implied deregulation of family relations, Dutch public law (welfare policy, child welfare policies, education policies, crime prevention etc) provided for more state involvement in family relations. Moreover, the type of involvement provided was becoming less conducive towards individual emancipation, and more conducive towards the protection of public order.

Other trends that Glendon identified became manifest in the Netherlands during the 1990's, particularly the tendency to see family norms as a matter of individual choice, disassociated from broader normative fields and local networks.[265] In the dominant perception, the family was becoming tenuous, unstable and detached. "Equality, individual liberty and tolerance" had become the new normative touchstones, replacing solidarity and altruism, the slogans of the '70's. Although closely associated with the new markers of national identity, the family was no longer seen to be rooted in the human fabric of the nation.[266]

As we shall see in Chapter Four, Glendon's observation that "religious beliefs or attachment to tradition are frequently [seen to be] relatively unimportant or even counter-productive..." rings true for the Netherlands of the 1990's, particularly regarding the dominant attitude towards "non-Western" ethnic minorities–and especially those of the Islamic faith. Among the many reversals that occurred within the dominant system of family norms in the Netherlands, this disassociation of the family from broader social structures is perhaps the most remarkable, given the strong tradition of religious columns that characterised Dutch society up until the 1970's.

[265] Ibid. p. 298; 308.
[266] Ibid. p. 298.

CHAPTER TWO

DUTCH NATIONALITY AND IMMIGRATION LAW IN A PERIOD OF RECONSTITUTION AND RECONSTRUCTION: 1945-1975

The previous chapter traced the changes in family norms that took place in the Netherlands during the latter half of the twentieth century, and the accompanying shifts in family law and social policies. In this and the following chapters, a similar account will be made, but then of the changes that took place in the regulation of family migration in the context of these normative shifts. The starting point, once more, is the end of the Second World War. Particularly relevant for questions of nationality and immigration law, is that besides facing the material and moral challenges of reconstruction, the Dutch State also had to deal with considerable demographic upheaval caused both by the war and the subsequent decolonisation of Indonesia.

The war had claimed 230,000 lives in the Netherlands. A good twenty percent of the surviving population (that totalled 9.2 million at the time) was displaced. More than 400,000 had been forced to leave the country and now wished to return. Meanwhile 25,000 Germans had settled in the Netherlands during the war–including both Jewish refugees and Nazi occupiers, while millions of refugees–many of them fleeing communism–were waiting to be admitted to the West. At the same time, 100,000 Dutch colonials who had been interned by the Japanese in the former Dutch Indies had been brought to the Netherlands to recuperate, while thousands of Moluccan soldiers and officers who had remained loyal to the Dutch were waiting to be relocated, together with their families. As anti-Dutch sentiments increased in the former colony, there was an increasing pressure to bring these loyalists to the former metropole, as well as the remaining 250,000 Dutch nationals left behind in the former colony.

On top of all this, the post-war baby boom threatened to aggravate the demographic pressures that followed the war and decolonisation. Although the most acute shortages in food and consumer goods were over by the

mid 1950's, housing continued to be a major problem, as was noted in the previous chapter. At the same time, however, as we also saw in the previous chapter, the post-war economic boom was setting in, catalysed by Marshall Aid. A labour shortage, already present directly after the war, started to become acute. Employers were eager to bring in workers from abroad, particularly for the mines, the steel mills, the shipyards, and the textile and clothing industry. There was a constant need for nurses and domestic workers[1]–at least until 1960's when the increased availability of household machinery would lighten the housewife's tasks, and taboos against married women joining the labour force were finally starting to lift.[2] So, next to the redistribution of populations that marked the end of German occupation and Dutch colonisation, a parallel demographic shift also started to take place: that of labour migration.

Until the early1970's, the need for imported labour was seen by Dutch social scientists and policy makers as temporary and atypical, an unusual strategy for dealing with an unusual problem: the shortage of labour caused by the economic boom that had accompanied reconstruction. Short-term contracts for one or two years at most were considered to be in the best interests of both the workers involved and the Dutch economy that should, in the long run, resolve its labour problems through relocation of labour-intensive industries and/or capital investments. The official policy then was that foreign labourers were to be admitted on a temporary basis only.

Another reason why short-term labour migration was preferred was the expectation that workers who stayed for longer than a couple of years would start bringing over their wives and children. Once that happened, it was reasoned, the foreign workers and their families were likely to extend their stay indefinitely. Much of the surplus value produced by foreign labour would then be lost. The social costs involved in temporarily accommodating healthy young single men were, after all, considerably less than the housing, education and healthcare that permanently settled families would require.[3] As the Dutch Welfare State became more committed to providing for its citizens' material needs, it also became more concerned about controlling the volume of its population.[4] To quote the centre right cabinet De Jong (a coalition of confessional parties and the liberal VVD) that was in power in from 1967 to 1971: what the Netherlands needed were temporary workers from abroad, not settler-

[1] Berghuis 1999, p.82-86.
[2] Gastelaars 1985, p. 168-169.
[3] Berg 1967, p. 24-26.
[4] G. Myrdal, *Beyond the Welfare State*, London 1965 cited in Swart 1978, p. 29.

families.[5] In order to be sure that no one would in fact be inclined to bring over family members and settle permanently, an unmarried status was initially stipulated as a recruitment criterion.[6]

Two Distinct Regulatory Regimes

On the one hand therefore the Dutch body of citizens was being reconstituted following the end of war and decolonisation; while on the other hand, the labour force was being equipped for the task of reconstruction. In redefining the borders vis a vis their former occupier and their former colony, the Dutch had to determine who belonged to the nation and who did not. In so doing, they would not only take economic needs and limitations into consideration. As important, would be moral, emotional and ideological considerations: trauma's resulting from the German occupation,[7] the loss of prestige following the secession of the Dutch East Indies,[8] and last but not least: the importance attributed to genealogy, culture and family bonds as a way of belonging to the nation. By contrast, in the second selection process, economic considerations prevailed. Although normative considerations did play a role in the sense that criminals, immoral elements and communist spies had to be kept out, the prime consideration was that labour recruits should be temporary and cost effective.

On the other hand, once people from the former colony had been admitted, their acceptance seems to have been definite. The literature at any rate offers no record of people being sent back to Indonesia during this period on grounds of poor behaviour or moral transgression. Labour migrants, by contrast, had substantially less claim to continued residence. Not only criminal convictions but transgression of certain family or sexual norms, too, could give cause to retract or refuse to prolong their permission to stay.

Similarly, these two groups were included in different degrees into the emerging institutions of the Dutch Welfare State. Repatriate families coming to the Netherlands from Indonesia were subjected, directly upon arrival, to acculturation programmes meant to integrate them into the moral order of the Dutch nation, in which they, as families, were expected

[5] Nota buitenlandse werknemers, *Kamerstukken II 1970/71*, 10504, nr. 11, p.9.
[6] Groenendijk 1990, p. 59.
[7] Bogaarts 1981, p.159-160.
[8] Bank 1981, p.78-84. See also Benedict 1997, p. 96; Kennedy 1995, p. 115-117.

to fully participate. Foreign workers, living their bachelor lives, were initially excluded from this nation-building project.

The divide between these two migratory regimes is made evident in the judgement of the Kroon [9] concerning an Indonesian immigrant who had come to the Netherlands in the early 1970's, when labour migration was just past its peak. In its decision on appeal, the Kroon made clear that claims to admission on the basis of the specific policies for Indonesians had to be based on family ties and/or cultural affinity, and not on the fact that the person in question had managed to find a paying job in the Netherlands. In other words, the fact that Indonesians were not subject to labour permit requirements didn't mean they could be admitted solely for the purpose of working in the Netherlands. Those Indonesians who had been admitted to the Netherlands on the grounds that they were still morally bound to the Dutch nation had been exempted from labour permit requirements so they could more easily integrate into Dutch society. This exemption was clearly not intended to facilitate the migration of foreign labourers from Indonesia.[10]

Those who were to be admitted primarily to work were, in first instance, former Polish military and refugees from the camps in the Ally-occupied territories. However by the mid 1950's under the leadership of a coalition of confessional parties and the Dutch Labour Party, recruitment shifted to Austria, Hungary, Italy and, later, Spain. Labour was also in good supply there, but without any accompanying risk of covering for communist spies, and–more to the point–amenable to being sent back home, should the need arise. But whether they came as refugees or as labour recruits, the migrants involved in this specific demographic shift had one thing in common: they were not allowed in as potential citizens, but as an expedient solution to a temporary problem.

This chapter will examine how these two regulatory regimes developed in the post-war period. Specifically, attention will be given to the family norms expressed through these two regimes; to the role that was attributed to family ties as a form of attachment to the Dutch nation; and to the role that family norms and family ties played in the granting, refusing or retracting of admission to prospective citizens or temporary workers.

[9] For an explanation of the specific nature of this at the time highest adjudicator in Dutch administrative law, see: Chapter One, footnote 140.
[10] KB 22 March 1975 nr. 116, RV 1975/9. See also: KB 10 March 1976 nr. 45, RV 1976/7. Following this decision on appeal, the exemption of Indonesians from the labour permit requirement was ended.

A: Reconstituting The Nation

Sleeping with the Enemy: Soon Forgiven and Forgotten

Once the Dutch had been liberated on 5 May 1945, one of the tasks facing the post-war cabinet of confessional and Dutch Labour Party ministers appointed by Queen Wilhelmina was to reassert the nation's political sovereignty and its national identity. Granting and refusing nationality formed one aspect of this process.

Initially, loyalty to the nation formed the guiding principle in determining who did or did not belong to the Dutch nation. Thus foreigners who had served in the Dutch resistance could qualify for speedy naturalisation, at no cost. Dutchmen who had served with the allies were allowed to maintain their nationality, despite having served with a foreign army, but those who had served with the German army initially had their Dutch nationality taken from them.[11] In the same vein, the newly instated Dutch government originally intended to deport the 25,000 German nationals still residing in the Netherlands at the end of the war–including those Jews who had fled Nazi Germany.

A complicating factor however was that, during the five years of occupation, a number of Dutch women had married members of the occupying nation, i.e. German nationals, while a number of Dutch men who had moved to the occupier's territory, whether voluntarily or by force, had become involved with German women there. According to the nationality rules that applied at the time, women followed in their husbands' nationality.[12] This meant that the Dutch wives of Germans were lost to the Dutch nation, and that those German wives of Dutchmen living in Germany acquired access to Dutch nationality. Female members of the enemy nation had become Dutch citizens through marriage, while Dutch women had joined the enemy nation by marrying one of its members.

Families, War and Nationality Law

Already in 1943, the Dutch government in exile had passed a measure stipulating that Dutch women who married men belonging to an enemy nation after 9 May 1940, would not automatically loose their Dutch nationality.[13] Hence, these women were protected against deportation

[11] Heijs 1995, p. 107-112. See also Heijs 1991 and Heijs 1994.
[12] De Hart 2003, p. 80.
[13] KB 22 mei 1943, *Stb.* 1943 D16.

when, following the war, measures were taken to expel Germans, Italians Austrians and Japanese from Dutch territory. For many of these women, this was a dubious privilege since they were left with the choice of joining their husband in exile, or remaining separated from him and the children who, since they held their father's nationality, were not protected against deportation and, being subject to his authority, remained in his custody.

Similarly, by a Royal Decision taken in 1945, it was decreed that any German woman who had married a Dutchman after 10 May 1940 would not be granted Dutch nationality.[14] This was to prevent German women, who had married Dutchmen who had been forced into labour in Nazi Germany, from gaining entrance to the Netherlands. In practice, however, this measure met with considerable resistance because of the implications for family unity. In the end, only 7% of the 12.000 German women who had married Dutchmen were actually refused entry. Similar sentiments also account for the fact that, in the end, far fewer Germans were to be deported than was originally intended.

The plans to deport all Germans still residing in the Netherlands initially only met with resistance from the side of the Allies stationed in post-war Germany. Since they patently refused to take up large numbers of deportees, the Dutch revised their plans. Germans who had actively supported the Dutch and those who had fled Nazi Germany for political reasons would be allowed to stay. This still, however, left a large number–estimates were made of 17,000–that qualified for deportation.[15] In September 1946, Dutch authorities started rounding up German families in Amsterdam. Some men managed to hide themselves, thus thwarting their families' deportation, for the Dutch authorities had promised not to divide any families.[16] Despite some complications–bad weather, lack of sufficient food, lodging and fuel in Germany–3,000 people were, in the end, put across the border. In July of 1947 the Allies finally agreed to take up another 10,000 deportees. By then however, public opinion in the Netherlands had turned in favour of the still remaining Germans.

Ties that Bind

Resistance to the planned deportations came particularly from the side of the Dutch Catholic Church, which was in the process of re-establishing relations with the Catholic Church in Germany. By then too a growing fear of a Communist threat was starting to neutralise anti-German feelings,

[14] KB 17 November 1945, *Stb.* 1945 F 278.
[15] Bogaarts 1981, p.164.
[16] Ibid. p. 165.

while Dutch businessmen were starting to realise how important it was to resume good trading relations with the Germans.[17]

By this time, elections had taken place and the post-war cabinet that had been appointed by Queen Wilhelmina had been replaced by a cabinet of confessional and Dutch Labour Party ministers, led by Beel, a member of a Catholic party. In reaction to public pressure, particularly from the Catholic constituency, the Dutch Minister of Justice, Van Maarseveen, himself a member of a Catholic party, revised his policies. He had already moderated plans and decided to give residence permits to all Germans who had entered the Netherlands before the war had started and who had either given proof of their good will during the war, or established a family with a Dutch spouse.[18] But the churches–by then the Catholic Church had found support from Protestant Churches–persisted in their resistance. In response, Van Maarseveen revised his policies yet again, promising not to deport any German married to a Dutch woman, not even the most notorious Nazis.

However, religious organisations together with most political parties persisted in their protests against the planned deportations. It was pointed out that policy guidelines in themselves offered no guarantee for humane treatment. Dutch immigration law at the time offered no possibility to appeal against arbitrary decisions. The Dutch government was accused of "applying German methods to the Germans".[19] To rectify this problem, Van Maarseveen introduced a rudimentary form of administrative appeal. He set up seven committees, each representing the three major streams of Dutch society (Catholic, Protestant and Humanist/Socialist), to review the more difficult cases. In the event of a negative decision, the person involved could place an appeal before a parliamentary committee that Van Maarseveen had previously formed to advise him on the expulsion of the Germans.[20]

In the end, no more than 691 Germans were forced to leave the country between 1947 and 1950, bringing the total number of forced deportations to 3,691.[21] By the mid-1950's, under the political leadership of Drees who stood at the head of a coalition of confessional and Dutch Labour Party ministers and was himself a member of the Dutch Labour Party, anti-

[17] Bogaarts 1981, p.175; Blom 1981, p. 150-154.
[18] Bogaarts 1981, p. 167.
[19] Ibid. p. 172.
[20] Ibid. p. 170-171.
[21] An unknown number of Germans was also refused a residence permit on an individual basis, and assumedly left the country on their own initiative. Bogaarts 1981, p. 174-175.

German sentiments continued to fade. The specific rules regarding the nationality of Dutch women married to Germans and German women married to Dutchmen were turned back. In 1950 German women who had married Dutchmen during the war were granted Dutch nationality; in 1953 Dutch women who had married Germans lost theirs. At the same time, it became easier for those Germans still living in the Netherlands to acquire Dutch nationality through naturalisation. Moreover, those men who had lost their Dutch nationality after having served in the German army were granted the possibility of regaining their Dutch citizenship through a relatively simple form of naturalisation.[22] This measure was motivated by concern for the status of these men's wives and children who, like the men themselves, had become stateless.[23] Consequently, within a decade after the war, preoccupation with the integrity of the family unit as a constitutive element of the nation once more prevailed, overruling concern for individual connections to erstwhile aggressors. Ultimately, only a small percentage of German wives of returning Dutchmen was refused entry while the vast majority of German men who had settled in the Netherlands with a Dutch wife was allowed to stay.

Women's Ambiguous Place in the Nation

This last result is particularly striking given the dominant assumption, of the time, that wives followed husbands and not the other way around. True, the Dutch government in exile had determined that Dutch women married to German men should, given the exceptional circumstances of war, keep their Dutch nationality and thus be protected against forced deportation. The disassociation of the wife's nationality from that of her husband was, moreover, an onslaught on his identity as an adult male and citizen. He was no longer the indisputable head of his family. The literature however gives little indication of German men having been deported while their Dutch wives stayed behind. On the contrary, from the start, concern for family unity seems to have overruled any intentions to deport German individuals.[24] What's more, arguments against deporting German men with Dutch wives did not refer to the latter's formal right to residence, but to their (German) children's Dutch upbringing, and the

[22] Already in 1944, the Dutch government in exile determined that those men who had served with allied troops were to maintain their Dutch nationality, contrary to the rules laid down in the law on nationality of 1892 (KB 4 October 1944, *Stb.* 1944, E 127. See also: Heijs 1995, p. 11-112).
[23] Heijs 1995, p.111-121.
[24] Bogaarts 1981, p. 165.

families' resulting substantive ties to the Dutch nation.[25] These families' embeddedness in local culture, due to a large degree to the social ties, care and upbringing provided by the Dutch wife and mother, seems in these instances to have weighed more heavily than the formal nationality of the German head of the household.

Admittedly, the Allies' initial refusal to accept German deportees certainly serves to explain the low number of expulsions immediately following the war. However, given the fact that the Dutch did not, in the end, take advantage of the Allies' offer to take on 10,000 more deportees in 1947, it seems clear that, by then, sympathy for those Germans who had established family ties in the Netherlands already outweighed war-bred hostilities and concerns to reduce pressure on the labour- and housing markets. The Catholic Church, with its strong appeal to family sentiments and local solidarity, played an important role in mobilising this sympathy. Despite their affiliation with the former occupier, German men, by heading families within Dutch territory, managed to acquire credentials as members of the Dutch nation. By 1953, less than a decade after the war had ended, their position as such was normalised. Their naturalisation was facilitated, and their position as head of the family moreover confirmed when their Dutch wives' independent claim to Dutch nationality was finally retracted.

Realigning the Nation after the Loss of Empire

Besides coming to terms with post-war emotions, the Dutch also had to deal with the loss of their most important colony, the Dutch East Indies. The republic of Indonesia claimed independence on 17 August 1945, just before the Japanese withdrew. After a bitter struggle, the Dutch, under leadership of the Dutch Labour Party member Drees, finally conceded in 1949. Subsequently, an agreement had to be reached concerning the national status of those residing in the former colony.

The agreed distribution of the population of the Indonesian archipelago between the Dutch and the Indonesian nations was clearly premised upon the preceding colonial distinctions. According to the agreement drawn up in 1949, anyone who until then under the colonial regime had been assigned the status of "native" was to be given the Indonesian nationality. Those who already had the Dutch nationality (the majority of those designated as European according to the colonial taxonomy) were to remain Dutch. This was a population of more than a quarter million. Those

[25] Ibid. p. 172-173.

among it who had been born in Indonesia or who had lived there for at least six months could opt for the Indonesian nationality within two years.

Anyone who did not have the Dutch nationality but who had not been classified as "native" either, was to be given the Indonesian nationality, but could opt for Dutch citizenship within two years, unless he or she happened to have another nationality that he or she could opt for. This group consisted largely of those who, under the colonial regime, had been classified as "foreign Orientals to be equated with natives[26]"–including more than a million people of Chinese origin. However, it also included Europeans[27] who did not possess the Dutch nationality. Only a few thousand of these people actually opted for the Dutch nationality within the allotted period of two years.

It was the Dutch government's intention, at the time, that all who were entitled to the Indonesian nationality would renounce Dutch citizenship (to the extent that they had access to it in the first place) and remain in Indonesia. This assumption also applied to those Dutch nationals who were entitled to opt for the Indonesian nationality. Faced with the challenges of reconstruction, the Dutch government did not feel equipped to receive all of the quarter of a million Dutch nationals who were at that moment residing in Indonesia.[28] In fact, at the time, the Dutch government was actively encouraging its citizens to emigrate to Australia, Canada, New Zealand and South Africa.[29]

Distinguishing "Real" from "Oriental" Dutch

Besides economic contingencies, a preoccupation with national identity also played a significant role. While the Indonesians were faced with the challenge of legitimising their freshly won sovereignty and asserting their own national identity,[30] the Dutch had to come to terms with a new post-

[26] Originally these were Arabs, "Moors", Chinese and any persons who were Muslim or heathen. Later this category was to include anyone who was neither "native" nor European (Prins 1952, p. 56-59).

[27] According to the last definition before the transfer of sovereignty, the category of Europeans included all Dutch citizens, all others originating from Europe, Japanese and anyone else "originating from a country where family law similar to that of the Netherlands applies.", art. 164 Indische Staatsregeling: see: Prins 1952, p. 59-61.

[28] Let alone the estimated 130,000 people of mixed descent who lacked European legal status, Nagtegaal 1995, p. 3.

[29] Schuster 1999, p. 89.

[30] Locher-Scholten 2000, p. 187-218

imperial identity. Establishing an ethnic divide between the former colonisers and their erstwhile subjects–redefining the shared origins, character and intent of their respective populations–formed an integral part of the painful and conflict-ridden process of drawing a territorial and political divide between former colony and metropole.[31] Those Dutch citizens who were still seen to be oriented towards Dutch society were actively encouraged to repatriate. Those who had a formal claim to Dutch citizenship but failed to meet certain linguistic, cultural and class standards were classified as "Oriental Dutch" and encouraged to opt for the Indonesian nationality. The political consensus in the Netherlands at the time was in effect that the majority of Dutch citizens living in Indonesia was "naturally suited" to stay there.[32] Although, as Dutch nationals, they would not be refused entry, they were to receive no support, financial or otherwise, emigrating to the Netherlands.[33]

Similar sentiments coloured the reception of approximately 100,000 individuals[34] who had been brought to the Netherlands directly after the war to recover from their ordeal in the Japanese concentration camps.[35] At the time, the Dutch Minister for Overseas Territories who was responsible for their reception in the Netherlands, Götzen, expressed his concern that this group included "a larger number of people 'rooted in Indonesia' than was, in itself, desirable"[36]

[31] C.f. Meijer 2000, p 499-500.

[32] Van der Veur 1960, p. 51.

[33] Schuster 1999, p. 85-106. Mostly, these were Dutch nationals of mixed racial origin. Their number is estimated at 175,000, Ringeling 1978, p. 73; Prins 1952, p. 54.

[34] J. Ramaker, '"Alsof we landlopers waren…". De problemen rond de wet huisvesting gerepatrieerden 1950', *Politieke opstellen 8,* Nijmegen: Centrum voor parlementaire geschiedenis, Katholieke Universiteit Nijmegen, p. 83-97, cited in Schuster 1999, p.85.

[35] Roughly half of these people would end up staying permanently, J.E. Ellemers & R.E.F. Vaillant, *Indische Nederlanders en gerepatrieerden*, Muiderberg: Couthino 1985, p. 38-39, cited in Schuter 1999, p. 86. See also Captain 2002, p. 128.

[36] A. Rijsdijk, *Repatriëring en opvang van Indische Nederlanders. Departementaal beleid 1945-1958,* Amsterdam: Faculteit der algemen politieke en sociale wetenschappen, Universiteit van Amsterdam 1985, cited in Schuster 1999, p. 86. It is estimated that roughly 25,000 of these evacuees had been born and bred in Indonesia, and had no family living in the Netherlands, see Captain 2002, p.128.

Political tensions following secession

Following Indonesia's secession, the Prime Minister Drees and his cabinet had hoped to establish a Union with Indonesia, comparable to the British Commonwealth. The expectation was that Dutch nationals would continue to enjoy a privileged position in Indonesia, and Indonesian nationals in the Netherlands.[37] Consequently, Dutch immigration law did not initially apply to Indonesians.[38]

Contrary to Dutch expectations however, the relationship between the former colonial power and its former colony remained tense, partly thanks to Drees' insistence on holding onto New Guinea as a last remnant of Dutch Empire in the region. On 17 August 1950, Indonesia explicitly renounced any form of political union with the Netherlands and declared its absolute independence.[39] In the course of the 1950's, Indonesian hostility towards the Dutch merely increased.

These political tensions had legal ramifications for those most directly affected. Immediately following independence, the Indonesian government decreed that all foreigners–including Dutch nationals–had to possess passports. Of the 250,000 Dutch in Indonesia at the time, only 13,600 heads of families (representing 31,000 persons) opted for the Indonesian nationality before the set deadline of 28 December 1951.[40] The rest laid claim to Dutch nationality. However, many of these claims could not be formally verified by the Dutch authorities, since the necessary documents were lacking. The public registers still lay in shambles as a result of the war. In the early hectic period following secession, Dutch passports were often granted on the basis of racial and/or cultural markers.[41]

By December of 1951, the Dutch government tightened the procedures regarding passport emissions. Applicants were once more required to give written proof of legal descent from a Dutch father.[42]In that same year, the Dutch Deputy Minister for Foreign Affairs, Blom, announced that Indonesians were to lose their privileged status under Dutch immigration

[37] Prins 1952, p. 72.
[38] Ibid. p. 70. See also Heijs 1991, p.29. Informally it was significant, since only Dutch nationals could qualify for financial support for "repatriation".
[39] Ringeling 1978, p. 80
[40] Ibid.
[41] Heijs 1994, p. 65.
[42] Heijs 1994, p.65.

law.[43] From then on, they were to qualify as foreigners and would have to apply for a visa in order to be allowed to enter the Netherlands.[44]

Meanwhile, many of the Dutch still remaining in Indonesia, as well as Indonesian nationals suspected of sympathy for the former colonial power, were losing their jobs and/or having their homes confiscated. The resulting hardship led to demonstrations, early in 1952, before the Dutch Commissariat in Bandoeng.[45] The number of people choosing to leave increased. In 1952 15,338 Dutch nationals came to the Netherlands. Alarmed, the Dutch government sharpened the criteria for granting financial support to Dutch nationals wishing to make the passage to the Netherlands. In this way, the authorities hoped to be able to exclude more applicants on the grounds that they were "not oriented towards the Netherlands".[46]

These measures did not have the desired effect, however. By the mid 1950's, the conflict concerning New Guinea reached a head. Repeated attempts to resolve the conflict via UN resolutions failed. Anti-Dutch sentiments in Indonesia increased. In 1955, another 23,106 Dutch nationals left Indonesia to return to the Netherlands. Many people gave up waiting for financial support and sold their belongings in order to pay the passage themselves.[47] There was increasing protest, both within the Netherlands and in Indonesia, against the long delays involved in deciding on requests for financial support.[48] Seeing they could no longer limit the number of Dutch nationals opting to leave the former colony, the Dutch government relaxed the terms of the repatriation programme.

As of 1956, the dominant nationalist discourse in the Netherlands changed. The Dutch Prime Minister Drees, member of the Dutch Labour Party, started to propagate a broad definition of the Dutch nation, referring to those Dutch nationals who had stayed behind in Indonesia as "fellow countrymen", and emphasising the fact that they too, like the Dutch in the Netherlands, had experienced great hardship under enemy occupation during the Second World War.[49] By doing so, he helped legitimate the inclusion within the Dutch nation of the quarter of a million Dutch nationals who ultimately did leave Indonesia for the Netherlands.

[43] *Stb.* 1951, nr. 593; see also: Heijs 1995 p. 128
[44] Ringeling 1978, p. 84-85. See also KB 20 June 1969 nr. 115, *ARB* 1970, p. 224-225.
[45] Schuster 1999, p.96-97.
[46] Ibid. p. 88.
[47] Ibid. p.109.
[48] Ibid. p.108.
[49] Ibid. p.113.

On the other hand, those who had been refused a Dutch passport, and those former Dutch citizens who had opted for Indonesian nationality during the first years following secession, became increasingly excluded from the Dutch nation. Not only was the Dutch government unwilling to pay their passage to the Netherlands, already in 1952 it had stopped granting them legal access to Dutch territory.

The Indeterminate Identity of the "Socially Dutch"

As the situation in Indonesia became more tense, the number of former subjects lacking a Dutch passport but wishing to make the passage to the Netherlands increased. There was some political support for their cause in the Netherlands. This was particularly the case for those Indonesians of Dutch origin who had opted for the Indonesian nationality following secession. But there was also sympathy for those Indonesians who were of the Christian faith or otherwise oriented towards Dutch culture. Referred to as "socially Dutch", their situation in Indonesia was often as precarious as that of (former) Dutch nationals, if not more so.

Between 1892 and 1949, a total of 16,000 people–particularly those of the Christian faith–had been given a status "equal to Europeans" by the Dutch colonial authorities.[50] During the colonial period, they and their descendents had held an intermediate position between the ruling Dutch and the subject "natives". This group in particular ran the risk of being branded, by Indonesian nationalists, as sympathetic to the Dutch. Already during the war years, and certainly during the violent period that followed, they had formed an important target of nationalist hostility.[51]

The same applied for many people who were of mixed origin but not legally descendent from a Dutch father. They, too, had often held an intermediary position within colonial society. The civil lawyer Professor Prins for example refers to the practice of Dutch couples "adopting" the illegitimate child of the husband and a "native" mother, and bringing it up themselves, without actually giving it the status of official offspring. The ambiguous status of such children found expression in their surnames, which formed anagrams of the father's.[52]

Besides the illegitimate offspring of Dutchmen, there were also Dutch women who had married "native men" (and hence had lost their Dutch nationality), these women's legal descendents, and those persons legally descendent of a Dutch father but unable to provide written proof of that

[50] Heijs 1991, p. 27.
[51] Ringeling 1978, p. 76-80.
[52] Prins 1952, p. 57-58.

fact. According to some estimates, eight to nine million people living in Indonesia at the time of secession were of Dutch or mixed origin, but without a formal claim to Dutch nationality.[53]

The same confusions that had previously complicated the ethnic divide between the colonisers and the colonised continued to complicate the national divide between the Dutch and the Indonesians. The difficulties experienced by these intermediate groups showed how muddy the distinction between "native" and "Europeans" had in fact been during colonial days, and how problematic such ambiguities continued to be. If Dutch nationals who failed to meet certain linguistic, cultural and class standards, were to be classified as "Oriental Dutch" and encouraged to opt for Indonesian nationality, why should Indonesian nationals who *did* meet the applied linguistic, cultural and class standards–and who suffered considerably at the hands of militant nationalists as a result–not be considered "non-native" and therefore offered the opportunity of opting for Dutch nationality?.[54]

The Supreme Court Draws the Line

In 1954, this question was brought before the Dutch Supreme Court.[55] The claimant was the son of a pre-marriage "European" mother and a father who had been given a status "equal to European". Like his father and his grandfather before him, this man had grown up in "European circles" and had come to the Netherlands in 1936. He had tried to escape the Netherlands during the war, and had subsequently been taken prisoner by the Germans. After the war, he had come to the Netherlands to study. Upon application to register for voting his nationality was put to question.

The District Court (Kantonrechter) of The Hague had been of the opinion that a man of this background could not be considered an authentic "native" Indonesian, and should therefore not be automatically reckoned to that nation. In the eyes of this court, the term "native" Indonesian excluded those who were of mixed descent or who had otherwise come to stand outside of the "native" community. Such individuals should be included in the category granted the right to opt out of Indonesian nationality.

[53] Ringeling 1978, p. 73; Prins 1952, p. 54.
[54] Prins 1952, p.54; p.74. The Dutch government had actually considered offering this group such a possibility, but met strong resistance from the side of the Indonesian political leaders during the negotiations concerning secession, Heijs 1991, p. 27. See also: Hof Den Haag 6 November 1952, *NJ* 1953, 59.
[55] HR 18 Juni 1954, *ARB* 1954, p. 768-771; NJ 1954, 448.

The Dutch Supreme Court overturned this decision. It took into consideration that the Dutch colonial government had already in 1925 explicitly rejected the idea of disassociating those "native" Indonesians who had become strongly assimilated into "European" society from "their own people", considering that they were the ones who would be most suited to serve as "leaders for their people". Moreover, the consequences of the reasoning put forward by the District Court of The Hague would be, according to the Dutch Supreme Court, that claims to the right to opt out of Indonesian citizenship would have to be considered on an individual basis, creating a situation of great uncertainty. The Dutch Supreme Court pointed out that Indonesians had been explicitly excluded from the possibility of opting for Dutch nationality, but that the Dutch government had promised to be lenient in dealing with Indonesian applications for naturalisation. In the eyes of the Dutch Supreme Court, this was the preferred route, for this group of people, to gain access to the Dutch nation.

In theory, Indonesians could indeed apply in Indonesia to acquire Dutch nationality via naturalisation. However, the same legislation introduced in 1951, which qualified them as foreigners, also stipulated that foreigners could only apply for naturalisation after they had resided in the Netherlands for at least five years. To soften the blow, Indonesians were exempted from this requirement, but only if they had applied for naturalisation within two years after secession.[56] In the end, no more than 22 people were granted the Dutch nationality while still residing in Indonesia. Most of them were probably former Dutch citizens who had opted for the Indonesian nationality, following secession.[57]

Further Adjustments

Besides providing for a more generous repatriation programme for Dutch nationals in 1956, the Dutch government, still under the leadership of the Dutch Labour Party member Drees, also extended the scope of its programme to include certain Indonesian nationals wishing to go to the Netherlands. They would now be allowed to apply for the same financial assistance as Dutch nationals. Those who met the requirements for financial support automatically qualified for a visa as well.[58]

This extension only applied to former Dutch nationals who had been born and bred in the Netherlands themselves, or whose parents had both

[56] Heijs 1995, p. 128. See also: HR 20 December 1950, *NJ* 1951, 659.
[57] Ringeling 1978, p.83.
[58] Ibid. p. 84-85.

been born and bred there. On the whole, these were people who had originally held Dutch nationality but who had opted for Indonesian nationality following secession and later regretted that decision. The so-called "socially Dutch"–those Indonesians who were oriented towards Dutch society but who did not originate from the Netherlands–continued to be excluded.[59] On 4 December 1957, the Indonesian government ordered all remaining Dutch citizens to leave the country. On 21 December of that same year, the Indonesian government declared war against the Netherlands.[60] In reaction to this growing hostility, the Dutch government proceeded to evacuate all remaining Dutch nationals, who by then numbered around 37,000.[61] Expecting serious problems in accommodating such large numbers of repatriates, the Dutch government decided to exclude all Indonesian nationals. Only those experiencing extreme hardship were to be allowed entry to the Netherlands.[62]

No Legal Redress against Denied Admission

What kind of problems this posed to those lacking a Dutch passport was illustrated in a decision of the Regional Court (Rechtbank) of The Hague of 11 April 1958.[63] The case concerns two stowaways on an Italian ship bringing 471 repatriates to the Netherlands via Genua. Neither of these men had valid travelling documents, but both claimed to be Dutch nationals, and appealed to the Dutch Consul in Italy to assist them in repatriating to the Netherlands. The Consul examined their claims, concluded that they had insufficient grounds for their claim and ordered that they be sent back to Djakarta. The two claimants applied for a staying order from the Regional Court in The Hague to prevent being handed over to the Indonesian authorities until the Dutch Supreme Court, the only Dutch court at the time with jurisdiction in questions of nationality, had the opportunity to further decide on their claim to Dutch nationality.

The men pleaded that, if returned to Indonesia, they would face considerable danger. In Indonesia, they were viewed as Dutch and were therefore subject to persecution. Moreover, having left the country without travelling documents, they would most likely be incarcerated upon return. They pointed out that, since the disturbances of 1957, the Dutch

[59] Ibid. p. 96.
[60] Ibid. p.81-82.
[61] Ibid. p. 85; Schuster 1999, p. 110.
[62] Ringeling 1978, p. 85.
[63] Rb Den Haag 11 April 1958, *ARB* 1958, p. 767-769.

government had granted all Dutch nationals the right to repatriate, regardless of their material means. Consequently, this right should apply to them as well.

The Regional Court of The Hague accepted these men's claim that their situation upon returning to Indonesia would be problematic. Nonetheless it rejected their request. Further, the court considered that in matters of admission and deportation, a large measure of discretion should be allowed to the State, and that the court was not entitled to judge on matters of policy. The Regional Court of The Hague could, however, examine whether or not the State had abused its power. It was satisfied that the Dutch Consul had taken the men's claims seriously and that he had investigated those claims. Under these conditions, the decision to send them back to Indonesia could not be considered so unreasonable as to be unlawful.[64]

By 1960, under pressure from the Dutch parliament, the De Quay cabinet–the first post-war cabinet without a Dutch Labour Party member–relented and once more offered Indonesian nationals the possibility to apply for financial support for repatriation–with the attenuate right to admission. Moreover, the category of people who could now apply was broadened. Besides people of Dutch origin, it also included those Indonesians who had proven exceptional loyalty to the Netherlands, for example members of the colonial Dutch army who had served the Empire and been taken prisoner by the Japanese during the Second World War.

The Border Finally Defined

In 1962 Indonesia and the Netherlands finally reached an agreement on the issue of New Guinea. From then on, tensions between these two nations quickly resolved, and the Dutch government concluded that the political situation within Indonesia had been stabilised as well. There no longer seemed to be any reason for maintaining a specific policy for Indonesian nationals requesting support in moving to the Netherlands.

On 30 December 1963, the Dutch government announced that the extended repatriation programme would end as of 31 March 1964.[65] From then on, Indonesian nationals requesting entry into the Netherlands would

[64] Between 1955 and 1958, the Dutch government was regularly confronted with stow-aways from Indonesia. Initially they were granted entry, but later the Dutch government sent all stow-aways back, on the grounds that it would be unfair to admit them while so many people in Indonesia were still awaiting decisions on their visa applications, Ringeling 1978, p. 91.

[65] Ringeling 1978, p. 86. KB 17 December 1968 nr. 86, *ARB* 1969 p. 439.

be treated according to the general rules of Dutch immigration law.[66] By this time, most of the people who had originally been targeted by the extended repatriation programme–people who originated from the Netherlands but who had opted for Indonesian nationality–had been admitted. Most people applying in this later phase did not originate from the Netherlands or were in any case unable to document any claims to Dutch origins.

Until 31 March 1964, visa applications of Indonesian nationals were still assessed on the basis of the repatriation programme that had originally been introduced for the benefit of Dutch nationals, and had later been expanded to include Indonesians of Dutch origin. Hence these people were not yet being admitted to the Netherlands on the same basis as "real foreigners".[67] In the following paragraph I shall discuss on what basis they were being admitted, that is: how the substantive bonds between these former colonial subjects and the newly constituted Dutch nation were legally defined during this period, and what role family norms played in that process.

Genealogy as a Mode Of Belonging

Ethnic and genealogical affiliations to the Dutch nation were closely linked in the Dutch legal discourse of the time. The constitutional lawyer Mannoury–writing in 1953–posited that the Dutch, in contrast to the British, had developed two different concepts of the national subject–one that applied to members of the Dutch nation; and one that applied to colonial subjects who were seen as separate from the nation.

To make clear the distinction, he pointed out that a child born of foreign parents in the former Dutch colony of the East Indies would, on the grounds of that fact, have been considered a Dutch subject, but that a child born of the same parents in the city of Amsterdam would always be considered a foreigner. Obviously, he continued, this didn't mean that foreign parents brought their children closer to the Dutch nation by settling in the colonies than when they settled in the metropolis. Rather, it proved that affiliation to the Dutch State as a Dutch subject was experienced (at least by the Dutch) as something entirely different from affiliation to the

[66] See for instance: KB 20 June 1969, nr. 115, *ARB* 1970, p. 224-225. Later, some exceptions would be made for people who had resided in the backcountry when this change in policy had been announced and who had therefore been unable to react on time, KB 17 January 1969 nr. 101, *ARB* 1969 p. 444-445 101; KB 17 January 1969 nr. 100, *ARB* 1969 p. 445-447.

[67] KB 18 March 1966 nr. 120, *ARB* 1966, p. 711-712.

Dutch nation as a Dutch national. Other than the British concept of nationality, which included both those subjects inhabiting the British Isles and those residing in the (former) colonies, he posited that the Dutch concept of nationality only applied to those who were "politically-psychologically" bound to the Dutch nation, "the essence of their body politic," and not to those who were merely subjected to its laws.[68] It was this concept of nationality, passed on from one generation to the next which, in his view, formed the essence of the Dutch "body politic" and expressed a mode of belonging to the Dutch nation.[69] "While it may be the case that our nationality laws were based on the *ius soli* principle until 1892, since then *ius sanguini* has become so thoroughly imprinted in the Dutch people's consciousness, that to abandon this system would be unthinkable (my translation-SvW)."[70]

Membership via the Male Line

While Manoury admitted that this new political notion of the Dutch nation was ethnically exclusive, he ignored the fact that it was gendered as well. At the time that this concept was introduced, women were not yet entitled to vote. The "body politic" to which it referred consisted solely of adult males. And although women would acquire suffrage in 1917, the "politically-psychological" bond to the Dutch nation as expressed in Dutch nationality law of the 1950's was still one that could only be passed on from father to son.

To the extent that mothers were assumed to pass on a national identity at all,[71] this seems to have been conceived of as an affiliation via specific cultural skills, rather than via genealogy. This is expressed in the 1954 Dutch Supreme Court decision, cited above, concerning an Indonesian man who claimed he should be allowed to opt for Dutch nationality, given his close affiliation to the Dutch nation. What is striking in the reasoning not only of the Dutch Supreme Court, but also of the District Court of The Hague and the applicant himself, is that the applicant's claim of affiliation to the Dutch nation on the basis of having a Dutch mother, while it is

[68] Mannoury 1953, p. 140.
[69] Ibid.
[70] Ibid. p. 139.
[71] Thus, in his conclusion following the decision of the Dutch Supreme Court in the Andries case (HR 20 December 1950, *NJ* 1951,659), the Advocate General Hooykaas conceded that the person in question should perhaps not have been classified as "native" to Indonesia, given that his mother had been born in the Netherlands.

named as a criterion in and of itself, subsequently becomes absorbed in the issue of cultural assimilation. The fact that his mother had been registered as the child of a European is named as simply one of the many cultural variables that distinguished him from the "very real, very original, very autochthon population".[72]

The Dutch Supreme Court's objection that this man's claims formed too vague a ground for establishing a right to opt for Dutch nationality, is particularly striking. While one could accept that the criterion of cultural assimilation might have to be weighed separately from one case to another, claims based on a mother's national identity seem straightforward enough–certainly considering the fact that at the time, anyone born to a *father* with Dutch nationality was automatically assumed to be a Dutch national on the basis of that fact alone–assuming at least that the father had legally confirmed his paternity. Prins even went so far as to claim that anyone who could prove legitimate descent, via the male line, from a Dutch national, could not be denied Dutch nationality, no matter how strongly he had been assimilated into "native" Indonesian culture. This was in contrast to people of other "non-native" origin (the Chinese, for example) who were assumed to "dissolve" into the native population via cultural assimilation.[73] While a Dutch (fore)father provided a solid formal connection to the Dutch nation via genealogical descent, a Dutch mother could provide no more than the tenuous and circumstantial connection of enculturation.

Women's Derivative Status

The repatriation measures that were introduced in 1956 for Indonesians were primarily intended for former Dutch citizens who had lost their Dutch nationality when opting for Indonesian citizenship during the first two years after secession.[74] Decisions were not made on an individual basis, but applied to whole families at a time. In other words, if the male head of the family qualified for repatriation, then not only he, but his wife

[72] The doubts concerning the effectiveness of this cultural transmission is evident in the fact that, in some circles, the opinion prevailed that Dutch children could only be ensured of a truly Dutch upbringing by sending them to the Netherlands to grow up, Schuster 1999, p. 102. By contrast, there was far less doubt concerning the effectiveness of the (legitimate) transmission of nationality via a Dutch father's genes.
[73] Prins 1952, p. 62.
[74] Ringeling 1978, p. 54.

and children too were admitted to the Netherlands, regardless of whether or not his wife had genealogical links with the Dutch nation of her own.

On the face of it, the situation of a woman of Dutch origin who lost her Dutch nationality by marrying an Indonesian man doesn't seem very different from that of a man of Dutch origin who lost his Dutch nationality by opting for the Indonesian nationality after secession. Yet women who had lost their Dutch nationality by marrying an Indonesian could not gain access to their former nation for their family on the same basis as men who had lost their Dutch nationality by opting for Indonesia. Not these women's own genealogical background, but that of their Indonesian husbands determined whether or not these families were to be admitted to the Netherlands on the basis of the repatriation policies.

The Dutch government even went so far as to set out specific guidelines in 1954 regarding women of Dutch origin who had divorced their Indonesian husbands. Since these women could regain Dutch nationality after divorce, they themselves could not be refused admittance. In principle, their children would be admitted as well, even though they were not Dutch nationals, since it was not considered fitting to separate a mother from her children. The fear was, however, that once the woman and children had been admitted, the Indonesian ex-husband and father would apply to be reunited with them. Given the strong ideology of family unity that prevailed at the time, the government did not consider it acceptable to refuse such a request. Instead, it developed policies to avoid being confronted with it in the first place. Dutch officials in Indonesia charged with examining visa applications were instructed to look closely at the applications of Indonesian children applying to travel with their divorced Dutch mother. If these officials suspected a "bogus divorce", they were instructed to refuse visa for these children. Only if officials were convinced the divorce was genuine could they consent to letting Indonesian children accompany their Dutch mother to the Netherlands.[75] Thus, while these women, as former Dutch citizens, could rejoin the Dutch nation, they were limited in the possibility of passing on this privilege to their spouse and children. In this sense the repatriation policies for Indonesians showed a gender bias similar to that of Dutch nationality law.

Culture Returns as a Mode of Belonging

Due to the situation in Indonesia up until 1963, Dutch authorities depended largely on interviews with family members in the Netherlands for verifying information put forward by applicants requesting support in

[75] Ibid. p. 110-117.

repatriation. As long as applications were only submitted by people of Dutch origin, family members were primarily consulted regarding family history and the material support that they would be able to provide their repatriating relatives.

However, once the repatriation programme had been broadened to include "socially Dutch" Indonesians as well as Indonesians of Dutch origin, the focus of enquiry shifted. Policy guidelines introduced in 1960 concerning the repatriation of Indonesians explicitly required that applicants should be "well able to assimilate" in the Netherlands.[76] Social workers took over the consultative tasks from the local police, and their investigations focussed on issues of assimilation rather than genealogy. If the family in the Netherlands had assimilated well, it was assumed that their relatives in Indonesia would be able to do so too.[77] Moreover, the advisory committee that was finally set up in Indonesia to screen applications categorically refused to give a positive recommendation for any applicant who lived in cohabitation, who had illegitimate children or who had, in the course of time, lived with various different partners. Such practices were considered to be indicative of an "oriental orientation" that rendered assimilation to Dutch society unlikely.[78]

Given that there was no system of appeal in Dutch immigration law during the 1950's and early '60's–other than the ad hoc system that had been implemented to deal with the German cases–little can be said about legal challenges to negative decisions made in that period. After the Law on administrative appeal (Wet beroep administratieve beschikkingen) was introduced in 1964, this situation changed. On the basis of this law, decisions taken by the central Dutch government (i.e. not by provincial or municipal governments etc.) could be appealed before the Kroon.[79] It is estimated that about 13,000 Indonesians who had applied for admission made use of this possibility.[80]

Court Decisions Concerning the Admission of Indonesians

On 18 February 1966, the first appeals came up for judicial review. These generally concerned decisions dating from 1964 and later. The Kroon

[76] Ibid. p. 113.
[77] Ibid. p. 107-108.
[78] Ibid. p. 127.
[79] Again: see footnote nr. 140 of Chapter One for the nature and history of this particular form of administrative appeal.
[80] Ibid. p. 150.

decided on twenty-five cases that day–in each case the appeal was rejected.[81]

These decisions on administrative appeal give some insight into the policies that were applied in admitting Indonesians. The admission criteria as quoted in these decisions were that the persons involved had to:

- be so closely bound to the Netherlands that they could make the same moral claims as Dutch citizens,
- have experienced the same difficulties as Dutch citizens,
- be unlikely to experience any problems in assimilating into Dutch society;
- be free of other objections (i.e. no criminal record of suspicion of Communist sympathies).

Published decisions on appeal indicate that even Indonesians who could provide proof of exceptional loyalty had been refused admittance. Men who had served in the Dutch army during the war or even against Indonesian insurgents and who had been wounded and/or taken as prisoners of war were refused visas on the grounds that they had insufficient bonds with the Netherlands.[82] "Being bound to the Netherlands" apparently involved more than just speaking the Dutch language, adhering to Dutch norms and being politically associated with the Netherlands–and suffering discrimination or even persecution as a consequence.[83]

The Contested Significance of Family Ties

On the whole, the Kroon seems to have been reluctant to intervene in the State's determination of bonds based on loyalty or culture. On the basis of published negative court decisions, [84] one can conclude that the fact that an

[81] In the end, only 20% of all appeals against decisions based on the repatriation policies would be granted, Ringeling 1978, p. 150.
[82] KB 29 June 1966 nr. 10, *ARB* 1966, p. 542-543 10; KB 21 July 1966 nr. 119, *ARB* 1966, p. 720-721.
[83] In more general terms, it seems that claimed fear for persecution in and of itself rarely if ever formed sufficient grounds for admission. Quite a few of the applicants in the published court decisions were of Chinese origin and claimed that they feared persecution on those grounds. No case however was won on that basis alone, even though the Kroon did state in a relatively late decision that persons of Chinese origin could expect to experience difficulties upon returning to Indonesia, KB 11 August 1976 nr. 115, *RV* 1976/48.
[84] The first of these: KB 18 February 1966 nr. 72, *ARB* 1966 p. 332-333.

applicant had been loyal to the Dutch State, was oriented towards the Dutch culture and suffered discrimination on those grounds, in itself provided insufficient grounds, in the eyes of the Kroon, to conclude that the Dutch State had handled unreasonably in refusing them admission.[85] Most of the cases in which the Kroon made a critical examination of a decision to refuse admission, involved applicants who had family bonds with people already settled in the Netherlands. [86]

In fact, the extent of family bonds with people already settled in the Netherlands forms the most consistent consideration in the Kroon's positive decisions. An example is a decision of 21 July 1966.[87] This case concerned a man who, like his father and father-in-law before him, had served in the Dutch army and had moreover been taken prisoner of war. He also had had a Dutch upbringing and attended a Christian university. He and his wife claimed they had experienced constant abuse and considerable hardship due to their orientation towards the Dutch. Nevertheless their application had been refused on the grounds that the man's parents and his wife's brother still lived in Indonesia. The Kroon accepted the relevance of this argument, but pointed out that "plaintiffs can however also lay claim to family bonds with the Netherlands, where plaintiff's brother and the married sister of his wife have settled." The Kroon subsequently concludes that "plaintiff, taking all things into consideration, can lay claim to a special bond with the Netherlands…".[88]

The material interest of the Dutch State was certainly one of the reasons why family bonds were considered so important. Thus we see that in some cases, the Kroon explicitly took into consideration that family

[85] KB 18 February 1966 nr. 72, *ARB* 1966 p. 332-333; KB 18 March 1966 nr. 120, *ARB* 1966 p. 711-712.
[86] In one case, proof of exceptional loyalty does seem to have formed a major consideration for the Kroon. This case concerned a woman of Chinese origin, but brought up in the Dutch tradition, who had taught Dutch children as a kindergarten teacher during the years following Indonesia's independence. In the words of the Kroon: "plaintiff was not only oriented towards the Netherlands through her upbringing and education, but also continued to give proof of this orientation during a period of great hardship for the Dutch in Indonesia." However, even in this case it seems this proof of loyalty wasn't the only reason the Kroon decided in the plaintiff's favour. Although she had no family in the Netherlands, there was a family that was prepared to take her into their home–a circumstance that also weighed heavily with the Kroon, KB 15 July 1966 nr. 135, *ARB* 1966 p. 716-717.
[87] KB 21 July nr. 119 1966, *ARB* 1966 p. 720-721.
[88] For similar decisions see: KB 29 June 1966 nr. 13, *ARB* 1966 p. 544-545; KB 5 December 1966 nr. 55, *ARB* 1967 p. 228-229.

members in the Netherlands were prepared to support the applicant.[89] However, in the vision of the Kroon, family ties in the Netherlands counted for more than just the material support that these could imply. The number of relatives in the Netherlands, the nature of the family tie and the intensity of mutual contact were considerations that played as strong, if not a stronger, role in these decisions. In some decisions on appeal, the deciding factor seems to have been the fact that close family members–children in particular–had acquired the Dutch nationality. By association, the related applicants also seem to have become more closely tied to the Dutch nation, in the Kroon's perception. Thus in one case the Kroon determined that the fact that the applicant's son had acquired the Dutch nationality could well prove to be a decisive factor in determining whether or not the applicant should be allowed to stay.[90]

Lingering Effects of the Extended Repatriation Programme

Even after the extended repatriation programme had been ended in 1964 and a new immigration law had been implemented in 1967, Indonesians could still apply for admission on the grounds of family bonds with people settled in the Netherlands. In one of the Kroon's later decisions, the Dutch State's representative is quoted as stating that until 1 January 1973, the Dutch Ministry of Justice had been lenient in applying Dutch immigration law to Indonesian applicants. Criteria explicitly referred to were: the number of close family members residing in the Netherlands as opposed to Indonesia and the extent to which the applicant was culturally oriented to the Netherlands (measured in terms of language and education).[91] Even after these last remnants of a specific policy for Indonesians had been eliminated from the immigration circular, traces of the old repatriation policies could still be found both in decisions on applications[92] and in

[89] KB 29 June 1966 nr. 10, *ARB* 1966 p. 542-543.
[90] KB 15 March 1972 nr. 129, *RV* 1972/18. See also: KB 29 June 1966 nr. 13, *ARB* 1966 p. 544-545.
[91] In the above quoted decision dated 15 March 1972, the Kroon quotes the Dutch State's representative who explains that "according to policy applied in cases like this one, foreigners like the applicant will only be admitted for longer than three months if the majority of the family members with whom they maintain strong ties, is resident in the Netherlands." It should be pointed out that at the time, ministerial guidelines concerning immigration policies were not made public. In this same decision on appeal, the plaintiff is quoted as complaining that the policies were unclear and seemed arbitrary, KB 15 March 1972, *RV* 1972/18.
[92] Decision of the Deputy Minister of Justice 21 January 1976, *RV* 1976/37.

appeal. In a positive decision of 11 August 1976, for example, the Kroon took into consideration that an elderly couple applying for admission had no close family any more in Indonesia, that three sons lived in the Netherlands, one of whom had Dutch nationality, that this couple was culturally oriented to the Netherlands, spoke fluent Dutch and could be expected to adapt easily to Dutch society.[93]

Similar considerations were also applied in court decisions on applications, submitted by Indonesians, for staying orders to ward off expulsion pending their appeals against refused residence permits. Normally, under the immigration laws as they applied at the time, there was no possibility to make an appeal against a deportation order once a residence permit had been refused, unless the person in question had been resident in the Netherlands for at least one year. There is reason to assume that an exception was made for Indonesians who had close ties with the Netherlands. In 1971, the Minister of Justice assured the Dutch Parliament that foreigners who were closely related to Dutch citizens living in the Netherlands, would not be deported pending their appeal.[94] Many Indonesians who were threatened with deportation consequently applied to the Dutch courts for staying orders.[95]

A Continuing Gender Bias

One case in particular shows how gendered notions of belonging continued to colour decisions concerning these former colonial subjects until well into the 1970's. This decision concerned an application submitted by an Indonesian woman. She had come to the Netherlands in 1974, after having divorced her husband in Indonesia, in order to join her mother and siblings, all of whom were settled in the Netherlands and had acquired Dutch nationality. Her request for a residence permit was refused and her deportation and that of her children was ordered.

The woman in question turned to the Regional Court of The Hague and applied for a staying order.[96] Her application for a staying order was refused and she went on to the Court of Appeal in The Hague, again

[93] KB 11 August 1976 nr. 115, *RV* 1976/48.
[94] *Aanhangsel Handelingen II* 1971/72, 11500, nr. 15, p. 2.
[95] Rb Den Haag 29 October 1975, *RV* 1975/39.; Hof Den Haag 6 May 1976, *RV* 1976/16; Rb Den Haag 29 July 1976, *RV* 1976/15; Rb Den Haag 5 October 1977, *RV* 1977/99.
[96] Rb Den Haag 29 October 1975, *RV* 1975/39. Although decisions on the substantive merits of an immigration law decision were adjudicated via administrative review, staying orders were granted or refused by the civil courts.

without success. Although the Court of Appeal did agree that she had strong family bonds with the Netherlands, it nevertheless concluded that she wasn't oriented towards Dutch society, given the fact that she had married an Indonesian and brought up her children in Indonesia, without teaching them to speak the Dutch language.[97] Again we see that a mother's link to the Dutch nation was a function of her role as transmitter of culture, not of her genealogical bonds to Dutch nationals.

The Moluccans

The decolonisation of Indonesia is marked by one very specific and idiosyncratic chapter: that of the demilitarisation of soldiers from the Moluccan islands, who had remained loyal to the Dutch crown. Coming from a specific group of islands within the Indonesian archipelago, and largely of the Christian faith, the Moluccans had chosen to remain loyal to the Dutch and helped resist the Javanese-led secession from the Dutch empire. After the Dutch had reached an agreement with the political leaders of the new Indonesian Republic, the Dutch military were still stationed in Java, including 4000 Moluccans and their families. The Dutch government promised the Moluccans that they would not be demobilised until transport had been arranged to a location of their choice. Most of the Moluccans wished to be relocated on the island of Ambon.

On 25 April 1950, the Moluccans claimed an independent republic of their own, which was to be primarily situated on the island of Ambon. For the Indonesian leaders, this threat to the integrity of their freshly established republic was unacceptable, and they sent troops to establish their hegemony over Ambon. By late November the armed Moluccan separatists on Ambon had been defeated and with them the most important stronghold for an independent Moluccan republic. For the Moluccan soldiers still quartered on Java, Ambon ceased to be an acceptable option for relocation. They therefore requested to be relocated on the island of Ceram, which had not yet been pacified by the Indonesian army, or else in New Guinea, which was still in Dutch hands. The prospect of having such a large contingent of Moluccan soldiers residing beyond the limits of their own military control was however unacceptable to the Indonesians.[98]

Meanwhile the Dutch Prime Minister Drees was under pressure, both at home and from the side of Indonesian politicians, to demobilise the last remnants of the Dutch army still stationed on Java. However, as long as

[97] Hof Den Haag 6 May 1976, *RV* 1976/16.
[98] Smeets 1951, p.7.

the Moluccans remained in Java, the Dutch needed a contingent there to protect these loyalists against Javanese hostility, and to prevent any bloodshed between armed Moluccan separatists and the Indonesian army. Together with the Indonesians, Dutch government officials started to look for compromise solutions.[99]

Admission by Court Order

Worried that the Dutch might back down on their promises, a delegation of Moluccan leaders successfully went to The Hague Regional Court for a staying order to prevent relocation to an area not of their choice–a decision that was subsequently confirmed by both the Court of Appeal and the Dutch Supreme Court.[100] Anxious to bring back their military and uncertain as to where they could relocate the Moluccan soldiers and their families, the Dutch decided, by way of a temporary solution, to ship them to the Netherlands. The Indonesian government agreed, under the condition that the Moluccan military would be demobilised on arrival and would not be subsequently sent to New Guinea. In return, the Indonesians promised that they would allow back any Moluccans who might opt to return to the Republic of Indonesia.

On 2 February 1951, the Moluccan soldiers still quartered on Java were advised that they could choose between demobilisation in Indonesia, or temporary settlement in the Netherlands.[101] They overwhelmingly chose for the latter. By the end of June 1951, 3,000 families and 600 unmarried Moluccan soldiers arrived in the Netherlands. By the time the final contingent arrived, in 1952, a total of more than 12,500 Moluccans had been shipped to the Netherlands.[102]

In Yet Not of the Nation

The Moluccans' position in the Netherlands was highly ambiguous, right from the start. They were brought under in the same barracks, pre-fab blocks and (concentration) camps, where thousands of Dutch repatriates had been housed before them. But while the repatriates from Indonesia had been moved on, as quickly as possible, into regular housing, and been subjected to rigorous enculturation programmes to facilitate their integration into mainstream Dutch society, the Moluccans were initially

[99] Ibid. p. 10.
[100] HR 2 maart 1951, NJ 1951, 217.
[101] Ibid. p. 13.
[102] Ibid. p. 35.

kept where they were, in a sort of "no man's land" on the fringe of Dutch society, waiting for resettlement in a nation of their own that was never to materialise.[103]

Although most of the encampments in which the Moluccans were accommodated were considered to be patently unsuitable for family living, they remained virtually unchanged until the late 1950's. Another indication of the continuing assumption that the Moluccans were on their way elsewhere was their initial exclusion from free participation on the Dutch labour market.[104] Access to paid labour was to be limited to work on or close to the encampments.

By the late 1950's however it was becoming clear to all concerned that the Moluccans' "temporary" stay was not going to end any time soon. While assimilation into Dutch society was still not being encouraged, Moluccan men were allowed to take a more active part in the Dutch labour force and hence fulfill their role as breadwinners. New housing developments were built close to industrial centres, and the old encampments were renovated to make them more suitable for family living. The central kitchens, where meals had previously been collectively prepared, were torn down and each family was provided with a kitchen of its own. Women could once more perform their "most natural task"–cooking for their own family–and the integrity of each family as a separate entity could, at last, be assured.[105] Following a critical report published in 1959, most of the original encampments were finally torn down and their inhabitants moved to new developments. Although these housing developments were reserved exclusively for Moluccans, they nonetheless represented a first tentative step towards integrating the Moluccans into the Dutch nation after all.[106]

The Role Played by Family Bonds in Reconstituting the Nation

Looking back on this period, what conclusions can be drawn concerning the way in which the Dutch nation was reconstituted following liberation in Europe, and both liberation and decolonisation in Southeast Asia? A

[103] Ibid. p. 20.
[104] Ibid. p. 22.
[105] J. van Ringen, 'Korte samenvatting van de maatschappelijke ontwikkeling onder de Ambonezen in Nederland sinds hun aankomst in 1951 en van de hoofdlijnen van het beleid ten deze van het Ministerie van Maatschappij Werk', 10 April 1957, quoted in H. Akihary 1991, p.66.
[106] Von Benda-Beckmann & Leatemia-Tomatala 1992, p.29-32; Smeets 1951, p. 34.

number of things is striking. First of all that issues of political loyalty, although significant, in the end seem to have been of relatively little importance. Germans–even hardcore Nazis–were soon forgiven, and Dutchmen who had fraternised with the enemy in one way or another were taken back into the fold once initial post-war sentiments had subsided. On the Asian front, those who had been loyal to the Empire and even suffered for it were not necessarily welcome in the Netherlands. More than mere loyalty was required to substantiate claims of belonging.

At the same time, the very real economic problems facing the Dutch nation following the German occupation and the loss of a major colony could not, in the end, weigh up against normative arguments for taking up tens of thousands of Germans into the national population and more than a quarter million subjects from the former colony. In the end, embeddedness in Dutch culture trumped a disqualified nationality in the case of the Germans, while formal nationality trumped disqualified cultural attributes in the case of the Dutch repatriates. Common to both cases, was the pressure to maintain the unity of the nuclear family and to honour (extended) family bonds with already settled citizens. Both of these principles generated powerful grounds for inclusion into the nation, especially in cases brought up for appeal.

Finally, normative systems for attributing belonging on the basis of gendered genealogy, although never insignificant, could lose their relevance when practical matters like the availability of housing or lack of mobility worked to reduce normative claims to admission–as in the case of the Dutch repatriates–or to extend them–as in the case of the Germans and the Moluccans.

B: Wanted for Reconstruction: Workers, Not Families

The Reluctant Acceptance of Refugees

Although the Dutch took part in setting up the International Refugee Organisation in 1946, they remained reluctant to commit themselves to accepting any refugees during the first decades following the Second World War. While they had initially provided asylum to some anti-communist activists, by 5 November 1945 a ministerial circular stipulated that no more refugees arriving on their own initiative would be admitted. Those who crossed the border illegally would be detained and deported. An exception was made for former Polish soldiers and marines–not in the last place because the Dutch mining industry was short of labour and hoped to be able to employ them. Only in 1948, after the coup in

Czechoslovakia had taken place, did the Dutch government relent and let in a few refugees on an individual basis.

Once the International Refugee Organisation was set up and functioning, the Netherlands did succumb to international pressure by opening its doors a little to refugees from the camps. Again however, economic motives, rather than humanitarian considerations, were to determine who was to be admitted. The Dutch government was reluctant to allow entry to anyone who could not immediately be put to work. Pointing to the continuing housing shortage and the need to accommodate many thousands of camp survivors from Indonesia, consecutive cabinets in which the confessional parties and the Dutch Labour Party were represented persisted in their point of view that the prevailing conditions did not allow for the admission of families. Since it would be morally wrong to force families to separate, only single men and women aged between twenty and forty years could be admitted.

Ineffective Pressure to Accept Refugee Families

However, the vast majority of the people in the refugee camps waiting for resettlement were not single able-bodied men and women but families, single mothers with children, sick or elderly. The United States actually offered to provide the Dutch with pre-fabricated housing if only they would accept more families, but the Dutch remained adamant. The number of displaced persons admitted for purely humanitarian reasons remained low right through the 1940's and 1950's. Thus only 500 Jewish displaced persons were allowed in, and even then, the vast majority was only accepted because of their merits for the Dutch industry.[107] Altogether, nearly four and a half thousand displaced persons were recruited for the Dutch industry, most of them men. Many of the so-called singles among them however were actually married. A good number of these–estimates range from 10% to 50%–went back after a couple of years to the families they had left behind in the camps in Germany, in the hope that they would be able to move on together to North America, Australia or New Zealand.[108]

In 1947 the UN sharply criticised those countries who were only admitting refugees for the benefit of their workforce, naming the Dutch in particular. In 1951, the Dutch Queen Juliana, who had followed her mother Wilhelmina in 1948, sent a letter to President Truman expressing

[107] Berghuis 1999, p. 91.
[108] Ibid. p. 100.

her concern regarding admission policies that were solely geared towards meeting the needs of the labour market, and that resulted, among other things, in the separation of families. Such forced separations, she warned, would lead to great bitterness–and the lessons of the past had made clear how bitterness could generate sympathy for totalitarian ideology.[109] Her letter made a great impression, and feeling the pressure of public opinion, the Dutch government agreed, in 1952, to bear some of the costs of admitting 200 elderly refugees. For the first time after the Second World War, public funds were reserved for the benefit of refugees.[110]

A few years later, in 1954, the Dutch municipalities came with the initiative to have 250 refugee families admitted, with the intention of bringing in construction workers. The reasoning was that the contribution of their labour to creating public housing would compensate for demand that they would place on that same public housing. This initiative met with considerable interest from Dutch employers in general. By the mid-1950's the Dutch economy had grown considerably and labour shortage had become endemic. The Ministry of Social Affairs was sympathetic to employers' needs, but unwilling to tap the reserve of refugee labour any further. Instead, the Ministry proposed recruiting 2,000 workers from Italy and Austria.[111]

The ruling cabinets of the period, all led by the Dutch Labour Party member Drees, wanted to be sure they would be able to send foreign workers back to their countries of origin, should the Dutch economy slide back into a decline. Their principle objection to admitting refugees was that, once admitted, they could not be forced to return to their country of origin. In fact, one of the reasons why they delayed ratifying the Geneva Convention until well in the 1950's, was their worry that, once bound to the Convention, they might have to admit the Moluccans as refugees, and subsequently not be able to send them back to Indonesia. According to a UN publication, the Moluccans, "being resident in the Netherlands but not possessing Dutch nationality and having left their country for political reasons, as a group (...) come within the mandate of the Office of the UN High Commissioner for Refugees".[112]

[109] Ibid. p. 118.
[110] Ibid. p. 119.
[111] Berghuis p 97-99;198-199. See also : De Lange 2007, p. 70-72. De Lange notes that at the time, contractors were actually not very enthusiastic about employing Italians.
[112] Ibid. p. 152-156.

Guest Workers

Like the labourers recruited among the refugees, the first labourers recruited from Italy in the early 1950's were unmarried. Their residence permits moreover precluded family reunification.[113] Following the establishment of the European Economic Community in 1957, negotiations were started concerning the freedom of movement within the EEC, which by then included Italy. In the course of the negotiations, the Dutch pleaded that they had insufficient housing to provide for family reunification and were allowed, for the time being, to apply the relevant rules at their own discretion.

The limits on family reunification eventually led to protests from Peregrinus, a Catholic welfare organisation representing the interests of Italian workers in the Netherlands. In a Memorandum, published in 1957, regarding the position of Italian steelworkers, Peregrinus pointed out that these men were not only workers but also human beings "with a heart and soul, who are married and have children." As foreigners working in a strange land, having to cope with many tensions and frustrations, they missed the moral support a family could give. Employers, too, objected to the restrictions placed on family reunification. The Dutch steel mills, for example, wishing to extend the stay of a number of Italian recruits in 1959, offered these men family housing. The Dutch Ministry of Justice however persevered in refusing to grant residence permits for their wives, even though by then Drees had lost his mandate to Beel, member of a Catholic party, later followed by De Quaay.[114] The Italian Embassy too, exerted pressure upon the Dutch government to allow family reunification, but again to no avail.[115]

By 1960, the demand for foreign labour had become so urgent, that recruitment was extended to include Spaniards. By the end of 1960, 2700 Italians and 150 Spaniards were employed in the Netherlands. Early in 1961, the Ministry of Social Affairs agreed to increase the total number of foreign recruits by 5000. By the end of the year, this target had been well over-reached. While the majority of the Italian recruits up until then had been young, unmarried and unemployed, the Spanish workers coming to the Netherlands were generally older, had working experience and were married.[116] They too, however, remained barred from family reunification.

[113] Tinnemans 1994, p. 17.
[114] Ibid. p.23.
[115] Groenendijk 1990, p. 68.
[116] The requirement that recruits should be unmarried only applied to unschooled workers, Groenendijk 1990, p. 59. See also Chotkowski 2000, p. 89

In the summer of 1961, a series of incidents took place in the East of the Netherlands, then an important location for the textile industry. The incidents involved young Italian workers and Dutchmen who vied with each other for the favours of the local girls. The incidents came to a head when the last of the dancing halls in the town of Oldenzaal still open to immigrant workers also decided to exclude them on the grounds that the young Italians and Spaniards had been too forward in their advances towards the local girls, and had caused a decline in business. The tensions escalated. Riots broke out, followed by a strike involving workers spread over the whole region. A week later, things had settled down, but by then 46 Italians and 122 Spaniards had left their jobs and returned home. That was respectively 4% and 30% of the total number of Italian and Spanish workers employed in the region.

The Dutch government faced a dilemma. Because it set much store in the temporary nature of migrant labour, it continued to be reluctant to provide for family reunification, which was still seen to be a first step on the way to settlement in the Netherlands. On the other hand, the forced bachelor existence of foreign labourers was also seen to be the source of certain social problems. The fact that migrant labourers were forced to lead a celibate existence in their barracks, prevented their integration in Dutch society.[117] At the same time, it also encouraged their involvement with Dutch girls, which was seen as the principle cause for the disturbances that had taken place in 1961.

First Steps Towards a Family Migration Policy

Following those riots and the accompanying strike, the Deputy Minister for Social Affairs Roolvink set up a special committee that in turn initiated a working group that brought out a report in 1962 on the position of migrant workers. Among other things, the report recommended an increase in the available housing, in order to allow for family reunification on short notice. Otherwise, according to the working group, the government should stop recruiting married workers from abroad.[118] These recommendations however met with the opposition of the Minister for public housing, and in the end the report was tabled.[119] Nonetheless, the Ministry of Justice did grant eighteen Italian steelworkers permission for family reunification.

[117] Groenendijk 1990, p. 72; p. 77.
[118] Tinnemans 1994, p. 39.
[119] Groenendijk 1990, p. 81.

By that time, a number of migrant workers, particularly Spaniards, was already letting wives come over on tourist visa. Most of these women subsequently found jobs of their own in the Netherlands. In reaction to this situation, and mindful of the riots that had taken place the year before, the Dutch government finally introduced a general rule in 1962 allowing foreign workers' wives to be admitted under the condition that they be childless and have a job-offer in the social sector. Work in the industrial sector was out of bounds, although many Spanish women had actually received work-permits for that sector, allowing them to work in the same factories as their husbands. Women, who could not meet the requirements set by the government by 1 January 1963, were to be deported.

The threat to expel foreign workers' wives elicited protests from the side of the Dutch Catholic Labour Union, which campaigned to end the recruitment of foreign labour on the grounds that it was inhuman to recruit workers who were forced to live separately from their families.[120] The Dutch employers' federations too opposed these policies. But rather than pleading for a stop to foreign labour recruitment, they proposed extending it to include wives. They pointed out that the Spaniards' wives met a real need for female labour in the industrial sector. Moreover, they feared that their male Spanish recruits would refuse to extend their contracts if their wives should be forced to leave them.[121]

Although the issues of transnational romances, family reunification and the expulsion of migrant workers' wives–and even children–were rarely if ever mentioned in government policy documents, these topics did receive considerable attention from the Dutch media.[122] In the end, the requirement that migrants' wives should work in the social sector was dropped. By 1963 the Dutch government had also opened up the possibility of admitting mothers and children.[123] In such cases, however, the husband and father working in the Netherlands had to have already resided there for two years,[124] had to be assured of at least one more year's

[120] Janssen 1967, p. 51-52.
[121] Letter of the Raad van Nederlandse Werkgeversbonden, addressed to the Dutch Prime Minister, dated 15 November 1962, published in: Wentholt 1967, p. 222-223.
[122] Emmerik-Levelt & Teulings 1967, p. 180-181.
[123] By then, the requirement that migrant workers should be unmarried no longer applied for any category male recruits.
[124] By 1970, this requirement would be modified to the extent that in the case of Greek, Portuguese, Spanish and Turkish families, the two-year waiting period was reduced to one year. Nota Buitenlandse Werknemers: Tweede kamer 1969-1970 10504 nr. 2, p. 9.

work, and had to have access to suitable housing.[125] This last requirement, in particular, was a formidable barrier. As we have seen in Chapter One, there was still a serious housing shortage in the Netherlands in the 1960's. The Dutch housing market was, as a result, still highly regulated. In most municipalities, access to housing was restricted and waiting lists were long.[126]

Gendered Assumptions Concerning Family Migration

It is striking to note that, in the debates surrounding the intimate life of migrant men, family life with a wife from their country of origin was assumed to lead to permanent settlement in the Netherlands. Those in favour of family reunification argued that migrant labourers who could lead a normal married life would also integrate more easily into Dutch society. On the other hand, migrant men who courted Dutch girls were not seen to be bent on integration, but were rather seen as a threat to the Dutch moral order. In an article that he wrote in 1967, the editor in chief of the Dutch journal for legal advisors, *De Praktijkgids,* referred to the sexual exploits of migrant workers as one of the major problems that their presence had caused Dutch society. He pointed out that particularly girls of weak moral character were easily lured by "sturdily built tanned men in a relatively helpless position" who, in the author's eyes, were all too willing to impregnate and subsequently marry them in the hope that, by doing so, they would be protected against possible deportation.[127]

Equally remarkable is that most of the literature concerning labour migration to the Netherlands only describes male migration, and that policy documents also exclusively refer to male labour migrants,[128] while in fact women were being recruited from the late 1940's onwards. Directly following the war, female refugees were recruited as domestics, and between 1962 and 1976 close to a thousand women were recruited from

[125] Tinnemans 1994, p. 41.
[126] Buis 1967, p. 164.
[127] Van der Heijden, p. 126. See also the concern expressed by the Dutch member of parliament Mrs. Wittewaal van Stoetwegen (CHU: a Protestant party) regarding the sexual needs for foreign workers and the role that Dutch women might play in meetings those needs, during the evaluation of the Dutch immigration law of 1965 that took place in 1969, *Handelingen* II 1968/69, p. 2647, 22 April 1969.
[128] See for instance the Nota Buitenlandse Werknemers that exclusively refers to family migration in terms of women joining men working in the Netherlands: *Kamerstukken II* 1969-1970, 10 504, nr. 2, p. 9.

Spain.[129] By far the largest group of women to migrate to the Netherlands as foreign workers came from Yugoslavia. Between 1966 and 1975 well over 4,000 women left that country to work in the Netherlands.[130]

But if by 1963 male labour migrants were grudgingly being allowed to bring over family members, it would take until 1974 before women migrants would be allowed to do the same. Until then, female workers could only be recruited if they were unmarried and childless.[131] The growing concern that migrant workers should be able to fully participate in Dutch society, i.e. in the company of their families, apparently did not apply to migrant women. They were assumed to be in need of returning to a family situation; men to be in need of having a family join them.

Gender in Dutch Nationality Law

Before1965, foreign women marrying Dutch men continued to be absorbed automatically into the Dutch nation. By the same token, Dutch women marrying foreign men were automatically transported, as it were, to their husband's nationality. As the Minister of Justice Maarseveen (member of a Catholic party) put it in 1946, a wife ought to be united with her husband in all respects, including his nationality. By marrying a foreigner, she placed herself outside of her own society, and it was only natural, in his view, that she should follow her husband, should he have to leave the Netherlands.[132] The (unpublished) immigration circular of 1954 stipulated that the wife and children of a foreigner who had been subjected to an exclusion order (ongewenstverklaard) were to be deported along with him.[133] This principle of preserving the integrity of the family unit is also explicitly supported in Dutch Court decisions from this period.[134]

Not only did this mean that women of Dutch origin could be subject to deportation, along with their foreign husbands, it also meant that once they

[129] Berghuis 1999, p. 82-86 ; Chotkowski 2000, p. 79-82.
[130] Chotkowski 2000, p.82.
[131] In practice, this criterion was not applied very strictly. However, women who were married and/or had children, were well aware that they should keep this information to themselves. Should the truth emerge, then their residence permit could be retracted on the grounds that they had provided false information, Chotkowski 2000, p.87-91.
[132] Wet van 26 October 1946, bijlage bij wet 235. Eindverslag commissie van rapporteurs, MvA 21 October 1946, cited in De Hart 2003a, p. 55. See also: De Hart 2003, p. 86.
[133] Quoted in De Hart 1997, p. 22.
[134] See for instance: HR 3 December 1952, *ARB* 1953, p. 381-384.

had left the Netherlands, for whatever reason, they were no longer entitled to return. In 1955, for example, Maria Toet, who had followed her Polish husband to Poland, returned to the Netherlands and asked the Regional Court of the Hague to issue a staying order forbidding the Dutch state to have her deported. The Regional Court of The Hague however ruled that the Ministry of Justice had full discretion over matters of admittance and deportation, that Maria Toet had been heard by a special commission, as was required in cases involving former Dutch citizens, and that the Minister's decision could not be deemed pertinently unreasonable. The Regional Court of The Hague did not take kindly to the fact that Maria, while still married to her Polish husband, had become romantically involved with her deceased sister's husband. In the light of this fact, her claim that her Polish husband was abusive and that she should not be forced to return to him was not considered to be very creditable, and was in any case not taken very seriously.[135]

Addressing Gender Discrimination

In 1965, Dutch nationality law was revised, in accordance with the UN convention of 1957 concerning the nationality of married women.[136] As the result of this reform, Dutch women no longer lost their nationality upon marrying a foreigner. Nor did foreign women automatically become Dutch upon marrying a Dutchman. In many ways however the traditional notion of the family as a unit whose identity was determined by its male head, remained intact. Thus we see that, although foreign women no longer automatically became Dutch upon marrying a Dutchman, they could still easily acquire Dutch nationality by making a declaration to that effect. According to the government at the time, this was necessary in order to ensure that a foreign woman would always be free to follow her Dutch husband to his native country. [137] Foreign women who did not opt for Dutch nationality could, in theory, be denied a residence permit, for reasons of public order for instance. However, Swart remarks that at the time that he conducted his research for his PhD on Dutch immigration law, in the late 1970's, he found no evidence that this had ever occurred.[138]

[135] Rb Den Haag 8 August 1955, *ARB* 1955, p. 816-818.
[136] Convention on the Nationality of Married Women, adopted by the General Assembly on 29 January 1957, *UN Treaty Series*, Vol. 309, No. 4468, p. 65.
[137] *Aanhangsel Handelingen II* 1962/63, 3, p.6-7, quoted in Swart 1978, p 154-155.
[138] Ibid.

In the event a woman should choose to keep her foreign nationality, she was given a special status, after one year's residence in the Netherlands, which protected her against deportation under all circumstances.[139] Her children too were granted the same status after their first year of legal residence in the Netherlands.[140] Surprisingly, the immigration law of 1965 did not specify which children could follow their mother in this respect–i.e. whether this also applied to children of divorced parents, whose father was still alive. Swart's interpretation is that this rule would apply in any situation in which there was a legal bond established through marriage, custody rights or parental authority.[141] Given the Dutch government's concern that foreign wives be free to follow their Dutch husbands to the Netherlands, it presumably wished to avoid situations in which a woman might refuse to follow her husband, or, having joined him in the Netherlands, might feel impelled to leave him again, in order to stay with a child who had been denied entry or who had been deported.

Continuing Gender Distinctions in Dutch Nationality Law

Thus we see that, despite the change in Dutch nationality law, foreign women could still easily acquire a secure status and even citizenship through marriage to a Dutchman, not only for themselves, but also for their children. The idea that a wife naturally followed her husband still prevailed. In fact, the cabinet responsible for the reforms, led by Marijnen (member of a Catholic party) and still bearing a strong confessional signature, had been very reluctant to abandon the principle of national unity for the family. Its initial proposal had been to maintain the rule that the wife automatically followed in her husband's nationality, only allowing for her to keep her own nationality should she explicitly express her wish to do so.

[139] Article 10.2 Aliens Act 1965 jo. Article 47 Aliens Decree 1965.
[140] Before 1964, children younger than 15 years did not actually have a residence permit of their own, but were automatically included in their father's permit–or in that of their mother, in the event that she had married a Dutchman. After 1964, children were given permits of their own. However, as long as they were still younger than 15 years of age, no conditions were set other than that the parent had to have been granted status. Older children however were granted a permit on their own merits and could be denied (extension of) a residence permit for reasons of public order, or because of insufficient means. There is evidence that this did indeed occur, Koens 1984, p. 20. Koens 1977 p. 75.
[141] Swart 1978, p.152.

Children, for their part, were still seen to follow naturally in their father's wake. Even after they had been granted the right to keep their own nationality after marriage, Dutch women still weren't granted the right to pass on their nationality to their children. In the eyes of the then active Minister of Justice, Scholten (member of a Protestant party), it was in the best interests of the child that its nationality match that of its father.[142] Thus, once an illegitimate child of Dutch nationality came to be acknowledged by a foreign father, he or she lost the Dutch nationality–unless the father was stateless or unable, for other reasons, to pass on his own nationality. Similarly a foreign father's naturalisation automatically included that of his children, regardless of the mother's nationality, and regardless of where the children lived at the time.[143] A foreign mother's naturalisation could only include her children if their father was no longer alive or had never acknowledged them.[144]

Settlement as a Mode of Belonging

Despite the gender bias of Dutch nationality and immigration law, Dutch women married to foreign men did not always leave the Netherlands to follow their husband to his home countries. On the contrary, many foreign men who had married women in the Netherlands had opted to settle there, engendering–thanks to the *ius sanguini* principle introduced in 1892–successive generations of foreign progeny. This state of affairs was seen as undesirable in the post-war period in which a new Welfare State was being forged out of national solidarity. A number of measures were therefore introduced to reduce the incidence of foreign residents in the country. One was to implement a more generous naturalisation policy. The other was to grant Dutch nationality to all children born in the Netherlands of a foreign father who had himself been born in the Netherlands and whose mother had been living there at the time of his birth–the so called third generation rule.[145]

[142] The option of allowing the child to hold the nationalities of both its parents was rejected on the grounds that this would encourage dual citizenship, *Handelingen II* 1963-1964, 6956, 194-195. See also: De Hart 2003, p. 81.
[143] Article 6 Wet op het Nederlanderschap 1892.
[144] Ibid.
[145] Law of 15 May 1953, *Stb* 233, in effect as of 27 May 1953. The same rule could apply to a child born in the Netherlands of a mother who had herself been born in the Netherlands, but only if that child was born out of wedlock and had not been acknowledged by its father.

A similar notion of attachment through settlement was also evident in a new immigration law introduced in 1965. Although this law did not provide foreigners with a right to admission, it did introduce a number of measures meant to provide more security to them once they had been admitted. The underlying purpose of this law was to preclude the extreme measure of arbitrariness that had characterised Dutch immigration law previous to the Second World War. Now, once a foreigner had been admitted to the Netherlands, he was to be protected against arbitrary deportation.[146]

One of the most important innovations was the introduction of a strong status after a period of five years' legal residence, the same period that was required for naturalisation. Once immigrants possessed this status, they no longer had to renew it. Although set income requirements had to be met in order to qualify for this status, it could only be retracted on the grounds of conviction for a serious criminal offence. The longer the person involved had resided in the Netherlands, the heavier the conviction had to be.

Another advantage of this status was the fact that, once an immigrant had acquired it, he could be exempted from income requirements on the same basis as a Dutch citizen, when applying for family reunification.[147] Moreover, his wife and (step)children qualified for the protected family status on the same basis as the wife and stepchildren of a Dutch citizen. Again, this is an indication of how family reunification was seen as an indication of permanent settlement, and of how long term settlement was assumed to imply family reunification.

Distinctions Between Male Citizens and Settled Migrants

Still there were some significant differences between this strong status and Dutch citizenship. First of all, immigrants with strong status still had to meet the housing requirement when applying for family reunification, while this condition did not apply to Dutch citizens. As mentioned above, the housing shortage in the Netherlands continued to form a formidable obstacle to family reunification throughout the 1960's and 1970's.

Secondly, although women who came to the Netherlands to join husbands or fathers with a strong status could qualify for protected family status, they had to wait at least five to ten years before they could qualify

[146] Swart 1978, p. 17.

[147] Dispensation was granted in the situation that the couple involved was unable to meet the income requirements through no fault of their own, Swart 1978, p.156. Remarkably, this dispensation did not apply to foreigners who had been admitted as refugees.

for a strong immigrant status of their own.[148] In this their position differed significantly from that of foreign wives of Dutch citizens, who could opt for Dutch nationality at will. For the wife of a foreign husband, the right to residence, and that of her children, was only as secure as the relationship with her husband. Should her husband die, leave her or divorce her, or should she herself leave the marital home, then her protected family status automatically expired. In order to be able to stay in the Netherlands, she would have to apply for a residence permit on the basis of labour. However as more restrictions were introduced on labour migration, this was to become more and more problematic.[149] Similarly, foreign children who left the parental home lost their dependent status.

Settlement as a Gendered Concept

By the same token, the fact that Dutch women could now keep their nationality after marrying a foreigner did not enhance the security of their family's position within the Dutch nation to any significant degree. The new immigration law did not provide for a protected family status for a Dutch woman's foreign husband–nor for her foreign children for that matter. This meant that a Dutch woman's foreign husband (and children) could be expelled following criminal charges.[150] What's more, it was assumed that she could be expected to follow him in exile. While the government had found it imperative that a foreign woman be free to follow her Dutch husband to the Netherlands, it was clearly not concerned about a Dutch woman's freedom to remain in her own native country. This point of view was shared by the Dutch courts.[151] Since foreign husbands of Dutch women had not been granted the possibility of opting for Dutch nationality following their marriage, full security of residence could only be gained after five years, when they could apply for naturalisation.

Again, court cases give some insight into what this dependent status meant in practice. In 1975, an Italian man who had lived in the Netherlands since 1970 and had married a Dutch woman with whom he

[148] Only women who could independently meet the set income requirements could qualify for a strong status after five years. To meet the set income requirements, women would have to have a contract for at least one year for a job earning at least as much as they would receive on welfare. Only after ten years of legal residence, could they qualify for the strong status without having to meet these income requirements, Art. 13 of the Aliens Act of 1965.

[149] See for example: KB 27 February 1975 nr. 76, *RV* 1975/3.

[150] Swart 1978, p. 153.

[151] Ibid. p.159.

had had two children, was deported and expelled following a number of convictions for theft. This decision was upheld by the Kroon, even though the man in question had pleaded that he had had a clean criminal record for more than a year, and that his Dutch wife was both physically and emotionally unable to adapt to life in Italy.[152]

This case contrasts sharply with that of a Portuguese woman who came to the Netherlands in 1968 and subsequently married a Portuguese immigrant who had been living there since 1966. In January of 1971 she was convicted for attempting to drown her stepdaughter. Following this conviction, the immigration authorities refused to extend her residence permit. The Kroon however determined that she should be allowed to stay on in the Netherlands, arguing that there was no danger of further criminal acts, while the woman's deportation would either mean that she would have to start a life of her own, alone, in Portugal, or that her husband would have to leave the Netherlands to join her–possibly having to endure separation from his daughter who had, by then, been placed in a children's home. Moreover, by June of 1971, the husband would qualify for a permanent residence permit. As of then, his wife would enjoy the special protected family status and could no longer be deported.[153]

More and Less Suspect Marriages

The problems Dutch women faced because of the insecure position of their foreign husbands did not go unnoticed. Against the background of an increasingly militant women's movement, lawyers and politicians were becoming more sensitive to instances of discrimination against women.[154] The Dutch government however remained reluctant to grant foreign husbands of Dutch women the same rights as foreign wives of Dutch husbands. The assumption that women should naturally follow in the tracks of their husbands continued to be so strong, that foreign men who settled in their Dutch wives' native country were still viewed with suspicion. The chief argument for refusing to grant them the right to opt for Dutch nationality on the same basis as the wives of Dutch men was the assumption, expressed by the Deputy Minister of Justice Zeevalking (of

[152] KB 15 March 1975 nr. 150, *RV* 1975/8.
[153] KB 3 May 1973 nr. 38, *RV* 1973/7.
[154] See for example the comment that Swart wrote by KB 15 March 1975 nr. 150, *RV* 1975/8.

the centre-left Den Uyl cabinet), that foreign men would then make use of Dutch women to gain entry into the Netherlands.[155]

Conversely, the assumption, clearly prevalent at the time, that a woman alone would have difficulty in supporting herself seems to have worked to the advantage of foreign women residing in the Netherlands on the basis of their marriage to a foreign husband. While these women were not granted the easy access to Dutch nationality enjoyed by the wives of Dutch nationals, paternalistic sentiments–at any event on the part of the Kroon–could provide a certain measure of protection against deportation. This was evident in the case quoted above where the woman faced expulsion due to her criminal conviction, but similar considerations were also applied to women who lost their residence permit following the break-up of their marriage.

Thus a Turkish woman, who had come to the Netherlands in 1971 to join her Turkish husband there, faced deportation in 1972 following her separation from her husband. By then she had just given birth to a child. Having lost her request for administrative review, she appealed to the Kroon, who decided her residence permit should, after all, be extended. Important considerations were that, as a divorced woman with a young child, she would have great difficulty building up a new life for herself in Turkey, whereas she would be able to support herself in the Netherlands. She had found a new home there, and the Ministry of Social Affairs was prepared to give her a work permit.[156]

C: The Family as The Normative Core of the Nation

In terms of migration, the post-war period in the Netherlands was complex. The country was in shambles, and the resident population was emotionally bruised by the successive traumas of war and loss of empire. In this context of pressing economic and political contingencies, a large body of people, consisting of very different groups, had to be accommodated or rejected. Each of these groups had its own specific moral claim to acceptance, but there were varying degrees of connection to the resident population. To what degree each moral claim was to be honoured in the end was determined by interplay of political, legal and inter-personal dynamics, played out on both a national and an international stage.

[155] *Kamerstukken II* 1974/75, 12837, nr. 6 (MvT). See also: *Handelingen I* 1975/76, p.1262 as quoted in De Hart 2003, p. 82.
[156] KB 13 August 1974 nr. 76, *RV* 1974/18.

As we have seen in Chapter One, one of the first priorities of the Dutch war cabinet once it had returned from exile was to re-affirm the regime of family norms that had prevailed before the German occupation. Important mainstays to be re-established were: the integrity of the nuclear family as a unit (implying taboos on adultery and divorce), the hierarchy between the sexes and the generations, state control of sexuality outside of marriage, and the absence of direct state control over relations within the marital home. Control over the latter was left to the religious institutions and affiliated organisations that formed the religious columns through which Dutch society was to be (re)organised in the period following the war. These columns, and the families that they contained, formed the context for citizen participation in Dutch politics and society and a site for state control via indirect rule.

Both the regime that regulated the inclusion or exclusion of Germans, Indonesians and Dutch families into or out of the Dutch nation and the regime that regulated the admission or exclusion of individual refugees, guest workers and their family members were informed by the dominant assumptions concerning the prerequisites for legitimate family life and the significance of the nuclear family as the normative core of the nation. As the case of post-war refugees makes clear, the norm of maintaining family integrity could justify exclusion as easily as it could justify inclusion. And the experience of the labour migrants from the Mediterranean shows how exclusion from family life and marginalisation went hand in hand.

The German case shows how women as wives and mothers were assumed to anchor their families in the fabric of the nation in which they resided: socially through their ties with local networks of care, and culturally through their pedagogical tasks. But these substantive ties were at the same time seen as tenuous and contingent. Lasting were the formal bonds of affiliation passed down through the male breadwinner and head of the family. Women, being subject to their husband's authority, had to follow him in terms of formal nationality and residence rights so that the integrity of the family unit would be maintained. The fact that, for a few years, German wives of Dutch men were excluded from Dutch nationality while Dutch women married to Germans were allowed to keep their Dutch nationality is significant in the sense that, in both cases, the men involved were symbolically emasculated, disqualified in their capacity as head of the household and, hence, as citizens.

These gender-based assumptions, which continued to underlie Dutch nationality and immigration law, were also evident in the administrative decisions and court rulings concerning Indonesians applying for admission under the extended repatriation programme of the late 1950's and early

1960's. In this respect it is interesting to note that much of the disciplinary work being done at the time to reconstruct the moral fabric of the Dutch nation was focussed upon the families repatriating from Indonesia, particularly those of less means and of mixed racial descent.[157]

The family norms that were dominant in the post war period did not only serve as a gendered principle of belonging. They also structured the normative regulation of family relations and, more generally, of society as a whole. Men and women who did not comply with norms regulating legitimate sex and procreation were seen as a threat to the moral order of the nation. This preoccupation with sexuality found expression in all relevant fields of law, and hence also in nationality and immigration law. Not only the repatriates from Indonesia, but all immigrants were subjected to a regime of inclusion and exclusion premised on specific notions concerning legitimate sexual behaviour. Thus in the 1940's, when the Dutch government announced its intentions to liberalise naturalisation procedures, it stipulated which foreigners were to be disqualified from Dutch citizenship on the grounds that "their behaviour or manner does not convince one that they will fit into the Dutch social order". The four problem-categories that were named were: applicants who had been convicted of a criminal offence; Germans who had voluntarily served in the German army; cohabitating persons; and homosexuals. Of the last two groups it was said that "they followed a life-style that deviated from the accepted norm".[158] In Dutch immigration law, too, cohabitation formed a ground for exclusion. Verton, who worked for the Dutch immigration authorities in the 1960's, reported that if the authorities saw reason to suspect that a foreigner was engaged in a non-marital sexual relationship with a Dutch woman, this could lead to deportation on the grounds that the public order was being threatened.[159]

Status and Discipline in the Post-Colonial Context

The post-war Dutch government might very well have returned to the mobilisation of Dutch family norms to re-establish colonial dominance in the Dutch East Indies, had it been able to regain control over its former colony. This, however, was out of the question following the secession of

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[157] Jones 2007, p. 172-177.

[158] Of all the applications that were submitted between 1955 and 1964, roughly 2% were, in the end, rejected: a total of 249. About a quarter of those rejections probably had to do with illicit sexual relations, Heijs 1995, p. 141-142. See also: *Aanhangsel Handelingen II* 1946/47, 465, nr. 4 & 5.

[159] Verton 1971, p.45. See also: KB 4 March 1970 nr. 99, *ARB* 1970 p. 490-492.

Indonesia. Instead, the normative regime that had previously served to distinguish the rulers from the ruled was now used to separate Dutch citizens from Indonesians. As long as this selective process took place in Indonesia, it did not differ significantly form the colonial process of racial distinction that had preceded it, as described and analysed by Stoler. Attribution of status via formally defined family relations of marriage and legitimate birth continued to merge with bureaucratic evaluation of (sexual) behaviour in order to determine who would or would not be included among a racially defined body of Dutch repatriates.

However, once admitted to Dutch territory, what was in essence the same disciplinary regime, carried out by the same social workers, and centred on the same family norms, became disengaged from the former colonial context. Taking place within the sovereign Dutch nation, it was no longer about distinguishing a race of former rulers from that of the formerly ruled, but about assimilating former colonials into the body of Dutch citizens, along with other repatriates, refugees and all those who had become "morally disoriented" during the war years.[160] In the former colony, the rulers had distinguished themselves from the ruled through a racist discourse designed to permanently maintain their difference in status, despite mutual proximity. By contrast, in the Netherlands following the Second World War, a foreign male breadwinner could, after having lived in the Netherlands during a requisite number of years, apply for naturalisation and, with it, full-scale citizenship.

So while some parallels can be made between the normative regime that had served to distinguish the rulers from the ruled in the former Dutch colony of the Dutch East Indies, and the norms that regulated admission to and continued residence in the Netherlands following the war, there were significant differences as well. The disciplinary regime that was built up around family norms in the Netherlands was meant to (re)assimilate an uprooted and divergent population into a national mainstream. Primarily organised via religious affiliations, this process of moral reconstruction actually subsumed class distinctions to a degree while maintaining gender distinctions with its focus upon the male breadwinner citizen. While it did serve to maintain religious distinctions, the resulting divide was largely vertical in nature, and not horizontal like the racist divide created and maintained by the colonial regime in the former Dutch East Indies.

[160] Rath 1991, p. 136; Schuster 1999, 111-115; Jones 2007, p. 172-177.

Shared Territory as Added Technique of Inclusion and Exclusion

As Linda Bosniak has argued, the notion of citizenship as it evolved in the nineteenth and twentieth centuries came to be seen as "hard on the outside" and "soft on the inside".[161] That is to say, it became increasingly linked to the notion of a shared national territory. Anyone formally lacking a specific national status remained wholly excluded from that nation's citizenry as long as he or she continued to reside outside of the national territory. But once a non-citizen entered a nation's territory and started to participate in that nation's society, there was at least the beginning of a claim to inclusion in the national body of citizens.

While the association between residency and citizenship may have been more evident in legal systems based on the *ius soli* system, it also figured in systems, like that of the Netherlands, based on the principle of *ius sanguini*. Thus we see that during the post-war period, inclusion of long-term foreign residents into the body of citizens was facilitated in a number of ways, through reforms of the naturalisation procedure for example, and by granting citizenship to third generation immigrants.

Next to the techniques of status and discipline, a third technique proved relevant for regulating inclusion and exclusion from the body of Dutch citizens in the post-war period, namely the manipulation of time and space with the intent of enabling or preventing direct participation in Dutch society. Thus, manoeuvres that inhibited or forced international mobility could eclipse a government's legal obligation to admit–or its right to refuse or expel–persons on the basis of their formal nationality or immigrant status. The Dutch government's attempts to discourage Dutch nationals of "Eastern orientation" from travelling to the Netherlands form a telling example. So do the Allies' refusal to accommodate (intended) German deportees and the Moluccans' success in forcing their admission to the Netherlands through a court ruling.

Interference Between Different Techniques of Inclusion and Exclusion

When viewed through the lens of family migration, the various rules and policies that were applied–to Germans settled with families in the Netherlands; to Dutch war victims returning from Germany; to former colonial subjects and soldiers seeking shelter from nationalist violence in the former colony; to war refugees looking for a safe place to resettle; to guest workers seeking full admission into Dutch society–do display a

[161] Bosniak 2006.

certain degree of consistency. There were common themes in this cacophony. In each instance, three techniques of inclusion and exclusion were applied: that of establishing formal status through nationality and family law; that of disciplining behaviour through norms regulating gender and sexuality; and that of controlling access to Dutch territory.

Although distinct from each other, these three techniques did interfere, with family norms forming an important node of intersection. Thus the attribution of formal nationality through the *ius sanguini* principle was modified by gendered family norms, and the principle that settlement could lead to naturalisation was nuanced by exclusion on the grounds of sexual behaviour. Foreign nationals with legitimate family ties in the Netherlands could acquire a strong moral claim to continued residence, while their bachelor compatriots continued to be seen as expedient. As the Moluccan case shows, families that had acquired access to Dutch territory could none the less be kept in a marginal position and excluded from substantive citizenship by housing them in barracks that isolated them from the rest of Dutch society and prevented them from engaging in "normal" family life. Similarly, restrictive housing policies helped prevent labour migrants from settling in the Netherlands with their families and thus developing a claim to citizenship via participation, as responsible breadwinners, in the mainstream of Dutch society. In practice, then, the distinction between the primarily genealogically determined racial regime of the former colony and the more territorially determined regime of Dutch nationality law was more gradual than formal legal rules might imply.

Negotiating Tensions and Contradictions

Although the three different techniques that were deployed interfered with each other, they remained distinct and in varying degrees contradictory. The unresolved tensions between them made it possible for the Dutch government to adapt policies and adjust to contingencies; but they also provided scope for resistance. All of the cases cited above show how the Dutch government was not alone in regulating migration. Other national governments played their part–the Allies, following the war, and the Indonesian government following secession–as well as social interest groups and other actors exerting political pressure on behalf of specific categories of persons claiming inclusion in the Dutch nation: the Catholic and Protestant Churches in the case of Germans settled in the Netherlands; returned members of the former colonial elite in the case of repatriates from Indonesia; the Dutch Queen in the case of post-war refugees; charitable and welfare organisations in the case of guest workers from the Mediterranean area.

The men and women directly affected by government regulation of migration also did what they could to force decisions in their favour, if only by making their way over to the Netherlands and establishing themselves as physically present, as many of the former colonial subjects in Indonesia ultimately decided to do–not always with equal degrees of success. And even before judicial review was made possible in immigration law, people did manage to fight their exclusion in the Dutch courts, again with varying degrees of success. Once the Kroon started to preside over administrative law cases, it proved reticent in adjudicating immigration law disputes. Nevertheless, it did support at least one alternative narrative of belonging–namely that family bonds with Dutch nationals rooted in the Netherlands formed a legitimate claim to inclusion in the Dutch nation.

As argued above, dominant family norms in the Netherlands during the post-war period provided an important touchstone for all three techniques deployed in regulating migration during that same period. From the mid sixties on, however, dominant family norms were starting to be challenged in mainstream Dutch society, as we have seen in Chapter One. This had repercussions for Dutch immigration and nationality law. As we have seen, both in nationality and immigration law, gender discrimination was being put to question. Moreover, as Dutch society became more sexually permissive, exclusion on grounds of sexual behaviour was becoming less self-evident.

In his study of administrative decisions taken during the extended repatriation programme, Ringeling noted that when the last applications were being processed in 1963, recommendations that certain individuals be rejected on the grounds of "oriental" behaviour–i.e. non-marital co-habitation, promiscuity, illegitimate birth etc.–were largely ignored. This leniency may have been due to the fact that these applicants formed the last contingent of repatriates, and that the authorities were under pressure to bring the programme quickly to its end. However, Ringeling suggests it may also have been a reflection of the changing moral attitudes in the Netherlands at the time.[162]

Similarly, by the late sixties, orders to have labour migrants deported on the grounds of objectionable sexual behaviour were being reversed in appeal, and immigration authorities were starting to become more relaxed

[162] Ringeling 1978, p.127.

in their application of the rules.[163] All the same, non-marital relations between foreign men and Dutch women continued to be a matter of official concern for some time. In 1968 for example, the authorities refused to extend the permit of a Turkish worker who had started a relationship with the Dutch woman he had been boarding with while he was still married to his wife in Turkey. In appeal, the Ministry of Justice ruled that this man's permit could be extended, but only under the condition that he leave his boarding lady's home and break all contact with her.[164]

In the following chapter, we shall see how the regime regulating migration to the Netherlands would fare in the context of growing attacks on the family norms that had underpinned that regime throughout the period of post-war reconstruction.

[163] Verton 1971, p. 45.

[164] Objecting to these conditions, the man in question appealed his case before the administrative court. This court upheld the decision to the extent that the man had to move out of his lover's house. The condition that he should stop seeing her was however too arbitrary, in the eyes of the court, and this part of the decision was not upheld, KB 4 March 1970, nr. 99, *RV* 1970/2.

CHAPTER THREE

DUTCH NATIONALITY AND IMMIGRATION LAW IN A PERIOD OF NORMATIVE PLURALISM: 1975-1990

By 1975, the map of the world had literally changed. European colonialism was in its last throws. Former colonies, now a category of independent nations referred to as developing countries, formed a force to be reckoned with. The civil rights movement in the United States and the Viet Nam War added urgency to the issues of anti-racism and anti-imperialism. Both within newly constituted nations and already established ones, minority groups were giving vent to claims to cultural rights and self-determination. The cultures of minorities and the so-called developing nations were still perceived of as exotic, but it was no longer *bon ton* to depict them as a threat to civilisation.

Besides traditional Dutch notions on family and sexuality, with the accompanying hierarchies between the genders and the generations, notions of western superiority and racial hierarchies were also under attack.[1] Even if there had still been a consensus within the Netherlands concerning family norms, it would have been problematic under these circumstances, to unilaterally impose Dutch family norms upon Third World migrants seeking admittance on the grounds of family reunification. But if the traditional Dutch family norms no longer sufficed to determine who could and who could not be admitted to the national territory and/or accepted as a national citizen, how then were such distinctions to be made?

The Advent of a Minorities Policy

The following chapter will examine how Dutch authorities, responsible for immigration policy, tried to establish new ways to regulate access to Dutch territory and nationality via family norms. A distinction will be made

[1] Righart 2006.