

Grens en gezin : beleidsvorming inzake gezinsmigratie in Nederland, 1955-2005

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English summary

Borders and families. The making of family migration policies in the Netherlands, 1955-2005

This book is about the ways in which Dutch politicians and civil servants have determined the conditions for entry and stay of family migrants in the Netherlands between 1955 and 2005. It traces the development of Dutch family migration policies and seeks to explain this development by analysing the dynamic of the decision-making processes in which these policies were established.

Starting from a constructivist approach to the study of policy-making, I investigate change and continuity in the institutional structure, that is in the actors involved in the decision-making process, the ways in which these actors framed family migration as a policy problem, and the extent to which the different actors influenced the outcome. Furthermore, I identify phases and turning points in the development of family migration policies, and examine how these policy trends relate to the broader political and cultural context.

This book aims to contribute to the academic debate in three ways. First, it fills a void in existent knowledge about migration and migration policies in the Netherlands. Penninx et al. have recently observed that the Dutch field of migration studies is short of 'literature that analyses the making of policies itself: that is analyses, not of the content of policies per se, but of the process that has led to these policies, the actors involved and the levels at which they are made'.¹ Dutch students of policy and politics have but recently directed their attention to the field of migration and integration.

Since the 1990s, academic accounts of policies regarding entry and stay of labour migrants, refugees and (post)colonial migrants in the Netherlands have been more forthcoming. The history of the making of Dutch family migration policies however has not yet been written.

Second, this book is a case study of Dutch policy-making. Empirical analyses of the interaction between Parliament, cabinet and civil servants in the decision-making process and the relative influence of these actors on the policy output are fairly scarce in the Netherlands. Historical accounts, identifying change and continuity in these influence structures over the longer term, are even sparser. Finally, this study engages with the ongoing debate in the international field of migration studies regarding the paradox of migration policy in liberal democratic countries. In the famous wording of Martin, Cornelius and Hollifield, this paradox is defined as a 'control gap': 'the gap between the goals of national immigration policy (...) and the actual results of policies in this area (...) is wide and

¹ Penninx e.a. 2005: 2.

growing wider'.² The Netherlands are one of these countries where large-scale settlement migration was far from welcome, but took place all the same, for a significant part through the family migration channel. This case study of the decision-making processes in which the conditions for family migration were set thus offers the opportunity to test existent hypotheses explaining this paradox.

The making of Dutch family migration policies, 1955-2005

From 1955 to 1975, during the years of large scale labour recruitment, Dutch family migration policy was the result of three conflicting policy perspectives. The economic point of view, represented in policy circles by the ministry of Social Affairs, focused on the urgent need of Dutch companies for foreign labour. To ensure the attractiveness of the Netherlands as a country of destination, foreign workers should be offered the possibility to bring their families over. This plea found support in Parliament, where the confessional parties in particular deemed it morally inadmissible to keep fathers and husbands separated from their families. As both Social Affairs and Parliamentarians assumed the stay of labour migrants in the Netherlands to be temporary, the long term social consequences of labour and family migration were no cause for concern. The ministry of Justice however was convinced that once reunited with their family in the Netherlands, foreign workers would not return to their home countries. Since Justice feared that the large-scale and permanent settlement of foreigners—especially if their cultural background was ‘different’ – would have a detrimental effect on the cohesion of Dutch society, it would have preferred to deny entry to labour migrants’ families. Between 1955 and 1960, family reunification was indeed forbidden. In the course of the 1960s however, the economic and moral perspectives put forward by Social Affairs and Parliament came to outweigh the ministry of Justice’s concerns, and policies were gradually relaxed. By 1970, labour migrants from recruitment countries were allowed to bring their family members over after one year of residence, provided they disposed of sufficient housing and a labour contract for another year. In the second half of the seventies and the early eighties, the conditions for family migration were significantly relaxed. The cultural revolution of the late 1960s brought about fundamental changes in the dominant norms regarding family and gender relations. As a result, non-marital relationships, both heterosexual and homosexual, were admitted as ground for entry and stay, and women were allowed to bring foreign family members over under the same conditions as men. In addition, Dutch politicians acknowledged that the large majority of the migrants who had found their way to the Netherlands from recruitment countries and (former) colonies would not be returning to their home countries. The norm of equal treatment—a prominent norm in Dutch political discourse since the late 1960s—prescribed that wherever possible, settled migrants should be treated on a par with Dutch nationals. With regard to family migration, this led to the exemption of resident migrants from the income

² Cornelius e.a. 1994: 3.

requirement in case of involuntary unemployment, and to a substantial strengthening of the residence rights of their partners and children. Throughout the post-war period, Dutch family migration policies have not been more liberal than in the 1980s. Optimism reigned where the social consequences of these policy choices were concerned: thanks to the new minorities policy, migrants would soon find their place in Dutch society. This optimism was reinforced by the assumption that the large scale immigration flows the Netherlands had known since the Second World War had been an accident of history, which would not repeat itself.

In the early nineties, optimism gave way to increasing concern about the effects of migration on Dutch society, not only among policymakers but also in public opinion. Immigration flows increased instead of decreasing, and the integration process proved more problematic than expected, particularly with regard to participation in education and on the labour market. To ease migrant incorporation problems, it was deemed necessary to reduce immigration flows, including family migration. At the same time, a new ideological vision gained currency, stating that the state should stimulate its citizens to be active and autonomous, rather than rendering people dependent and passive by too much state care. Family migration was therefore gradually subjected to more stringent conditions, not only to reduce inflow, but also to appeal to the 'personal responsibility' of applicants to build a future for themselves and their families in the Netherlands. The income requirement was gradually raised, structural control on marriages of convenience introduced, and the visa requirement was tightened.

Where the migration and integration issue had been defined primarily as a socio-economic issue in the nineties, the political debate after the turn of the century centred on the problematic aspects of cultural diversity. Across the political spectrum, it was assumed that a certain measure of homogeneity in values and customs was a necessary precondition for social cohesion. Family migration was considered both a result and a cause of failing integration, in socio-economic as well as in cultural terms. The quantitative policy goals of the nineties were therefore reinforced and supplemented with qualitative goals: the reforms most recently implemented in the Netherlands were designed to make a selection at entry between desirable and undesirable migrants. The income and age requirements for family formation were sharpened in 2004. In addition, the Law on Integration Abroad of 2005 stipulates that entry will only be granted to family migrants who have proved to possess sufficient knowledge of Dutch language and society. Currently, Dutch family migration policies are highly restrictive, not only in contrast to earlier periods, but also in comparison to other European countries.

The powers that be in The Hague

It is broadly assumed among students of Dutch politics and policy that civil servants have come to play a more influential role in the policy-making process in the second half of the twentieth century: whereas up until the mid-1960s, their role was limited to executing political decisions, civil servants have become autonomous actors in recent decades, due to their increased expertise and to changes in

the nature of policy-making processes.³ In the field of family migration policies however, the evolution of power relations between civil servants and politics was exactly the opposite. In the 1950s and 1960s, the conditions for family reunification were to a very large extent decided by the civil servants of Justice and Social Affairs, without much interference from Parliament or even from members of government, for whom family migration was not a priority issue. In the 1970s and 1980s, Parliament became more involved in the policy debate and a deputy minister for Immigration was appointed. The autonomous influence of civil servants on the policy-making process was substantially reduced, but still not insignificant. As of the 1990s however, as family migration became a highly salient electoral issue, political parties took a firm hold on the decision-making process, leaving little if any room for the input of civil servants. There are strong indications that the reforms implemented after the turn of the century were adopted in spite of emphatic opposition from the responsible administrative department.⁴ The contrast with the autonomy with which civil servants operated in the 1960s could hardly be sharper.

The influence of the members of cabinet on the making of family migration policy has increased gradually: it was small in the 1950s and 1960s, and became decisive from the 1990s onwards. Up until the 1990s, the political colour of neither the minister responsible for Foreigner Affairs, nor the cabinet as a whole had any visible influence on the positions adopted in the policy debate. Glastra Van Loon, deputy minister of Justice in the Den Uyl cabinet of the seventies, was the sole exception to this rule: his progressive views on family norms influenced family migration policies significantly. From the 1990s onwards however, party politics became decisive for decision-making within the cabinet. The input of Parliament also increased steadily. In the 1950s and 1960s, MPs addressed the issue of family migration only incidentally, and limited their comments to the broad outlines of policy. From the 1970s onwards, the House of Representatives engaged ever more actively in the policy debate, discussing regulations in detail. Since the 1990s, political parties have even become the dominant actors in the decision-making process. Decisions are not primarily made in the House of Representatives however, but behind the closed doors of cabinet deliberations and – from 1998 onwards – in the negotiations about coalition agreements. The distance between coalition parties in Parliament and members of governments has become very small: coalition politics are now the main decision-making mechanism in the field of family migration.

Nevertheless, throughout the period between 1955 and 2005, shifts in the trend of family migration policies cannot be related to changes in party political dominance, either in Parliament or in the cabinet. The most liberal conditions for family migration were applied in the 1980s, by centre-right cabinets. The restrictive turn in the 1990s was implemented when the Social Democrats were in

³ Peters 1999: 36; Bekke 1994: 14-19; Hoppe 1998: 15-19; Bovens e.a. 2007: 360-361, 371-374.

⁴ I have been granted permission to consult the archives of the ministry of Justice up until 2003: hence my tentativeness

power, first in coalition with the Christian Democrats, then with the Liberals. Over the past fifty years, there has typically been sufficient consensus about the stakes of the family migration issue among the main political parties – Christian Democrats, Social Democrats and Liberals – to subscribe to the policies implemented by the government, regardless of the political colour of that government.

The thesis of the control gap

In the debate among European and North American migration scholars as to how to explain the paradoxical fact that large scale settlement migration has taken place in Western countries against the express wishes of their publics and governments, many have ascribed a crucial role to the judicial system. Domestic and international courts, so it is argued, have actively defended the rights attributed to individual migrants in liberal democracies, thus limiting the possibilities of governments to control the entry and stay of foreigners on their territory.⁵

However, while the courts have come to play an increasingly important role in the making of Dutch family migration policies since the 1970s, they have hitherto proved reticent to encroach upon the sovereignty of the Dutch government in the field of immigration policies. On the whole, they have acknowledged the right of democratic governments to set conditions to the entry of family members so as to protect the general interest of the public they represent. The general legitimacy of housing, income, age, or integration requirements has not been called into question by the courts. If Dutch policymakers applied very liberal conditions to family migration in the 1980s, it was not because the courts compelled them to do so, but out of their own free choice.

One of the few authors who does not refer to the courts to explain the paradox of migration in liberal democracies is Gary Freeman. He posits that migration policy in Western countries should be understood as client politics: the benefits of migration are concentrated and lie with well organised groups with good access to policymakers, such as employer organisations. As the costs on the other hand are diffuse and less well articulated, migration policies will tend to be liberal in spite of the restrictive preferences of the general public.⁶ This distinction between concentrated and diffuse interests goes a long way to explaining the making of Dutch family migration policies in the sixties, that is why the economic interests represented by the ministry of Social Affairs outweighed the concerns for the long term social consequences expressed by the ministry of Justice. However, Freeman obstructs the view to an important factor in the policy-making process, when he states that 'immigration policy is not a morality play; it is interest driven like most everything else'.⁷ Already in the 1960s, the input of Parliamentarians in the policy debate was a highly normative one. From the

⁵ Cornelius e.a. 1994: 7, 9; Joppke 1998: 270-271; 1999: 18-21; 2001: 340-342; Guiraudon 2000: 221-224; Guiraudon & Lahav 2000: 189; Hollifield 2000: 148-150, 163-164; Soysal 1994: 149-151; Sassen 1996: 11-12; 1999: 181, 184-185; 2006: 351.

⁶ Freeman 1995: 881-887; 2002: 77-82.

⁷ Freeman 2002: 94.

1970s onwards, ethical and ideological norms – such as the norm of equal treatment as of the 1970s, or of ‘personal responsibility’ as of the 1990s – came to play an even more important role in the decision-making process. The distribution of interests can not explain the family migration policies in the Netherlands from the 1970s onwards: immigration policy is undeniably, in part, a morality play. Like Freeman, Guiraudon has analysed the mechanisms of domestic politics in the field of migration and migrant policies. Her research of policy-making in France, Germany and the Netherlands from the 1970s to the late 1990s has led her to conclude that rights will be granted to migrants when policymakers are shielded from public scrutiny. The more open the arena where decision-making takes place, the more restrictive the policy output will tend to be.⁸ The development of Dutch family migration policies from the 1970s onwards indeed follows these lines. However, when considering the period from 1955 until 2005, a different dynamic is apparent. Family migration policies were made by a closed circle of civil servants in the 1960s, operating almost entirely out of the public’s view. The 1970s witnessed a significant opening up of the decision-making arena, with Parliament, interest groups and media actively engaging in the debate. This did not result in more restrictive policies, as Guiraudon would predict, but in the most liberal family migration policies the Netherlands have known throughout the post-war period. My findings lead me to question the analytical validity and usefulness of the hypothesis which underlies Guiraudon’s argument and which is broadly accepted in academic circles, namely that the general public is always, in all historical circumstances, in favour of restrictive migration policies.⁹

Underlying the thesis of the ‘control gap’ as formulated by Cornelius, Martin and Hollifield in 1994 is the assumption that states strive to control migration, but fail. In my view, the paradox should be approached differently. The question ought to be: why have states which in no way aspired to be immigration countries accepted large scale settlement migration, although they had the possibility not to do so. The answer to this question should be sought in the considerations that have led civil servants and politicians to their policy choices: in their expectations regarding the development of migration flows, in their perceptions of the social consequences of immigration, and in the ethical and ideological norms that they deemed to be at stake. This study reveals the ways in which our insight in the dynamics of migration policies in Western Europe may benefit from case studies which set out to identify the actors involved in the policy-making, the relations between these actors, and the interests, value-judgements, perceptions and expectations they based their decisions upon.

⁸ Guiraudon 2000: 239.

⁹ Guiraudon 2000:22; Joppke 2002: 262; Freeman 2002: 78.