CITIZENSHIP IN THE NETHERLANDS: CHANGING POLICIES AND CONCEPTS

ABSTRACT

This article analyzes the "reversal" of citizenship concepts in the Dutch context, as a result of which socio-psychological citizenship has increasingly become a precondition of legal or formal citizenship acquisition. It discusses how this reversal of citizenship concepts has influenced law and policy with regard to immigration, integration and naturalization. In the end, some legal and moral questions are raised.

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A multicultural drama?

After World War II, the ethnic and cultural composition of Dutch society changed considerably. This change is due to the arrival of various types of immigrants: post-colonial migrants from Indonesia, Surinam and the Netherlands Antilles, guest workers and their families from Mediterranean countries and, from the 1980s onwards, an increasing number of asylum seekers from Asia and Africa, and notably from Afghanistan, Iran, Iraq, Somalia and Sri Lanka. Hence the number of so-called "ethnic minorities" – persons coming from countries other than Western Europe and North America, as well as their children – has risen continuously. In 2008, some 1,766,000 persons belonged to an ethnic minority group, out of a total population of 16,405,000. The four largest ethnic minority groups – Turks, Moroccans, Surinamese and Antilleans – together account for 1,175,000 persons (StatLine 2008).

Until the 1970s the Netherlands did not have a comprehensive policy for the integration of immigrants. It was assumed, both by the government and by the immigrants themselves, that their stay would be temporary, and therefore an integration policy was not considered necessary. It was only in the early 1980s that the government began to develop a "minorities policy" (*minderhedenbeleid*), to ensure equal opportunity for the minority population, from both a socio-economic and a legal standpoint. At the time, authorities still underplayed the problems encountered by minorities caught in the gap between the traditions of their countries of origin, on the one hand, and modernity in the changing context of the Netherlands, on the other. For quite a while, the Netherlands was proud to call itself a multicultural society, based on communication and compromise rather than on conflict and confrontation (the so-called *poldermodel*, or "consultation model," a new form of the old tradition of *verzuiling*, or "consociationalism"[1]). Newcomers were to "integrate while retaining their own identity." In the meantime, the Dutch lost their religious loyalties in the processes of secularization and individualization that had begun in the 1960s.

Gradually, however, the lack of cultural and economic integration of immigrants and their children, who came to be referred to as *allochtonen* ("newcomers," literally "those coming from elsewhere"), became an issue of greater concern. In 1989 the Scientific Council for Government Policy (*Wetenschappelijke Raad voor het Regeringsbeleid*, *WRR*) introduced the notion that migrants had an individual responsibility to become full-fledged members of Dutch society (WRR 1989). According to the Council, basic Dutch language and orientation courses had to be offered by the government and should be made compulsory for persons obtaining social security benefits. The Council's view was officially adopted by the government in 1994, when the minorities policy was replaced by an integration policy (*integratiebeleid*).[2] The key phrase of this new policy would be "active citizenship" (*actief burgerschap*). From this point onwards, legislation began to be developed to make it mandatory for newcomers to learn the Dutch language.

However, increased emphasis on the immigrant's responsibilities as a citizen of the Netherlands was not enough to assuage concerns about a failing integration process. The optimism of the 1990s, when the economy was booming, was followed by a fundamental shift in the general mood with regard to immigrant integration. Several incidents seem to have led to a sense that all schemes and policies designed to integrate minorities and immigrants had failed, that multiculturalism is bad for social cohesion and that there is a so-called Muslim problem.

In early 2000, Paul Scheffer, a well-known publicist affiliated with the Labour party, wrote his famous essay titled *The Multicultural Drama* in which he severely criticized the failings of Dutch integration policy. He signalled many problems, including the lack of performance of migrant children in the education system, segregation in "Black" and "White" schools, anti-Western attitudes within minority communities and in general their lack of participation in society. He called for a parliamentary inquiry into the immigration and integration policies of the past decades. Since the publication of this essay, it is increasingly felt that being critical and vocal about the problems of a multicultural and multi-ethnic society is no longer considered politically incorrect or racist behaviour (Rutgers and Molier 2004). Also, after the 9/11 attacks on the United States, concerns about the role of (fundamentalist) Islam have become more prominent in the integration debate. In the years following Scheffer's article, politicians and opinion makers including Pim Fortuyn, Ayaan Hirsi Ali, Theo van Gogh and Rita Verdonk gained widespread support by taking tough stances on issues of immigration and the integration of ethnic minorities – Muslims in particular. The assassination of both Pim Fortuyn (by a left-wing activist) and Theo van Gogh (by an Islamic fundamentalist) deepened divisions in Dutch society and made the debate on cultural identity versus integration even more difficult.

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Changing concepts of citizenship

Over the past years, the perception of a "multicultural drama" has inspired fundamental changes in immigration, integration and nationality law, shifts in education policy, pleas for a stricter separation of church and state and more restrictions on religious freedom. What all these developments have in common is that they are symptoms of a fundamental re-interpretation of the concept of citizenship or, to be more precise, a *rearrangement of citizenship concepts*.

The term "citizenship" can be divided into two different concepts (Onderwijsraad 2003: 9-10):[3]

- One is a *politico-legal concept*, describing a specific legal bond between a person and a state created through nationality. The citizen in the legal sense has a privileged relationship with his state – that is, citizens have political rights, rights of free movement, rights guaranteeing that they are able to stay and return to the territory of the state, as well as (sometimes) certain specific obligations.
- Apart from this formal, legal citizenship, the term also denotes a *socio-psychological category* – one might even say a moral one – that has to do with commitment and capability, with bonding and belonging, with civic identity and practice. It has to do with the attitude and *habitus* of the person, the wish and capacity to be a full member of a political and social community.

Of course, there is a connection between the legal and the socio-psychological concept. The general presumption of every nation-state is that citizens in the legal sense are also citizens in the moral sense, persons willing and able to participate in a common scheme to further common goals that are defined in the democratic process in which they take part. What has altered in the Dutch context is that the *sequence* in which these two different concepts are applied is *reversed*, at least where migrants are concerned (Vermeulen 2004, Mentink and Vermeulen 2004, ACVZ 2004: 20).

Under the minorities policy of the 1980s, the presumption was that when migrants had gained formal rights – had become citizens in legal terms – they would eventually also commit to Dutch society.[4] There first had to be politico-legal integration, which was to be followed by social integration. However, the dominant position nowadays is that migrants must first become citizens in the socio-psychological sense – they have to integrate into society – before they are able to become citizens in the legal sense. They will have to *earn* their right to enter, their permanent residence permit, their nationality. Before obtaining any of these rights, immigrants have to show a sense of commitment: the ability to speak the Dutch language and a positive attitude towards Dutch society and its fundamental values. At the same time a selection takes place: to those who do not reach the prescribed level of integration, the right to enter or to gain a stronger residence status will be denied.[5]

The required sense of commitment furthermore entails that it is the immigrant – as opposed to the government – who must take charge of the integration process.[6] It is not sufficient that the immigrant is motivated and willing to integrate: he or she has to be able to show *results*.[7] Hence self-reliance is no longer seen as the objective of, but rather as a condition for, integration.

Finally, the reversal of citizenship concepts also entails a "thicker" notion of what citizenship – in the socio-psychological sense – actually entails. This becomes apparent through a shift in the official integration policy lexicon: "active citizenship" is replaced by "shared citizenship,"[8]

which implies that immigrants must not only be capable of contributing to society, but must also *subscribe to the common principles* that hold the society together, accept these "values, norms and fundamental rights and act accordingly." In particular, immigrants must have acquired "basic knowledge of universal values such as gender equality, freedom of religion and the prohibition of discrimination, and about socially important subjects such as the sexual diversity which exists in the Netherlands and the unacceptability of crimes of honor, female circumcision and domestic violence." Such basic knowledge leads to "prior consciousness of Dutch values and norms" and facilitates integration into society.[9] In the next section, we describe how this reversal of citizenship concepts has led to changes in Dutch law and policy concerning immigration, naturalization and integration.

New laws on immigration, naturalization and integration

Immigration and naturalization

Since 2000, Dutch immigration and integration policies have become unmistakably more restrictive. A new law passed in 2001, coupled with stringent implementation and considerable discretion exercised by the administration, has made it much more difficult for migrants to be granted asylum status or to realize family reunification.

Also, since 2001 a stronger connection has been made, in law and policy, between immigration and integration. The government has taken the view that a restrictive immigration policy is necessary to ensure a successful integration process.[10] And – as we shall see below – since 2006, integration requirements have been introduced by way of conditions for the entry and stay of immigrants.

More stringent requirements regarding naturalization were introduced in 2003, when the *Dutch Nationality Act* was amended.[11] Naturalization is now regarded not as an instrument of integration, but as an affirmation that the migrant has completed his or her integration process, and is able to fully participate in Dutch society. Since 2003 the language requirements for naturalization have become more stringent (Van Oers 2006), which is probably one of the main factors behind the important decrease in the number of applications for naturalization since 2003. Furthermore, in 2005, a bill was introduced to limit the number of categories of persons allowed to possess dual nationality. The requirement that migrants should give up their original nationality has also been defended as a way of testing their commitment to the Netherlands as their new home country. The bill has led to fierce debates within and outside Parliament, and these have been exacerbated by right-wing criticism of two government members – Aboutaleb and Albayrak – who both possess dual nationality.

Two more developments must be mentioned. Since October 2006, foreigners who wish to acquire Dutch nationality must attend a ceremony, in which the decision to allow naturalization is formally announced. Furthermore, the Dutch Parliament will adopt a bill that would introduce an oath (or a solemn affirmation) of allegiance to be taken by foreigners in order to obtain Dutch nationality. Both the ceremony and the oath/affirmation must be seen as symbolic rituals expressing the view that naturalization strengthens the psychological bond between the individual and Dutch society, and is not merely a formal grant of citizenship rights.[12]

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Integration

The first integration act, the *Civic Integration of Newcomers Act* (*Wet Inburgering Nieuwkomers*, WIN) was introduced in the Netherlands as early as 1998. The Act obliged newly arrived immigrants to attend an integration course and made it possible to impose a fine on those who did not. However, the results of WIN did not meet expectations: many immigrants dropped out of the courses and those who completed the programme only slightly increased their language proficiency levels. Hence, in 2003, a much more stringent and comprehensive *Integration Act* was proposed, despite the findings of the Commissie Blok, a parliamentary committee created to investigate the presumed lack of success of the Dutch integration policy.[13]

In 2006, the so-called *Integration Abroad Act* (*Wet Inburgering in het Buitenland*, WIB) came into force.[14] Essentially, the Act restricts the right of spouses from non-Western countries to reunite with their family members in the Netherlands. They must pass a language and orientation test at the Dutch embassy or consulate located in their home country prior to being granted the necessary visa. Between January 1 and December 31, 2007, approximately 7,700 persons took the exam, of which some 9% did not pass the first time. Notably, however, the number of persons requesting visas has dropped considerably: from 29,000 in 2004, it dwindled to to 12,000 in 2007.[15] It may be assumed that many have postponed their request for family reunification and that in the long run a large percentage of intended reunifications will not be realized.

Finally, in 2007, WIN was replaced by the *Integration Act* (*Wet Inburgering*, WI).[16] This Act made it mandatory for most foreigners living in the Netherlands to pass a

language proficiency and orientation exam at a relatively advanced level. However, courses were no longer provided by the government: the organizational and financial responsibility of the integration process was placed on the shoulders of the immigrant. Non-compliance with the obligation to pass the exam will lead to repeated fines and foreigners who do not yet have a permanent residence permit will not be able to secure one until they have obtained their "integration diploma."

Concluding observations

The laws and proposals described above reflect the reversal of citizenship concepts discussed earlier: formal or legal citizenship – Dutch nationality – should be the end result of acquired substantive or psychological citizenship. Here, we provide some comments regarding this new approach towards citizenship and integration.

It is still unclear whether the new integration acts (WIB and WI) are legally acceptable, especially in relation to certain fundamental rights such as the right to family life and the right to equal treatment. May families be kept separated until one partner has succeeded in passing the integration exam abroad, and is it acceptable that this demand be placed only on migrants originating from non-Western countries? And is it acceptable that Dutch and EU nationals who are unemployed are entitled to government-funded labour market activation programmes, while unemployed members of ethnic minority groups are made to pass an exam and pay for it themselves?

So far there have only been two judgments (by district courts) on the new integration requirements.[17] Both judgments concerned the *Integration Abroad Act* and, in both instances, the Act was upheld, also because the test applied by the judges was very marginal. Nevertheless, it is still too early to conclude that there would not be any situations in which the requirement of integration abroad would be considered unreasonable. The legal acceptability of the *Integration Acts* depends to a large extent on their effectiveness – that is, the degree to which they actually contribute to a better integration of ethnic minority groups.[18]

Over and above the legal questions, others must be asked. Is the new Dutch approach to citizenship acceptable from a *moral* perspective? Is it justifiable, in a liberal democracy, to require that aspiring citizens subscribe to liberal values? Or is this something that must be left to each participant in society to decide for himself? Is it thinkable that a "thick" version of citizenship, whereby many demands are placed on future citizens, would be counterproductive in that it creates, among those who are unable to meet those demands, a feeling of "being left out"? If that is the case, the new approach to citizenship and integration will lead to exclusion rather than to inclusion.

Yet Dutch integration policy is not "complete." Since the new Minister for Integration, Ella Vogelaar, took office in February 2007, she has made several amendments to the Acts adopted by her predecessor. In part, these amendments have made the integration policy even tougher: the difficulty level of the integration exam abroad has already been raised and it is expected that this will result in 14% of the participants not passing the test.[19] However, there is also a clear tendency in Vogelaar's policy to provide more facilities to immigrants to support them during their integration process. For example, all immigrants are now eligible for a government-funded integration course (as they were under the first *Integration Act*, WIN) and facilities are also provided to those immigrants who wish to increase their chances by passing the language exam at a higher level, or by combining language training with vocational training.[20] Finally, in terms of what is required from immigrants who wish to become citizens, it seems that the emphasis on "shared citizenship," with common norms and fundamental values, is again making way for a more pragmatic approach, in which *participation* is the key word.[21] In this, the primary objective is that immigrants take part in the labour market, in the educational system or simply in life in the local community.

Dutch policy on integration and citizenship is still "under construction." Whereas the notion of citizenship has firmly taken hold since 1994, the precise content of this notion, and the order in which different citizenship concepts are to be applied, are still being defined.

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Notes

[1] A peaceful, mutually independent living of various religious and social groups on the basis of compromise (Lijphart 1968).

[2] This new policy was described in *Contourennota Integratiebeleid etnische minderheden*. Outline paper on the integration policy for ethnic minorities. *Kamerstukken II 1993-1994*, 23684, nr. 2 (*Kamerstukken* refers to documents of the Dutch Parliament, accessible via <www.tweedekamer.nl>).

[3] For a more elaborate discussion of concepts of nationality and citizenship, see De Groot 1994.

[4] Minderhedennota 1983, *Kamerstukken II 1982-1983*, 16102, nr. 21; Commissie Blok, 'Bruggen bouwen' (final report of the Parliamentary committee of enquiry investigating the Dutch integration policy), *Kamerstukken II 2003-2004*, 28689, nr. 9, p. 34-37.

[5] *Kamerstukken II 2003-2004*, 29700, nr. 3, p. 6 and p. 14-16; *Kamerstukken II 2004-2005*, 29700, nr. 6, p. 2-3 and 44; *Handelingen II 2004-2005*, p. 3886; *Kamerstukken II 2005-2006*, 30308, nr. 3, p. 29.

[6] *Kamerstukken II 2003-2004*, 29700, nr. 3, p. 6; *Kamerstukken II 2004-2005*, 29700, nr. 13; *Kamerstukken II 2005-2006*, 30308, nr. 3, p. 3 and nr. 7, p. 55-58.

[7] *Kamerstukken II 2003-2004*, 29700, nr. 3, p. 15-16.

[8] See the government's position paper on a "New-style integration policy" (*Integratiebeleid Nieuwe stijl*), *Kamerstukken II 2003-2004*, 29203, nr. 1.

[9] *Kamerstukken II 2003-2004*, 29700, nr. 3, p. 6; *Kamerstukken II 2004-2005*, 29700, nr. 6, p. 2, 3 and 19. In the same vein: *Kamerstukken II 2005-2006*, 30308, nr. 3, p. 11 and nr. 7, p. 9.

[10] See the government's 2001 position paper on immigration and integration ('*Nota 'Integratie in het perspectief van immigratie*'), *Kamerstukken II 2001-2002*, 28198, nrs. 1-2; for an analysis of the interconnection between immigration and integration see also Bruquetas-Callejo et al. 2007.

[11] Rijkswet op het Nederlanderschap, *Staatsblad* 2000, 618 (Parliamentary documents: *Kamerstukken*, 25891).

[12] *Kamerstukken II 2005-2006*, 30584, nr. 3, p. 2.

[13] Commissie Blok, "Bruggen bouwen." *Kamerstukken II 2003-2004*, 28689, nr. 9, p. 105, 521-524.

[14] *Staatsblad*. 2006, 28 (parliamentary documents: *Kamerstukken*, 29700).

[15] Monitor Inburgeringsexamen Buitenland, April 2008, available via <www.vrom.nl>.

[16] *Staatsblad*. 2006, 625 (parliamentary documents: *Kamerstukken*, 30308).

[17] Judgment of the District court of The Hague of 16 August 2007, published in *Jurisprudentie Vreemdelingenrecht* 2007/492, with comment by K.M. de Vries: judgment of the District court of The Hague of 23 April 2008, to be published in *Jurisprudentie Vreemdelingenrecht* 2008.

[18] For a preliminary evaluation of the *Integration Abroad Act* see Wilkinson et al. 2008. With regard to the effectiveness of the integration requirements, see also the contribution of Jeanine Klaver elsewhere in this magazine.

[19] *Kamerstukken II 2007-2008*, 29700, nr. 49, p. 3.

[20] *Kamerstukken I 2007-2008*, 31318, nr. A.

[21] Deltaplan inburgering, *Kamerstukken II 2007-2008*, 31143, nr. 2.

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