

## Family in Dutch migration policy 1945–2005

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### Abstract

This article looks at how and why the concept of ‘family’ was used in Dutch migration policy in the period between 1945 and 2005. Throughout this period differences were made between migrant women and migrant men. Whereas the migration of men was associated with labour migration, the migration of women was equated with family migration. Migrant women were constructed as wives and mothers (and not as workers). This construction of women was combined with a victimhood discourse in which women were presented as victims of repressive religion (usually Islam), domestic violence, trafficking and prostitution, and discriminatory government policy. The victimhood discourse was successfully used to acquire rights for migrant women (mostly the right to stay), but as a result all migrant women came to be seen as vulnerable and in need of protection. In this article, I show how this combined family and victimhood discourse was used by governments, by (migrant) organizations and, to a lesser extent, in court cases to create differences between migrant men and women. The ‘success’ of the victimhood discourse is not only explained by the fact that it fitted (Western) ideas on femininity. It was also used to give a humanitarian face – albeit beneficial to women only – to an essentially restrictive immigration policy.

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### 1. Introduction

In the period between 1945 and 2005 there were four topics – related to the concept of family – which led to debates in the media and in Dutch parliament, and to changes in migration policy. In the first place there was, in the period between 1949 and 1960, the migration of people without Dutch citizenship from the former Dutch East Indies to the Netherlands. It was the emphasis on women as mothers which made the migration of a much larger group – including men – possible. Secondly, there was the migration after the end of the guest worker regime. This existed until 1975 and mainly facilitated the migration of men. After 1975, migration for family

formation and reunification enabled women (and children) to come to the Netherlands. The women received a dependent residence permit. Between 1979 and 1983, this dependency became the subject of media attention and political debates which resulted in policy changes. Thirdly, there was the separation of mothers from their children, which was the focal point of several deportation cases in the 1980s. Lastly, from the 1990s onwards, there were several court cases in which parents either tried to get their foreign children into the Netherlands or tried to obtain permission themselves to stay in the Netherlands in order to take care of their children. In this period, we see a change in policy regarding what is considered family life and what are ‘effective family ties’.

This article looks at how and why the concept of ‘family’ was used in Dutch migration policy and public

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debates in the period between 1945 and 2005, and how policy and debates were influenced by ideas on vulnerability, especially of women (for an overview of Dutch migration history, see [Obdeijn and Schrover, 2008](#)). The four cases discussed below (Dutch family; family reunification and dependent residency; separation of families during deportations; and redefinition of family life and family ties) were selected because they had to do with the concept of family, because they received a lot of media attention, and because they led to political debates and policy changes. This article is based on an analysis of parliamentary discussions, media coverage and court cases (for the analysis of Dutch newspaper articles on migration or ethnic minorities, see: [Bovenkerk, 1978](#); [Van Dijk, 1983, 1988, 1991](#); [Lubbers, Scheepers & Wester, 1998](#); [Shadid, 1998](#); [d’Haenens & De Lange, 2001](#); [De Lange & d’Haenens, 2002](#); [Phalet & Ter Wal, 2004](#); [Alink, in press](#); [d’Haenens & Bink, 2006](#); [Bink & d’Haenens, 2006](#)). The source material that is used for this article differs slightly per period. Parliamentary papers were important in all periods. Pressure groups, however, were more important in the 1970s and 1980s than in earlier and later periods, and their activities led to more media coverage. In the 1990s, the activities of pressure groups died down somewhat and court cases became more frequent.

Frame analysis was used to study the interaction between government policies and media attention ([Scheufele, 1999](#); [Semetko & Valkenburg, 2000](#); [Roggeband & Verloo, 2007](#)). ‘Frames’ are a series of claims strung together in a more or less coherent way whereby some features of reality are highlighted and others obscured in order to tell a consistent story about problems, causes, moral implications and remedies ([Entman, 1996](#), pp. 77–78). Frame analysis looks at what or who is defined as a problem, and by whom and why.

Between 1945 and 2005 differences were made between migrant women and men. The migration of women was equated with family migration, while the migration of men was associated with labour migration. Such a pattern was not only true for this particular period and the Netherlands, but also for other periods and other countries ([Schrover, Van der Leun, Lucassen & Quispel, 2008](#); [Schrover & Yeo, 2009](#)). Migrant women were constructed as wives and mothers (and not as workers). This construction was combined with a victimhood discourse that was applied in media campaigns, and by (women’s) organizations. Victimization could be used as a successful strategy; it was possible to claim rights for women by presenting them as victims. The price of this success, however, was that migrant women came to be seen as vulnerable and in need of protection. The

‘successful’ use of the victimhood discourse explains a change in migration and integration policy that has taken place in the last decades (for a description of changes in migration policy, see: [Roggeband & Verloo, 2007](#)). In the 1970s, integration policy stressed the rights of migrants to be different from the rest of the people in the receiving society ([Saharso, 1995](#)). In the 1990s, the diversity framework was replaced by a vulnerability framework which did not refer to migrants in gender-neutral terms but which focused on migrant women.

## 2. Vulnerability

Within the victimhood discourse, women are presented as vulnerable. Vulnerability is the subject of a whole field of studies which was developed several decades ago, initially to explain how and why people move in and out of poverty ([Beck, 1992](#); [Moser, 1998](#); [Alwang, Siegel, & Jørgensen, 2001](#); [Bustamante, 2002](#); [Hogan & Marandola, 2005](#)). Recently, ideas from the field of vulnerability studies have been applied to migration research ([Waddington & Sabates-Wheeler, 2003](#)). Vulnerability is defined in many different ways (for a summary, see: [Alwang et al., 2001](#)). In this article, it is defined as the degree to which groups and individuals within society are perceived to be at risk, and are believed to show the ability to cope with hazard. High exposure to risk combined with low ability to cope results in a high perceived vulnerability. Vulnerabilities can be cumulative, whereby vulnerability in one domain can increase vulnerability in another ([Stewart, 2005](#), p. 500). Risks in one field can however also be offset by minimizing risks in another field. Illegal migrants may, for instance, compensate for their insecure legal position by maintaining broad networks ([Heikkilä, 2005](#)). A distinction can be made between structural and cultural differences in vulnerabilities. If migrants are officially denied certain rights (right to vote, right to work, right to citizenship), there is a structural difference in vulnerability between migrants and non-migrants. Cultural vulnerability can vary between groups of migrants or between migrant men and women, who are all subjected to the same structural vulnerabilities, but experience a different degree of stereotyping and exclusion ([Heikkilä, 2005](#)).

Several authors have addressed the gendered assumptions on vulnerability in migration discourse ([Fincher & Saunders, 2001](#); [D’Cruze & Rao, 2004](#)). Migrant women can be perceived – by themselves or by others – as more vulnerable than migrant men are to physical harm, economic insecurity or gossip ([Bustamante, 2002](#); see also: [Cook, Emerson & Gillmore, 1983](#), p. 277; [Van der Zwaard, 2000](#)).

Vulnerability has a negative connotation because it denies agency and empowerment (Connell, 1997; Schrover, 2009). Since the 1980s, authors have for this reason objected to the use of a victimhood discourse in issues concerning women, minorities or minority women (for a summary, see: Leod & Saraga, 1988). They have convincingly argued that this discourse placed people who are portrayed as ‘victims’ at a disadvantage rather than helped them. Objections were raised against the victim/survivor dichotomy within the victimhood discourse in which agency and victimization were presented as mutually exclusive states. The term *victimcy*, which combines victimhood and agency, has been introduced to describe the agency of self-representation as victims; victimhood can be used as a form of agency (Utas, 2005).

Recent authors have moved beyond the critique that the victimhood discourse creates the risk of reinforcing the image of the vulnerability of (migrant) women and have pointed out that we should consider the function of the continued use of the discourse (for a summary, see: Doezeema, 2001). If we look at who profits from a certain discourse and in what way, we can understand how, why and by whom it was used to create differences between migrant men and women. The examples presented below will show why policymakers, as well as certain migrants and immigrant organizations, had an interest in making differences. An article by Chandra Mohanty (1988) draws attention to the fact that Western feminists have eagerly bought into the construction of ‘third-world women’ as ‘powerless’, ‘exploited’, and ‘sexually harassed’. ‘Third-world women’ were, according to Mohanty, as a category automatically and necessarily defined as religious, and family and domestically oriented. Their victimization played a role in the construction of a counter identity of ‘Western’ women, who were everything the ‘third-world women’ were not (see also: Doezeema, 2001).

The four ‘family’ cases presented below will show when, how and why migrant women were portrayed as victims in public and political discourse over the last sixty years and how this has influenced and shaped government policies, sometimes to the advantage but, in the long run, usually to the disadvantage of women.

### 3. Dutch family

When the Dutch East Indies became independent Indonesia in 1949, the Dutch government strongly felt that migration from the former colony to the Netherlands should be restricted as severe housing shortages and a return of the pre-war unemployed was feared (Van der

Veur, 1954; Van der Veur, 1960; Wassenaar-Jellesma, 1969; Willems, 2001). People with Dutch nationality, had the right to come to the Netherlands, but those who had acquired Indonesian nationality did not. Among those who wanted to come to the Netherlands, but could not, were two groups of people who had held Dutch nationality in the past: people who had chosen Indonesian nationality upon independence, and Dutch women who had married so-called native men, and for that reason had lost their Dutch nationality. The law regarding mixed marriages in the Dutch East Indies was no different from that in the Netherlands. In the Netherlands, as in many other countries, women (but not men) automatically changed their nationality when they married a partner with a nationality different from their own, irrespective of where the couple lived (for other countries, see for instance: Studer, 2001; Volpp, 2006; Venken, 2008). When the Dutch East Indies became independent Indonesia, the native population automatically received Indonesian citizenship as did former Dutch women who had married native men (Van der Veur, 1960). The people who had chosen Indonesian nationality had done so under a lot of pressure from the Dutch government, which tried to encourage people who were seen as adaptable or adapted to the former colony – who were dark-skinned, low skilled and poor – to stay in Indonesia (Van der Kroeft, 1955; Van der Veur, 1960). The Dutch government gave financial support to people who stayed in the former colony, but who were unable to maintain their former standard of living, and it refused to lend them money for their passage which others had received (Van der Veur, 1954).

In this period, the former Dutch women in Indonesia were not the only women who were subject of parliamentary and public discussion because they had lost their nationality through marriage and could therefore not return to the Netherlands. There was the widely discussed case of the Dutch woman Maria Toet (described at length by De Hart, 1999, 2006) who married a Polish man and in 1955 wanted to return to the Netherlands when her marriage failed. When she found she could not because she no longer had Dutch nationality, she applied for asylum and, when this was denied, she went into hiding in the Netherlands. Furthermore, there was a group of Dutch women who wanted to return from Canada. 1886 Dutch women had left for Canada after 1946 to join Canadian men who had been part of the armies that liberated the Netherlands. When their marriages failed, the women were unable to return to the Netherlands because Canada did not allow divorce and without that, they were unable to regain their Dutch nationality. In parliamentary discussions, the

arrival of people from Indonesia was discussed in the same context as that of women from Canada or Poland. In the press, personal stories were singled out. The women themselves – and their families – pleaded with Members of Parliament. “Each time one thinks; ah, why not!”, one Member of Parliament remarked. But, she added, all these cases added up and leniency would lead to the arrival of large numbers (Proceedings Lower House, session 1958–1959, 7th meeting 16-10-1958, *Wttewaal van Stoetwegen*, CHU, p. 2148–2149).

In the case of migrants from the former Dutch East Indies, discussions in the press and in parliament focused on the people who had opted for Indonesian nationality, not on the women who had lost Dutch nationality through marriage. In 1959–1960, media campaigns were launched to make it possible for these so-called ‘regretting optants’ to come to the Netherlands. Two organizations were set up to lead campaigns. Journalists travelled to Indonesia and interviewed ‘regretting optants’. On television, attention was paid to the fate of those stranded in Indonesia. There was a play on television – widely discussed in the newspapers – and a television documentary which showed women and children of Dutch descent in Indonesia, including a boy being stoned to death and a girl – very white and very young – marrying an older and darker man. Another documentary – called ‘An End and a Beginning’ – showed the arrival of ‘compatriots’ welcomed ‘home’ by the Queen herself. In the press and in parliament, frequent reference was made to the fact that Italian guest workers were recruited while the ‘compatriots’ in Indonesia – who were much closer to the Dutch in culture – were denied access (*Leeuwarder Courant* 8-8-1960 and 11-8-1960). The Dutch Red Cross raised money to support the regretting optants. Several brochures (Lemaire, Sutorius-Alting von Geusau & Spoor-Dykema, 1960) and a book were published and numerous letters were sent to various ministries. Stakeholders and activists were mainly family members – parents and siblings – who had been able to migrate because they had Dutch citizenship. Since they formed a group of about 300,000 people, politicians could not easily ignore them.

There was some commotion in the press when a few women, married to native men, decided to divorce their husbands and reclaim Dutch citizenship; this was an option within Dutch law. They applied for a permit to come to the Netherlands with their children. At a time when divorce was still frowned upon, politicians and policymakers found it shocking that women were willing to go to such lengths. The administrators who had to deal with these applications considered these divorces to be fake. The assumption was that women would stay in

touch with their (former) husbands and perhaps later remarry them and bring them to the Netherlands.

In 1960, pity for the former Dutch women stranded in an Indonesian society, that was increasing hostile towards anything Dutch, led to the definition of a new category of so-called ‘social Dutch’. The Dutch government was willing to change its policy after significant public pressure. Social Dutch were people without Dutch nationality, who had lived in the Dutch sphere of influence in the Dutch East Indies. By definition this meant they were Christians and not Muslims. The introduction of the term led to a lot of discussion in parliament. ‘If there are social Dutch, who are the anti-social Dutch?’, one Member of Parliament asked (Proceedings Lower House, session 1958–1959, 7th meeting 16-10-1958, *Van de Wetering*, CHU, p. 2221). And if the social Dutch were allowed to come because they were almost Dutch, perhaps the people who were not almost Dutch – who did not speak Dutch, who were dark-skinned and did not know Dutch society – should not have been allowed to come (Proceedings Lower House, session 1958–1959, 7th meeting 16-10-1958, *Van Doorn*, KVP, p. 2142). It was clear that the Members of Parliament were not too pleased with the flexible interpretation of what were strict legal categories based on citizenship law; people were Dutch or they were not. In the press and in parliament, there were wild speculations about the number of people who would qualify as social Dutch, with estimates ranging from 100,000 to 200,000 (*De Vrije Pers* 12-11-1953). This was reason for the Dutch government to restrict the number to 2000 per year, with each applicant being assessed individually. It was pity for the women and children that brought a solution for the much larger group of former Dutch who had opted for Indonesian citizenship. The vulnerability of women (and their children) and pressure from family members created possibilities while upholding an essentially restrictive immigration policy and rhetoric.

#### 4. Family reunification and dependent residency

The second issue – that of dependent residency – arose when in 1975 the recruitment of guest workers came to an end, and labour migration was replaced by migration in the context of family formation and reunification (Bonjour, 2008). Since the guest workers had been mostly men (Wentholt, 1967; Chotkowski, 2000), it was mostly women who came within the framework of family reunification. When the economic recession started in the 1970s, Dutch trade unions turned against the arrival of more guest workers (which meant

they turned against the arrival of men) (Roosblad, 2002). New migrants could only come if they were explicitly portrayed as non-workers (NCB, 1983; Martens, Roelandt & Veenman, 1991). Within the dominant breadwinner ideology, women more easily fitted into that image than men (Goedings, 2006, 2008). Women who came within the framework of family reunification often did work, but since they frequently worked in the informal economy – cleaning houses, working at home for factories – a lot of their work went unrecorded and it is not possible to give figures about their labour participation. But their work did not go unnoticed, since there were several labour disputes involving migrant women. These led to media coverage and discussions in parliament (see for instance: *Het Vrije Volk* 14-3-1966; *De Haagse Courant* 13-11-1971; *De Telegraaf* 13-2-1974; *PZC* 10-10-1979; *Vara-Visie* 17-10-1978; Proceedings Lower House, session 1979–1980, Appendix, p. 711–712; Proceedings Lower House, session 1978–1979, Appendix, p. 1217). However, despite this attention, migrant women were still mostly presented in public and political discourse as dependants (and as wives and mothers) and not as workers.

In theory, men who followed their wives could also get a dependent residence permit, but since most guest workers had been men, in practice it was mostly women who got a permit that depended on that of their husband. This made dependent residency a women's issue. Dependent residency meant that women, who left their husbands or were left by their husbands within three years after their arrival in the Netherlands, were deported. Dutch women's organizations, which took up the issue, expanded the framework within which the issue of the waiting period of three years was discussed. Individual stories about women started with the goal of the campaign in mind – reduction of the waiting period – but continued with stories of abuse and domestic violence, and of persecutions in the country of origin. The stories told endless tales of helplessness.

From 1979 onwards, Dutch women's organizations (mostly consisting of non-immigrant white middle-class women) agitated against dependent residency. The Dutch women's organizations sought suitable women for their media campaigns via women's shelters for abused and maltreated women. The women who were selected for the media campaigns were all Turkish. Via this choice of cases, the issue not only became a women's issue but also an issue of repression of women within Islam.

The women's organizations presented three cases about individual women in quick succession. The first woman who was chosen for the campaign, Halice

Karaceper, got a permit to stay on humanitarian grounds relatively shortly after the start of the campaign (Proceedings Lower House, session 1981, Appendix, p. 573). Since no change in policy had been achieved, the women's organizations presented the case of Fatma Yasar, who was maltreated by her husband, and ended up in hospital twice. All Dutch newspapers reported on the 'Fatma should stay' campaign (see, for instance: *Het Vrije Volk* 21-5-1982, *Het Parool* 21-5-1982, *NRC* 21-5-1982). Turkish women handed a petition to the government signed by 2656 people. Fearing a similar 'success' as in the case of Halice, the women's organizations added a third case while the Fatma campaign was still running. Onzüle Çete had been forced by her parents into an arranged marriage when she was eighteen and was left by her husband just after she had her first baby (*Het Parool* 12-7-1982).

The issue of a dependent residence permit was discussed at length in parliament. Questions were asked about the number of women who encountered these problems, about the number of women with a dependent residence status in shelters, and the number of women threatened with deportation. Rather surprisingly, the State Secretary of Justice failed to answer any of these questions; data were not available and no accurate data were provided by the campaigners. She, however, emphasized that women who landed in this position would be allowed to stay on humanitarian grounds. There was no need for a change of law, she stressed. The length of the waiting period had been chosen to avoid marriages of convenience. One Member of Parliament asked if this was not a Turkish or Turkish–Moroccan problem, rather than a problem which applied to all migrant women. The answer to that question was negative. The women in the shelters were definitely not all Turkish or Moroccan. The question however does show that a strong association had developed between the issue of dependency and being Turkish or Moroccan (Proceedings Lower House, session 1980–1981, 16102, nr. 9, p. 1–6). Throughout the campaigns, Turkish women in the Netherlands were presented as dependent and vulnerable, and Turkish society was portrayed as extremely backward. A Turkish women's organization in the Netherlands pointed out that this association between a dependent residence status and violence could influence the image of foreign (or Turkish) women negatively, and this would, in the long run, be to the detriment of women (Tinnemans, 1994, p. 182). Nevertheless, the Dutch women's organizations pushed forward with their campaigns along the lines criticized by the Turkish organization.

In 1983, the campaign did lead to a change in policy; women still had to be married at least three years, but they

only needed one year of residence in the Netherlands before they could apply for an independent residence permit (Kraus, 2003). The policy change was announced by the Secretary of State at the end of a conference on sexual violence against women and girls, thus reinforcing the association between dependent residence status, the vulnerable position of migrant women and violence (*Algemeen Dagblad* 9-6-1982). In two out of the three cases presented by the campaigners – that of Halice and Onzüle – the women did not meet the criteria of the new law. Also, under the new law they would not have been allowed to stay. For them personally this was of little relevance since they had been allowed to stay on humanitarian grounds. On a general level and combined with the fact that it was never clear from the beginning how many women were disadvantaged by the old law, this makes the success of the campaign questionable. It did, however, reinforce the image of vulnerable migrant women.

### 5. Mothers, children, and deportations

The third issue, that of deportation, became prominent in the 1980s and 1990s when the number of deportations increased due to the economic recession. Before that period there had also been deportations which had caused alarm. In 1945, for instance, just after the end of the war, a few thousand German men and their Dutch-born wives were expelled from the Netherlands (Bogaarts, 1981; Henkes, 1995). In the anti-German atmosphere of the immediate post-war years, these mixed marriages were discussed in terms of betrayal. A Member of Parliament – one of the very few women – and a Dutch cardinal stood up for these women and pleaded against the deportations, and in 1950 they were stopped.

In the early 1960s, the wives and children of some Spanish and Italian guest workers were deported from the Netherlands because guest workers were explicitly forbidden in their contracts to bring their families. The deportations caused a public uproar. Dutch employers also complained because they found it difficult to find men willing to work in the Netherlands since guest workers in Germany were allowed to bring their families. As a result, the policy changed in the Netherlands and from the mid-1960s onwards, guest workers were allowed to bring their families (Goedings, 2008).

In 1984, and again in 1986, the deportation of the Turkish woman Nurcan Fidan received widespread media attention. In 1984, Nurcan and her boyfriend, who lived illegally together in the Netherlands with their two sons, were forcefully removed from a Catholic church where they had sought refuge. They were

separated from their children and taken into custody at the local police station where they stayed for three days (*Pzc* 30-10-1984, *Trouw* 27-11-1984, *Trouw* 29-10-1984, *AD* 29-10-1984). Media attention focused on the separation of the mother from her children. After three days they were reunited and were allowed to wait for a decision on their case in the Netherlands. It was negative. In 1986, Nurcan and her five-year-old son were arrested and deported to Turkey, while her husband and her three-year-old son escaped arrest and went into hiding in the Netherlands. The deportation was covered by the evening news on national television. Campaigners were women involved with the church and women active in the Labour Party. After months of intensive campaigning, Nurcan was allowed to return to the Netherlands with her son (Proceedings Lower House, session 1986–1987, Appendix, p.357–358). No change in policy resulted from this campaign, but this was also not what the campaign had aimed at.

In 1989, a similar case occurred. Yildiz Saado, a Syrian woman living in the Dutch town Enschede, was arrested with her five-year-old daughter while her husband and other children escaped arrest and went into hiding. The separation of the woman from her children led to a large number of newspaper articles as well as severe unrest within the Syrian immigrant community, the occupation of churches and demonstrations. As in the case of Nurcan, the goal of the campaign was not to change the policy but to reunify a mother with her children. Yildiz and another woman were held in custody in a Dutch prison; the daughter was kept in a children's home. Both women and the child were deported, and this led to a riot at the airport because the press was kept at a distance. The women were put into prison upon their arrival in Damascus. After three days they were released. In Dutch parliament and in the press it was suggested that they had paid a ransom for their release from prison, but this could not be confirmed (Proceedings Lower House, session 1988–1989, 20 800 chapter VI, nr. 21, p. 1–9).

It would be wrong to claim that only the deportations of women and children led to protests. In 1996, there were massive protests against the deportation of the Turkish tailor Zekeria Gümüs, who lived illegally with his family in Amsterdam (Obdeijn and Schrover, 2008, p. 293). Gümüs was originally the figurehead of a campaign aimed at legalizing the position of people who had been in the Netherlands longer than six years, but could not prove it. During the campaign, the focus became Gümüs and the larger issue of legalization faded into the background. In several newspapers it was suggested that the family should be granted a permit on humanitarian grounds. After lengthy discussions in parliament, the conclusion

was however that Gümüs did not fit the requirements for legalization and had to be deported. The Gümüs family was escorted to Turkey by a large group of journalists.

In 1999, shortly after the deportation of Gümüs, fifteen Turkish women went on a hunger strike in a community centre in Amsterdam in an attempt to legalize their stay (*Trouw* 12-3-1999; *Algemeen Dagblad* 18-3-1999). Just like Gümüs, they could not prove they had been in the Netherlands long enough to qualify for legalization, and the evidence they offered to make their claims was much weaker than that offered by Gümüs. Most of the women were married and had children, who were not with them. One woman had to give up breast-feeding her child during the strike. The children were brought in regularly to visit their mothers (and watch them die, newspapers added). The women kept up their hunger strike for 39 days; 40 days were marked in the newspapers as the critical turning point. After that, hunger strikers could become seriously ill, euphoric, confused, paranoid and comatose. There was a high risk of sudden death (*Het Parool* 9-2-1999). Doctors declared in newspapers that group pressure and paranoia could lead to a dramatic scenario after 40 days (*NRC* 9-3-1999 and 11-3-1999). The Amsterdam mayor feared that women might actually die. After 39 days a solution was found. A committee formed by the mayors of large Dutch towns received a government assignment to reassess all pending cases individually and look not only at formal criteria but also at the extent to which people were integrated into Dutch society (*Algemeen Dagblad* 18-3-1999). Thirteen of the fifteen women got a permit. In the case of the hunger strikers, the risk of creating a precedent was downplayed because of the individual assessment. Differences between people regarding integration could always be found. Criteria were extremely vague. Although the claims of the women were weaker than that of Gümüs, they were allowed to stay, while Gümüs was not. It is difficult to say if the women (and their families) were allowed to stay because they were women, while Gümüs had to go because he was a man. The deportation of Gümüs had led to severe criticism, even towards those not directly responsible for the decision, such as the mayor of Amsterdam. The risk of a second dramatic deportation so shortly after that of Gümüs made several politicians eager to look for creative solutions. The fact that in this case the claimants were women will have helped in finding one.

## 6. Family life and family ties

The last issue discussed here was that of a reformulation of family ties and a discussion about what

constituted family life in the 1980s and 1990s (Van Walsum, 2003a). More or less parallel to this, a relative amount of attention in the 1980s was focused on cases in which children were brought to the country of origin of one parent (mostly the father), against the wish of the other parent (mostly the mother). The book by Betty Mahmoody and the 1991 film ‘Not without my Daughter’ based on it, were emblematic for both the type of cases and the media coverage. Mahmoody’s book, and several others like hers, presented Western women who married non-Western men as victims, but also as survivors who stood up for themselves and their children against alien (mostly Islamic) cultures of oppression (De Hart, 2001). In 1994, there was again much discussion on family ties when a new law aiming to restrict the number of marriages of convenience came into force. Dutch women involved in mixed marriages were presented as foolhardy or ignorant (De Hart, 2003). The child abduction cases were relevant to the cases discussed below because, also in the abduction cases, the rights of women to be with their children were seen as different from those of fathers. Discussions on mixed marriages were relevant as they created the impression that many migrants were trying to find loopholes in the law.

The court cases in the 1980s and 1990s revolved around the right to family life. The four court cases discussed here at some length are important because they show how ‘family’ and ‘family life’ were constructed. These cases did not deny the right of partners to live together, but they did deny the right of children to join their parents. Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (adopted by the Council of Europe in 1950) states that children have the right to grow up with their families. What the cases disputed was the right of children to come to the Netherlands to live with their families; the parents after all had the choice of leaving in order to join their children.

Ciliz came to the Netherlands from Turkey in 1988 and married a Turkish woman, who had Dutch residence rights (Case of Ciliz V. The Netherlands (Application No. 29192/95) Judgment Strasbourg 11-7-2000). In 1989, he was granted a residence permit which enabled him to live with his wife and work in the Netherlands. It was valid for one year. In 1990, he got a permanent residence permit. The following year his son Kürsad was born and shortly afterwards the couple separated. As his right to reside in the Netherlands had been dependent on his marriage, he lost this right from the moment of separation. In 1992, Ciliz was granted an independent residence permit in order to work in the Netherlands for

one year. In the period immediately following the separation, Cılız made no attempt to see Kürsad, but at a later stage he requested an arrangement concerning parental access. In 1993, Cılız became unemployed and lost the right to stay in the Netherlands. His deportation was justified by the protection of the economic well-being of the country, authorities argued. Cılız had only lived with Kürsad for eighteen months, he saw Kürsad irregularly and only briefly each time, and he contributed irregularly to the costs of Kürsad's upbringing and education. The State Secretary for Justice rejected Cılız's request to stay. The fact that his deportation would mean the separation from his child was not regarded as a problem. Cılız's ex-wife stated that she was not willing to cooperate in a formal access arrangement, since she felt that the applicant only wished to have such an arrangement in order to obtain a right to reside in the Netherlands. The Regional Court held that the economic well-being of the country outweighed his parental rights. In 1995, Cılız was placed in detention with a view to his deportation. He again requested a residence permit in order to work in the Netherlands, to be able to be with his child, and for reasons of a compelling humanitarian nature. A supervised meeting, overseen by among others the prison wardens, was organized between Cılız and his son. The State Secretary decided that it had not appeared that the relationship between the applicant and his son was meaningful, mutual or anything more than shallow, nor was it realistically foreseeable that a closer relationship would develop. Cılız was deported to Turkey on 8 November 1995. He however returned, found work and again requested permission to see his son. The case was brought before the European Court which decided that family life between father and son existed, and that did not stop existing because the parents were divorced. Deportation had caused interference with family life. The Court decided that the well-being of the country should not have prevailed over his rights and Cılız should not have been deported.

The Ahmut case – a few years later – was likewise important to discussions on what constituted family life and family ties (Van Walsum, 2003b). Salah Ahmut was born in Morocco in 1945.<sup>1</sup> He married in 1967 and had five children before divorcing in 1984. He moved to the Netherlands in 1986, and worked as a trader in

Rotterdam. The mother and children stayed in Morocco. Ahmut married a Dutch woman shortly after he arrived in the Netherlands. His first wife died in a car crash in 1987. The children were cared for by their grandmother in Morocco. The father financially supported his children, but he did not apply to the Dutch state for child benefits. In 1990, Ahmut received Dutch citizenship. In the same year, after just over three years of marriage, his second marriage was dissolved and in 1991 he married a Moroccan woman living in the Netherlands on a temporary permit. She got a residence permit for the purpose of living with her husband. Ahmut's oldest son came to the Netherlands illegally and was deported. Two other sons came to the Netherlands on a student visa. In 1990, his daughter Souad (aged 17) and son Souffiane (aged 9) came to the Netherlands on a tourist visa. They stayed one and half years after the visa expired. The grandmother, who was eighty years old, could no longer look after the children. Ahmut applied for a permit for them to stay in the Netherlands. The Dutch immigration authorities refused admission on the grounds that the effective family bond between Ahmut and the children had been severed. Ahmut requested a revision. In the meantime Souad and Souffiane returned to Morocco, where Souffiane was placed in a boarding school.

Ahmut took his case to Strasbourg. On November 28, 1996, the European Court of Human Rights in Strasbourg decided that the Dutch authorities' refusal to grant Souffiane admission had not been in violation of Article 8 of the European Convention. The Court decided that 'family life' between father and son existed. The son had a right to live with his family, but that did not mean that he had the right to do so in the Netherlands since Article 8 does not guarantee a right to choose the most suitable place to develop a family life. As the father had both Dutch and Moroccan nationality, the family could live in Morocco. Souffiane still had strong cultural and linguistic ties with Morocco. There was no obstacle that prevented the father from returning to Morocco, according to the court. Furthermore, by sending his son to boarding school, the father had him cared for in Morocco. On Ahmut's behalf it was argued that he had Dutch nationality and a business in the Netherlands. He was Souffiane's closest living relative. He supported Souffiane financially and visited him, while Souffiane also visited his father. Four out of nine judges did not agree with the decision issued by the European Court. Judge Valticos argued: "To these considerations [...] must be added a troubling feature. The father had acquired Netherlands nationality, and in any country, a national is entitled to have his son join him, even if the son does not have the same nationality. How does it come

<sup>1</sup> 21702/93 Ahmut v. the Netherlands 28 November 1996 Judgment Entry of the child of a Dutch nationalised man into the Netherlands <http://www.unhcr.org/refworld/country,,ECHR,,MAR,456-d621e2,3ae6b69014,0.htm> consulted November and December 2008.

about that in the present case this right was refused him? I cannot think that it is because the Dutch father was called ‘Ahmut’. However, the suspicion of discrimination must inevitably lurk in people’s minds.” Judges Martens and Lohmus argued: “Salah Ahmut has achieved settled status in the Netherlands, in fact the best possible settled status: he has acquired Netherlands nationality. Admittedly, one might be tempted to doubt whether he has acquired that status by means which are above suspicion.” The judges here refer to the fact that Ahmut had acquired his status via his marriage to a Dutch national which lasted just long enough to give him this right, and had remarried a Moroccan national almost immediately after his divorce. “However, since the Government have not relied on this feature of the case and have accepted that Salah Ahmut is a Netherlands national, the principle of equality requires that the Court apply the same standards as it would apply to those whose Netherlands nationality is irreproachable.[...] After Souffiane’s mother died, Salah Ahmut decided to take care of his son who [...] was only nine years old. Whether or not his father had then started a new family in the Netherlands, whether or not Souffiane might possibly be brought up by his grandmother, his uncles, his brothers or sister, is all, in principle, immaterial as long as Souffiane’s father is ready, willing and able to do so. If a father who is a Netherlands national wants to live with and care for his nine-year-old child in the Netherlands, both father and child are, in principle, entitled to have that decision respected.” Ahmut had a very strong case but the right of his son to join him was denied.

The Ahmut case was followed shortly afterwards by the case of Sinem Sen, which was on major points similar to the Ahmut case, except for the outcome (Van Walsum, 2003b). Zeki Sen had arrived in the Netherlands from Turkey in 1977 and married in Turkey in 1980 (02036 Ministry of Foreign Affairs to chairperson of the Lower House, The Hague 22-1-2002). His wife joined him in 1986, leaving their three-year-old daughter Sinem in her aunt’s care. The couple had two other children, who were born in 1990 and 1994 in the Netherlands and had lived there with their parents since birth. In 1992, the couple asked permission for Sinem, who was nine years old at the time, to come to the Netherlands. Permission was rejected by the Ministry of Foreign Affairs, which considered that Sinem no longer belonged to her parents’ family unit, but had become a member of her aunt’s family. Unlike Ahmut, the parents of Sinem could not prove that they had supported her financially. An application for a review of the decision was rejected on 10 May 1993. They appealed to the European Court which noted that Sinem had spent her whole life in

Turkey and had strong links with the linguistic and cultural environment of her country in which she still had relatives. However, there was a major obstacle to the rest of the family’s return to Turkey. The couple had settled in the Netherlands, where they had been legally resident for many years (but unlike Ahmut they did not have Dutch nationality), and two of their three children had always lived in the Netherlands and went to school there. Concluding that the Netherlands had failed to strike a fair balance between the parents’ interest and their own interest in controlling immigration, the Court held, unanimously, that there had been a violation of Article 8 of the European Convention of Human Rights. Sinem was allowed to come.

In 1993, nine-year-old Francine Nsona arrived in the Netherlands from Zaire with her aunt Julienne, who had refugee status and lived in the Netherlands. Her claims to a right to stay were much weaker than those of Sinem or Souffiane. The aunt pretended that the child was hers, but already at the airport it was found out that she was not. Authorities also doubted if Julienne really was Francine’s aunt. Francine was deported to Zaire 13 days later. She was an orphan. Her father had been killed by the Zairian dictator Mobutu and her mother died in a refugee camp. The deportation of Francine was broadcast by Dutch television. She was supposed to have been accompanied during her return flight by a Zairese woman, but this woman disappeared when the plane made a stop in Zurich, leaving Francine on her own. Francine stayed a week by herself at Zurich airport. A Dutch carriage builder – Karel Zoet – saw the deportation of Francine on national television and started a campaign entitled ‘Francine should return’. The newspapers reported him saying that he actually belonged to those people who thought the Netherlands were full, and that he knew nothing about Zaire. Deporting a little orphan girl on her own was however inhumane. All newspapers reported on his campaign. Zoet went everywhere in the Netherlands, and tried to talk to politicians (*Trouw* 17-12-1996). Questions were asked in parliament (Proceedings Lower House, session 1993–1994, 19 637, nr. 102, p 1–10; Proceedings Lower House, session 1994–1995, appendix 109–110). Politicians claimed that Francine was living with her family in Zaire, but the organization, which came out in her support, claimed she was not and was now missing. Zoet managed to obtain more information after a while. She had been brought to ‘vague’ family members who had put her out into the street after a few days. After that she was living in an orphanage. Missionary nuns tracked her down in Zaire, and churches helped her out financially. The nuns bought her a ticket to the Netherlands and a

passport, but at the last moment she was removed from the plane. A second attempt – one year later – was successful, and she managed to arrive in the Netherlands. Karel Zoet took her home with him. All people from the voluntary organization brought her presents, and everybody wanted the girl to spend some time with them. Zoet's own children treated her like a doll. In the end, her aunt got custody over the child and Francine got the right to stay in the Netherlands.

The last case – in 1999 – revolved around an unnamed woman from the Philippines who disputed her pending deportation. Her case was much less strong than that of Ciliz, but unlike him she was never deported. She had arrived illegally in the Netherlands in 1989, married a Dutch man in 1991 and had a daughter in 1992. The child had Dutch citizenship via her father. The couple divorced in 1996. After her divorce she, like Ciliz, was to be deported. Her daughter, who was seven at the time, was to follow her to the Philippines, according to a decision of the courts. The mother requested the right for her daughter to grow up in her country of birth and for her own right to bring her up in the Netherlands. It was argued in court that the child had ties with Dutch society – she spoke Dutch, had Dutch friends and went to school – but could still very well adjust to Philippine society. Furthermore, deportation need not lead to a disruption of family life, since the girl could accompany her mother. Opponents also mentioned that there was no contact with the father, and that the mother, since she was unemployed at the time, was low skilled and did not speak Dutch well, would not contribute to the economic well-being of the country. The court decided that the state had the right to deport the mother and her child, that the continued presence of the woman did not contribute to the well-being of the country, and that restrictive immigration policy should be maintained, but that despite these considerations the state would grant the applicant the right to stay in the Netherlands and care for her daughter.

The four court cases are different from the three other issues discussed above as they had less to do with the victimization of migrant women in public and political discourse. The cases show how the construction of 'family ties' and 'family life' not only changed over time, but, more importantly, how differences were made between migrant men and women. Different conclusions were reached in cases that were remarkably similar to each other (as noted in: 020319 Ministry of Foreign Affairs to the chair person of the fixed committee of foreign affairs, The Hague, 8-7-2002). Nine-year-old Francine was allowed to join her aunt, and likewise nine-year-old Simen could join her mother and father.

The nine-year-old half-orphan Souffiane was however not allowed to join his father, who held Dutch citizenship. Ciliz was deported, making it impossible to maintain family life with his son, while a woman from the Philippines successfully claimed the right to stay and bring up her daughter in the Netherlands, rather than the both of them being deported, as the court had suggested initially. The cases show how also in the court cases differences were made between men and women in deportation or migration policy.

## **7. Discussion and conclusion**

Vulnerability is – of course – a staple element in the construction of (Western) femininity, as is the construction of women as mothers and wives, while men are not primarily constructed as vulnerable, or as fathers and husbands, but as economic actors. Not surprisingly, ideas about proper roles for men and women and about femininity and masculinity affected migration and integration policies. In this article, I have shown how the victimhood discourse, in combination with seeing all migration of women in the context of family migration, was used to gain rights for migrant women. Migrant women profited from this discourse as did some of the stakeholders. This 'success' however came at a price. Part of the vulnerability discourse was stressing the backwardness – and the otherness – of the societies the women came from or the migrant communities in which the women lived. The result of the success was that migrant women were increasingly seen as vulnerable, but also as very different from Dutch women.

In the first case presented in this article, it was pressure from family members with Dutch nationality, plus an emphasis on the 'closeness' of people who were perhaps not legally, but in essence socially Dutch, which made it possible for 'compatriots' without Dutch nationality to 'return home' to the Netherlands (although most of them had never been there before). They were 'family'; biologically to some and emotionally to many more people in the Netherlands. Towards the end of the campaign, it was the emphasis on the vulnerability of women who got stuck in the colony which made a rather creative solution politically and socially acceptable.

In the second case, rules about the right to family reunification and formation created dependent residency, almost exclusively for women. The dependency was regarded as a problem, and associated with all kinds of other negative issues, such as domestic violence and combined with ideas about repressions of women within Islam. Women with dependent residence status were presented as victims from the start of the campaigns. The

outcome was victimization of a much larger group of migrant women. The image that was created alienated migrant women. It fitted with pre-existing ideas about ‘third-world women’ as family and domestically orientated, and offered a counter identity for the Western emancipated women, who led the campaigns.

The deportation cases showed that women were deportable – as in the case of the Syrian women – but that their deportability was less than that of men; the fifteen Turkish women had much weaker claims than Gümüs. Again, like in the case of the social Dutch, individualizing cases – singling out individual women, dramatizing their stories with lots of details, and detaching them from bigger issues – worked for women, but less for men. As in the case of the social Dutch, this made a creative solution – assessing individual cases rather than applying or adjusting formal rules – possible.

Lastly, the court cases show how ideas about family ties and family life resulted in different decisions being made in the cases of men and women. Especially the case of Ahmut offered the Dutch politicians a possibility to show their stern face, befitting the increasingly restrictive policy of that period. The cases that included women and children offered fewer possibilities in this respect.

Throughout the whole period from 1945 to 2005, the immigration policy of the Netherlands was in essence restrictive, even during the period of guest-worker migration (Obdeijn and Schrover, 2008). The victimhood and family discourse was used, as the examples above showed, by policymakers to give a humanitarian face to an essentially restrictive policy. The interaction between victimhood discourse and the portrayal of women’s migration as family migration, was thus not only to the short-term advantage of women, but also to the advantage of policymakers.

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