

# A MIGRATION POLICY FOR THE FUTURE

POSSIBILITIES AND LIMITATIONS

JEROEN DOOMERNIK  
RINUS PENNINX  
HANS VAN AMERSFOORT



**IMES**

## THE MIGRATION POLICY GROUP

---

The Migration Policy Group is committed to improving policy development on migration and related issues through the promotion of facilitated exchange between key stakeholders in Europe, North America and the international community, and through the production of substantive, comparative policy analysis. MPG bases its activities on the belief that high-level discussion and debate *within and between countries* among representatives of all sectors of society – public, private and business – can contribute to the identification and implementation of innovative and effective solutions to the challenges posed by migration.

To stimulate this discussion, MPG has instigated a new publication series inviting experts in the field to examine key issues in migration and related policy areas. In the first of the series, **A Migration Policy for the Future : possibilities and limitations**, *Jeroen Doomernik*, *Rinus Penninx* and *Hans van Amersfoort* survey the international migration literature and examine whether policy instruments developed by the Dutch state to deal with migratory developments over the last twenty years could have broader implications for future migration policy development at the level of European Union decision-making.

## ABOUT THE AUTHORS

---

*Dr Jeroen Doomernik* is lecturer in German studies at the Department of Human Geography and senior researcher at the Institute for Migration and Ethnic Studies (IMES). *Dr Rinus Penninx* is the Director of the IMES. *Dr Hans van Amersfoort* holds the chair of population geography at the Department of Human Geography and is also an IMES staff member.

## PUBLISHED BY :

---

### MIGRATION POLICY GROUP

174 rue Joseph II, B-1000 Brussels

Tel : 32(2) 230 59 30

Fax : 32(2) 280 09 25

E-mail : 101324.622@compuserve.com

# CONTENTS

---

<b>1.</b>	<b>Introduction</b> .....	5
<b>2.</b>	<b>The context : the Netherlands and increasing globalization</b> .....	9
2.1	Introduction .....	9
2.2	Globalization and its consequences .....	11
2.3	National autonomy and the welfare state .....	13
2.4	International migration .....	15
2.5	A new migration period ? .....	20
<b>3.</b>	<b>Current migration movements to the Netherlands and present policies</b> .....	23
3.1	Introduction .....	23
3.2	Dutch citizens .....	25
3.3	Family reunion and formation .....	28
3.4	Asylum seekers and refugees .....	30
	- Exclusion policy .....	33
	- Assessment and the awarding of status .....	36
	- Reception and integration .....	38
3.5	Employees .....	41
3.5.1	Citizens of Member States of the European Union .....	41
3.5.2	Foreign employees from outside the EU .....	45
3.6	Illegal immigrants .....	49
3.7	Non-active immigrants and students .....	55
3.8	Conclusions .....	58
<b>4.</b>	<b>Migration processes and their background</b> .....	61
4.1	Introduction .....	61
4.2	A heuristic model in explanation of migration .....	61
4.3	Factors in the countries of origin .....	65
4.4	Intermediary structures .....	67
4.5	Factors in the destination countries .....	68
4.6	Factors within immigrant groups .....	70
4.7	Conclusions .....	71
<b>5.</b>	<b>Policy options</b> .....	73
5.1	Introduction .....	73
5.2	Principles .....	73
5.3	A transparent immigration policy .....	77
	- Labour immigration by quota ? .....	78
	- Asylum migration .....	82
	- To return or to stay ? .....	84
5.4	Improved regulation of unavoidable migration .....	85
5.5	Prevention of forced migration .....	88
5.6	Conclusion .....	92



### INTRODUCTION

---

Since the fall of the Berlin Wall, there are very few subjects which have excited public debate as much as the threatened arrival of foreigners in Europe, especially in the Netherlands. Pictures have been painted of massive, uncontrollable streams of migrants heading for the riches of the West. It is quite clear that these prophecies of doom bear little resemblance to reality, but that does not mean to say that the Netherlands has not become an immigration country, to some degree against its will. But what is the precise extent of this immigration, and what does it consist of? Which processes underpin the migration? To what degree can the Dutch state control these processes, and in turn control the migration itself? The need for an understanding of the facts, the processes, and the possibilities of control in policy - whether at the Dutch or European level - provided the occasion for the Temporary Scientific Committee on Minorities Policy (Tijdelijke Wetenschappelijke Commissie Minderhedenbeleid, TWCM) to request the Institute for Migration and Ethnic Studies at the University of Amsterdam to conduct a preliminary study into these matters.

This study is primarily based on the academic literature already in existence, and on that basis an overview is given first of the changing context in which international migration takes place at the present time. There follows an analysis of the precise development of migration and of migration policy in the Netherlands in the last two decades. The third stage is made up of a presentation of the current academic understanding of the processes of international migration. These three stages provide (at least in theory) a survey of what is possible and what is not possible in migration policy. Because academic or scientific considerations can only occasionally be translated directly into politics and policy, at this point we depart from the strictly academic pathway and consider which of the suggested methods of influencing international migration are feasible and achievable, and which of them are capable of winning political support. Especially concerning the technical, legal, and political feasibility of the various possible control mechanisms, we have conducted a series of consultations with other researchers who work on migration, with specialists from the various Dutch political parties, with lawyers, with policy makers from the Ministry of Internal Affairs and from the Central Labour Agency (Centraal Bureau

Arbeidsvoorziening), and with representatives of national and international organizations which are centrally involved with migration, such as Refugee Work (Vluchtelingen Werk), the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the European Council on Refugees and Exiles (ECRE), the International Law Practitioners Association (ILPA), the Churches Commission for Migrants in Europe, and the International Labour Organization (ILO). The assistance of all these persons and organizations has been of great importance to the completion of this preliminary study; although we have tried to represent faithfully their remarks and advice, it is not necessarily the case that the opinions formulated in this study are shared by those we have consulted.

The structure of the preliminary study generally follows the order of the procedure outlined above. In Chapter 2 a number of developments are sketched which have caused migration to and from the Netherlands to change in some respects in comparison with its previous manifestations. The context in which international migration takes place has changed radically, and so too, therefore, has the nature and extent of migration. It transpires, however, that the consequences of these changes are equally important, namely, the changing attitudes of government and society towards migration. Ambivalent attitudes, by means of which certain forms of migration are welcomed and stimulated, while others are excluded and restricted, have become operative in the context of an internationalized and globalized world. This same changing context has consequences for the setting in which migration policy must be designed and executed : the context is becoming ever more international.

We move, in Chapter 3, to an account of the actual development of migration and of the policy enacted in the Netherlands during the last twenty years. The various policy instruments employed by the Dutch government to influence migration are analysed, together with the results achieved. Because the methods employed to affect migration differ radically between the various categories of migrant, a distinction is drawn in the analytical description between the different legal categories of migrants. These analyses make clear, on the one hand, that the range of policy instruments employed to date has been somewhat one-sided, and on the other hand, that the possibilities and instruments vary considerably between categories.

In Chapter 4, the reasons for this state of affairs become apparent : a summary is presented of the conclusions of the academic literature on the subject of the underlying causes and processes of international migration, from which it is clear that the factors and variables which generate migration and determine its direction are only partially to be found in Europe or in the Netherlands. That is to say, the majority of these factors lie outside the reach of the policy instruments of the receiving state.

Finally, in the last chapter, we investigate whether there are other conceivable policy instruments at the level of either the Dutch state or the European Union, which might lead to a greater control of migration. As already indicated, in this chapter we step aside from a strictly academic approach, and for that reason our points of departure and assumptions will be made as explicit as possible.





## CHAPTER II

### THE CONTEXT : THE NETHERLANDS AND INCREASING GLOBALIZATION

---

#### 2.1 Introduction

If we examine the current debate on migration and on control of migration in the Netherlands, it is possible to gain the impression that it is concerned with an entirely new phenomenon. This is true only to a very limited extent : migration is a universal phenomenon, known in every period of history. It is of course the case that, historically, the patterns and size of migration movements have varied considerably. For example, in the Netherlands, immigration took place over a long period - roughly from 1580 to 1800 - on a much greater scale than it does today. Then followed an extended period when emigration exceeded immigration (1870-1960). Only after 1960 was the situation again reversed, with immigration overtaking emigration once more.<sup>1</sup> Changes over time in migration movements may be explained in terms of particular circumstances in the areas of origin and destination in a given period, and the reactions evoked both amongst potential migrants and the receiving society. As a first step in the direction of systematization, it makes sense to divide the past into periods characterized by particular combinations of factors and structures which may encourage migration in one period, or repress it in another.

The Centre for the History of Migrants (Centrum voor de Geschiedenis van Migranten) has recently attempted just such a exercise in periodization.<sup>2</sup>

---

<sup>1</sup> For a comprehensive account of immigration in the Netherlands during the last four centuries, see Lucassen, J., and R. Penninx, *Nieuwkomers, nakomelingen, Nederlanders. Immigranten in Nederland 1550-1993*. Amsterdam (Het Spinhuis) 1994. For a survey of West European migration since 1650, see Moch, L.P., *Moving Europeans. Migration in Western Europe since 1650*. Bloomington and Indianapolis (Indiana University Press) 1992; for this century, and for the Netherlands in particular, see Muus, P.J., *Internationale migratie naar Europa. Een analyse van internationale migratie, migratiebeleid en mogelijkheden tot sturing van immigratie, met bijzondere aandacht voor de Europese gemeenschap en Nederland*. Amsterdam (SUA) 1993. For an attempt at a world-wide history of migration, see Potts, L., *The World Labour Market. A History of Migration*. London (Zed Books) 1990.

<sup>2</sup> Centre for the History of Migrants (the Institute for Migration and Ethnic Studies at the University of Amsterdam, the Institute for the Sociology of Law at the Catholic University of Nijmegen, the International Institute for Social History in Amsterdam, and the Department of History at Leiden University), *Een samenwerkingsprogramma*. Amsterdam (Het Spinhuis) 1995, pp. 12-13.

According to this division, the first period covered the time of the Dutch Republic, from the late sixteenth century up to and including the eighteenth century, in which towns and provinces organized their own policy towards newcomers on an autonomous basis. The second phase started at the beginning of the nineteenth century, when the rise of the nation-state meant that the legal distinction between citizens<sup>3</sup> and aliens began to play a central role in the unified state; this period continued until the First World War. In the third phase, which ran from 1914 to about 1960, the ideological division between citizens and aliens was actually put into practice by means of border guards and immigration controls. The fourth phase ran from 1960 to the mid-1980s, and was characterized by the tension between the ideology of the welfare state, which strives to guarantee equal rights and minimum standards for all legal residents, and the ideology of the nation-state, which reserves such rights for its own citizens. Since the mid-1980s a fifth phase has begun, in which those political changes in particular which have to do with the move towards European unity are playing a central role. This periodization rests primarily on the criteria of constitutional form and policy towards newcomers; clearly it would be possible to employ other criteria, for example economic ones. As will become apparent later in the chapter, the choice of criteria has a significant influence on the periodization.

In this chapter we shall examine the specific constellation of factors which is now in place, and when precisely the present period actually began; we shall consider factors at both national and international level. The existing academic literature suggests that important changes have come into play in recent decades: for example, economists speak of 'world labour markets', migration specialists discuss 'the changing course of international migration', or 'the age of migration',<sup>4</sup> and when social scientists consider the consequences of migration, they use expressions like 'nations unbound'.<sup>5</sup>

---

<sup>3</sup> From a legal point of view, the term 'citizen' is somewhat ambivalent, when it is used to refer to people who hold a particular nationality. In the interests of making the text more readable, however, in this preliminary study we shall use the term to mean a national of a particular state.

<sup>4</sup> The latter phrase serves as the title of a notable inventory of the causes and consequences of global migration in the 1990s: Castles, S., and M.J. Miller, *The Age of Migration. International Population Movements in the Modern World*. Basingstoke/London (Macmillan) 1993.

<sup>5</sup> Amongst the economists, see Potts, *The World Labour Market*, op. cit.; among migration specialists, see OECD, *The Changing Course of International Migration*. Paris (OECD) 1993. An example from the last category is found in Basch, L., N. Glick Schiller, and C. Szanton Blanc, *Nations Unbound. Transnational Projects, Postcolonial Predicaments and Deterritorialized Nation-States*. Langhorne (Gordon and Breach) 1994.

The central question which we pose in this chapter is the following : what are the important elements in this new constellation of factors ? On the basis of the dominant themes in the literature, we shall examine briefly three central aspects : internationalization and globalization together with their consequences; the role of the state, both internal and external; and the background to present-day international migration.

## **2.2 Globalization and its consequences**

Over recent decades internationalization and globalization have made rapid and incontrovertible progress. This development is manifested in a number of areas, not least in that financial markets have become emancipated from national borders and national authorities. Following the free movement of capital, economic activities and products in general are now also restricted far less by national boundaries : markets are becoming world-wide, and many companies no longer limit production to a single country. The development of technology in information, communication, and transport has evidently contributed to this new economic and financial world order; similarly it has assisted internationalization in cultural and political matters.

From a historical point of view, none of these developments is, in itself, entirely new, though in recent decades they have assumed an unprecedented scale and intensity. An increasing share of the world and its people have become affected by them. Seen in these terms, the world has indeed become the long-heralded 'global village', in which capital, goods, and units of production, but also information, ideas, and cultural products can transcend borders and geographical distances with more and more ease. It seems that the increasing movement of people, partly as a result of a more intensive and relatively cheap system of transport, is an inevitable result or even a part of this globalization.

In actual fact, this picture reveals only part of the truth. At the same time there is taking place what might be called a 'fragmentation' of society, at least in western societies like that of the Netherlands; it is manifested in such things as increasing individualization and secularization. The previously numerous and self-evident functions of primary groups such as nuclear and extended families, and of institutions like the churches or the trade unions, have proved particularly susceptible to erosion, as has the idea of national community, from both within and outside : from within due to the highly

international orientation of many of its citizens and to a more-or-less permanent immigration of foreigners, and from outside due to such developments as the move towards European unity.

External global involvement and internal fragmentation are not of course unrelated. It transpires that these new border-hopping networks are highly specialized; they provide only one service, and it is for individuals to select, as it were, various differing elements, to combine them, and to mould them into a coherent whole. This leads to considerable diversity at the level of the individual. At the same time it also means that the more comprehensive but prestructured support that primary groups, communities, and institutions offer becomes much less acceptable; the social control of such groups is much easier to avoid with the help of physical mobility and the availability of external contacts. Due to the fact that networks of individuals and organizations are now far less locally or territorially restricted than before, culture becomes much less of a characteristic of territorial units. People's increasing mobility further increases that trend.

However, these statements are in need of further qualification, particularly because the preceding account suggests that the process has been a linear one. The truth is otherwise, especially because not everyone has been affected by these processes to the same degree or in the same way. For example, for people with an advanced education and from a city or cosmopolitan background, internationalization processes can offer new opportunities, and adaptation to the new environment need not pose serious problems. For other groups in the population, these processes form the basis on which specialized international and global subcultures can grow up, of youth, music, or art, for example. For yet other groups these same developments can mean a deterioration in their prospects and in the worst cases a social marginalization. This is the case for the unskilled, whether allochthonous or indigenous, for whom the new global division of labour in the post-industrial era has meant unemployment of an increasingly structural nature. At the same time, fragmentation and the declining value of the trusted functions of primary groups, communities and institutions at individual level can lead to confusion and insecurity and even to social isolation. The combination of these two particular elements - social marginalization and isolation - can be a catalyst for the emergence of movements against globalization and change. At the same time, welfare states appear to be less capable of protecting the weak in society by their mechanisms of economic

redistribution.<sup>6</sup> In these situations the changes are seen as threatening, and an effort may be mounted to preserve or rebuild more trusted structures. One of the manifestations of this in a number of immigration countries is a revitalized nationalism which lays new emphasis on 'the nation', and which excludes certain immigrants and their descendants from that concept.<sup>7</sup>

### **2.3 National autonomy and the welfare state**

It has already become apparent that radical changes have taken place in the role of the state or nation-state; in particular, the concept of the state as the dominant political actor seems to have been overtaken in a number of areas. That becomes immediately obvious in the field of finance and the economy, if we recall the 'national reconstruction project' which was carried out under the strict supervision of the Dutch state in the twenty years following the Second World War: in those days, for example, full employment was still a respectable and achievable target. The reversal came in about 1975, when it became increasingly clear that national governments had little influence on international financial markets, on economic processes, and especially not on developments in employment opportunities.<sup>8</sup> The new international division of labour appeared to imply that a section of the economically active population, namely the unskilled, would be structurally excluded from the labour market, something which is predicted to continue for the foreseeable future. In the early stages the situation was compensated for by the provisions of the welfare state in the form of transfer payments for unemployment, disability, and social security. In the longer term, it seems at the present moment that financial and economic support for these provisions might be in danger.

Economies of scale also mean that the political autonomy of states has been compromised. In the Dutch and European context a clear illustration is the progression from the European Coal and Steel Community (ECSC) through the European Economic Community (EEC) towards the present quest for political unity in the European Union. As a result of this process

---

<sup>6</sup> In the words of one particular author: the state is pulling back from the 'social contract' which it was thought had been signed with all its citizens. Harris, N., *The New Untouchables. Immigration and the New World Order*. London/New York (I.B. Tauris) 1995.

<sup>7</sup> Castles & Miller, *The Age of Migration*, op. cit., pp. 30, 245.

<sup>8</sup> Even earlier, in the early 1930s, the powerlessness of capitalist states to affect or steer such processes had become evident. See, e.g., Hobsbawm, E., *Age of Extremes. The Short Twentieth Century 1914-1991*. London (Abacus) 1994.

the Dutch state is now faced either formally or practically with endless external limitations in areas in which it used to make autonomous policy, and a good example is the Dutch position with regard to migration policy in the context of the EU. Increasingly, the state is confronted with political issues which go beyond its powers of control, and this is not only true of economic and financial matters; examples come to mind of the prevention of war, combating poverty and hunger (especially in the Third World), managing the world economy, and the preservation of human rights. These matters demand transnational institutions, which reduce the scale of the managerial territory of the state.

It is not only the role of the state in international relations with other states which is the subject of change; the state's role in relation to its own citizens or residents is also in flux. Developments such as world-wide communications and satellite television have transformed a nation's subjects (or at least the more privileged amongst them) increasingly into citizens of the world. In addition, migration has meant that a rising proportion of residents have originated from elsewhere. In principle, these same communication systems also give immigrants the opportunity to retain close contacts with their countries of origin.<sup>9</sup>

In summary, the changing role of the state in international relations is undermining the state's autonomy; at the same time, changing internal relations are undermining the state's national characteristics as well.

A third important aspect concerns the development of the welfare state. The welfare state was set up in a period when the frame of reference was the nation, when the role of the state in the regulation of employment and of financial and economic affairs was still central, and when there was a likelihood of consensus about many important aspects of policy.<sup>10</sup> That consensus about the welfare state and who belongs to it is now being threatened by a number of social problems for which the state has no definitive answers: for example, the abuse or improper use of social security, taxation, and subsidies; calculating behaviour on the part both of individual citizens and of companies, organizations and institutions; and a threatened social dichotomy between those who are economically active and

---

<sup>9</sup> These arguments are articulated in, e.g., Basch, et al., *Nations Unbound*, op. cit.

<sup>10</sup> The minorities policy of the 1980s made an important contribution to changing the welfare state from being exclusively concerned with its own nationals, to ministering to all legal residents. This implied a further move away from the 'nation-state'.

those who are not. Attempts to close off the welfare state to uninvited newcomers, and the renewed discussion about integration and the position of immigrants, are similarly related to these issues.

The crisis of the welfare state is partly due to the diminishing financial support available. The government has tried a number of ways of resolving the problems, including expenditure cuts, privatization of government functions, and attempts to get intermediate social structures like the family and community to take over yet other government functions. The state is apparently no longer in control of these social processes, because the operating conditions of the welfare state are to a large extent externally determined by globalized financial and economic processes.

## **2.4 International migration**

Internationalization and globalization have of course had consequences for the movement of human beings. In the first place, there have been direct effects. Migration movements of all manner of characteristics and compositions were brought into being or intensified, for example, mobility related to the operations of multinational companies and organizations, and increased mobility, especially on the part of highly trained personnel in various fields. The labour market for the highly educated has become increasingly international.<sup>11</sup> The rapid growth in recent decades of the Japanese and American migrant populations, for example, and that of citizens of EU Member States, illustrates the effect in the Dutch case. In general, this migration linked directly with internationalization is not viewed as problematic. The migrants concerned are usually highly educated; their arrival is well prepared by their companies or institutions. Their stay is often temporary and is seen as being in the economic or general interest of the Netherlands.

---

<sup>11</sup> The minorities policy of the 1980s made an important contribution to changing the welfare state from being exclusively concerned with its own nationals, to ministering to all legal residents. This implied a further move away from the 'nation-state'.

<sup>11</sup> See, for example, Stalker, P., *The Work of Strangers. A Survey of International Labour Migration*. Geneva (ILO) 1994. Stalker calls this particular category of migrants 'professionals', and distinguishes them from four other prominent types: settlers, contract workers, illegal immigrants, and asylum seekers and refugees. See also Findlay, A.M., 'New Technology, High Level Labour Movements and the Concept of the Brain Drain', in: OECD, *The Changing Course*, op. cit., pp. 149-160.

At the same time, there are also indirect consequences of this internationalization which we have outlined, namely the immigration of people who arrive uninvited. The debate about Dutch immigration policy is almost exclusively concerned with these categories, because this migration is generally seen as undesirable.

There are a number of factors which mean that immigration to developed countries in general, and so to the Netherlands as well, is high and will remain so. The rapid expansion of the range of means of communication has meant that many more people, or potential migrants, have access to information about possible destinations: in recent decades television has reached even the rural areas of developing countries. This implies that increasing numbers of people nurture ambitions which are those of the Western capitalist states, such as the drive for material gain and consumption, while at the same time in their own country they seldom if ever have the resources to realize these ambitions. Together with a rapid growth in population, this can lead to enormously expanded migration from rural areas to the urban centres of the Third World, but also to those of the rich West.

Secondly, the density of the transport infrastructure has increased all over the world, and simultaneously the price per kilometre and the time needed for travel have declined in relative terms. This need not be a cause of migration in itself, but it facilitates international migration, and given high migration pressure, does so to a considerable degree.

Finally, it is significant that to an increasing extent there is a global labour market, in part regulated, where it concerns the more highly educated, but at the same time elusive of regularized recruitment processes and labour markets where it concerns the unskilled and semi-skilled. In the economy of what she calls 'the global city', Sassen observes a growing dichotomy between the formal economy on the one hand, which centres mainly on well paid professionals, and an increasingly informal sector on the other hand, which is characterized by flexibility (in other words, unregulated labour), and consists principally of the provision of services which are often personal.<sup>12</sup> Often it is the immigrants, both legal and illegal, who find their niche in this sector. The demand for labour in this part of the economy encourages the arrival of new immigrants; at the same time their presence enables the existence and growth of this informal economy. In other words,

---

<sup>12</sup> Sassen, S., *The Global City: New York, London, Tokyo*. Princeton/Oxford (Princeton University Press) 1991.



the growth of the informal economy and immigration are inextricably entwined, and these processes are mutually reinforcing. It is true that these processes are to be found mainly in cities which are far larger than the Dutch ones, but it is unlikely that they do not also take place on a more modest scale in the Netherlands as well.

Certain authors, such as Harris, have pointed out that to restrict or even regulate migration which springs from economic necessity is in conflict with the reality of a global economy.<sup>13</sup> After all, they argue, economic activity in general and production in particular can only reach their full potential if they are complemented by a global labour market. It may be true that the global free movement of labour will eventually assist prosperity in the industrialized world, but it is virtually unthinkable in the context of present-day, national and international, political and social relations.

There are other more specific reasons which lead us to believe that immigration in the Netherlands will remain high in the near future; the most important are listed here in summary form,<sup>14</sup> and we shall return to them more fully in Chapter 4.

The first set of factors is located in the country of origin; they are known as the push-factors. Developments in these countries point in the direction of increasing migration pressure.<sup>15</sup> In the first place it is clear that demographic growth in the world is extremely uneven: the developed countries are experiencing weak or even negative growth, while the population of developing countries will continue to grow rapidly, at least in the near future. The unevenness will therefore increase in the medium term.<sup>16</sup>

---

<sup>13</sup> Harris, N., *The New Untouchables*, op. cit.

<sup>14</sup> This will be done on the basis of the model devised by Van Amersfoort and Penninx, who distinguish between three separate migration-generating types of factors. See Amersfoort, H. van, and R. Penninx, 'Regulating Migration in Europe. The Dutch Experience, 1960-92', published in a special issue of *The Annals of the American Academy of Political and Social Science: Miller, M.J., Strategies for Immigration Control. An International Comparison*. (*Annals AAPSS*), 534 (July 1994), pp. 133-146.

<sup>15</sup> Migration pressure is defined here as the number of migrants who want to move, and who have the means to do so.

<sup>16</sup> See, inter alia, Golini, A., A. Righi, and C. Bonifazi, 'Population Vitality and Decline. The North-South Contrast', in: OECD, *The Changing Course*, op. cit., pp. 19-36. See also the United Nations' draft of *World Population Monitoring 1993*. New York, 1994, which announces: 'It is estimated that the number of international migrants in the world, including refugees, is in excess of 125 million, about half of them in developing countries. (...) In addition, given the pressures for migration are increasing in a number of developing countries, especially as their labour force continues to grow, undocumented or irregular migration is expected to rise.' (p. 4.)

Economic contrasts in the world are not diminishing; rather they are on the increase.<sup>17</sup> In a limited number of countries it is true that vigorous development has taken off, but the position of most 'developing' countries has become worse in relative terms. Moreover it appears that economic growth in developing countries has not been translated into greater employment opportunities.<sup>18</sup> On the contrary, as development gets under way with its concomitant processes of restructuring, an increase usually occurs in unemployment in the early stages, and therefore also a rise in migration pressure.<sup>19</sup>

Political factors have also contributed to an increase in migration (or flight) in recent decades.<sup>20</sup> Decolonization after the Second World War led to independence for many new states, which, with borders that were arbitrarily drawn, especially from an ethnic point of view, have often experienced problems in forging any kind of national unity or 'nation building'. Instability or even disintegration in many young states can lead to conflicts which often take an extremely violent course, especially with the help of the remnants of the 'benevolent' arms deliveries that took place in the Cold War era, and as a result they give rise to huge streams of refugees.<sup>21</sup> The same state of affairs has also been taking place in Eastern Europe, since the collapse of the Soviet Union.

Finally, recent studies point to ecological developments i.e. structural disturbance of the natural environment as a source of migration movements.<sup>22</sup> Major disturbances such as deforestation, desertification, and floods generally occur much more frequently in less developed countries, which is principally the result of the reckless exploitation of natural

---

<sup>17</sup> See, e.g., Overbeek, H., 'Mondialisering en regionalisering. De wording van een Europese migratiepolitiek', *Migrantenstudies*, 2 (1994) pp. 66-84.

<sup>18</sup> See, inter alia, the contribution of Emmerij, L., to OECD, *The Changing Course*, op. cit., p. 123ff.

<sup>19</sup> Castles & Miller, *The Age of Migration*, op. cit., p. 94.

<sup>20</sup> See also the U.S. Committee for Refugees, *World Refugees Survey 1993*, Washington 1993, pp. 50-51. This survey estimated that on 31 December 1992 there were a total of 17,556,900 'refugees and asylum seekers in need of protection and/or assistance', of which 3,423,600 were located in Europe and North America (which is less than 20 per cent).

<sup>21</sup> Here we follow the the line of analysis in Zolberg, A.R., A. Suhrke, and S. Agayo, *Escape from Violence. Conflict and the Refugee Crisis in the Developing World*. New York/Oxford (Oxford University Press) 1989.

<sup>22</sup> See Pachler, C.M., *Environmental Displacement*. Amsterdam (M.A. thesis, Department for International Relations and Public International Law, University of Amsterdam) 1993.

resources, caused in turn by uneven or elusive economic development. Thus it is clear that all these factors are mutually reinforcing.

The second set of factors is to be found in the destination countries. In the longer term, the scale of immigration is determined by a combination of the demographic structure and the economic development (or labour market) in the target country. If the natural population increase remains the same or continues to decline, then in the medium term the Netherlands will be heavily dependent on immigration for a balanced development of its labour force and its total population. The economically active population in the Netherlands is already ageing, and after the year 2010 it will decline in absolute terms. In Germany, where the ageing process is already advanced, the need for immigration has been the subject of widespread discussion in society for some time.<sup>23</sup> There is little evidence of consensus in that country when it comes to the implementation of proposals, but it is generally agreed that some form or another of immigration is necessary to keep the economy on track.

In the Netherlands, the situation *in the short term* is rather different; alongside the fact that *most* of the immigrants and their descendants have found a permanent foothold in the labour market, there is nonetheless a disproportionate level of unemployment to be found among certain immigrant groups. This has led more than anything to immigration policy becoming as restrictive as possible, particularly with regard to potential immigrants for whom there is at present no position in the formal labour market. At the same time, of course, immigration which is perceived as being in the national interest (economic or otherwise) continues unabated.<sup>24</sup>

Some qualification is required of this general sketch of the present situation. If we look at the lower levels of business activity, then it becomes clear that not everyone shares the desire for a restrictive policy to the same extent. Some sections of Dutch economic production apparently harbour a need for temporary cheap labour, which is not available from the current labour reserve under present circumstances. In certain sectors of intensive agriculture and horticulture, like flower bulb or asparagus farming and

---

<sup>23</sup> Kulluk, F.E., 'The Political Discourse on Quota Immigration in Germany', *New Community*, 22 no. 2 (April 1996), pp. 301-320; Cohn-Bendit, D., and T. Schmid, *Heimat Babylon. Das Wagnis der multikulturellen Demokratie*. Hamburg (Hoffmann & Campe Verlag) 1992. See also Kalma, P., 'De Fabels van Lafontaine', *De Volkskrant*, 8 March 1996.

<sup>24</sup> In the light of experience to date, no problematic discussions are to be expected about increasing levels of immigration on the part of American and Japanese employees of multinational corporations or subjects of the EU Member States.

greenhouse market gardening, this need has existed for some time, as it has in parts of other economic sectors as well. The existence of this demand, combined with strict rules for entry, tends to lead to the occurrence or increase of illegal immigration.

The third and final set of factors which stimulate migration is to be found in the settled immigrant groups themselves. Once they have been admitted and have been in the country for some time, immigrants obtain increasing rights of residence within the welfare state, and also rights to family reunion and family creation (albeit under certain conditions). For some groups, like Turks, Moroccans, and Surinamese, these have been the principal grounds for entry to the country for a considerable time, since about 1975.<sup>25</sup> In addition, the formation of immigrant communities leads to new immigration, whether legal or otherwise, including that of teachers in the programme in OETC (education in own language and culture) and imams, but also entrepreneurs and even workers (for example in the Turkish clothing industry in Amsterdam). Immigration on the part of these groups seems to have passed its peak; however, the admittance of asylum seekers at present will undoubtedly lead in time to new forms of this kind of secondary immigration.

## **2.5 A new migration period?**

We return now to the original question : has a specific constellation of factors arisen which would define the recent period as a new departure ? What are the most important components of the new constellation, and when did the watershed occur which separated it from the previous period ?

One of the most important differences with preceding periods has to do with the workings of the international economic system, the international division of labour, and their consequences. Whereas in the past economic growth as a rule meant growth in employment, and therefore in time led to labour migration, we appear now to be in a period in which that rule is no longer valid, or at any rate much less so. Western economies like that of the Netherlands are becoming more and more specialized in hi-tech, labour-extensive production and the provision of high-value international services. In this situation, economic growth can quite readily go hand in hand with a decline in the demand for labour. In more precise terms, the demand for

---

<sup>25</sup> See, e.g., Muus, P.J., and R. Penninx, *Immigratie van Turken en Marokkanen in Nederland*. The Hague (Ministerie van Binnenlandse Zaken) 1991.

unskilled and semi-skilled labour is in steep decline, while that for highly skilled labour is on the increase. The turning point for this new development appears to have occurred around 1975, although its effects only became visible later on. They were first manifested in a direct sense in the rapidly rising unemployment levels of the 1980s, and thereafter indirectly when the welfare state was no longer able to buy off the consequences with what originally had been generous allowances for those who fell outside the provisions of the labour market.

As far as immigration was concerned, these developments led to the emergence of a clear distinction between what we have called the direct and the indirect consequences of globalization. Migration on the part of the highly educated, which is a direct consequence of globalization, continues as usual and is even promoted by various national and international measures such as exchange programmes for students, researchers, and the highly educated, and the free movement of people and labour within economically homogeneous areas like the EU. On the other hand, for those migrants who, as an indirect consequence of globalization, are applying in increasing numbers for entry to the more prosperous countries, a burgeoning arsenal of policies aimed at restricted access or exclusion is under construction. This is happening at national level in the Netherlands, and simultaneously at the level of the European Union.

The second major change was a political one. The rapid internationalization in the form of progress towards political union in Europe and the loss of national autonomy in various areas was a gradual process, and only became obvious in the 1980s. At that stage the crisis of the welfare state also came unmistakably to light. It is probable that both these developments were to a large extent the result of economic changes which had taken place beforehand, which makes it reasonable to place the starting point of the new period in the mid-1970s. It also fits well with the emergence of opposition movements to globalization in the Netherlands and further afield in Europe : the hesitant rebirth of the extreme right in the Netherlands, and the rise of racist political parties as well can be dated to the middle of the 1970s, though only later did these movements achieve significant support.<sup>26</sup> Other reactions against globalization were also noticeable outside the industrialized world, for example in the form of religious and other forms of fundamentalism.

---

<sup>26</sup> See Donselaar, J. van, *Fout na de oorlog. Fascistische en racistische organisaties in Nederland 1950-1990*. Amsterdam (Bert Bakker) 1991; and Buijs, F.J., and J. van Donselaar, *Extreem rechts. Aanhang, geweld en onderzoek*. Leiden (RUL/LISWO) 1994.

We have made the point that none of the individual aspects of internationalization and globalization was actually new, at least not for the western world. But the scale of the integration of the economies of developing countries into the world economy, and of the accompanying cultural transformation and soaring urbanization, were genuinely new and irreversible.<sup>27</sup> The convergence of these processes, their complex interaction, and the way in which they reinforce each other, together seem sufficient cause to speak of a new constellation of factors. It is true that this new constellation, including the movements in opposition to globalization, was a long time in attaining its present form, but the basic change which formed the motor of these developments seems to have occurred around 1975.

The contradiction which has been apparent ever since is of a world which, on the one hand, stimulates the increasing mobility of capital, goods, information and a particular group of people, but which on the other hand wishes to combat undesirable migration. The way in which the Dutch government has dealt with this contradiction over the last few years is the subject of detailed attention in the next chapter.

---

<sup>27</sup> For a lively account of this process see Hobsbawm, *Age of Extremes*, op. cit., p. 364f.

## CHAPTER III

### **CURRENT MIGRATION MOVEMENTS TO THE NETHERLANDS AND PRESENT POLICIES**

---

#### **3.1 Introduction**

Since the rise of the nation state, governments have reserved to themselves the right to determine who may remain within the country's borders and who may settle there. Right of settlement was reserved in principle for citizens; the privilege could be either granted to or withheld from non-citizens. Since then, the Netherlands, like many other states, has surrendered part of this jurisdiction by submitting itself to international treaties, of which the most important are the Refugee Convention, the EU treaties, and the European Convention on Human Rights.

Nonetheless it is not disputed in political circles that the Netherlands should continue to pursue an independent immigration policy. There is also a consensus to the effect that the policy should be restrictive. In the world of politics it is assumed that there are limits to the absorption capacity of the country (although it may be hard to define those limits). Immigration, therefore, should be in the interests of Dutch society, or should serve humanitarian principles, and otherwise should take place as little as possible. The reasons put forward in justification of a restrictive policy are economic, social or socio-psychological, and demographic. There follows a brief exposition of each of these categories.

The economic rationale is mainly concerned with the labour market. The continuing high levels of unemployment mean that, with regard to those who present themselves unsolicited as workers, their immigration is seen as undesirable. In the case of arriving labour migrants, the 'Dutch national interest' needs to be served, and the work in question may not be anything which could be carried out by any unemployed persons who are already legally resident in the Netherlands. We shall see that, in practice, there is not always agreement on the application of these criteria, or on the relationship between them.

The social and socio-psychological reasons are principally concerned with the question of whether immigrants can be satisfactorily received in society, and what the limits are in this respect. Hammar and Freeman lay emphasis on the close connection between migration policy and integration

policy,<sup>28</sup> and indeed a consistent and coherent integration policy is not possible without a clear migration policy. In Dutch politics, a rather one-sided construction is put upon this point : the integration of newcomers who are already in the country is only possible if further immigration is restricted. This is held to be essential for the adaptation of the immigrants to the receiving society, and also for the continuation on the part of the indigenous population of a willingness to receive. It also means that a sensitivity exists, which is often very pronounced indeed, about any increase in immigration, whether or not it is expected.<sup>29</sup>

The demographic consequences of immigration, in the short term at least, provide the final legitimation for a restrictive policy. The fact that the Netherlands is already one of the most densely populated countries in the world means that a further population increase at the hands of immigration is seen as undesirable. That concerns the short term; in the longer term, the arguments are more complex. On the one hand, there is rising concern about the progressive ageing of the indigenous population, which will have serious consequences in the medium term for the economically active population and for the financing of the welfare state. Due to the fact that immigrants tend to be relatively young, continuing immigration may help to arrest that process. However, only after the year 2020 will it be possible for immigration to take place without a resulting increase in the total population.<sup>30</sup> To start with, then, immigration will cause the population to grow further. On the other

---

<sup>28</sup> Hammar, T. (ed.), *European Immigration Policy. A Comparative Study*. Cambridge (Cambridge University Press) 1985; Freeman, G.P., 'The Consequences of Immigration Policies for Immigrant Status: a British and French Comparison', in Messina, A.M., et al. (ed.), *Ethnic and Racial Minorities in Advanced Industrial Democracies*. New York (Greenwood Press) 1992, pp. 17-32.

<sup>29</sup> For example, the panic which overtook many politicians and policy-makers when emigration became possible from Eastern and Central Europe was translated into wild scenarios in which the arrival of millions was prophesied. In the mean time, of course, we know that nothing of the sort occurred. Before that, the expansion of the EC was accompanied in several countries by fears of a huge increase in immigration, which in the event never materialized. See, e.g., Penninx, R., and P. Muus, 'No Limits for Migration after 1992? The Lessons of the Past and a Reconnaissance of the Future', *International Migration*, vol. 27 (1989), pp. 373-388.

<sup>30</sup> Beer, J. de, 'Bevolkingsprognose 1993: nog 2,5 miljoen inwoners erbij', *Maandstatistiek van de Bevolking* (1993/12), pp. 21-27.



hand, demographers are doubtful whether the ageing phenomenon can be arrested by immigration in the long term.<sup>31</sup>

In this chapter we shall analyse in more detail which categories of immigrants have established themselves in the Netherlands in recent decades, and which policies have been followed by the government. Because our eventual concern is to identify the ways in which immigration policy can be effective, the arrangement of the chapter is primarily organized on the basis of grounds for admittance, rather than the sociological characteristics of migrants, such as their motivation for migration. A prime distinction is drawn between Dutch citizens and those who are defined in legal terms as aliens. The latter category is further divided into citizens of other Member States of the European Union, and people from other countries. Within both these categories it makes sense to distinguish between people who arrive in the Netherlands in response to a demand on the labour market (whether it is explicit or implied), and those who travel for other reasons, such as the need to flee their country, or the desire to reunite with those who are already settled in the Netherlands.

### **3.2 Dutch citizens**

A primary distinction maintained by almost every state in determining who may or may not sojourn within its borders is that of nationality. People who hold the nationality of a state always have the right to stay in that country, and can never be excluded, even when they are guilty of serious crimes.<sup>32</sup>

We have no exact statistics for the number of Dutch people who live outside the country's borders, but the figures which were provided until 1988 by the Ministry of Foreign Affairs give us a provisional view.<sup>33</sup> On the basis of estimates made by diplomatic representatives and by the aliens police in

---

<sup>31</sup> Kaa, D.J. van de, *International Mass Migration: a Threat to Europe's Borders and Stability?* Postdoctorale Onderzoekersopleiding Demografie, PDOD-Paper No. 36, 1996; Kuijsten, A., 'The Impact of Migration Flows on the Size and Structure of the Dutch Population', in Voets, S., J. Schoorl, and B. de Bruijn (ed.), *Demographic Consequences of International Migration*. The Hague (Netherlands Interdisciplinary Demographic Institute) Report No. 44, 1995, pp. 283-305; and Winkelmann, R., and K.F. Zimmermann, 'Ageing, Migration and Labour Mobility', in Johnson, P., and K.F. Zimmermann (ed.), *Labour Markets in an Ageing Europe*. Cambridge (Cambridge University Press) 1993, pp. 255-283.

<sup>32</sup> Exceptions to this rule were to be found in the countries of the former Eastern bloc; even today there are occurrences of regimes making their citizens stateless and/or deporting them.

<sup>33</sup> See Muus, P.J., *Migration, Immigrants and Policy in the Netherlands*. Amsterdam (CEMIO/UvA) 1995, p. 77.

the relevant countries, a figure was reached at that time of 642,800 Dutch citizens living abroad.<sup>34</sup> This figure is not entirely accurate, because it is by no means certain that every Dutch citizen who goes to live abroad will inform the local consulate or embassy. Furthermore, it is often uncertain whether those who have reported their presence are still in the country in question some time afterwards. Because of the untrustworthiness of these figures, the estimates are no longer carried out. However, it can be assumed with certainty that the number of people living abroad with Dutch nationality, who might eventually return to the Netherlands, is considerable.

Who are these Dutch men and women? In the first place, a large number of people from the Netherlands have emigrated since the Second World War, especially to the 'classic' destinations like the United States, Canada, Australia, New Zealand, and South Africa. Between 1946 and the mid-1980s, over half a million Dutch people emigrated to the New World, with the help of the Emigration Service.<sup>35</sup> Many stayed, but significant numbers returned to the Netherlands after a while: either the new life had not delivered their expectations in economic terms, or they were tormented by homesickness. Of all the Dutch people who departed for Australia, Canada, and New Zealand in the period 1980-1984, almost a third were back in the Netherlands eight years later. Of the Dutch men and women who sought their fortune in the United States, in the same period almost 60 per cent returned.<sup>36</sup>

It is also possible for economic and political developments in the country of settlement to give cause for return to the Netherlands, and the temporary increase in return-migration from the Republic of South Africa is an eloquent example of just that. Between 1992 and 1994, 2,600 Dutch citizens who had previously resided in South Africa settled back in the Netherlands. 1,600 people without Dutch citizenship also arrived from that country, most of them on South African passports, and some of them at least will have been married to a Dutch citizen. Notwithstanding the political uncertainty in South Africa, in the same period nearly 1,200 Dutch men and women and 593 others also emigrated to South Africa.<sup>37</sup>

---

<sup>34</sup> This figure does not include the inhabitants of the Netherlands Antilles and Aruba.

<sup>35</sup> See, e.g., Elich, J.H., *Aan de ene kant, aan de andere kant. De emigratie van Nederlanders naar Australië 1946-1986*. Delft (Eburon) 1987.

<sup>36</sup> See Harmsen, C.N., 'Twee van de drie in Nederland geboren emigranten zijn binnen acht jaar terug', in *Maandstatistiek van de Bevolking* (1993/2), p. 10.

<sup>37</sup> These figures, and most of the following migration statistics, are taken from the CBS's *Maandstatistiek van de Bevolking*.

Secondly, there is a category of people who hold Dutch citizenship by virtue of having been born in one of the past or present overseas parts of the Kingdom of the Netherlands. Many of these Dutch citizens are already in the Netherlands. Immigrants from Surinam form the largest category. The exact number of people with Dutch citizenship still in Surinam is not known, but it is probably relatively small.<sup>38</sup> Despite the fact that the population of the Netherlands Antilles and Aruba hold Dutch citizenship, this does not by necessity carry a right of residence in the Netherlands; their access can be subjected to visa regulations, although this has not occurred to date.

Thirdly, there are the children of Dutch citizens. If at least one of the parents holds Dutch nationality, then his or her offspring and descendants also have access to Dutch nationality, at least for an extensive period. In the estimates cited above, this category is probably partially included, but more detailed information about its scale is not available.

In general terms, there are slightly more Dutch citizens who emigrate than Dutch citizens who immigrate or re-migrate. In the 1980s the two totals were in approximate balance, at around 34,000; in more recent years there has been a gradual tendency towards a negative migration balance amongst Dutch citizens. For example, in 1995 some 29,000 arrived, while more than 42,000 departed; almost half were heading for another Member State of the EU, amongst which Belgium and Germany were popular destinations. Those two countries were also the most important origin of returning Dutch citizens.

In short, it is clear that Dutch citizens are an important part of the continuous dynamic of departing and arriving people (who in 1994 totalled 63,155 and 99,311 respectively). In recent decades the immigration and emigration flows of Dutch citizens have more or less cancelled each other out, but if for whatever reason the large numbers of those holding Dutch nationality and living abroad decided to return to the Netherlands, there are very few legal means to dissuade them from doing so, as there are with the Antilleans and Arubans.

In the last few years increasing numbers of immigrants have obtained Dutch nationality. Whereas in 1990 3,026 Moroccans and 1,952 Turks were naturalized, in 1995 the figures were 13,474 and 33,043 respectively. Since

---

<sup>38</sup> Surinamese who were in Surinam at the moment of independence in 1975 automatically lost their Dutch citizenship; only in special cases were exceptions made to this rule in a transitional period lasting until 1980.

1990, 242,000 aliens have obtained Dutch nationality, including 25,000 Surinamese, 48,000 Moroccans, and 94,000 Turks.<sup>39</sup> These events mean that entirely new migration patterns may take place in the future. A Dutch citizen of Turkish or Moroccan origin can travel without restriction between the Netherlands and his country of origin, especially if he has not surrendered his original nationality. He can establish himself more or less permanently in the country of his birth without risking his right of free access or even renewed residence in the Netherlands.

### **3.3 Family reunion and formation**

Anyone who has legally settled in one of the Member States of the European Union or in one of the other partner states of the Council of Europe can claim the right to family life, as laid down in the European Convention on Human Rights.<sup>40</sup> This right is also incorporated in the EC Treaty, and awards the right to all citizens of the European Union. This means that Dutch citizens as well as foreigners have the right to bring over non-Dutch partners and children. Although there is no disputing this right, in the course of implementing it the Dutch government tries to apply some degree of regulation. For example, certain standards are required in matters of housing and the income of the partner already present in the Netherlands. There is a distinction drawn between Dutch citizens, citizens of EU Member States, and others : there is no requirement that Dutch citizens should have adequate accommodation. Furthermore, since 1993 other rules have been in force which mean additional disadvantages for immigrants. It is required that those who wish to form a family but who are not citizens of a EU Member State should have lived legally in the Netherlands for at least three years. In the case of family reunion, it is stipulated that it must occur before no more than three years have elapsed since the alien living in the Netherlands has met the relevant conditions.<sup>41</sup> Individuals who do not have right of permanent residence, such as those who hold only a Provisional Residence

---

<sup>39</sup> CBS, Maandstatistiek van de Bevolking (1996/4).

<sup>40</sup> Article 8 of the European Convention on Human Rights articulates the basic right to family life, but does not in any explicit way compel states to implement it.

<sup>41</sup> Kuijter, A., 'Recent Changes in Dutch Immigration, Nationality and Anti-Discrimination Law', in Muus, P.J., Migration, Immigrants and Policy in the Netherlands. Recent Trends and Developments. Report for the Continuous Reporting System on Migration (SOPEMI) of the Organisation for Economic Co-operation and Development (OECD). Amsterdam (CEMIO/UvA) 1993, p. 46ff.

Permit (Voorlopige Vergunning tot Verblijf, VVTV), are not permitted to be joined by their family members.<sup>42</sup>

A significant part of immigration to the Netherlands arises from family reunion and formation. It is not possible to derive from migration statistics the exact proportion attributable, but we can assume with a degree of certainty that the majority of migration on the part of Turks, Moroccans, and Surinamese in recent years has been based on family reunion, and to an increasing extent on family formation. The Central Bureau for Statistics (CBS) estimated that 27 per cent of the migration of Turks in 1991 consisted of those involved in family reunion, and 29 per cent in family formation. For Moroccans these figures were 37 and 31 per cent respectively, and for Surinamese both categories together accounted for approximately half the immigration figures. Between 1987 and 1991, the share for purposes of family reunion amongst the total immigration of non-Dutch citizens declined from 22 to 16 per cent of the total, while migration attributed to family formation increased from 19 to 23 per cent.<sup>43</sup>

Although the vast majority of this immigration is accountable to the Turks, Moroccans, and Surinamese who bring over their partners from their countries of origin, Dutch citizens in considerable numbers also take foreign partners. Belgium and Germany in particular provide relatively large numbers of spouses or partners. The CBS estimates that in 1991 11 per cent of migration from the EU and the European Economic Area was due to family reunion, and 14 per cent due to formation.<sup>44</sup> This form of migration is likely to increase rather than decline in the coming years, as a result of growing internationalization: whereas in 1978 just 5,262 Dutch citizens married foreign partners, the 1993 total was twice that. It is less likely that this will be true of Turks, Moroccans, and Surinamese. As the integration of the former guest-worker population and those of Surinamese background progresses, the orientation towards the country of origin will decline, including the choice of partner. In view of the basic right of family reunion and formation, the Dutch government can only exert indirect influence over this internal process amongst immigrant groups, namely by pursuing a policy aimed at integration. And this is what is happening at present.

---

<sup>42</sup> For a recent survey of the conditions for family reunion as they apply to people of various status, see the theme issue, on *Gezinshereniging*, of *MigratieInfo* (IOM), no. 3 (1996).

<sup>43</sup> Sprangers, A.H., 'Gezinsherenigende en gezinsvormende migratie, 1987-1991', *Maandstatistiek van de Bevolking* (1994/10), pp. 11-18.

<sup>44</sup> *Ibid.*, p. 14.

One indication of the increasing integration of the Turkish and Moroccan population in the Netherlands, or of parts of it, is provided by the rising number of naturalizations, and the rising number of marriages between people from these categories and Dutch citizens. In 1978, just 126 Turkish citizens entered marriage with a Dutch partner; fifteen years later the total had grown to 591. For Moroccan citizens these figures were 189 and 1065 respectively. These are hardly huge numbers, but the trend is plain to see. Further, it should be realized that these statistics can be misleading in two different ways. In the first place, a marriage between an immigrant who is already naturalized and a Dutch partner is not registered in the statistics as mixed. Secondly, the converse is also true : naturalized Dutchmen of Turkish or Moroccan origin who bring their partner over from the country of origin appear in the statistics as entering into a mixed marriage.

In recent years, immigration from Turkey and Morocco has been in steep decline, as has that from Surinam. In 1990, these countries sent respectively 12,821, 9,761, and 6,815 immigrants to the Netherlands. Five years later, in 1995, these totals had declined by two thirds, to 4,755, 3,099, and 1,716 respectively.<sup>45</sup>

### **3.4 Asylum seekers and refugees**

Since the mid-1980s, the number of asylum seekers in Europe has risen dramatically, and particularly in Germany. The Netherlands, too, was confronted with people seeking a safe haven, mainly from Asian and African countries, and for some years now from the former Yugoslavia. It is virtually incontrovertible that not everyone who presents himself or herself in the Netherlands as a refugee is subject to an equal risk of persecution in their country of origin. Government policy concerning those who arrive in the Netherlands is therefore designed to discover who is in need of protection and who is not. At the same time an exclusion policy is carried out in order to prevent refugees coming to the Netherlands and the other Member States of the EU; this is the object of the harmonization of European policy in these matters. An as yet underdeveloped sector of policy is concerned with the removal of the causes of flight.

Between 1985 and 1994, nearly 227,000 people applied for asylum in the Netherlands. A large number of cases are still to be decided, but in that same period about 57,000<sup>46</sup> of the requests dealt with were granted, and

---

<sup>45</sup> CBS, Maandstatistiek van de Bevolking (1996/4).

<sup>46</sup> CBS, Maandstatistiek van de Bevolking (1995/5), p. 7.

121,174 refused.<sup>47</sup> For the period from 1988 to 1994 more exact figures are available, which are presented in Table 1.

Table 1 : Applications for asylum dealt with, 1988-1994 (absolute figures), and the percentages granted A-status\*, another status\*, and rejected

<b>Year</b>	<b>Individual cases considered</b>	<b>A-status</b>	<b>Other status</b>	<b>Rejections</b>
1988	8,841	6.6 %	10.3 %	83.0 %
1989	11,782	8.6 %	9.1 %	82.1 %
1990	10,550	6.6 %	8.1 %	85.3 %
1991	17,239	4.5 %	11.1 %	84.4 %
1992	32,127	15.4 %	21.4 %	63.2 %
1993	30,771	33.6 %	15.2 %	51.2 %
1994	51,491	12.9 %	24.6 %	62.4 %

Source : Ministry of Justice, in Muus, P.J., Migration, Immigrants and Policy, op. cit., p. 62.

\* *For a definition of the various statuses, see section on 'Assessment and the awarding of status'.*

Refugees originate from many countries of the Third World, but also from Europe. Sometimes the flows are more or less constant for some years; in other cases war, civil war, and other political disturbances can lead to a sudden explosion of asylum seekers from a particular country. For example, in 1987 the largest groups of refugees came from Ghana, India and Turkey, while more recently most of the refugees are from the former Yugoslavia, and also in significant numbers from Somalia, Iran, Iraq, and the countries of the former Soviet Union (see Table 2).

<sup>47</sup> Calculation by the Foundation for Refugee Work (Stichting Vluchtelingen Werk) on the basis of data from the Ministry of Justice.

Table 2 : Invited refugees and requests for asylum in the Netherlands, 1977-1995

Year	Invited refugees for asylum	Requestss	Most common countries of origin			
1977	291	452	1 Pakistan	2 Chile	3 Ethiopia	4 Turkey
1978	324	964	1 Turkey	2 Ethiopia	3 Pakistan	4 Chile
1979	2458	816	1 Turkey	2 Ethiopia	3 Pakistan	4 Chile
1980	1625	976	1 Turkey	2 Ethiopia	3 Chile	4 Iran/Pakistan
1981	1179	832	1 Ethiopia	2 Pakistan	3 Iraq	4 Turkey
1982	513	840	1 Pakistan	2 Turkey	3 Iraq	4 Ethiopia
1983	406	1400	1 Surinam	2 Turkey	3 Pakistan	4 Sri Lanka
1984	481	2304	1 Sri Lanka	2 Turkey	3 Iran	4 Surinam
1985	440	4522	1 Sri Lanka	2 Turkey	3 Iran	4 Surinam
1986	371	3650	1 Turkey	2 India	3 Afghanistan	4 Iran
1987	532	13460	1 Ghana	2 India	3 Turkey	4 Zaïre
1988	782	7486	1 Ghana	2 Ethiopia	3 Iran	4 India
1989	596	13898	1 Somalia	2 Lebanon	3 Poland	4 Ethiopia
1990	701	21208	1 Sri Lanka	2 Romania	3 Iran	4 Somalia
1991	589	21615	1 Yugoslavia	2 Sri Lanka	3 Iran	4 Somalia
1992	643	20346	1 Yugoslavia*	2 Somalia	3 Iran	4 Sri Lanka
1993	659	35399	1 Bosnia-H.	2 Yugoslavia	3 Somalia	4 Iraq
1994	493	52576	1 Bosnia-H.	2 Iran	3 Somalia	4 Iraq
1995		29258	1 Bosnia-H.	2 Somalia	3 Iran	4 Iraq

\* From 1992 onwards : the former Yugoslav Republics of Serbia and Montenegro.

Sources : 1977-1986 : Gooszen, H., Vluchtelingen en asielzoekers; demografische en sociaal-economische positie in Nederland. NIDI-rapport no. 1. The Hague (NIDI) 1988, p. 7.  
 1987-1991 : Brink, M., and M. Pasariboe (ed.), Asylum Seekers in the Netherlands. Amsterdam (ISG/University of Amsterdam) 1993.  
 1992-1995 : CBS Maandstatistiek van de Bevolking (Feb.1996), p. 46.



In addition to the asylum seekers who come to the Netherlands more or less spontaneously, there is a fairly constant but relatively small flow of invited refugees. These are people who have already been recognized as refugees by the United Nations High Commissioner for Refugees, and who are received in third countries by means of international distribution formulae. Only a few countries admit refugees according to this procedure. On average between 500 and 700 people arrive each year in the Netherlands by means of this mechanism.

Whereas the total number of asylum seekers in 1994 was more than 52,000, the figure fell to roughly 29,000 in 1995, and the prognosis for 1996 assumes a further decrease to 15,000 - 20,000. This decline is probably not due to reduced migration pressure, which is more likely to have increased, but rather the result of the intensification of the exclusion policy and the tightening up of the conditions for admission to the asylum procedure.

The Dutch government has means available with which it can influence the migration of actual and potential refugees; it is making increasing use of those means and with mounting success, in the sense that the number of asylum seekers actually arriving and being admitted for consideration is declining.

### **Exclusion policy**<sup>48</sup>

The exclusion policy is manifested first of all in measures which deter asylum seekers from arriving in the Netherlands. Not all of these measures are new, but they are being applied on a greater scale and more intensively. A traveller from outside Europe who wishes to come to the Netherlands is required to be in possession of valid papers, and increasingly often he needs a visa, for more and more countries. If this is not in order on arrival, he is sent back. If he arrives by aeroplane or by ship, then the carrier is liable for his repatriation. In the case of repeated infringements of these rules, the carrier can also be fined. Because this involves high costs and other problems, it has entailed that in practice airlines examine their passengers' papers at the time of check-in. In a manner of speaking, the Dutch border post is being transported in this way to the country of origin, and being privatized into the bargain. The embassies in certain countries from which

---

<sup>48</sup> Here we take the term 'exclusion policy' to mean only those measures which are intended to prevent potential asylum seekers reaching Dutch territory in order then to put forward a request for asylum, and those measures which are intended to prevent asylum seekers gaining access to the procedures of consideration for asylum.

large numbers of asylum seekers originate are also now playing a greater role in identifying 'improper' escape routes, and to that end officials with special training in this area are being recruited.

Simultaneously a rapid increase has taken place in the percentage of visa applications which are refused by the Dutch political service, from 12.5 per cent in 1986, to 46 per cent in 1993, and 40 per cent in 1994. These figures can only be taken as indicative, due to the fact that they represent only those requests which have been forwarded for consideration to the Immigration and Naturalization Service (IND) at the Ministry of Justice, rather than applications handled independently by embassies or consulates.<sup>49</sup> Data on applications to and acceptances or rejections by Dutch embassies and consulates are not available.

A second set of measures has to do with not allowing access to asylum proceedings. The most important of these is the introduction of what is known as the 'safe country' principle, which can refer to the country of origin or to a third country where the asylum seeker is staying on the way to the Netherlands. If the person under consideration comes from a country in which the Dutch government thinks there is little need to fear persecution, then an application for asylum will make little progress. If the asylum seeker has previously put forward a request in one of the other signatory states to the Schengen agreement, or was ever in a position to do so, then this virtually excludes the possibility of a request for asylum in the Netherlands.

Since 1994, the most commonly employed criteria for declaring a request to be *a priori* disallowed or inadmissible have been the following :<sup>50</sup>

A request is evidently disallowed if the asylum seeker originates from a country deemed to be 'safe'. A list of these countries is drawn up by the Minister of Justice. This rule was formulated in emulation of legislation which has existed in Germany since 1993. At present the list consists of Bulgaria, Ghana, Hungary, Poland, Rumania, Senegal, Slovakia, the Czech Republic, and all countries in the European Union and the European Economic Area. Exceptions are only made to this rule if the asylum seeker can prove that there is evidence of persecution in his particular case.

---

<sup>49</sup> According to the Ministry of Foreign Affairs, these applications are mainly from countries of which the citizens may pose a potential threat to Dutch society. At the present time this applies to China, the countries of the Middle East, the former Soviet Union, and Libya. The Dutch diplomats in other countries may also call on the IND for advice in difficult cases.

<sup>50</sup> Kuijer, A., and J.D.M. Steenbergen, *Nederlands vreemdelingenrecht*. Utrecht (Nederlands Centrum Buitenlanders), third revised edition, 1992-1996, p. 94f.

A request is declared inadmissible if the asylum seeker has been in a position to put forward an application for asylum in one of the safe countries surrounding the Netherlands. In practice this rule is not applied if the asylum seeker has simply passed through such countries with the premeditated and verifiable intention of requesting asylum in the Netherlands, unless there is a repatriation or take-over agreement with the transit country in question. As yet, this rule is seldom applied in practice.

Furthermore, a request may be declared inadmissible if the asylum seeker is not in possession of valid papers to enable him to enter the Netherlands. A request for asylum can only be accepted if the asylum seeker presents it without delay at the border control or to the aliens police. If the asylum seeker neglects to do so, then in tandem with the rule adopted by the Schengen partners concerning safe third countries, this can mean that he is not able to put forward his application either in the Netherlands or in any of the neighbouring countries, however desperate his reason for flight may have been. This and other practices of implementing the policy increase the likelihood that asylum seekers end up in a cul-de-sac between the various countries, and so by force of circumstance they take on an 'illegal' status.

It is probable that in practice these measures have a selective effect, and give a better chance to those who have more resources than to those who do not. After all, in many cases now it is only those asylum seekers who have access to sufficient financial and other resources either to obtain the necessary travel documents (and possibly a visa, whether genuine or forged) by means of bribes, or to pay to be smuggled into the country, who actually arrive in the EU. Whether a person has access to resources has nothing to do with whether he is exposed to persecution. In general terms, the categorical and unconditional nature of these general exclusion measures calls into question whether they are reconcilable with the spirit<sup>51</sup> of the Refugee Convention to which the Dutch state has committed itself.

In Germany, the tightening up of the rules governing entry (which incidentally required a change in the constitution) led to a noticeable decline in asylum requests as early as 1993, and especially in 1994. The result was at first that more asylum seekers went to the Netherlands, but when the Dutch usage was adjusted in imitation of the German, the number of requests declined dramatically there too, and since then the leaders of the larger

---

<sup>51</sup> According to the letter of the agreement, exclusion is permissible: the Dutch obligations towards asylum seekers only arise at the moment they set foot on Dutch soil.

political parties in the Second Chamber of the Netherlands have expressed themselves satisfied. They do not consider any further tightening of the rules or of the implementation practice to be necessary. The delicate balance between humanitarian principles on the one side and political and social acceptance of continuing immigration on the other has thus apparently been restored for the time being, at any rate if we confine our attention to the national level.

### ***Assessment and the awarding of status***

The highest proportion receiving recognition among the people who nowadays submit an application for asylum is found with those from the former Yugoslavia, especially from Bosnia-Herzegovina. It is not seriously disputed that they had legitimate reasons for fleeing. However, in the cases of many other people there is little evidence of a similar consensus, which is reflected in the use of terms such as 'economic refugees'. It is not part of our brief here to pronounce on the legitimacy of reasons for flight. But it is clear that over the years, refugees groups of varying sizes have had their requests for asylum recognized as legitimate, and there is little basis for any assumption that such refugees will not continue to come to the Netherlands for the foreseeable future.

Although the question of which asylum seekers are recognized as refugees is one of government policy, the flexibility of that policy is limited. In the first place it has to follow international treaties, in particular the Refugee Convention of 1951 (amended by the New York Protocol of 1967). In consequence of the treaty, the Aliens Act in the Netherlands specifies that 'aliens who come from a country in which they have good cause to fear persecution as a result of their religious or political beliefs, their nationality, or their belonging to a particular race or social group, [may] put forward an application to the Minister to be admitted as refugees.'<sup>52</sup> When an application for asylum is considered, the terms 'good cause', 'fear', and 'persecution' are especially crucial.

After the mid-1980s, the interpretation of these terms in actual policy became more rigorous than before, in reaction to the rising numbers of requests for asylum (see Table 1); this led to a decline in the percentage of asylum seekers who were granted a right of residence, but also resulted in particular in a wider variety of residence statuses. Kuijer and Steenbergen express it in the following terms :

---

<sup>52</sup> Kuijer & Steenbergen, *Nederlands vreemdelingenrecht*, op. cit., p. 93.

Whereas the number of requests by aliens to be admitted as refugees increased considerably, the percentage granted declined equally fast. However, this did not mean that at the end of the day there were fewer asylum seekers who were permitted to remain in the Netherlands. Instead, rather than being awarded a right of residence as refugee (A-status) or as entitled to asylum (B-status), they increasingly received and still receive an 'ordinary' residence permit without limitations (C-status), or even more recently a Provisional Residence Permit (VVTV). An escape story which, ten years ago, would have 'earned' the A-status will only get the C-status now, if that.<sup>53</sup>

There is no longer any distinction drawn between A and B-status, because they differ hardly at all in content. Those who hold this status have rights to education, student grants and loans, assistance in finding accommodation, and other facilities which will help them to fit into Dutch society. These resources are not available, or at any rate not so quickly, to those who hold the C-status or a Provisional Residence Permit (VVTV). The last category, which also used to be known as 'tolerated' or displaced persons, carries only a relatively weak residence title, and hardly any access to special facilities. In these cases, at any point in time the original grounds for the award of status can be reviewed to establish whether they are still valid. A Provisional Residence Permit is awarded to those about whom it has been ascertained that they are not refugees in the sense of the Refugee Convention, but who cannot at that moment be deported because of humanitarian or practical considerations. On the strength of the applicable case-law, the holder of a VVTV receives a normal residence permit after three years.<sup>54</sup> Until that time he or she does not have full access to the labour market,<sup>55</sup> and has no rights to family reunion. In practice this often means that only those whose application for asylum has resulted in a definitive rejection are not in fact regarded as immigrants; neither are they listed as such in the population registers. It does not mean, however, that these people leave the country : actual deportation does not occur in every case. Some are instructed that they should leave the country within a given period, but without any check on their departure; other rejected asylum seekers escape actual deportation by going underground. The numbers of those concerned are unknown.

---

<sup>53</sup> Ibid.

<sup>54</sup> Ibid., p. 56.

<sup>55</sup> Muus, Migration, Immigrants and Policy, op. cit., p. 44.

## *Reception and integration*

Once an asylum seeker is admitted to the formal procedures, a considerable interlude may elapse before a definitive decision can be arrived at, and until such a time the applicant is taken care of. In so doing, there has been an attempt in recent years to make the Netherlands less attractive for asylum seekers. The reasoning behind this is based on the assumption that the quality of the reception itself could exercise an independent attraction, an assumption which is scientifically unproven and difficult to demonstrate. A summary of the most important changes is presented below.<sup>56</sup>

Until 1987, policy towards asylum seekers was in the main ad hoc. On the one hand there were the invited refugees, who arrived in the Netherlands mainly under the auspices of the UNHCR; on the other there were the relatively small numbers of people who, unsolicited, presented themselves in the Netherlands with a request for asylum. They were accommodated in decentralized locations, often in the larger cities. When larger numbers of Tamils began to arrive in the Netherlands from the middle of the 1980s onwards, the procedures which had served until then came under pressure, and for that reason a special arrangement was made for this category of asylum seekers, called the Regulation for the Care and Accommodation of Tamils (*Regeling Verzorg Verblijf Tamils, RVVT*). Because of its particular nature, this arrangement came to be known by the nickname of the 'Bed, Bread, and Bath Regulation', which arose from the fact that the Tamils, in contrast to other asylum seekers, were not given access to social security or other facilities which form the foundation for a more-or-less normal existence in society, while waiting for the outcome of their hearings. In the course of the mid-1980s, not only ever-increasing numbers of Tamils were finding their way to the Netherlands, but also asylum seekers from countries such as Ghana, India, Pakistan, and Bangladesh. Partly as a result of this, it was no longer appropriate to maintain special arrangements just for the Tamils, and so the RVVT served as a blueprint for the more comprehensive Regulation for the Reception of Asylum Seekers (*Regeling Opvang Asielzoekers, ROA*), which came into effect in 1987.

This ROA provided for a sober but humane reception, as it was termed, in asylum seekers' centres (centralized reception) and ROA housing (decentralized reception). Asylum seekers no longer had access to social security while they were waiting for a decision in their cases, and instead

---

<sup>56</sup> Our principal source is the chapter on refugees and asylum seekers in Muus, *Migration, Immigrants and Policy*, op. cit.

were given modest sums of pocket money. The principal motivation behind this step was that the Netherlands should not be perceived as too attractive a place for asylum seekers. Only after a positive outcome in his case could an asylum seeker be housed elsewhere. After a time it transpired that this had in itself become an awkward bottle-neck, because accommodation in normal housing was far from easy in most municipalities. Together with other factors, this was one reason for an increasingly restrictive admittance policy. In addition it transpired that initial, provisional admission to the country usually resulted in the eventual grant of a residence title (generally after three years), even if the final decision was negative.

As a result, in 1992 there was a further attempt to bring about a more effective admittance policy, which was manifested in the New Admittance and Reception Model for Asylum Seekers (Nieuwe Toelatings- en Opvangmodel voor Asielzoekers, NTOM). In 1994, registration centres (Aanmeldingcentra, ACs) were set up in Zevenaar, Rijsbergen, and Schiphol, and their implementation was intended to result in a quick selection, within twenty-four hours, between potentially authentic asylum requests, and clearly unsubstantiated or inadmissible requests, with a move to rapid deportation in the latter case.

In practice, this accelerated procedure as outlined in the NTOM model has only worked in part. At the time of writing, reports appear with great regularity in the Dutch media about the slow handling of requests for asylum. Apparently it is not always easy to distinguish, within twenty-four hours, between clearly unsubstantiated requests, and applications with a good chance of success. Furthermore, even those likely to succeed often take longer to deal with than expected (originally, the expectation was less than a month), and finally it seems that it is often impossible to arrive at a definitive decision in asylum cases within the planned six months. While this is all meant to be taking place, the asylum seekers are put up in the ACs, where they are largely deprived of education and other facilities which might eventually expedite their integration into Dutch society.

Probably the most important reason for allowing asylum seekers and holders of Provisional Residence Permits (VVTVs) little or no access to the labour market is that the government is concerned that it would have the effect of attracting potential asylum seekers. In addition, it might further reduce the chances that an asylum seeker might actually leave the country after a negative decision in his case at the end of the day.

It is illuminating to compare these notions with those which are current in Norway, for example. There the asylum seekers more or less immediately

have the right to look for work (which of course does not mean they are always successful).<sup>57</sup> According to the Norwegian way of thinking, the process of integration is not only delayed by an extended period of waiting (in a reception centre or elsewhere), but may be permanently frustrated because during this interval the asylum seeker may experience emotional problems and may lose his capacity for self-reliance.<sup>58</sup> In addition it means a failure to mobilize potential labour resources, and unnecessary capital waste. The conclusion is therefore that rapid integration is in the interests not only of the asylum seeker, but also in those of the Norwegian state. This is especially true if the request for asylum is eventually granted; but even if the asylum seeker has to go back at the end of the day, work experience is valuable to him or her :

Experience has shown that those who master their life in exile, often are better qualified for managing the transition that is involved in re-establishing oneself in the country of origin. Thus there is no contradiction between measures aimed at facilitating an active, self-reliant life in Norway and measures aimed at facilitating repatriation.<sup>59</sup>

Furthermore it is taken as read that a positive experience of migration will considerably increase the willingness of asylum seekers to return to their country of origin, whether they are recognized as refugees or not, when the political situation there takes a turn for the better.

We have referred to this example not so much to prove that there is no attraction exerted by free access to the labour market (for that at any rate seems more plausible than the attraction of a comfortable reception), but more to show that it is possible to take a quite different view of the balance of the various arguments in the whole matter of dealing with asylum procedures and their consequences.

---

<sup>57</sup> See the memorandum, *Bescherming en verblijf. Contouren voor een toekomstig asiel- en vluchtelingenbeleid*, issued by VluchtelingenWerk [Dutch Refugee Council], May 1996; and also *Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia, Summary Description of Asylum Procedures in States in Europe, North America and Australia*. Geneva, October 1995, p. 204.

<sup>58</sup> Cf. the recommendations of the Temporary Scientific Committee on Minorities Policy, in *Tijdelijke Wetenschappelijke Commissie Minderhedenbeleid (TWCM) Kaderadvies, Eenheid en verscheidenheid: op zoek naar de balans. Beschouwingen over immigratie- en integratiebeleid*. Amsterdam, 1995, p. 51.

<sup>59</sup> Norwegian Ministry of Local Government and Labour, *Refugee Policy 1995*, cited in *VluchtelingenWerk, Bescherming en Verblijf*, op. cit., p. 11.



### 3.5 Employees

For those who travel to the Netherlands in order to work, there are different admittance criteria applied to different categories; therefore we shall distinguish from the start between those who are citizens of EU Member States, and those who are not. In admitting non-EU citizens, the question at issue is whether or not a 'Dutch interest' is being served. If it is not, then the entry of the person in question is deemed to be less desirable, and the granting of a residence or work permit is therefore less likely. In the practice of recent decades, it appears that the more highly educated are more likely to serve a 'Dutch interest' than the semi-skilled or unskilled, and so the restrictive entry policy is directed particularly towards this latter category.

The existence of these arrangements does not, however, automatically mean that people without these permits are not in fact active in the labour market. We shall do our best in our deliberations to take account of this category of 'workers without documents', who are usually referred to in the Netherlands as 'illegals'.

#### *3.5.1 Citizens of Member States of the European Union*

Within the EU there is in principle a right of free movement for all EU citizens, which does not, however, mean that there is an concomitant principle of free settlement. This has been devised mainly in the interests of those who wish to establish themselves in another EU Member State for the purposes of conducting paid work, or as self-employed. As far as the formation and reunion of families is concerned, and for those who are not economically active and for students, other rules apply which are often more restrictive. We return to that subject below.

If a citizen of the EU<sup>60</sup> wishes to travel to the Netherlands because he or she has been offered work there, then the situation is unambiguous, and the Dutch government will put not obstacles in the way of such employees, at least in theory. Things are different if the citizen of the EU wishes to seek work in the Netherlands. That is also possible, but a number of qualifications need to be borne in mind. There is an unrestricted term of three months,

---

<sup>60</sup> Since 1994, this has also included the citizens of Norway, Liechtenstein, and Iceland (the remaining members of the European Economic Area).

during which a citizen of the EU may remain in the Netherlands and look for work. If that is the explicit purpose of his or her presence in the Netherlands, then he or she may claim an extension to this unrestricted term. There is no specification of the precise duration of the extension, but generally one is talking of at least a further three months.<sup>61</sup> The accompanying condition is always that the person seeking work makes no claim on the Dutch public purse. Although the rules are very clear, in practice a number of problems arise. The aliens bureau (in Amsterdam, for example) has apparently been known to demand of citizens of the EU that they be in possession of a residence permit before they may accept work.<sup>62</sup>

If we examine the migration statistics of EU citizens arriving in and departing from the Netherlands (Table 3), then it is clear that for some considerable time there has been a positive migration balance: in other words, there are more EU citizens who establish themselves in the Netherlands each year than there are those who leave. The surplus consisted of about 3,000 people p.a. from 1981 to 1985, but from the mid-1980s an unmistakable growth set in. Only after 1992 did the surplus decline again, and in 1994 it stood at just under 6,000.

---

<sup>61</sup> Kuijer & Steenbergen, *Nederlands vreemdelingenrecht*, op. cit., pp. 50, 115.

<sup>62</sup> *Het Parool* (9 April 1996). In incidental cases, this can degenerate into a vicious circle which allows no solution: in order to obtain a residence permit, it must first be demonstrated that the applicant has work; in order to obtain work and a work permit, a residence permit must be shown.

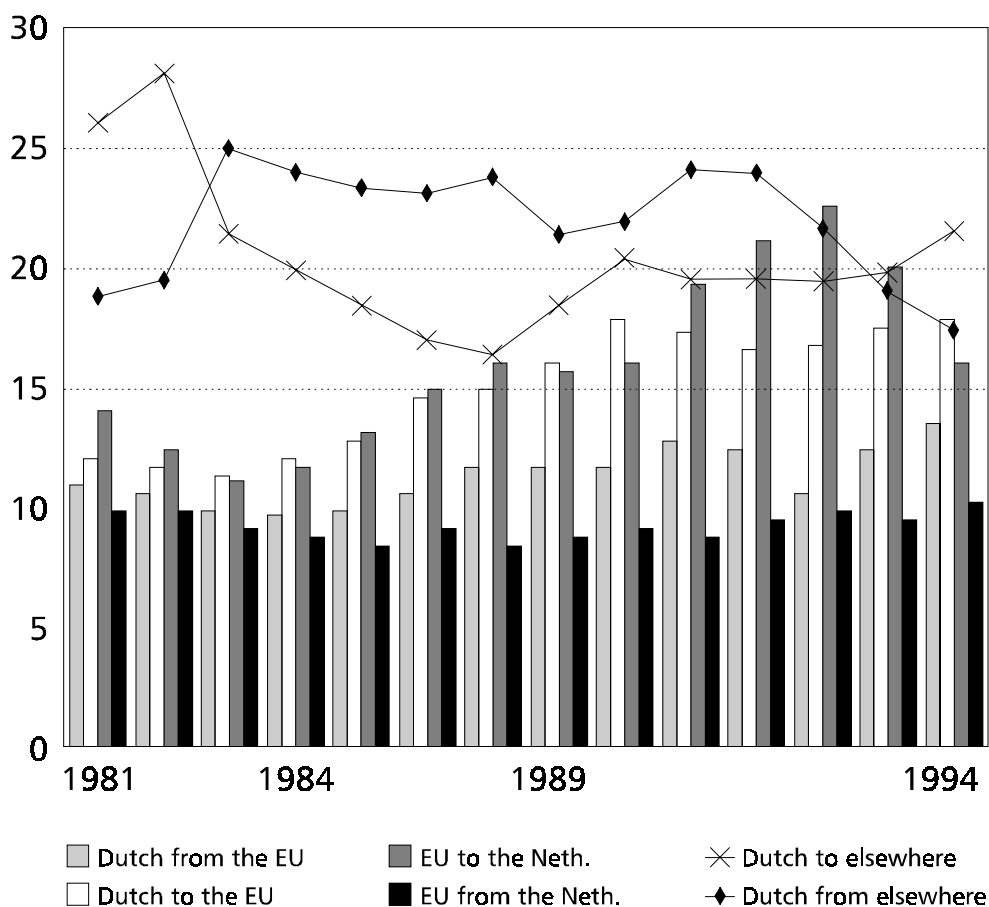
Table 3 : Migration of non-Dutch citizens of the EU to and from the Netherlands

<b>Year</b>	<b>Immigration</b>	<b>Emigration</b>	<b>Surplus</b>
1981	14,454	10,008	4,446
1982	12,453	9,976	2,477
1983	11,468	9,218	2,250
1984	11,731	8,813	2,918
1985	12,966	8,404	4,562
1986	15,042	9,083	5,959
1987	15,976	8,580	7,396
1988	15,873	8,719	7,154
1989	16,029	9,309	6,720
1990	19,260	8,752	10,508
1991	21,329	9,552	11,777
1992	22,615	9,871	12,744
1993	20,202	9,590	10,612
1994	16,081	10,245	5,836

Source : CBS, Maandstatistiek van de bevolking.

It can be assumed that the increase in immigration by EU citizens is primarily due to two partly connected developments : the economic revival in the second half of the 1980s, and the changes in European Community law which facilitated the free movement of labour. A remarkable feature of the figures in the table is not so much the increase in the number of immigrants, but that, in the mean time, the number of people departing annually from the Netherlands remained more or less steady. This has led to a substantial migration surplus which is not compensated for by a negative migration balance of Dutch men and women going to other EU Member States. Comparing these figures with those in Table 2 above, the balance of Dutch citizens settling elsewhere in the EU was -4,364 in 1994, and -4,904 in 1993. Figure 1 further illustrates the relationship between the migration of other EU citizens and that of Dutch citizens.

**Figure 1** : Immigration and emigration of Dutch citizens and citizens of the EU, in thousands



Source : CBS annual statistics.

Although, as we noted earlier, it is not clear how much of the immigration of EU citizens is connected with family formation, it is probably true that a significant proportion of the immigrants travel to the Netherlands in the first place in order to participate in the labour market. In other words, their arrival is quite directly connected with the dynamics of the situation on the EU labour market as a whole. In 1994 there were 187,700 people living in the Netherlands who came from other EU Member States.<sup>63</sup> It is estimated that some 88,000 of them in that year were in employment.<sup>64</sup>

<sup>63</sup> Muus, Migration, immigrants and policy, op. cit., p. 69.

<sup>64</sup> CBS, Foreign employees, as of 31 March, 1987-1994. The figures include border-crossing commuters coming in to work but excluding those working abroad. In: Muus, Migration, immigrants and policy, op. cit., p. 78.

Given that the Dutch government is bound by EU law in the matter of the free movement of workers, service-providers, and family members, regulation of this specific migration is not possible in any direct sense.

### ***3.5.2 Foreign employees from outside the EU***

Whereas in the 1960s and early 1970s most migrants travelled to the Netherlands for purposes of unskilled or semi-skilled labour, more recently it has been mainly the more highly educated who migrate. Amongst these highly qualified people there are important contingents from Japan and the USA, and often their employment takes place under the auspices of multinational enterprises. There is a high degree of mobility to be found both among trainees and among specialists like managers and engineers. Because this means that they generally leave again after a certain period, the migration balance or surplus of these foreigners is less than the immigration figures might lead us to believe. Nonetheless, the total population of these groups has grown steadily over the last few decades. Their presence is not generally seen to be problematic.

Alongside this form of labour migration, which is sometimes called 'company related', migrants also come from outside the EU/EEA in order to fill certain niches in the labour market for which there are no qualified Dutch or EU citizens available. Examples of this kind of migrant are chefs for specialized restaurants, sportsmen and women, imams, teachers in the programme in OETC (education in own language and culture), performers, and artists. It is also apparently the case that there are sometimes no Dutch or EU citizens available for unskilled work.

All workers from outside the EU/EEA need a work or employment permit before they may come to the Netherlands. Until recently the issuing of such permits was governed by the Labour of Foreign Workers Act (*Wet Arbeid Buitenlandse Werknemers, WABW*), but in October 1995 it was replaced by the Labour of Aliens Act (*Wet Arbeid Vreemdelingen, WAV*), which does not actually differ from the WABW in its practical application.<sup>65</sup>

Permission is generally only granted to engage labour from outside the EU when an employer (for it is the employer who must make the application) can show that he is not able to appoint any Dutch citizens, foreigners legally

---

<sup>65</sup> Our principal source here is the study by Böcker, A., and L. Clermonts, *Poortwachters van de Nederlandse arbeidsmarkt*. Nijmegen (Instituut voor Rechtssociologie, Katholieke Universiteit Nijmegen) 1995.

resident in the Netherlands, or EU citizens. This criterion is not applicable to those who have already worked with a permit, those who are transferred in as 'company related', trainees and placement personnel, and internationally active musicians and performers. More than half of all the applications consist of these categories.<sup>66</sup>

In practice is it often not a simple matter actually to locate even unskilled labour, despite the fact that in principle there is an abundance of it available on the Dutch labour market. We are talking here in the main of work which for many is distasteful : seasonal, physically demanding, low paid, and suchlike. In countries outside the EU, such as Poland, there are plenty of people more than willing to take this kind of employment, but it is not easy to recruit them through the provisions of the WAV. Increasingly the employers are required to recruit at least a proportion of their temporary or full-time workforce from the labour reserve at the employment exchanges, before they are permitted to take on people from outside the EU.<sup>67</sup> In addition, when there is an urgent demand for labour, the procedures such as those prescribed by the WAV are too drawn out.

---

<sup>66</sup> Ibid., pp. 49-50.

<sup>67</sup> Ibid., pp. 75-6.

Table 4 : Employment permits granted, by nationality, 1990-1993

American	5,002	14 %
Polish	4,780	13 %
Japanese	3,388	9 %
Surinamese	2,322	6 %
Chinese	1,640	4 %
Hungarian	1,347	4 %
Russian	1,231	3 %
Yugoslavian	988	3 %
Canadian	957	3 %
Turkish	934	3 %
Other industrialized	5,881	16 %
Other non-industrialized	8,639	23 %
<b>TOTAL</b>	<b>37,163</b>	<b>100 %*</b>

*\* slight error due to rounding*

Source : Böcker & Clermonts, *Poortwachters van de Nederlandse arbeidsmarkt*, op. cit., p. 49, and data from *Arbeidsvoorziening 1994*.

Table 4 shows that a substantial part (42%) of regulated labour migration to the Netherlands originated in the highly industrialized parts of the world, which immediately raises the likelihood that many labour migrants are coming to fill highly qualified posts. Table 5 reinforces that picture, although it does not differentiate according to country of origin. It can be assumed that 'company related' migration, and trainees and placement personnel (who form together 38% of the total) usually belong to the more highly skilled categories, which is probably also the case with performing artists.

**Table 5** : Total number of employment permits issued for first entry in the period 1990-1993, by type of work for which the permit was issued

'Company related'	5,162	22 %
Placements and trainees	3,912	16 %
Performers, musicians, dancers	3,645	15 %
Seasonal workers in agriculture	2,056	9 %
Catering (mainly lower and middle-ranking posts)	1,118	5 %
Metal industry (mainly middle-ranking posts)	1,078	5 %
Others *	6,812	29 %
<b>TOTAL</b>	<b>37,163</b>	<b>100 %*</b>

*\* includes 1,573 people admitted to the Netherlands on humanitarian grounds but who had not been in the country long enough to be permitted to accept work outside the WABW. If we deduct this category, the percentage drops to 23 %.*

Source : Böcker & Clermonts, Poortwachters van de Nederlandse arbeidsmarkt, op. cit., p. 48.

Although the principal object of these labour laws, the WABW and the WAV, is to permit only those labour migrants to enter the Netherlands who are deemed beneficial for the Dutch labour market, Table 4 shows that their actual application leads quite unequivocally towards the selection of those who are likely to remain in the country only temporarily. Highly qualified employees tend to leave again after their period of work, and that is reinforced by the fact that they come from countries where their prospects on the labour market and in other ways should not be thought of as low in comparison to the Netherlands. In the case of 'company related' migration, which accounts for nearly a quarter of all immigrants, migration is a part of an employment contract which is usually of longer duration than the period spent in the Netherlands.



When it comes to people with a lower level of skills, coming from countries where living standards are noticeably lower than in the Netherlands, then returning home is less of a foregone conclusion, whether it takes place immediately or later on. Some may attempt to find other work after the expiry of their regular employment contract, and in some cases that means illegal work.

The question of whether or not a worker should stay on illegally after the expiry of his contract is less of a problem for those who have been working for more than three years. Whereas their right to stay is connected to their work situation for the first three years, thereafter they gain access to the entire labour market.

### **3.6 'Illegals'**

In view of the various meanings attached to the word 'illegal' in relation to the presence of foreigners in the Netherlands, it makes sense to give a short exposition of the matter. A distinction must be drawn between those who are present in the Netherlands without residence title or permit, those who work illegally in the sense of contravening the WAV labour law, and those who work without paying insurance premiums or tax (unregulated or 'black' work). These differing forms of illegality may occur separately or together.

Although many workers who are in the Netherlands illegally may work 'black', without paying their insurance and tax, it is by no means always the case. Some of them have a socio-fiscal (SoFi) number, pay their tax and insurance, and are listed in the population registers; and we are speaking here only of the category of immigrants who hold no valid residence title or permit. But the problem extends further, to all sorts of others who may be characterized as illegally resident, such as asylum seekers whose applications are still being considered, those whose requests have been denied but whom it is not technically possible to deport, or those who could be deported but who have not yet actually been expelled. Even the different departments of the aliens bureaus seem to employ fluid definitions of 'illegality',<sup>68</sup> which

---

<sup>68</sup> Visser, R.T., R.C. van Waveren, and G.H.J. Homburg, *Vreemdelingen in de bijstand*, deel I. Artikel-84-vreemdelingen in de bijstand. The Hague (Ministry of Social Affairs and Employment, VUGA) 1994, p. 31.

only makes us more aware of the fact that illegality is in fact a construct.<sup>69</sup> Being legal or illegal is nothing more than the product of law and policy on aliens and other matters. It is not an inalienable characteristic of the alien concerned, but rather the consequence of a definition or a policy application. It is not possible to establish the numbers involved, or even to make estimates, because 'illegals' make up a residual category of people who are present in the Netherlands but who are excluded from every form of registration; however, this does not prevent estimates being made.<sup>70</sup> Notwithstanding we shall assume provisionally that the share of illegal workers in total manpower is negligible.<sup>71</sup>

Even if usually 'illegals' form an unambiguous category for the law and law enforcement agencies, it is quite the opposite for the persons in question : being present illegally in the Netherlands comes in many shapes and forms. Not everyone who is staying in the Netherlands illegally entered the country illegally, as has already been indicated. On the contrary, it is more reasonable to assume that many if not most illegal immigrants first arrived in the country as tourists, students, workers, or asylum seekers. Of course there are also immigrants who travel to the Netherlands without announcing their presence to the authorities in any way. Since the abolition of border controls, and even before that, it has not been difficult to enter the country unseen, from Belgium or Germany. The barrier is now located at the external boundaries of the EU, and guarding it costs more than can generally be afforded, especially along the thousands of kilometres of the Mediterranean coast. And even where the most strenuous efforts are made to police the border, as they are on the boundary with Eastern Europe, such measures are not completely infallible. In Germany in particular, the media regularly carry stories on the subject. Even where they are closely guarded, it remains possible to cross these borders of the EU and the Netherlands by underhand means.

---

<sup>69</sup> This is pointed out by, inter alia, Groenendijk, K., & A. Böcker, 'Het schatten van de onschatbaren. Aantallen illegalen, beeld van een categorie of van de schatter?', *Migrantenstudies*, 2 (1995), pp. 117-128.

<sup>70</sup> In the process it becomes abundantly clear that the results of such estimates can vary considerably, depending on the assessor and his interest in the results. See *ibid.*

<sup>71</sup> One estimate of that share, based on research, is 0.5%: Zandvliet, C.T., and J.H. Gravesteyn-Ligthelm, *Illegale arbeid: omvang en effecten*. The Hague (Ministry of Social Affairs and Employment) 1994.

Although almost inevitably no-one really knows exactly what goes on, it is reasonable to accept that there are people who enter the country with the use of forged or otherwise improper travel documents. An example is the immigration of West Africans who journey to the Netherlands on EU travel papers which have been borrowed or obtained elsewhere.<sup>72</sup>

Others obtain a residence title which is not in accordance with the real object of their immigration, for example by means of marriages of convenience, business visas, labour contracts for dancers who (it transpires) are doing other work,<sup>73</sup> and tourist visas for seasonal workers. Border-crossings of this sort are not illegal in the first instance, but become so only when the original reason for the stay (or the one used to delude the authorities) is abandoned.

Some of these forms of migration are characterized by the fact that they are organized by middlemen or agencies, usually for money. This is often termed 'trafficking' in the literature, and increasingly this phenomenon has excited the interest of policy-makers and of bodies like the International Organization for Migration, which points out in its quarterly publication, *Trafficking in Migrants*, that legislation in receiving societies reacts too slowly if at all to the constantly changing methods employed by such smugglers of people. A recent example in the Netherlands is the growing migration of young people, for the most part women, who are recognized by a Dutch parent as their child, and so can claim Dutch nationality.<sup>74</sup>

Apart from the smuggling of people, a trade in people appears to take place regularly as well. Illegal immigration is not always voluntary, or it can rapidly lose its voluntary character, as in the case of the trade in women. Here also, the facts are obscure: the information available is often anecdotal,<sup>75</sup> but it makes quite clear that physical violence and blackmail take place, and that the women themselves derive very little financial benefit

---

<sup>72</sup> Glerum, E., and K. Glerum, 'Wie naar Nederland komt moet sterk zijn', in *Migrantenstudies*, 2 (1995), pp. 151-158. The authors go on to remark that EU travel papers were used not only at the border crossing, but also to obtain work through employment agencies.

<sup>73</sup> It often involves prostitution. See the International Organization for Migration (IOM), *Migration Information Programme, Trafficking and Prostitution. The Growing Exploitation of Migrant Women from Central and Eastern Europe*. Budapest, 1995.

<sup>74</sup> IOM Migration Information Programme, *Trafficking in Women from the Dominican Republic for Sexual Exploitation*. Budapest, June 1996, p. 7.

<sup>75</sup> One of the better reports on the subject, though not an academic one, is by Stoop, C. de, *Ze zijn zo lief, meneer. Over vrouwenhandelaars, meisjesballetten en de bende van de miljardair*. Leuven (Kritak) 1992.

from it. Unfortunately there is little indication of the scale of the phenomenon. From information gathered by the Foundation against the Trade in Women (Stichting Tegen Vrouwenhandel),<sup>76</sup> it can only be gleaned that in the Netherlands it concerns hundreds of women at least. Previously the women often came from Third World countries, but in recent years a shift has been noticeable towards a trade in women from Eastern Europe.<sup>77</sup>

The fact that an alien is illegally present in the Netherlands need not in itself be a bad thing. If the person in question has substantial financial resources and keeps himself to himself, then his presence might even be advantageous to the Dutch economy. However, though such cases may occasionally occur, most illegal immigrants are not well off, and therefore they need to rely for their keep on family, friends, and acquaintances, or on work.

We remarked earlier that some years ago it was possible to be 'illegal' as far as the Aliens Act was concerned, but even so to work legally, by possessing a SoFi (socio-fiscal) number. Now it is only possible for those with a residence title to obtain a SoFi number. These kinds of measures actually oblige illegal immigrants to seek illegal work by definition, which will only be exacerbated as soon as the Linkage Act (Koppelingswet) will take effect.<sup>78</sup> As a result they become all the more vulnerable to the whims of their employers, and even to out-and-out exploitation. Employers like this may be fellow-countrymen, so-called ethnic entrepreneurs, in which case recruitment often takes place on the basis of reciprocal trust.<sup>79</sup> There are certainly Dutch employers, as well, who make use of illegal immigrants, often to bridge gaps caused by temporary surges in demand. 'Illegals' are cheaper than regulated labour, they make few appeals to the law or the unions if they have a grievance, and they are ready and available at the critical moment.

---

<sup>76</sup> Stichting tegen Vrouwenhandel, Informatiepakket STV. Utrecht, September 1994.

<sup>77</sup> See also *De Volkskrant* (29 March 1996), p. 11: 'Poolse vrouwen in de verkoop'; IOM, *Trafficking and Prostitution*, op. cit.

<sup>78</sup> The 'Koppelingswet' of 1996 links the various government and official databases in the Netherlands together, so that of any alien having contact with one department or service it is known whether he is a legal resident. The new law is approved by the Second Chamber of Parliament and now under discussion in the Senate.

<sup>79</sup> On this subject, see also the TWCM preliminary study, 'Over grenzen. Immigranten en de informele economie', Amsterdam 1997

It is true that illegal labour need not only have negative consequences,<sup>80</sup> and indeed it can deliver an additional flexibility to the economy which has certain features to recommend it, but things are different when it comes to activities which take place in the criminal world.<sup>81</sup> When an illegal immigrant is not able to make a living by means of 'honest' labour, then the road to crime, or organized crime, lies open.<sup>82</sup> A recent survey which makes an assessment of the subject leaves no doubt that right across Europe, illegal immigrants are active in criminal groups which are highly organized and often with far-flung tentacles.<sup>83</sup> Often the people behind it are in no sense illegally resident : they exploit the vulnerability of others, who are often their countrymen, and get them to carry out the dirty and dangerous work. At the same time it is clear from the study that we have no way of knowing the scale of these activities.<sup>84</sup> We are limited to anecdotal indications, like the following report which concerns the Netherlands :

In 1994 there were numerous cases reported in the Netherlands of burglary, extortion and drug trafficking by Chinese illegal immigrants in order to pay off their debts to migrant traffickers.<sup>85</sup>

Thus the relationship between illegality and criminality remains uncertain. It is really rather unlikely that the descent into criminality of illegal immigrants who can find no work occurs very often; it is far more likely that many of those who are unable to find work in the Netherlands return to their country of origin, or decide to try their luck somewhere else.

Although illegal residence is often likely to be the result of a certain demand on the formal and informal labour markets, it can be assumed that the supply of cheap and flexible labour can in turn generate its own demand. There are two mutually reinforcing arguments in support of this. The first is

---

<sup>80</sup> Ibid.

<sup>81</sup> In this context, by 'criminal' we mean criminal offences or felonies, rather than misdemeanors.

<sup>82</sup> See e.g. Engbersen, G., J. v.d. Leun, and P. Willems, *Over de verwevenheid van illegaliteit en criminaliteit*. Utrecht (Utrecht University, Vakgroep ASW) 1995.

<sup>83</sup> Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia, *Illegal Aliens: a Preliminary Study*. Geneva, June 1995.

<sup>84</sup> The study concludes that our knowledge is limited to the fact that the phenomenon exists, and then lays out proposals for further research. To date, the European Member States have shown little enthusiasm.

<sup>85</sup> Inter-governmental Consultations, *Illegal Aliens*, op. cit., p. 7.

that growth in the informal provision of cheap services also helps to generate demand. The second is that in an informal economy of this kind, the costs of illegal migration are borne not by the employer, but by the migrant in question.

The first argument can be illustrated by referring once again to the work of Sassen, who remarks on the increasing role played by immigrants, including illegal ones, in the poorly qualified and informal service sector in the big-city environment (The Global City). The ample supply of legal and illegal immigrants, hungry for work, makes it possible for hectic and well paid professionals to farm out parts of their everyday, non-professional activities, such as baby-sitting, cleaning, walking the dog, and doing the shopping. The fact that immigrants carry out this work bears little relation to the qualifications they may actually hold,<sup>86</sup> but a great deal to do with their need for additional income.

Russell King articulates the second argument in a work in which he sets out the context of migration, and its consequences especially for uninvited migrants :

(...) the history of the world labour market ever since the day of slavery has always accorded migrants an economic price, but whereas before it was the migrants' labour after arrival in the destination country which was the main resource to be costed and for employers to make profit out of, nowadays it is the migrants who bear the cost of migration, and the act of migration which carries the price, set by agents and smugglers who are experts at crossing borders. In other words, we have a kind of 'migration plc' [private limited company] in which the economics of migration are articulated through the economic functioning of the migration process itself, *not through the calculation of the benefits of the sending and receiving societies.*<sup>87</sup> [Emphasis added.]

In short, it is the cost-benefit analysis which is made by the migrant or potential migrant which has become the central factor in the migration process. Consequently it makes little difference in principle to an employer

---

<sup>86</sup> R. King points out that East-West migration often goes together with a significant 'brain waste', in which the highly educated accept simple jobs which nonetheless bring in more than their own profession would. See King, R., A Celebration of Migration. Brighton (University of Sussex Public Lecture) 1996, p. 18.

<sup>87</sup> Ibid., p. 16.

whether his workers have come half-way round the world at great expense, or whether they are from quite nearby countries. For the migrant, on the other hand, it is of the utmost importance that he can earn back the investment he has made, and so he is obliged to accept almost any work which comes along. As a result the migrant will do his own market research, and take himself to where he can expect to find work; there will not be much of the home-lover about him, and he is unlikely to stay permanently in one country. This specialized form of commuter-migration or job-seeking tourism can be seen in some of today's East-West migration.<sup>88</sup> The immigrant arrives as a tourist, perhaps with a visa,<sup>89</sup> and in the space of the three months for which he may legally remain in the Netherlands, tries to cobble together an income. Without any great difficulty he can also remain for a further period, and this commonly occurs.<sup>90</sup>

In view of the facts and arguments laid out in the preceding pages, it must be doubted whether a policy which is directed at the elimination of illegal immigration can possibly be fully effective. For example, the job-seeking tourists we have just described are not affected by such measures as cutting off the benefits of the welfare state from illegal immigrants, and neither will the introduction of the Linkage Act concern them much. It is far more likely that while such measures will make certain forms of illegal immigration more difficult, they will stimulate others at the same time.

### **3.7 Non-active immigrants and students**

European integration has not only led to a greatly expanded labour market, but also gives considerable freedom of opportunity to those who are not employees to establish themselves elsewhere, whether temporarily or permanently. This particularly affects students, the wealthy, and pensioners. The international mobility of students is applauded on all sides on the grounds that when a student ventures outside his or her familiar environment and largely predictable curriculum, it enhances the quality of education. It can also be assumed that a temporary sojourn abroad will improve the

---

<sup>88</sup> Ibid.

<sup>89</sup> Hungarians, Czechs, Slovaks, and Poles do not need a visa.

<sup>90</sup> See, e.g., Okolski, M., 'Migratory Movements from Countries of Central and Eastern Europe', in *People on the Move: New Migration Flows in Europe*. Strasbourg (Council of Europe Press) 1992, pp. 83-116.

linguistic skills of young people, and that it will prepare them that much better for the demands imposed by increasing globalization.

It is estimated that about 4,000 visit the Netherlands each year under the auspices of the ERASMUS programme (recently renamed SOCRATES), which covers students from the EU Member States. In addition there is a multitude of grants programmes, bilateral exchanges, and other conventions which permit students to follow at least part of their studies in the Netherlands. We cannot know the degree to which they actually participate in the teaching programmes, but it is true to say that at the end of 1995 there were 6,858<sup>91</sup> people with a foreign passport registered at Dutch universities.<sup>92</sup>

Due to the fact that students and others who do not take part in the labour process (or at least who are not expected to) usually have a means of existence in their home country or elsewhere and are required to take out health insurance, the burden they impose on Dutch society is relatively light. And those costs connected with their presence in the Netherlands are offset by the fact that Dutch citizens in their turn are to be found abroad for varying periods of time, and also make use of the public services while they are there.

We know very little about the migration of the non-active population. It is quite possible that a citizen of the EU who is a pensioner, or who in one way or another does not work any more, might want to live in the Netherlands for a while, or even for longer. The extent to which this actually occurs is not possible to determine. We can only say that in the course of 1994, 217 EU citizens aged over 65 settled permanently in the Netherlands, while a comparable number also left the country in that year. Neither do we really know how many Dutch people spend their declining years abroad. The numbers of older Dutch citizens who come to the Netherlands and who go to live elsewhere are also in approximate equilibrium (respectively 1229 and 1221). The negative migration balance of Dutch citizens which we noted earlier is therefore primarily the responsibility of younger age-groups.

Migration statistics only list those people who intend to move elsewhere on a permanent basis; however, if we were to leave the permanence to one side, then the number of older migrants would be much greater. Many of them may spend much of the year abroad, but remain registered in the Netherlands. Seen in this light, then it is likely that there are more Dutch citizens leaving the country, especially in search of warmer

---

<sup>91</sup> Data from the CBS, education and social security section.

<sup>92</sup> Some of these are the offspring of aliens already settled in the Netherlands. For example, 663 of these students are of Turkish, 512 of Moroccan, and 713 of Surinamese origin.



climates and cheaper costs of living, than foreigners coming to the Netherlands.

Under certain conditions, it is possible for former 'guest workers' who have reached the age of fifty to return to their country of origin without losing their disability allowance. Foreign workers who are long-term unemployed and over fifty, but fit for work, may take advantage of a re-migration arrangement which permits them to receive an allowance which is equivalent to basic maintenance costs in their country of origin,<sup>93</sup> and in addition returning migrants can claim a subsidy for their removal costs. These opportunities are not taken up by very many people : from 1990 to 1993 inclusive, just 2,025 departing Turks and 1,123 Moroccans made use of the last two arrangements mentioned.<sup>94</sup> The reason for the low uptake is probably that in neither case is it possible to immigrate again to the Netherlands. The potential return-migrant is therefore burning all his bridges when he decides finally to go back, and that is a formidable step to take, especially if he is leaving relatives behind in the Netherlands.

For that matter, it remains unclear how many return-migrants would have left without the existence of re-migration arrangements. The likelihood that re-migration has often taken place is indicated by the large numbers of Spaniards, Greeks, and Italians who went home before the introduction of these arrangements. In their case it was primarily the favourable economic development in their own countries which made their return possible.<sup>95</sup>

The migration of older EU citizens forms part of the free movement of people within the EU. This is not the case with the return-migration of former 'guest workers'. There may be a place here for a more satisfactory set of arrangements, which might take more account, for example, of the wishes of the individual return-migrant. However, it should not be forgotten that most Turks and Moroccans by now have more ties in the Netherlands, and with their relatives, friends, and acquaintances there, than they have in their countries of origin. Given also that economic development in countries like

---

<sup>93</sup> See the pamphlet *Terugkeren*. Amsterdam (Voorlichtingscentrum Sociale Verzekeringen) 1990.

<sup>94</sup> Figures from the CBS, cited in Muus, *Migration, Immigrants and Policy*, op. cit., p. 66.

<sup>95</sup> Muus, P.J., *De wereld in beweging: internationale migratie, mensenrechten en ontwikkeling*. Utrecht (Jan van Arkel) 1995, p. 23.

Turkey and Morocco leaves something to be desired, the numbers of return-migrants are likely to remain modest.

### **3.8 Conclusions**

For the last twenty years the Netherlands has enacted a restrictive immigration policy. In this chapter, the analysis has addressed the question of which categories of immigrants come to the Netherlands, and which measures the government has used to influence that migration. The arrangement of the material has been according to a classification based on grounds for entering the country, because these have also been the basis of the attempts to control migration to date. The instruments of control appear to be almost exclusively legal ones, and they concentrate heavily on admittance (and deportation). Re-migration policy has not developed very far, and is hindered in practice by the limits imposed by a restrictive policy on entry and re-entry.

We have seen that a significant part of annual immigration to the Netherlands is a priori beyond the scope of direct control, namely that part which concerns citizens of the Netherlands and of the other EU Member States, which in 1994 accounted for nearly half of all immigration (respectively 30% and 16%). A further share of immigration consists of people whose arrival is perceived as important for the Dutch state; the government sees no need to exercise anything more than marginal control over this influx. This mainly concerns immigrants from the highly industrialized areas of the world, and it represents another 6 per cent of immigration.

Immigration on grounds of family reunion and formation for aliens who are legally resident in the Netherlands is, on the one hand, an accepted basic right, but on the other it can be partly controlled by the imposition of conditions. It is debatable whether a tightening of such conditions would lead to significantly lower migration. If we accept that a large part of the migration from Turkey, Morocco and Surinam is connected with family reunion and formation, then approximately a further 10 per cent of total immigration (1994 figures) is beyond the direct reach of government intervention. In addition there is a further unknown number of family migrants from other countries outside the EU.

That leaves, roughly speaking, just 40 per cent of the annual immigration to the Netherlands which the government can try to control and with which in principle it has some prospect of success. An important part of

this category consists of asylum seekers. We have seen that the number of asylum seekers has declined drastically in recent years, not least because of an intensified exclusion policy, and in that sense government policy concerning that section of the annual influx of immigrants has been seen to be truly effective. At the same time we need to question the extent to which this policy, and especially its categoric exclusion measures, is in conflict with obligations undertaken in international treaties, or with a moral duty to offer protection to the persecuted. Against this background, a purely numerical criterion for judging the effectiveness of policy is far too one-sided.

In the case of unsolicited labour migrants, and especially the unskilled and semi-skilled amongst them, a formal and consistently restrictive policy has been and is still conducted by means of the WABV and WAV labour laws. This formal closing of the gates seems to have had the unintended effect of increasing informality and illegality, which is a reminder that excluding undesirable immigration by employing a legal approach has certain drawbacks, and will probably continue to have.

So although the Netherlands follows a partially independent restrictive policy on migration, aimed in the first place at promoting the immigration of those whose presence is of economic or other importance to society, there are significant exceptions to that rule. The migration of Dutch citizens falls entirely outside the range of the arsenal of regulation, as does most of the migration of citizens of EU Member States.

Neither can restrictive immigration policy always be effectively applied to those others who are not EU citizens. A number of humanitarian principles must be taken into consideration, as laid down in the UN Refugee Convention and the European Convention on Human Rights; the most important of these are the right of asylum and the right to family life and free choice of partner. The exercise of these rights, and more particularly the improper use of them (alleged and factual), has led to considerable discussion in recent years, and in response to that discussion policy has been tightened up in a number of areas, partly by combating obvious abuses, such as marriages of convenience, and partly by stipulating harsher conditions for entry.



## CHAPTER IV

### **MIGRATION PROCESSES AND THEIR BACKGROUND**

#### **4.1 Introduction**

In the previous chapter we separated migrants according to the legal categories applied in the policies directed at aliens and their admittance to the country. That is to say, our attention did not focus on the way in which the immigrant sees himself, on his motives, or on any distinction based on sociological criteria. It is something of a paradox within the legal approach that there exists a category of aliens who are not formally present: the 'illegals'. A further consequence of a restrictive immigration policy formulated on the basis of legally defined grounds for admittance is that potential migrants tend to adopt the legal categories for entry which are still open to them, or which seem most likely to succeed, irrespective of their original motivation. A migrant is seeking a 'gate of entry', and in order to find one, if he must adopt a label which is not necessarily a perfect description of his motives, then the lack of alternatives may mean that he has to go along with it. This makes controlling the immigration processes rather complicated, when using those same legal instruments.

In this chapter we shall take a different route: by making use of the extensive literature on migration, we shall aim to provide a summary of the causes which bring migration pressure into existence, how migration processes take shape, and which variables affect the scale and direction of those migration processes. An analysis of this kind can reveal which other instruments, as yet employed insufficiently or not at all, can be marshalled in order to prevent migration or to control it.

#### **4.2 A heuristic model in explanation of migration**

The academic literature concerning international migration is very extensive indeed. It covers widely divergent kinds of migrants, examines the question from the point of view of all the various disciplines, and proceeds from a host of different theoretical traditions.<sup>96</sup> There is no single, comprehensive, explanatory theory: the phenomenon of migration is far too complex for that.

---

<sup>96</sup> For a survey, see Penninx, R., and F. Selier, 'Theorievorming over internationale migratie: een historisch overzicht en een stand van zaken', *Migrantenstudies*, 4 (1992), pp. 4-20.

In order to unlock the insights of all the existing knowledge in the field in a manageable way, Van Amersfoort et al. have devised a model which summarizes the most important explanatory elements and their relationships with each other (see Figure 2).<sup>97</sup> A number of assumptions or principles underpin the model, and a short explanation of them follows.

In the first place, no claims are made for an explanatory or predictive function in the model: rather it indicates those factors we should focus on when we study certain forms of migration, which makes it possible to use the model to examine widely differing forms of migration. Each of the factors identified in the model fulfils a different role according to the form of migration, and must be weighed empirically against other factors. For example, there are migration movements which are mainly or entirely caused by push-factors in the country of origin, as in the case of refugee migration, while there are other migrants for whom the attractions of the new destination is the dominant factor in their deliberations, such as the 'sun-belt migrants'. The model puts us on the trail of explanations which apply to specific cases, which is why we use the term 'heuristic model', signifying progress by discovery.

A second assumption is that migration movements can and should be analysed at several different levels. This will be made clear with the help of the left-hand side of the model, thus looking at migration movements primarily caused by repulsion forces. Where the explanation of migration movements of this kind as a whole is concerned, then at the highest level of abstraction there is an explanation in terms of fundamental, structural causes, often called 'root causes'.<sup>98</sup> We are talking here of general situations and processes of inequality - demographic, economic, political, cultural, and ecological - which serve as general structural conditions for the genesis and continuation of migration.

These types of abstract explanation are unsatisfactory on their own, which can clearly be shown by the fact that migration has not arisen in, for

---

<sup>97</sup> See Amersfoort, H. van, J. Doornik, and R. Penninx, *International Migration: Processes and Interventions. A Study of Governmental Interventions in Migration Processes*. Amsterdam (Institute for Migration and Ethnic Studies) 1996; see also Amersfoort, H. van, 'Migration: the Limits of Governmental Control', *New Community*, 22 no. 2 (April 1996), pp. 243-257.

<sup>98</sup> This term has recently been used frequently in the discussion papers of the EU. In the academic literature, the term has only recently been in any way defined: see, inter alia, Suhrke, A., 'Analysing the Causes of Contemporary Refugee Flows', in Erf, R. van de, and L. Heering (ed.), *Causes of International Migration*. Luxembourg (NiDi/Eurostat) 1995, pp. 201-221.

instance, certain parts of Africa, where those conditions certainly exist. We therefore go on to seek more concrete explanations for migration pressure, below the level of the 'root causes', in the form of the situation in the economy and on the labour market, the political circumstances, and the extent to which migration is seen as an alternative (which we call 'cultural definitions') in the countries of origin.

But even when there are conditions present at that level which would contribute to migration pressure, it does not necessarily lead to migration itself. In order for that to happen, there have to be contacts, existing or generated, with the potential destination countries. The direction of a stream of migration is seldom if ever arbitrary, and for that reason we descend further in the model to all manner of activities and processes which actually enable or facilitate migration. We have brought these together under heading of 'intermediary structures', which can cover anything from formal recruitment treaties and agencies to informal migrant networks.

Finally, there is a micro-level of explanation, concerned with individual potential migrants and their immediate surroundings of family and relatives, where the pros and cons are weighed up and decisions taken, in the light of all the forces which are active at the other levels and the available options. Any attempt to explain migration should integrate, wherever possible, all these different levels of explanation. Only then does it become clear when the necessary as well as the sufficient conditions for migration have been fulfilled.

A third principle or assumption is that causes and factors on both the sending and receiving side of the model can equally play a role. Part of migration is determined not so much by repulsion factors in the sending country, but by attraction factors in the country of settlement, for example in the cases of 'sun-belt migrants' and Dutch emigrants to Canada. Even in migrations which are driven largely by push-factors, the pull-factors in the countries of potential destination always play some role, if only to determine the direction of migration. After all, there must be destinations available to permit departures from somewhere else, and in practice there seem always to be factors in the countries of settlement which either stimulate or hinder migration. These can be general factors, but also quite specific ones, like migration policy.

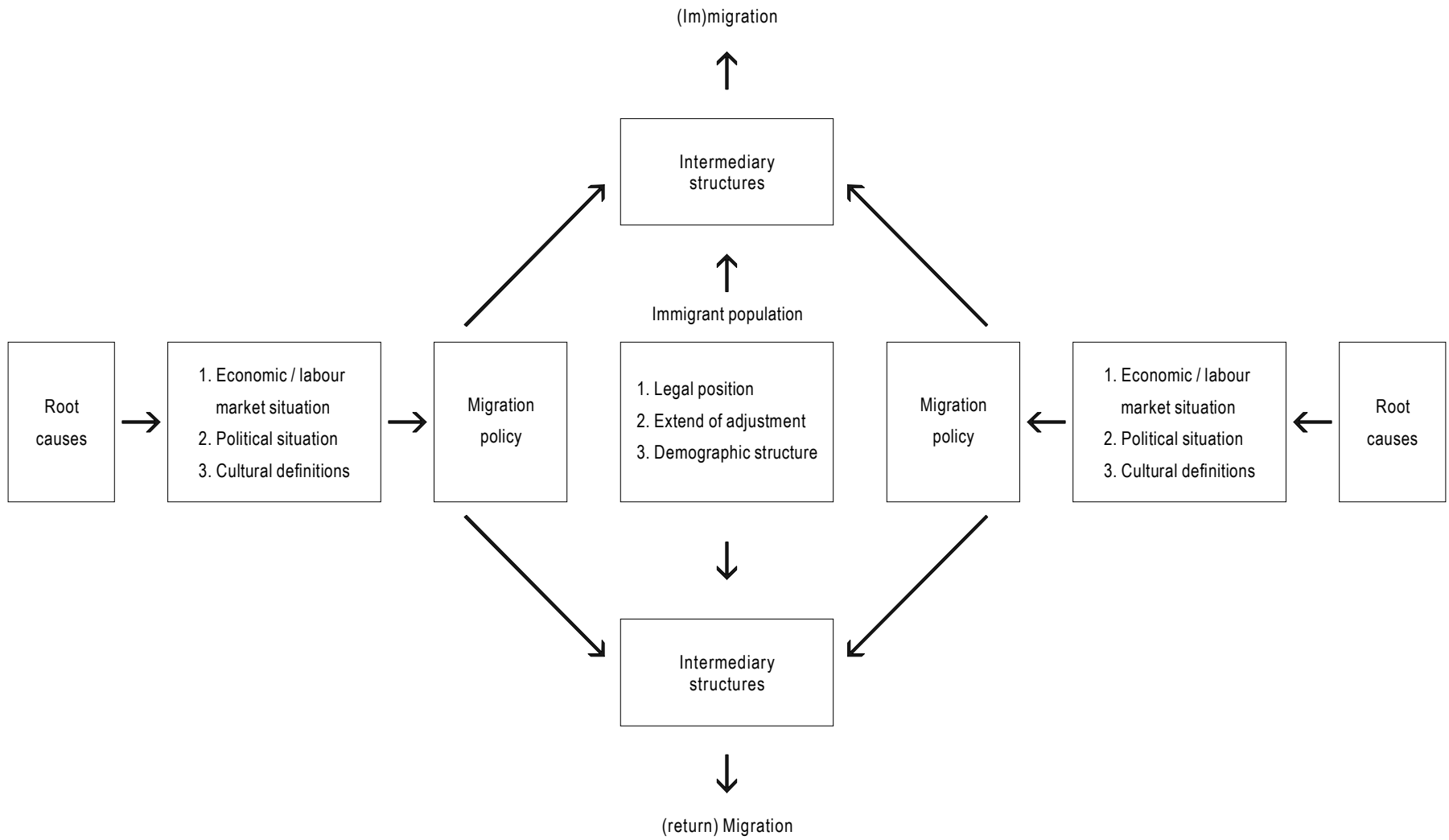


Figure 2 : A heuristic model to explain international migration



A fourth assumption is that migration should be seen as a continuing process. That applies to migration movements as a whole, which can grow up, but can also die down again if the factors really change : a good example is the migration from Southern to Northwest Europe after 1975. But it also applies to individual migrants, who can decide to return home for example, or to migrate onward to somewhere else.

The assumptions outlined above, the specific variables, and their mutual connections have all been brought together in Figure 2. By referring to this model, the most important variables in explaining migration processes will be discussed.

### **4.3 Factors in the countries of origin**

In certain sending countries, we can observe a number of factors which cause migration pressure, often interconnected and mutually reinforcing. On closer inspection, the specific constellation of factors appears to differ from country to country and from region to region. In South-North migration for example, from Africa to Europe, the 'root causes' lie in a particular combination of vigorous demographic growth, lack of economic development, and ecological deterioration. The still burgeoning population growth in tandem with retarded economic development leads to high levels of structural unemployment. Furthermore, population growth and the predominantly agricultural character of the economy lead to the exhaustion of natural resources, which in turn increases the migration from the countryside to the towns. This intensifies the pressure on the urban labour market, which in turn can lead to political instability, in which the socio-economic, ethnic, or religious fault-lines between various groups can become embroiled.

There is a different constellation of 'root causes' in the present East-West migration. There is no suggestion of demographic growth there, and rather it is the severe economic recession and the political instability which arose after the disintegration of the former Soviet Union and the reorientation of its former satellite states in Eastern Europe : the economic and the political problems reinforce each other and lead to migration pressure.

This description of the causation in these two constellations is of course very general, but none the less important for all that, especially when it comes to trying to influence such processes. For it is clear that these

underlying processes, once they have gained momentum, tend to continue for some time, and to go on producing migration pressure.

For the more direct or 'proximate' causes, we must look more closely at three elements : the situation in the economy and on the labour market, the political situation, and the cultural definitions. The first element is fairly obvious : the economy and the labour market determine to a large extent whether a potential migration alternative comes into play. But as we remarked earlier, this element works not only in an absolute manner, in the sense of a lack of employment, but also relatively : the different income levels in potential destination countries can also exercise an influence.

The political situation consists of the degree of stability, the degree to which human rights are respected, and the extent to which the government is ready and able to protect its citizens, whether in general or in regard to specific groups. The latter causes formidable problems in certain countries. In the colonial period, and therefore also at the time of independence after the Second World War, the boundaries of the colonial and later of the national states were often drawn right through the middle of ethnic and religious population groups : all this makes the creation of a new national unity extremely difficult, as a number of examples on the African continent have shown, and it often leads to conflict and civil war, especially in countries where the ethnic-religious boundaries between groups coincide with the socio-economic ones.<sup>99</sup> The same factors are at stake in the reorganization of the states of Eastern Europe and the former Soviet Union, but the context is different : the creation of new states in a territory which was previously the scene of major migration movements and of enormous ethnic and religious diversity has meant the construction of new minorities in these new states, and therefore new potential for political instability and migration.

'Cultural definitions' are the way in which international migration is perceived by individuals, by groups, and by society, whether as a necessity, as a desirable alternative, or indeed as an undesirable one, and they play a major part especially in the deliberations of individual migrants and their immediate surroundings. Sometimes they can have an inhibiting effect, but in other cases it is possible for a self-sustaining 'emigration culture' to emerge in a community; emigration then becomes an accepted vehicle for upward mobility. For example, in Surinam and in parts of Turkey, the question for potential migrants is not so much whether one should go, but

---

<sup>99</sup> Zolberg, et al., *Escape from Violence*, op. cit.

rather whether one will get the chance. These situations grow up mainly where emigration is taking place on a very large scale, or has done so in the past.

The three factors we have discussed can lead to the build-up of considerable migration pressure, but that does not mean that the migration actually takes place. For that to occur, two more conditions must be met. In the first place the state must permit emigration, and this is where the migration policy of the sending country comes into play. States can stimulate the departure of their citizens by means of an active emigration policy; they can adopt a neutral stance and refrain from intervention; but they can also attempt to prevent emigration or to inhibit it. Eastern Europe before the fall of the Berlin Wall provides an example of a policy which restricted the departure of its citizens as a matter of principle.

In the second place, there need to be real links or intermediary structures in place with a potential destination country.

#### **4.4 Intermediary structures**

When a certain level of migration pressure has built up, and when there are no restrictions on departure, then the next question is the direction which migration flows will take. The factors which are brought to bear in this situation are of two types : a) the intermediary structures which link the sending country with the country of settlement, and b) factors in potential destination countries.

The intermediary structures which link a sending country with a receiving society can take various forms, and Sassen distinguishes four kinds of relationships which determine the direction of migration flows :

'past and current neo- or quasi-colonial bonds, including the types of military presence the United States has taken in such diverse situations as El Salvador or the Philippines';

'the range of economic linkages brought about by economic internationalization, ranging from the off-shoring of production, the implantation of export-oriented agriculture through foreign investment, to the weight of multinationals in the consumer markets of sending countries';

'the organized recruitment of workers, either directly by the government, in the framework of a government supported initiative by employers, or through kinship and family networks'; and

'ethnic linkages established between communities of origin and destination'.<sup>100</sup>

From these linkages often emerge the material connections which make actual migration possible : knowledge of the destination country, the presence of airline and other transport links, financial and practical support before the journey commences and after arrival by immigrants already established in the country of settlement, the assistance of middlemen or brokers, and suchlike. In some cases there can even be intermediary structures specially set up for migration, if sending and receiving countries co-operate on the subject. The organized labour migration of the 1960s is a good practical example of policy-driven co-operation to facilitate selected migration, and to create intermediary structures for that purpose, such as recruitment agreements and agencies.<sup>101</sup> If such intermediary structures are not in place or are only poorly developed, then little migration will take place.

The consequence of the historically evolved links between the sending countries and those of settlement and of the intermediary structures which operate between them is that certain migration patterns have become manifest across the globe, and they are likely to have a long life. It is no accident that France drew in most of its 'guest workers' from its ex-colonial provinces and protectorates, or that the Netherlands has a significant population of people of Surinamese and Antillean backgrounds. In these cases of long-term and structurally secured migration patterns, the term used in the literature is 'migration systems'.

#### **4.5 Factors in the destination countries**

A analytical distinction can be drawn between two categories of factors in the destination countries which can foster or hinder migration : factors on the one hand which are part of the society as a whole, and on the other the characteristics of the already established immigrant communities.

---

<sup>100</sup> Sassen, S., *Transnational Economies and National Migration Policies*. Amsterdam (Institute for Migration and Ethnic Studies) 1996, pp. 4-5.

<sup>101</sup> Theoretically it is also possible to imagine a similar kind of policy co-operation aimed at preventing migration. This has not yet come any further than attempts to win the help of sending countries in taking in those migrants and 'illegals' who - voluntarily or under duress - are going back.

Just as in the sending society, the economic, political, and cultural factors are of major importance. In West European societies in the 1960s, the engine of the now classic labour migration of those years was formed by a combination of modest demographic growth and vigorous economic development, in tandem with widespread demand for certain kinds of labour. As described in Chapter 2, the economic growth continued, but, under the influence of an increasingly international division of labour, it was no longer accompanied by a healthy demand for labour, and certainly not for semi-skilled or unskilled labour, as it had been previously. This implied in one respect that the need to attract migrants had largely been removed, but, given the high levels of prosperity in such countries, they remained an attractive destination for potential migrants.

Political factors are particularly relevant in respect of policy on immigration and migrants in general : what are the political attitudes towards immigration, what rights do settled immigrants have, and how is the political climate as far as they are concerned ? The cultural definitions, which in this case refer to those shared by the indigenous people in the society of settlement, also partly determine changes in policy. Concrete policy measures are generally influenced by such issues as the view society takes of continuing immigration, the categories of immigration which are considered to be desirable and undesirable, image-formation about such categories, and the role assigned to immigrants in society. Cultural definitions of this sort vary widely from country to country. In the classic immigration countries, for example, immigration is seen in most quarters to be an essential and positive aspect of society,<sup>102</sup> and this approach is manifested in a liberal attitude towards migrants, preventing them from being condemned in advance to particular sectors of the labour market. Conversely, other states like Japan and some Arab countries view migration (to the extent that it leads to the settlement of aliens) as a threat to society's cultural identity, and therefore as undesirable. It is also possible for such cultural definitions to alter within countries over time, under the influence of changing circumstances : the difference in Northwest European countries between attitudes during the labour migration boom of the 1960s, and those of the period after 1975, provides a telling example, as does the rise of anti-immigration political parties.

---

<sup>102</sup> This does not of course mean that opposition to an open immigration policy does not sometimes get the upper hand in such countries as well.

## **4.6 Factors within immigrant groups**

The characteristics of settled immigrant populations also play an important part in the rise and continuation of migration flows, especially in liberal democracies, in which immigrants gain a more solid legal and socio-political position after a certain time.

In more detail, there are at least three variables we can identify : the legal position of the immigrants, the demographic structure of the immigrant population, and the extent of adjustment to the receiving society. The legal position of immigrants determines the extent to which they have rights to bring over marriage partners and family members, usually from the country of origin. In the Netherlands they may do so after three years' legal residence. When immigrants gain Dutch nationality, they acquire the same rights as the indigenous population. The degree to which they obtain partners in the sending country depends in turn on the age structure of the population, the balance of the sexes within it, and the degree to which the immigrants are oriented towards either the sending or the receiving country. In other words, a relatively young immigrant population which is made up predominantly of men (or of women) and is mainly oriented towards the country of origin will give rise to more immigration than a population which has approximately equal proportions of men and women, is relatively older, and is much more integrated.

## 4.7 Conclusions

If we compare the processes of international migration and their underlying factors, which we have summarily described here, with the instruments which Dutch policy has employed to date, then it is clear that there are two fundamental impediments which frustrate present policy.

In the first place, the government can only exercise a direct influence on a limited number of the variables, partly because of the obvious limits to its jurisdiction. Put more succinctly, processes of international migration start in other places, and Dutch policy only begins at the Netherlands' or the EU's borders. Secondly, where the variables which are in principle within its reach are concerned, the government only has use of a limited range of instruments : namely, a policy based on legal definitions and the implementation which flows from it.

There are two questions which arise out of this : is it possible to create scope for policy outside the natural authority of the Dutch government, that is, outside the legal borders of the Dutch state ? And is a policy conceivable, in order to exert influence over the variables which determine migration to the Netherlands, which is within the reach of the Dutch government but which goes beyond the range of legal measures ?





#### 5.1 Introduction

Following our search in the previous chapter for the variables which are responsible for migration processes, we shall now leave the field of scientific analysis, in the sense of what the academic literature teaches us. In what follows we shall formulate suggestions and recommendations for policies, and in doing so we must inevitably take up positions which are partly based on other considerations besides strictly scientific grounds. Partly this will involve ethical and normative assumptions, and estimates about the political feasibility and desirability of certain solutions as well. In order to make the proposals which are formulated here as verifiable as possible, first a number of points of departure or premisses will be enumerated, which underpin the policy recommendations. By implication, therefore, we are urging that these premisses or principles should form the basis of a broad migration policy to be followed by the Dutch government, to be worked out in further detail, and by extension by the European Union.

#### 5.2 Principles

The first point of departure has become obvious in the foregoing chapters : it is our assumption that a new forward-looking migration policy should in principle embrace all migration movements, and wherever possible and appropriate should be directed at all components of the migration process which can be influenced by national or international policy. The range of measures should include not only legal ones, but must also take other kinds into account. In practice we shall have to be partly guided in our suggestions by policy which has already been applied elsewhere.

In the second place, adopting a somewhat negative formulation, we acknowledge that comprehensive supervision of migration by means of government policy is an illusion. It is true that there are additional and different measures for controlling it other than those which have been used to date, but the suggestion that unsolicited migration can be prevented entirely, or that projections of nil migration are feasible or desirable, seems

to us to be dangerous and out of place in the present context. Turning it around into a positive formulation, we propose to assume that a broad migration policy takes a generally positive view of international migration. That already happens to an extent, for example in the form of large 'free migration areas' like the Common Nordic Market and the European Union, within which a kind of 'right of free migration' has developed, at least for the subjects of the states concerned. Certain other forms of migration, such as that of the highly educated and employees of multinational enterprises, are in principle viewed positively, and in practice few obstacles are placed in their way.

The extension of this right of free migration seems to us to be a worthy principle, in due course. At the same time we are fully aware that, because of the inequalities in the world and the resulting migration pressure, it is not possible to realize this ideal in the short term. Unlike certain commentators, we do not see free international migration as a means of solving the fundamental problems of inequality in the world : that requires different measures and policies. Precisely in order to exercise control over involuntary migration forced by inequality, it is desirable to articulate a 'right to remain' alongside the right to voluntary, free migration.

This bifocal principle, of the right to free voluntary migration and the right to remain, forms a better point of departure from which eventually to remove the present ambiguity in migration policy. It also implies a much more comprehensive migration policy, with three components : a) an admittance policy set in a broader context, b) national and international policy designed to regulate that migration which is unavoidable, and c) a policy which is directed at the fundamental causes of involuntary migration movements in particular.

A third principle grows out of the previous ones : a distinction between short and long-term objectives and measures of policy, and the integration of the two. The relevance of that distinction is not difficult to illustrate either on the sending or the receiving side. In the major sending countries for migrants, both present and potential ones, a long-term approach such as the stimulation of economic development will not lead directly to the reduction of migration pressure in the short term, and may even cause its temporary inflation. In the countries of settlement, as a result of the new international division of labour outlined in Chapter 2, there will be little need in the short term for unskilled and semi-skilled immigrants in particular; in the longer term, however, things may be different. It remains difficult to predict how the labour market is going to evolve in the coming decades, and where it will

recruit its labour, but it is quite clear that demographic processes in the industrialized countries are already leading to the ageing of the working population, and later on will mean its reduction. In the countries which surround the Netherlands this process has already advanced some way further. In Germany, for instance, the demographic developments are some ten to fifteen years in advance of the Dutch ones, and the German working population is already declining rapidly.<sup>103</sup> Despite substantial levels of unemployment, this set of circumstances is prompting the organization of major new guest-worker programmes,<sup>104</sup> and even in 1992 Germany was host to more than 200,000 mostly temporary Polish labour migrants.<sup>105</sup> Seen at the level of the entire European Union, more immigration is already necessary, even now, to maintain the ranks of the European working population.<sup>106</sup> It is of course impossible to guarantee, but neither is it by any means unlikely that migration to the Netherlands will be necessary in the future in order to satisfy the demands of the labour market.

The fourth principle has to do with the socio-psychological aspects of migration policy, and of its implementation. Two important matters have emerged in this respect : firstly that the subject of international migration and immigrants has become a highly sensitive political issue, which leads to ill-considered reactions to potential and actual migration. Secondly, we have observed that potential migrants anticipate and react to restrictive policy measures,<sup>107</sup> and that they mobilize every available resource towards those 'gates of entry' which remain open. Not only does this result in all manner of objectionable practices on the part of middlemen, but also the jamming of routes which in principle are still open, such as that of asylum. These observations move us to recommend the formulation of policy in such a way that will remove a number of these unintended excrescences. Transparency

---

<sup>103</sup> Schmid, J., 'Zuwanderung aus Eigennutz? Der demografische Aspekt des Einwanderungsbedarfes in den EU-Mitgliedstaaten', in Weidenfeld, W. (ed.), *Das europäische Einwanderungskonzept: Strategien und Optionen für Europa*. Gütersloh (Verlag Bertelsmann Stiftung) 1994, pp. 89-124.

<sup>104</sup> Rudolph, H., 'The New Gastarbeiter System in Germany', *New Community*, 22 no. 2 (April 1996), pp. 287-300.

<sup>105</sup> Salt, J., & J. Clarke, 'European Migration Report: Central and Eastern Europe', *New Community*, 22 no. 3 (July 1996), p. 515.

<sup>106</sup> Schmid, J., 'Zuwanderung aus Eigennutz?', *op. cit.*

<sup>107</sup> For examples from Dutch policy, especially regarding Surinamese migration, see Amersfoort, J.M.M. van, and R. Penninx, 'Migratieontwikkeling en migratiebeheersing', in H. van Amersfoort (ed.), *Migratie, bevolking en politiek; Nederland als immigratieland in een Westeuropese context*. Amsterdam (ISG/University of Amsterdam) 1993.

and clarity in migration policy, about what is possible and what is not, both for potential migrants and for the already settled population, could lead to more efficient control and the avoidance of unintentional effects, and to the maintenance and improvement of support for limited immigration.

A further principle - the fifth - concerns the distinction between various grounds for admittance. It is evident that a great deal of international migration is not possible to control with legal instruments. This is true of Dutch citizens and citizens of EU Member States, and for these categories the right of free migration has been realized, which is to be regarded positively. That is not to say, however, that migration policy is not possible with regard to these groups : influence can most certainly be exercised on migration movements with other instruments besides restrictive legal ones. For example, we would expect (in the light of experience with Surinam) that a consistent policy of economic development for the Netherlands Antilles would have more effect on migration movements between the Antilles and Aruba, and the Netherlands, than attempts to limit that migration by formal legal means.

For foreigners from outside the EU, the distinction drawn between admittance on humanitarian grounds and entry for economic reasons remains of fundamental importance. Our assumption is that the rights which evolve from legal positions gained in the Netherlands and from international treaties (family reunion and formation, and entry for purposes of asylum) must remain in place. Improper use or abuse of these grounds for admittance cannot be tolerated, not least because of the need for support in society for entry on these grounds. However, in combating such abuse, the measures must be cautious, and must not themselves contribute to the undermining of those rights. In limiting the entry of these categories, then, there can be no place for such measures as quotas or categoric exclusion orders, without the chance of individual consideration.

A sixth principle concerns the relationship between migration policy and integration policy for immigrants. This relationship works in both directions. On the one hand, a just and comprehensive integration policy demands a degree of restriction in immigration policy, especially while essential agents of integration like the labour market and education institutions are experiencing considerable problems in providing immigrants with a satisfactory place in society. Certain restraints must apply, particularly where the humanitarian principles just discussed are concerned : the numbers involved are in the main not subject to direct control. On the other hand, an integration policy demands that those who arrive in the Netherlands are

rapidly given a clear statement of their residence status, in order that the integration process is not delayed or even disrupted. Furthermore, integration policy can make an important contribution to the long-term objectives of migration policy by ensuring that immigrants become and remain employable on the labour market, insofar as they are not immediately so. The interconnecting nature of these two forms of policy further implies that it would be desirable from an organizational point of view to couple them together, more so than they are at present.

Finally, in view of the national and international context sketched in Chapter 2, it is our assumption that a comprehensive and forward-looking migration policy should be part of a robust international framework, and at the present moment the European Union provides the most obvious framework. In addition, the larger international organizations will play their parts, like those associated with the United Nations.

In the following sections a number of policy recommendations are put forward, taking these principles into account. Although they are all interconnected, the suggestions are presented under three headings: a) immigration policy; b) the regulation of unavoidable migration; and c) policy for the prevention of migration.

### **5.3. A transparent immigration policy**

Up to now immigration policy has been ambivalent. While permitting and stimulating the international migration which is perceived to be desirable, at the same time it mobilizes numerous resources to prevent unsolicited and undesirable immigration. The latter element entirely dominates the discussion, and leads to a whole range of problems in the practical execution of policy. The discrepancy between these two needs to be resolved in the long term.

In the short term, heavy migration pressure means that a certain restriction and selection is justified. In so doing, there must be a distinction drawn in principle between migrants who may be admitted for reasons of economic interest, and those who merit entry on humanitarian grounds. The ways in which the restriction is applied (in the main by the use of a legal system) clearly suffers from serious defects and disadvantages. One is that as a result of the closure of immigration possibilities on grounds of economic

need (either that of the migrant or that of the receiving society), the 'gates of entry' for admittance on humanitarian grounds have come under intense pressure.

### ***Labour immigration by quota ?***

We advocate investigating whether it would be possible to introduce *limited, regular labour immigration*, for example by means of an annual quota. A number of arguments from differing viewpoints lead us to this recommendation.

In the first place there is the argument that, from the point of view of the potential immigrant, even the possibility that a regular form of entry might exist could make migration movements more controllable and more subject to regulation. If potential migrants were no longer entirely dependent on irregular migration routes (like smuggling, asylum requests, tourist visas, marriages of convenience, and so on), then the improper use of such methods might be less attractive.<sup>108</sup> The risks and costs associated with their use would then stand in contrast with the possibility of reaching the Netherlands by legal means in due course.

This course of action has the advantage that it could be combined with the distribution of information about the country of settlement before departure (on which more below), and that such information might also gain in credibility.

It is expected that this limited form of regulated immigration would make the control of the total flow easier, because the alternative routes would be relieved of pressure in the process. In other words, the expectation is that both the number of illegal immigrants and the number of those requesting asylum without good grounds would decline. An example of the effectiveness of this kind of mechanism is to be found in Germany. Two categories of people in the countries of the former Soviet Union have the right to settle in Germany : ethnic Germans (Aussiedler) and Jews. After the collapse of the Soviet Union, migrants from both groups could travel to Germany on their own initiative and claim a right of residence there. Because this began to cause serious problems of reception overload, the government moved to a system of getting the migrants to make an application before departure, and then to admit them by means of an annual quota. Although

---

<sup>108</sup> This proposal is also supported by the International Organization for Migration. See, for example, 'Regular Migration Opportunities can reduce Traffickers' Allure', in *Trafficking in Migrants*. Quarterly Bulletin, 5 (December 1995), pp. 1-2.

this led to long waiting-lists, the security of knowledge that admittance was eventually guaranteed led the immigrants largely to desist from queue-jumping. The mechanism is reinforced by the deportation of migrants who are found to be in Germany without permission.<sup>109</sup>

A second argument has to do with the importance of labour immigration for the Netherlands. In terms of the present and the near future, on the one hand we have outlined in some detail how the economy and employment opportunities in the Netherlands have changed since 1975, with the effect that there is little need, in macro-economic terms, for labour from abroad, and especially not for the unskilled and semi-skilled. On the other hand, it has also become clear that there is no universal consensus about restricting labour immigration: evidently, in certain sectors of the labour market there is temporary but regular demand for this type of labour, which it is not possible to satisfy. Sometimes that need is met by temporary foreign labour, and in other cases the demand is met by illegal immigrants. For the present, this demand for labour is modest and usually temporary.

For the somewhat longer term we have laid out a rather different perspective: because of the irregular demographic structure, the economically active population will decline steadily from the beginning of the next millenium, which could well mean that demand for labour will rise once more. At the present moment, it is difficult to predict exactly the form this demand will take, and how it might be satisfied, but it is likely that extensive opportunities for the less qualified will occur in the expanding and typically labour-intensive service sector. Policy should try to anticipate such developments, not least by maintaining the employability of the labour potential already present in the Netherlands; in this way it should be possible to meet the demand for labour at least in part from those already settled in the country, whether indigenous or immigrant. But it will not simply be possible to fill this demand from the army of unemployed or from other sources and measures, such as an increase in the participation rate of women, or by raising the age of retirement.<sup>110</sup> In all probability, therefore, quite substantial immigration will be necessary.

---

<sup>109</sup> Only Jewish immigrants are not deported, for obvious reasons. However, they are denied the refugee status. See J. Doomernik, 'Implementing an Open-Door Policy. Soviet Jewish Immigrants in Germany', paper delivered to the Workshop on the Regulation of Migration, Institute for the Sociology of Law, Nijmegen University, 14-15 December 1995.

<sup>110</sup> Methods designed to achieve this, such as a reduction in benefits, or the payment of premiums to employers who take on older people or the long-term unemployed, seem to have had remarkably little effect in other countries to date. See Harris, *The New Untouchables*, op. cit., p. 182f.

In the third place, we suggest that the proposal can contribute to increasing the clarity and legitimacy of policy, whether it is restrictive or otherwise. In a very real way it would strengthen the legitimation of a consistent policy of combating illegal immigrants : both the employers and the illegal immigrants themselves could be directed to the legal channels for recruiting abroad the labour which is not available from the existing reserve. A policy of deportation and exclusion for those who, in spite of all this, choose irregular immigration, would probably be more effective, and certainly more credible. In addition, immigration policy would gain more legitimacy by not being simply defensive and restrictive, but more forward-looking and potentially more systematic, all the more so as it becomes more possible to bring together immigration policy and integration policy.

What form would this labour immigration by quota take ? To replace or complement the Labour of Aliens Act (Wet Arbeid Vreemdelingen, WAV), an annual quota of labour migrants could be introduced. The government, the employers, and the unions in each branch of industry should reach agreement each year on the number of migrants. The figures arrived at in this way could then be put to parliament for consideration, before finalizing the quotas. This type of procedure would guarantee democratic control, and offer the possibility of establishing and maintaining support in society for immigration.

In the short term, the need for the permanent settlement of migrants is minimal, and for that reason one could set up this labour immigration in such a way that after a certain period or after a certain job, the return of these labour migrants would be assured. A purely legal means to that purpose, in the form of a policy on residential status, would be insufficient. One powerful complementary way of encouraging return would be to take the social insurance premiums paid by the employers and the migrants (who make little use of such insurance in practice), and make them payable only on return to the sending country. In contrast with measures like holding back all or part of the wages until the moment of return, this procedure would not be in conflict with the rights of employees as codified by the International Labour Organization (ILO). When it becomes desirable that immigration is no longer cyclical, for instance because the demographic structure of the population implies a need for permanent immigration, this stimulus to return could be abolished.

Because both immigrant and employer may have an interest in extending the stay, this mechanism is unlikely to be infallible, any more than



other control mechanisms are. Nevertheless, that does not necessarily mean that the number of 'illegals' would significantly increase; rather it is to be expected that many who now travel to the Netherlands illegally would prefer regulated, temporary labour migration. What is more, they would also encounter a more convincing policy with regard to illegal immigrants, if they chose to remain illegal.

Although compulsory return after the end of the labour contract presents its own problems, there are two mitigating factors. Firstly, it can be reasonably expected of an immigrant who knows exactly where he stands before he starts, that he should return home. Naturally this entails that the information with which he is provided is trustworthy. Secondly, as a subsidiary argument, the economic and social development of the sending country would be well served by returning migrants with some work experience and the money they have earned and transferred. This second argument is only compelling from a Dutch point of view if there is support for a broader migration policy directed at the sending regions (for which we offer some suggestions below).<sup>111</sup>

For practical reasons, and on the basis of the preceding argument, it would be sensible for the proposed recruitment of labour migrants to take place mainly in the countries of the Mediterranean region and of Eastern Europe, a number of which will become members of the EU in due course. The largest migration at present comes from these areas, and it is there that the manifest migration pressure is highest. An additional practical argument is the proximity, for it is not in the interest of employers to have to fund expensive travel costs without good reason. By concentrating recruitment in this way, it could be expected that the number of illegal immigrants from these countries who are present in the EU would be brought down.<sup>112</sup>

Finally it might further be proposed that a certain degree of labour migration to Europe should be permitted for people who come from further afield than Eastern Europe and the Mediterranean area, for instance from regions which presently are producing large numbers of asylum seekers. The opening of a second point of entry for them could be expected to produce a

---

<sup>111</sup> Indeed, as has often been proved, returning labour and money transfers are not in themselves sufficient to lead to development. The remittances are seldom invested in production goods, but spent on consumption, which can even lead to a rise in inflation and increasing inequality amongst the population. See, inter alia, Castles & Miller, *The Age of Migration*, op. cit., p. 158.

<sup>112</sup> In the Dutch case, one could consider giving Surinam a special place in the policy, in view of the particular relationship with the Netherlands and the intensity of migration.

significant downward pressure on the number of asylum seekers; however, this proposal carries with it a number of complications. The higher travel costs would be less attractive for employers, which might mean that an immigrant would have to pay his own way; this would only be justifiable if it were guaranteed in advance that he would receive sustained employment, which in practice might lead more often to settlement. That in turn could result in partially illegal sequential migration on the part of family members and others. For as long as such things are not part of a communal European Union policy, therefore serving the demographic and economic requirements of the EU as a whole, then following this option is less appropriate : the quotas which might be made available for immigration to the Netherlands would probably be too small at the moment.

### *Asylum migration*

We have already demonstrated that policy on asylum is not to be separated in practice from migration policy in general. The rapid increase in requests for asylum, and the blockages in the system for dealing with them, are partly connected with the closure of alternative migration possibilities. However, we have also made clear in explaining our approach that asylum policy should be founded on normative principles other than policy on labour migration. Asylum-related entry should not be linked to the immigration needs of the receiving society, nor should it be restricted by any problems of reception capacity. It is of fundamental importance for the integrity of a constitutional state that the protection of the individual enjoys the highest possible priority. It might, though, be possible for any unexpected decline or rise in the number of asylum seekers to be linked with an adjustment of the labour immigration we have just proposed. Parliament could do so by exercising its powers in determining the annual quota.

The proposal put forward here for opening up limited possibilities for regular labour migration is partly prompted by the negative effects which the present restrictive policy have for asylum migration, and we would expect that the implementation of the proposal would relieve at least some of the pressure on asylum policy. This would permit less emphasis on the recently devised categoric exclusion measures, which remove the chance of individual consideration, and it would focus more attention on the actual substance of asylum policy.

If it is to be clear for all concerned, that asylum policy would be well served by a more rapid processing of requests for asylum than usually takes

place at present. People who are recognized as refugees should be able to attain a fulfilling role in Dutch society with the minimum of delay, and the same applies to those who are permitted to remain on humanitarian grounds. If for particular reasons the procedure takes longer than a few months, then it is desirable that the asylum seeker should be able to work, or to gain positive experience in some other way, for example through education. That would stand him in much better stead for his eventual return (an option which obviously must be available while his case is being considered, but one which recedes as the case takes longer), as well as for his participation in Dutch society. Those asylum seekers whose pleas are rejected must be deported from the country in a humane manner. If they return voluntarily then some degree of support should be offered to them, such as is already possible with the assistance of the office for returnees at the International Organization for Migration. If return does not take place on a voluntary basis, then it must be carried out by the Dutch authorities.

Nonetheless, it regularly transpires that a rejected asylum seeker cannot be deported, sometimes because he refuses to divulge his nationality,<sup>113</sup> but more often because it is far from clear that he will not encounter severe problems in his country of origin. If it cannot be reasonably supposed that repatriation will be possible in the foreseeable future, a permanent residence title should be granted. Concerning those who hold a Provisional Residence Permit (VVTV), whose stay is held to be temporary, it must also be accepted that most of them will remain for an extended period in the Netherlands. In their cases too, it makes more sense, both for the immigrant and for Dutch society, to translate that expectation into an appropriate residence title with permission for immediate participation in the labour market. This by no means implies that the immigrant in question will never in fact return: it is quite possible that a positive experience of migration, such as that promoted by the Norwegian policy (see 3.3), may lead to the return of the migrant to his country of origin after a change in the political climate, even after a stay lasting years.

---

<sup>113</sup> This presents two problems with a limited number of rejected asylum seekers (and other illegal immigrants). The first is to discover the identity and the country of origin. The second is the willingness on the part of countries of origin to co-operate in repatriation. It is not always possible to solve the first problem: the legal system reaches its limits in these areas. The second often poses difficulties at present, but if there were to be co-operation between the Netherlands or the EU and the sending countries, in a framework of broad policy on migration and economic development, then taking back illegal immigrants could be built into that broader policy, and carried out effectively.

### *To return or to stay ?*

For migrants of the first generation in particular, whether they migrated as refugees, as asylum seekers, or for economic reasons, the question of returning or staying is constantly in their thoughts throughout their lives. Apart from considerations regarding their children, migrants who do not hold Dutch nationality are strongly influenced in their deliberations by the policies of the country of immigration. Two factors consistently appear to be of major importance : a) the irrevocable loss of rights of residence when they leave, and b) the loss of social rights, such as benefits. At the moment there are in existence a number of measures which, in principle, enable assisted return-migration under certain conditions,<sup>114</sup> but the take-up is restricted by those conditions, and by the low priority afforded to this policy area, especially in terms of the commitment of financial resources. In our view the present return-migration facilities are not only too miserly in the financial sense, but also render themselves ineffective by over-emphasizing the attached condition of definitive departure.

We propose therefore a reconsidered and broader policy on this matter. The return of migrants who have legally spent either a short or longer period in the Netherlands must be made a realistic and positive option for the migrants in question. The government can offer more possibilities than it presently does, and in our view it is advisable to create more generous opportunities for re-immigration. From the point of view of the individual migrant that would be welcome, because it would increase the number of realistic alternatives available. From the side of Dutch society as a whole, we do not accept that this more generous policy would deliver any less than the present one, which has the effect that a number of migrants do not dare to take the plunge of re-migration, and so remain in the country in a sense against their will. The justification for financial and other support from the Dutch government for returning refugees appears to us to be self-evident, bearing in mind the forcible nature of their original departure.

---

<sup>114</sup> For some time there has existed general (though restricted) support for return-migrants in the form of travel costs and initial living expenses, in addition to the previously described return-migration arrangements for people over fifty, for certain groups. Furthermore, the International Organization for Migration carries out a number of projects in support of returning refugees and illegal immigrants.

## 5.4 Improved regulation of unavoidable migration

A serious world-wide problem for asylum seekers and unrecognized refugees is that they often end up in a vacuum between the autonomous jurisdictions of the different states. Once they have left their country of origin, they fall between two stools : by the act of departure they have lost their rights of citizenship in that country, or can no longer take advantage of them, but at the same time they are classified as aliens by other states, and often as 'undesirable' ones. They have made use of their 'right of exit', but appear to have no 'right of entry', or certainly no unchallenged right.<sup>115</sup> In the international context, this gives rise to a number of fundamental problems concerning asylum seekers.

The first is that there is a rising number of countries which are taking increasing steps intended to exclude asylum seekers, or in other words to prevent them from being able to submit a request for asylum. In terms of the relevant refugee treaties, it is clear that in these cases there is no consideration of the legitimacy of the request for asylum, but rather a dismissal beforehand.<sup>116</sup> That in itself undermines the meaning of these treaties, and so cannot be intentional. If there are ready grounds for introducing generic exclusion measures, for example because there are indications that improper requests for asylum could be significantly prevented, then other possibilities must simultaneously be created for those political refugees who need them.

As was suggested in the Framework Proposal of the Temporary Scientific Committee on Minorities Policy,<sup>117</sup> to which we have referred, there are ways one could devise of easing this problem. For example, the embassies and consulates of the Netherlands and of other EU Member States abroad could be better equipped to receive requests for asylum on the spot, and to give them at least partial consideration. However, their ability to do so will always remain modest, and for that reason and others it would further be desirable to provide an international organization, like the UNHCR, with the means to carry out such operations.

---

<sup>115</sup> These terms are taken from Zolberg, A.R., 'The Next Waves: Migration Theory for a Changing World', *International Migration Review*, 23 (1989) no. 3, pp. 403-430.

<sup>116</sup> To be absolutely unequivocal, we refer here not to the recently introduced 'evidently unfounded declaration' ('kennelijk ongegrond verklaring'), which implies some form of consideration, but to the exclusion measures which prevent any request for asylum being submitted.

<sup>117</sup> TWCM-Kaderadvies, *Eenheid en verscheidenheid*, op. cit.

A fundamentally different route to solving the problem would be to change the mechanisms which have led and still lead to an ever-harsher exclusion policy, and to devise a new EU policy on a quite different basis. At the present moment a convergence in policy on aliens and asylum is being brought about by the countries of the EU; however, this kind of migration has never been an integral part of European communal policy. Because the EU Member States are reluctant to surrender their sovereignty in the matter of regulating international migration, there is for the moment a preference for developing policy within the third pillar of the Treaty on European Union by the Ministers of Justice and Internal Affairs. The main concern is to regulate the migration of the subjects of non-EU Member States, in the form of a defensive policy designed to prevent undesirable immigration. Examples of this are to be found in the intergovernmental arrangements which have been reached as part of the Schengen and Dublin agreements.

This set of developments has a number of consequences. In the first place, the context within which this policy is formulated leaves very little room for a broader European migration policy, which might include aspects in the areas of economics, overseas development, and foreign affairs. A second consequence is that the formulation of policy is being removed from democratic control. Neither the national parliaments nor the European Parliament are involved in preparing the policy. A third result of autonomous policies for each state is that it becomes all too easy to create a vicious circle : no single country wants to run the risk of being more 'attractive' than the others.

It is only possible to break through such mechanisms by a) making the migration policy of the EU a community affair; and by b) devising the substance of that policy in a much broader context. The European Commission should be empowered to develop a migration policy which takes into account all the relevant factors in the generation of migration (see section 5.5). The ideas outlined here concerning the relationship between labour migration and asylum policy could also be applied at the level of the EU as a whole, thereby achieving a much greater positive impact.

Alongside the problem of categoric exclusion measures, there is a second problem in the regulation of asylum migration : that of the differential evaluation of requests for asylum in each country. Due to pressure of numbers, in most countries a tendency has arisen for the criteria for awarding the status of refugee to be made much tougher, and it also appears in practice that the criteria are applied differentially in the various countries, so that the outcome also varies from country to country. Both

these developments result in inequality of treatment for the asylum seekers concerned. In the relations between states, this leads to a vicious circle, because countries with more generous evaluation policies run the risk of being identified as specific destination countries for asylum seekers, which then means that they are obliged to adjust their evaluation criteria. The harmonization of evaluation policy within a community policy of the EU would probably solve part of this problem, but would not remove all the dangers. A more realistic solution would, in our view, be to 'farm out' the evaluation to a strong, mandated organization like the UNHCR.

This brings us immediately to a third problem, namely that states have a strong tendency to 'pass the buck', or to shift the problems onto others. This can be seen in the return of asylum seekers to the country of their first arrival,<sup>118</sup> but also on the international plane in the discussions about 'reception in the region', and in the reactions to the request for help from the UNHCR, whether in the form of direct relief and admittance or of financial support.<sup>119</sup> It is particularly distressing that essentially valuable alternative solutions to the problems are being frustrated by the partisan, self-interested standpoints of the national states on the one hand, and by the insufficient mandate and power of international organizations on the other.

This is well illustrated by the basically sound attempts to provide reception and adequate protection in the region of origin in the former Yugoslavia. In a number of cases, reception and protection is possible on a temporary basis, but to implement it properly requires the presence of a strong, mandated, and financially supported international organization. Furthermore, it may become evident that reception in the region does not provide a permanent solution, because in time at least some of the refugees will be unable to return, but will also be ineligible for reception in a third country.<sup>120</sup> Settlement in one of the EU Member States should be a possibility for these people, and to that purpose, either there should be a satisfactory decision-making forum in the EU about sharing the burden, or an international organization like the UNHCR should receive more powers to

---

<sup>118</sup> Under the Schengen agreement, the request in the country of first arrival relieves subsequent countries of the obligation to consider that request.

<sup>119</sup> Proportional 'burden sharing', as proposed by Germany and supported by the Netherlands and Austria, is rejected out of hand by other EU Member States.

<sup>120</sup> Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia, Working Paper on Reception in the Region of Origin. Geneva, September 1994; Reception in the Region of Origin. Draft Follow-up to the 1994 Working Paper. Geneva, August 1995.

recognize as refugees those who need protection, and to accommodate them in the EU Member States according to a distribution formula. The Netherlands has taken part in this procedure for some time now, but many of the other EU Member States have not. It might be proposed that all EU countries should introduce an annual quota for 'invited' refugees, as part of a European, community-based asylum policy. By this means those refugees who are not in a position to submit a request for asylum in an EU Member State could still obtain the necessary protection. In agreeing such quotas, account should be taken of the number of asylum seekers and refugees arriving in the various receiving countries by other means.

Another form of community policy might concern the question of support for the countries of the former Eastern bloc in realizing the legal and financial resources for a humane asylum policy. Because repatriation agreements are being concluded with more and more of the countries in that region, and because (quite apart from that) these countries are receiving more and more requests for asylum, it is of great importance that they should be able to deal with the situation satisfactorily. Relatively poor countries like the Czech Republic and Poland are shouldering part of the burden which could otherwise descend on the Netherlands and other EU Member States, and they in their turn will try to pass on the burden to countries further to the East. If they are not equipped for the reception and protection of asylum seekers, the problems which arise for these migrants will also be an EU responsibility, even if it is an indirect one. For these reasons it would make sense to provide moral and material support for East European states in the development of an asylum policy which adheres to the Geneva Convention. For example, strong support from the EU could be given to those initiatives which have already been set in motion in those countries by the UNHCR, in both a political and financial sense.

## **5.5 Prevention of forced migration**

Up to this point our comments and suggestions have concerned migration which is already under way. As we indicated in our underlying principles, a comprehensive migration policy would also need to be directed at the processes which take place before the occurrence of actual migration, or, more to the point, forced migration. We spoke of the need to develop in due course a 'right to remain' alongside a 'right to free migration'. What form might this broad migration policy take ?



As was indicated in the Framework Proposal of the Temporary Scientific Committee on Minorities Policy,<sup>121</sup> policy may be conceived at three distinct levels : the macro-level, the meso-level, and the micro-level. At the *macro-level*, all those forces which we designated 'root causes' play a role, such as demographic, economic, ecological, political, and other factors. If Dutch or preferably European policy wants to be effective at this level, then government co-operation with the countries of origin is essential, for we are dealing here mainly with processes which could be or are very much the subject of national policy in the emigration countries concerned. In procedural terms, bilateral agreements on economic, political, cultural, and migration issues are appropriate starting points; such agreements could be concluded between countries and regions of emigration on one side, and the EU as a whole or just by the Netherlands on the other.

Apart from overseas development aid, which has existed for some time, the evolution of a substantive policy of removing the fundamental causes of migration has hardly begun. We have seen how a complex of factors in a great number of countries produces processes which lead to increasing migration pressure. Although these processes are to some extent the results of earlier intervention in regional developments, such as the colonial regimes, and more recently the arms trade, the chances today of rectifying the situation are pretty slender in the short or even the medium term. The migration pressure which has built up will only begin to subside when at least a number of conditions are met : political stability and respect for human rights, economic growth, and a responsible use of natural resources. To achieve that, consistent policy will need to be maintained over a long period.

The kind of overseas development aid with which we have been familiar in recent decades can play a certain role here, especially if it is integrated with other forms of policy. Further results can be expected from investments, and bilateral and multilateral co-operation aimed at fostering free trade between the EU and the countries which surround it. Where appropriate, political reforms might be encouraged before concluding investments and trade agreements. Clearly, two matters are of particular importance in such policy. Firstly, the various forms of policy should be geared to each other, instead of being carried out separately, as before. Secondly, policy should be formulated and carried in such a way that, step by

---

<sup>121</sup> TWCM-Kaderadvies, Eenheid en verscheidenheid, op. cit., pp. 32-33.

step, trust is built up between the partners in that policy, and so that prejudices and distorted impressions (like the image of Islam, for example) exercise no inhibiting influences.

Policy of this kind would fit perfectly in a joint European political forum. Policy aimed at development will achieve a greater effect if the economic and political power of the Union as a whole is mobilized in its support, than if individual states carry out separate policies.<sup>122</sup> An initial impetus might be seen in the consultations begun while Spain chaired the EU, on development and co-operation with the countries around the Mediterranean Sea, as a result of which it is expected that considerable resources will be made available in the EU budget in the foreseeable future for cultural and economic co-operation. There may be potential here for developing a policy directed at combating the root causes, though further research into the most effective form that policy should take will first be necessary.

With regard to Dutch policy, one might consider building up a relationship aimed at economic and democratic development with countries from which many migrants have traditionally come to the Netherlands, notably Morocco and Turkey. However, only the broadest contours are agreed about which objectives should be targeted and which means are the most suitable for achieving them. Further fundamental research is required to discover which constellations of macro-processes form the 'root causes' of emigration pressure. To tackle demographic instability on its own, for example, would certainly yield very little effect, for these processes are far too interconnected for that.

At the *meso-level*, the intermediary structures operate which link the sending country with the country of settlement, and which are of crucial importance, as we have seen, to the rise and continuation of migration processes. A policy of preventing migration, carried out in co-operation with the country of origin, could be directed at these structures.

---

<sup>122</sup> Previous joint initiatives which have moved in the policy direction outlined here have often foundered on the divergence of priorities between states or groups of states. For obvious reasons, states tend to concentrate on the sending countries from which large parts of their migrant population hail; sometimes these are countries with which they have traditional, often colonial, links. Thus France is mainly concerned with North Africa, while Germany is more interested in developments in Eastern Europe and Turkey.

In general terms, the cultural definitions concerning migration play a significant role at this level. It is here that ideas about emigration take root, the pros and cons of different target countries are weighed, and the routes for getting there are discovered and evaluated. At the same time, this is the location of actual access to emigration itself: knowledge is exchanged and agents offer their services. It would seem that alternative and more objective information could be provided at this level in order to furnish potential migrants with a realistic picture of what the Netherlands and the EU may or may not have to offer them. It would repay the effort to investigate systematically the ways of exerting influence on this process, and what previous attempts have taught us. For example, in several Central European countries there are campaigns orchestrated by the International Organization for Migration (IOM), which provide potential migrants with information about the pros and cons of migration, the necessary procedures, and the risks. As we have already argued, such information would gain credibility and effectiveness, when it is not connected to a merely defensive immigration policy (see 3.3). Recently more attention has been focused on the possibilities of combating dishonest organizations which pursue such practices as people-trafficking, the trade in women, forging documents, and the like. The chance of achieving something of this order are obviously much greater if the policy is integrated into a broader one which has gained the commitment of the sending country as well.

At the *micro-level* of individuals and households, where the final decisions about migration are taken, cultural factors are also very important, for they determine which alternatives are taken into account, and how the individual's situation is set in a comparative context. Objective information, obtained from a credible source, can play a part here too. Support for return-migrants is another option we have already put forward. At the same time we should be aware that to link return-migration to local development is no simple matter. Previous research has made clear, for instance in what was called the REMPLOD project,<sup>123</sup> that there is no obvious convergence between the interests of individual return-migrants, and regional or national development. Further and more detailed research is therefore still necessary into the possibilities laid out here for policy formation.

---

<sup>123</sup> P.J.C. van Dijk, R.W. Koelstra, P. de Mas, R. Penninx, H.C. van Renselaar, and L. van Velzen, REMPLOD Project. Slotconclusies en aanbevelingen. The Hague, 1978.

## **5.6 Conclusion**

In this study we have repeatedly referred to the diminishing scope for an autonomous Dutch policy on migration. The mirror image is that we have proposed a comprehensive communal policy at EU level. Furthermore we have constantly argued that the best guarantee for a solution to problems which neither the national states nor the EU appear to be able to tackle effectively is an internationally recognized, mandated, and well equipped organization, especially on the issue of regulating refugee movements. Migration policy is by its very nature an international matter, and must therefore take shape increasingly at that international level. Only then will effective action become attainable.

Wealthy states like the Netherlands and regions like the European Union should contribute, according to their means, to the solution of these problems. The Netherlands should take the lead in these matters within the European Union, and should seek out partners among the countries whose thoughts lie in a similar direction. The Netherlands should seize the opportunity to do so presented by the Inter-governmental Conference on the revision of the Maastricht Treaty.

Subscribers to the Migration News Sheet, a monthly information bulletin on immigrants, refugees and ethnic minorities which is published by the Migration Policy Group, receive this publication free of charge.

This publication can also be ordered from MPG and IMES.

Price : 10 ECU

---

Migration Policy Group  
174 rue Joseph II, B-1000 Brussels

Instituut voor Migratie- en Etnische Studies  
Universiteit van Amsterdam  
Rokin 84, 1012 KX Amsterdam

Tel : 32(2) 230 59 30  
Fax : 32(2) 280 09 25  
E-mail : 101324.622@compuserve.com

Tel : 31(20) 525 36 27  
Fax : 31(20) 525 36 28  
E-mail : IMES@PSCW.UVA.NL

---

April 1997