; at the same time, she may temporarily lose economic autonomy, professional continuity, language competence, institutional familiarity and proximity to her original support network. Once children are involved, she may also confront a final and potentially decisive loss: the ability to leave without first negotiating the laws of another country. The policy objective should not therefore be to discourage women from forming international relationships, nor should it be to portray foreign partners as inherently dangerous. The objective should be to ensure that the migration decision is made with sufficient information and resilience that the relationship is not the only thing holding the migrant's life together.

Migration counselling should therefore move beyond asking whether the applicant can get the visa, toward asking what her life will look like once she arrives: what language she will need, what work she can realistically do, what the household economics will actually be, what rights she will have independently, what happens if the couple separates, what happens to the children, and how she would leave. And ultimately: if everything goes wrong after she arrives, what will she still have? That question provides a different definition of successful migration. Successful migration is not merely crossing a border. It is entering a new society while retaining sufficient agency, knowledge, resources and legal capacity to remain a participant in one's own life. The challenge for migration governance is therefore not simply to facilitate mobility; it is to ensure that mobility does not require the surrender of independence.

References

Akgüç, M., & Parasnis, J. (2023). Occupation–education mismatch of immigrant women in Europe. Social Indicators Research, 170, 75–98.

Australian Government, Department of Home Affairs. (n.d.). Character requirements. https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/character

Australian Government, Department of Home Affairs. (n.d.). Family violence provisions. https://immi.homeaffairs.gov.au/visas/domestic-family-violence-and-your-visa/family-violence-provisions

Bundesverfassungsgericht. (2025, June 10). Order of 10 June 2025, 1 BvR 1931/23.
Bundesverfassungsgericht. (2026, March 23). Order of 23 March 2026, 1 BvR 580/26.

Children Act, No. 8 of 2001 (Kenya).
European Commission. (2025). Migrant labour key to boosting employment in the EU.

European Union. Regulation (EC) No. 810/2009 establishing a Community Code on Visas (Visa Code).

Federal Foreign Office of Germany. (n.d.). Does my foreign spouse have to provide proof of German language skills when applying for a visa?

Hague Conference on Private International Law. (1980). Convention of 25 October 1980 on the civil aspects of international child abduction.

Kofman, E. (2004). Family-related migration: A neglected factor in European immigration strategies. International Migration, 42(4), 243–265.

Mazzucato, V., Schans, D., Caarls, K., & Beauchemin, C. (2015). Transnational families between Africa and Europe. International Migration Review, 49(1), 142–172.

OECD. (2023a). Indicators of immigrant integration 2023: Settling in. OECD Publishing.
OECD. (2023b). International migration outlook 2023. OECD Publishing.

Piper, N., & Lee, S. (2016). Marriage migration, migrant precarity, and social reproduction in Asia: An overview. Critical Asian Studies, 48(4), 473–493.

Re C (A Child: Transnational Abandonment: Wardship) [2026] EWHC 594 (Fam).
Re YZ (Declaration of Parentage: BATUK: DNA Evidence) [2026] EWHC 1601 (Fam).

S (Children: Transnational Marriage Abandonment) [2025] EWCA Civ 1058.
Services Australia. (n.d.). Receiving child support when you live outside Australia.

Services Australia. (n.d.). Reciprocating jurisdictions and residency for child support.
Statham, P., & Sunanta, S. (2026). Cross-border intimate mobilities between the Global South and North: Resetting the research agenda beyond marriage migration. Annual Review of Sociology, 52, 397–414.

The British Army. (n.d.). British Army Training Unit Kenya (BATUK).

TK v SD [2026] EWHC 2220 (Fam).
U v U [2002] HCA 36.

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