

REVIEWS:

**THE FAMILY AND THE NATION. DUTCH FAMILY
MIGRATION POLICIES IN THE CONTEXT OF CHANGING
FAMILY NORMS**

Sarah van Walsum
Cambridge Scholars Publishing (forthcoming)

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In 2006, the Netherlands introduced the obligation for family members to integrate in their country of origin as a visa-requirement for family migration (Integration Abroad Act). Family members are required to take a computerised test on language proficiency and knowledge of Dutch society at the Dutch embassy. Although most candidates complete the test successfully (90 %), since the introduction of the Act the numbers of applications for family formation dropped considerably (a decrease of 60 % in 2007 as compared to 2005).¹ Other countries, (Germany, Denmark, United Kingdom and France) followed suit. Such tests seem to signify a new trend, in which restrictive family migration policies are evaluated in the context of integration policies. The central line of thinking is that by choosing a partner from the country of origin, the migrant in the receiving country, and especially second generation migrants, not only demonstrate their own lack of integration, but also ‘import’ a bride or groom of low economic and educational background, who will face integration problems and cause new integration problems for society as a whole.

That this line of thinking is not particularly new is demonstrated in Sarah van Walsum’s book *The Family and the Nation. Dutch Family Migration Policies in The Context of Changing Family Norms*. Van Walsum analyses the development of Dutch family migration policy after the Second World War, discerning three periods: 1945-1975, the period of post-war reconstruction and decolonisation, 1975-1990, the period of debating the Dutch welfare state and economic recession, and the period 1990-2000 of reconstruction of the welfare state at the close of the twentieth century. In the first period the family was the ‘normative core’ of the nation, as such it required protection, although the way families were protected was gender specific (e.g. women either acquired or lost citizenship through marriage). In the second period, the Netherlands reinvented family norms, allowing for greater individual liberty to arrange family life according to one’s own preferences, which was at least partially- translated into immigration law. For instance, already since 1975, a residence permit could be granted based on a non-marital, hetero or same-sex, relationship. In the third period, the Netherlands came to be seen

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¹ Source: IND-year reports 2005 and 2007. www.ind.nl.

as a nation of individuals, and it was this individualism and the notion of 'individual responsibility' that, since the 1990s, allowed for larger scrutiny of family relations and the introduction of restrictive measures, such as income requirements and the effective bond between parents and children.

Although Van Walsum does not cover the most recent period after 2000, which saw the introduction of several restrictive measures such as the Integration Abroad Act, the age limit of 21 years, and a high income requirement (120 % of the minimum wage), any disappointment is replaced by enthusiasm, because of the richness of the historical approach, which allows Van Walsum to identify the historical roots of aforementioned restrictive measures.

Sarah van Walsum is a legal scholar, she, however does much more than describe the legal development of family migration policies; she places her analysis within a broader context and connects it to other policy fields, especially family law and social welfare policies, but also integration policies and economic developments. How do family norms used in these policy fields intertwine, collide or influence each other? How do family norms exclude or include family members as members of the nation? One of her central claims is that while in family law the freedom to arrange family life according to once preferences has become larger; in immigration law this freedom has remained much more limited.

The theoretical framework that Ann Stoler designed to analyse family policies in the former colony of the Dutch East Indies is furthermore used by Van Walsum. In her book *Race and the Education of Desire* Stoler claimed that modern European nation-states have been built on interior frontiers in the same fashion as colonial empires. Following this suggestion, Van Walsum wonders: could it be that the techniques of inclusion and exclusion that were developed during the colonial age might once more serve to support a new mode of belonging in modern states; now that notions of national solidarity are starting to fade, and a new rationale for state intervention in intimate lives, now that family norms have become less authoritarian? Could such a transposition occur in a historical context in which decolonisation has become completed; in which racism has become taboo, and in which patriarchy no longer figures in the legal regulation of family? Can parallels be drawn between current family migration policy and racist modes of exclusion in the Dutch East Indies?

Van Walsum's conclusion is that there are parallels, although there are also differences. One parallel is the link between exclusion and emancipation. She describes the changing family norms from patriarchy to a new consensus, in which families are modern, emancipated and egalitarian, excluding especially Muslim families who are viewed as caught up in patriarchal traditions. Individuals assumed to be unwilling or unable to adhere to these norms are to be excluded, e.g through integration requirements. The second parallel is

the use of a combination of different techniques of power. Especially relevant here are the merging regimes of immigration law and integration policies. On the one hand, substantive controls of family relations imposed a normative order of individual responsibility and sexual emancipation. On the other hand it served to restrict the numbers of family migration. E.g. only children who had maintained close ties with their parents in the Netherlands were admitted, because they were the only ones who were thought to be able to successfully integrate into Dutch society. The third parallel is state involvement in the private family sphere. In the most recent period, liberal values of equality, freedom and individualism have allowed for control of a specific way of living, drawing distinctions between those that 'just reside within the borders of the nation and those that belong there'. Van Walsum concludes that 'those who are producing and enforcing nationalist distinctions, in the increasingly global present, still somehow rest on the shoulders of those who produced and enforced the racist distinctions of the colonial past', as she writes in the last sentence of her book.

Using Stoler's theoretical framework Van Walsum seeks to identify what she calls 'techniques of inclusion and exclusion' and the shift of techniques and the development of new techniques for each of the three periods that she describes. Although the description of these techniques is valuable and could help other researchers to make sense of family migration policies, the various techniques are not always presented very clearly and systematically. As a result, the reader has to work quite hard in order to find out the different techniques and make sense of their meaning. Furthermore, the shifts and specific quality of these techniques in different periods is not always spelled out. What exactly qualifies as a technique? What is the difference between e.g. the technique of 'disciplining behaviour through norms regulating gender and sexuality', described for the first period, and 'qualitative control on behaviour' for the last period?

In an effort to balance the top down approach in her analysis of family migration policies, Van Walsum addresses the issue of 'modes of resistance' by migrants and migrant families. She only mentions such modes of resistance for the second and third period, which begs the question whether there was no resistance in the first period (1945-1970). In describing the modes of resistance, her scepticism about policy making makes place for a belief in law and legal principles. She mentions the equality principle from minority policy and international law as important modes of resistance. However, the question arises whether the techniques of inclusion and exclusion are techniques that can only be used by the state and not by migrants. The technique of 'manipulation of time and place' for example, can and has been used by migrants against the state quite frequently, by confronting the state with their presence or children's birth on the territory as a means to acquire residence, so called 'anchor babies'.² Techniques of

² C.H. Bledsoe, 'Reproduction at the Margins: Migration and Legitimacy in the New Europe', *Demographic Research* 2004-3, pp. 87-116.

inclusion and exclusion can be turned against the state. More attention for the use of these techniques by migrants would make the picture more complicated.

Van Walsum's book is well-written, exiting, innovative and an inspiration for further research. The author raises the question whether the Dutch case is unique or that similar developments take place in other countries. International comparative research could answer this question.

Furthermore, I would be interested in the question how family norms, as described by Van Walsum, were translated in European immigration law. An interesting example could be the Family Reunification Directive, which came about after negotiations between European Union Member States with sometimes diverging family norms, e.g. between Northern and Southern states about the extended family. Such an analysis could also draw attention to the different family norms used for different groups of families: citizens, Union citizens, and third country nationals, as is demonstrated in the different concepts of families that form the basis of the Union Citizens Directive, the Long Term Residents Directive and the Family Reunification Directive. What techniques of exclusion and inclusion are used here and does the European context allow for new techniques?

Another question is the role of family norms in case law of the European Court of Justice and the European Court of Human Rights, and to what extent –for the latter court- norms used in immigration law cases diverge from those used in family law cases. Van Walsum seems to cherish hope from the European Court of Human Rights' case law on article 8 ECHR (right to family life) and other international and supranational arenas where she claims 'emerging hierarchies and power relations can be challenged' (epilogue). I would be much more sceptical about the chances these international arenas have to offer, as they may have their own techniques of inclusion and exclusion using family norms.³

Future research could include other research material. Van Walsum has, justifiable, limited herself to an analysis of official policy, based on legislative texts, policy documents, - to a limited extent- parliamentary debates and court judgements. But these materials give us only a limited view on what happens on the work floor of immigration law. How are official policies implemented in daily practice? Van Walsum's study could inspire empirical research on the practice of immigration authorities and how they apply family norms.

Finally, because of the interrelation between family norms in the different policy fields that Van Walsum describes, the question arises whether in the other policy fields similar developments towards a limitation of rights are

³³ B. de Hart, *The Right to domicile of women with a migrant partner in European Immigration Law Women and Immigration Law*, New York: Routledge Cavendish 2007, pp. 142-162.

taking place. As Van Walsum points out in the last chapter, family law demonstrates such a development, in keeping divorced mothers dependent of their ex-husbands in stead of the state for financial support. The book is an inspiration to study immigration law not as an isolated field, but in connection with other fields of law and policy and hence, for more contact and exchange between legal disciplines.

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