Charter Flights Full of Homosexuals

Policy making on homosexual men in Dutch immigration and asylum procedures 1945-2001

Thesis to fulfill the requirements of the Research Master 'History of Migration and Global Interdependence', Leiden University, 29 July 2014.

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Foreword

It is in a foreword, separate from the actual research, where an author can shed a light on the process that led to this thesis in front of you. It was a process much longer than expected. This was due to two reasons. First, regardless of all those that finished a master thesis told me, I underestimated the amount of time and work it really needed. Second, in the full year of writing I was constantly lured away from the work in favor of other –equally interesting- opportunities. Studying is learning about life, and throughout my studies I have taken the full load of opportunities that were offered to me. The fact that I slowed down the thesis writing process to organize trainings and attend conferences in Turkey, Tunisia, Egypt, Poland, Georgia and Sri Lanka, is something I do not regret.

That being said, I have driven my parents to despair, for which I owe them an apology. I owe them much more than I can express here, and want to fully thank them for the support they have given me this last year and throughout my studies. Also I want to thank my supervisor Marlou Schrover for being everything a supervisor should be; an inspirator and a motivator and the one who mentions the need for a deadline. It was a pleasure working with you. Finally, I want to thank the International Homo/Lesbian Information centre and Archive in Amsterdam for granting me access to the archives under their supervision.

Frerik Kampman
Utrecht, 29 July 2014

Introduction

Somewhere between the Second World War and the turn of the century a remarkable change took place within Dutch immigration policies. Dutch people take it for granted that their country grants refugee status to homosexuals who are persecuted in their home countries. This is in stark contrast to the 1950s, when the official line of the government was to keep homosexuals out of the country. This is often forgotten. From a country that defined homosexuality as alien to Dutch culture to a self-proclaimed safe haven for gay people in just a few decades, the Netherlands changed rapidly. The question here is why and how this relatively quick but profound change could take place.

Why and how did Dutch immigration policy change from banning homosexuality to embracing it between 1945 and 2001?

This main question clearly implies a change. Dutch immigration policies changed continuously, reacting to economic, social and political conditions and realities. The question also asks how this process took place, was it smooth or abrupt? Were policy changes easily implemented? Who tried to influence this process and were they successful? And what does this tell us on policy changes in general?

The research covers a long period of fifty six years. This allows us to discuss fully the 180 degrees change that took place in Dutch policy making on homosexuals in the immigration process. This change did not take place continuously during this period. The immediate post Second World War period is taken to establish a reference point to show how the Netherlands reacted to homosexual immigrants. From the sixties onwards, this status quo was constantly challenged. 2001 was the year that gay marriage was introduced in the Netherlands, the first country in the world to do so. It was seen as a completion of gay emancipation and thus serves as a useful end point to this research. After 2001, interesting debates on gay immigrants (mainly refugees) took place, but these are too recent to be taken into account for a historical thesis.

As mentioned, different times posed different challenges to the status quo. That is why the rather long period of this thesis is divided in five chapters. Each of these focuses on a specific debate that influenced immigration policy for homosexuals. These debates are discussed in a chronologic order, but due to different periods that they cover, they sometimes overlap. In the next paragraph the leading questions for each chapter will be given together with a short historiography of that question. More in-depth historiographic discussions are provided when necessary at the beginning of each chapter.

Structure and Historiography

Generally speaking, nothing has been written specifically on the history of homosexual migration to the Netherlands, let alone for exactly the period 1945 to 2001. The present thesis fills this void. That said, a variety of texts is available that cover one or more aspects or periods of this thesis. Often the available historiography on homosexual migrants consists of fragments about homosexuals in works about migration, and fragments about migrants in works about homosexuality. A notable exception to this is the study of Peumans on homosexual immigrants in Flanders, but that study is written

from an ethnographic perspective.[1] It did help me to connect the two concepts of homosexuality and migration better. Other texts that combine both migration and homosexuality are written mainly from a legal perspective and cover only the very recent past.[2]

Several general works on migration were consulted for this thesis. Obdeijn and Schrover provided a useful historical context of migration to the Netherlands.[3] Swart provided useful legal background to work with for the first three chapters.[4] Walaardt[5] and Ten Doesschate[6] provided the same for the third chapter, while for the final chapter I relied on texts by Spijkerboer[7] and Bos, Pot & Willems[8]. Bonjour[9] and Van Walsum[10] provided essential examples on how to write about family migration.

For information on the history of homosexuality in the Netherlands I used the excellent study by Hekma[11] for the overall picture, while the one by Koenders[12] was especially useful for the first chapter. The study on the early years of the COC by Warmerdam and Koenders[13] was helpful for chapters one and two.

To compare the found material to policy changes in general, the studies by Bonjour[14], Walaardt[15] and Ringeling[16] were especially helpful. Alink provided additional theoretic background on this matter.[17]

Because some works consulted for this thesis were used only in one chapter, each chapter will now be introduced shortly with emphasis on its main topic and historiography resulting in each chapter's sub-question.

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[1] W. Peumans, *Seks en stigma over grenzen heen. Homoseksuele en lesbische migranten in Vlaanderen en Brussel* (Leuven 2011).
[2] For example: S. Jansen, 'Op de vlucht voor homohaat', *Nieuwsbrief Asiel- en Vreemdelingenrecht* 3 (2006), 146.
[3] H. Obdeijn and M. Schrover, *Komen en Gaan. Immigratie en emigratie in Nederland vanaf 1550* (Amsterdam 2008).
[4] A. H. J. Swart, *De toelating en uitzetting van vreemdelingen* (Amsterdam, 1978).
[5] T. Walaardt, *Geruisloos inwilligen. Argumentatie en speelruimte in de Nederlandse asielprocedure 1945-1994* (Leiden, 2012).
[6] J. W. ten Doesschate, *Asielbeleid en belangen. Het Nederlandse toelatingsbeleid ten aanzien van vluchtelingen in de jaren 1968-1982* (Nijmegen, 1993).
[7] T. Spijkerboer, 'Querelle vraagt asiel', in: Id. and S. van Walsum (eds.), *Grensoverschrijdingen. Opstellen over vreemdelingen en recht* (Amsterdam, 1997), 144-174.
[8] M. Bos, R. Pot, and E. Willems, 'Grensverlegging of grensversperring? Vreemdelingenrecht en homoseksualiteit', in: M. Moerings and A. Mattijsen (eds.), *Homoseksualiteit en recht* (Utrecht 1992), 163-184.
[9] S. A. Bonjour, *Grens en gezin. Beleidsvorming inzake gezinsmigratie in Nederland 1955-2005* (Maastricht, 2009).
[10] S. van Walsum, *The family and the nation. Dutch family migration policies in the context of changing family norms* (Newcastle, 2008).
[11] G. Hekma, *Homoseksualiteit in Nederland* (Amsterdam, 2004).
[12] P. Koenders, *Tussen christelijk réveil en seksuele revolutie. Bestrijding van zedeloosheid in Nederland, met nadruk op de repressie van homoseksualiteit* (Amsterdam, 1996).
[13] H. Warmerdam and P. Koenders, *Cultuur en Ontspanning. Het COC 1946-1966* (Utrecht, 1987).
[14] Bonjour, *Grens en gezin*.
[15] Walaardt, *Geruisloos inwilligen*.
[16] A. B. Ringeling, *Beleidsvrijheid van ambtenaren. Het spijtoptantenprobleem als illustratie van de activiteiten van ambtenaren bij de uitvoering van beleid* (Alphen aan den Rijn, 1978).
[17] F. B. Alink, *Crisis als kans? Over de relatie tussen crises en hervormingen in het vreemdelingenbeleid van Nederland en Duitsland* (Utrecht, 2006).

Chapter one covers the fifteen years after the Second World War. It mainly serves to show the status quo of that time. Because primary sources were scarce for this period, the works of Tijsseling[18] and Koenders[19] were essential for answering the question '*How were homosexual foreigners treated by the Dutch authorities before 1960?'*

Chapter two shows the first important change in Dutch migration policy towards homosexuals that took place in the 1960s. To answer the question '*Why did the authorities' approach to homosexual foreigners become more lenient between 1960 and 1969?*' the chapter relies heavily on primary sources. Bonjour[20] and Van Walsum[21] touched upon this topic in this period, while Hekma[22] provided useful background information.

Chapter three feeds into an interesting historiographic debate between Bonjour[23] and Van Walsum[24] on the reasons for Dutch migration policies to include homosexual relationships in the 1970s. Interesting primary sources help answering the question '*Why did partner migration for homosexuals become possible and how was it applied?*' and provide new input for the existing debate.

Chapter four is dedicated to homosexual refugees and the period partially overlaps with chapter three. The rather short period from 1979 to 1983 offers rich material that has not been published before, and helps answering the question '*Why did the Netherlands redefine refugee law to include homosexuality as a ground for asylum and how was it applied?*'. Walaardt[25] and Ten Doesschate[26], who both wrote on refugees, were essential for providing background to this chapter.

Chapter five serves as an epilogue. Formally all kinds of possibilities existed to enter the Netherlands, but still people encountered problems. The question '*In what way did the Netherlands embrace homosexuality internationally, and how did this compare to the immigration process for homosexuals?*' paves the way for the final conclusion of the thesis.

Theoretical Framework

Definitions

Two concepts are essential to this research: homosexuality and migration. Both will be discussed here. After that, the theoretic framework will be explained as well as the methodology used to conduct this research.

The word homosexuality meant and was understood differently since it was coined by a Hungarian journalist for the first time in 1869. From the beginning a debate existed whether homosexuality was innate or acquired. This had its impact on how governments treated the subject. As long as homosexuality was thought to be acquired, governments policed homosexuals to prevent them from spreading this moral vice.

[18] A. Tijsseling, *Schuldige seks. Homoseksuele zedendelicten rondom de Duitse bezettingstijd*, (Utrecht, 2009).
[19] Koenders, *Tussen christelijk réveil en seksuele revolutie.*
[20] Bonjour, *Grens en Gezin.*
[21] Van Walsum, *The family and the nation.*
[22] Hekma, *Homoseksualiteit in Nederland.*
[23] Bonjour, *Grens en Gezin.*
[24] Van Walsum, *The family and the nation.*
[25] Walaardt, *Geruisloos inwilligen.*
[26] Ten Doesschate, *Asielbeleid en belangen.*

When governments accepted that people were born homosexual, the issue changed from being a criminal or a moral issue, to a social one. This normalization process led to supporting emancipation of homosexuals. For the Netherlands one could argue that this process took place from the 1910s onwards, but accelerated in the second half of the twentieth century.[27]

A more modern discussion took up the question whether homosexuality was a static concept or a social construct. In this thesis I rely on Foucault's notion of homosexuality as a social construct, because it allows for change over time. He stated that in the nineteenth century doctors and psychiatrists defined homosexuality as an inclination, rather than a specific category of sexual acts. By defining homosexuality as such, they exerted power over this group of people.[28] Throughout this thesis we will see that the Dutch government defined and redefined acceptable categories of people, while at the same time excluding other types of sexual and social behavior.

This difference between 'being' homosexual and 'acting' homosexual poses a problem for historical research. When same-sex contacts appear in old archives, it is hard to speak of 'homosexuals'. An early and interesting case in point is the Turkish man Mustapha Pochowachett, who raped a Dutch boy in London in 1694.[29] The historian cannot tell whether the Turkish man had a preference for men, or that he was driven to this act by a sexual need.

A homosexual identity and homosexual acts should thus be regarded separately and are distinct in this research. Homosexual acts were enough to be expelled in the 1950s, irrespective of the fact whether one 'was' homosexual. Similarly, those men went unnoticed who did not put their sexual or emotional feelings for other men in practice.[30] This research has as its object people who did engage, tried to engage or wanted to engage in same-sex sexual acts and showed this. For reasons of convenience they are referred to as homosexuals and sometimes with the adjective 'gay'. Additionally, it is surprising that only two cases of female homosexuality have been identified.[31] Therefore, this research can only make credible conclusions for male homosexuality. This is especially so for the earlier period. Male and female homosexuality got grouped together only in the 1980s and since.

Transgenders, transsexuals and other non-conforming forms of sexual behavior and identity are excluded from this research. This has been done because they pose very specific problems in terms of policy, but also because the number of cases is very small. One case of a transsexual is used in a side reference as an illustration of police attitudes.

The other central concept in this thesis is migration. Migration can take many forms. Movement of people within a country can be called migration. Since this thesis deals with non-Dutch homosexuals moving to the Netherlands, migration in this research is defined as international migration. The definition by Obdeijn and Schrover is helpful here: '*geographic mobility of people in which they cross a border with the purpose of staying elsewhere for a longer period of time*'.[32] They remark that 'a border' is often defined as a

[27] Cf. Hekma, *Homoseksualiteit in Nederland*.
[28] M. Foucault, *The History of Sexuality* I (New York, 1978), 43-5.
[29] Proceedings Old Bailey, 24 May 1694, ref. nr. t16940524-20. Available on line at www.oldbaileyonline.org.
[30] Peumans, *Seks en stigma*, 36.
[31] NA – IND 2658, Attachment to letter of 29 June 1979, dd. 3 July 1979; Spijkerboer, 'Querelle vraagt asiel', 169n12.
[32] Obdeijn and Schrover, *Komen en Gaan*, 16.

national border. For the purpose of this thesis it should be defined as 'the Dutch national border'. Rightfully Obdeijn and Schrover emphasize that '*a longer period of time*' is quite vague, for this thesis it will be defined as '*the intention to stay permanently*'. Most people discussed in this thesis came to the Netherlands to apply for asylum or a residence permit. Both options implied the intention to stay for a long time. For the earlier period, until 1975, some exceptions were made in this research, because cases of people with the intention for a short stay illustrated the approach of local police forces.

Following the definition of 'migration' above, refugees are also seen as migrants for the purpose of this research. Because they are a specific category, both from a legal and a social perspective, there is one chapter devoted specifically to homosexual refugees.

Migration and homosexuality

This research is built on the notion that migration is different for heterosexuals and homosexuals. These differences are apparent in the reasons why people move, the experience of their migration, the legal possibilities to migrate and their chances of staying in a country or being rejected.

Homosexuals can have the same economic or political motives for migration as heterosexuals. They can also have specific motives, different from heterosexuals. As a minority group in society, homosexuals were (and are still) subject to discrimination or even persecution. As Peumans described, a change of location is then one of the most used *'risk management strategies'* at their disposal.[33] At many points in history men and women have for these reasons felt the desire to move, from the countryside to cities[34], and across borders.

Also after the move, their sexuality impacted their experience. They were not accepted in their migrant communities (in terms of nationality, ethnicity of religion). This meant they did not enjoy the benefits of such a migrant community. Sometimes, they were not even a natural part of the gay community. A focus on this double stigma would constitute an intersectional approach, which recognizes that multiple differences can intersect and reinforce each other.[35] Intersectionality as a concept was first coined by Kimberlé Crenshaw in 1989 to theorize on the position of black women in a dominantly white male society. [36] This thesis researches the position of homosexual migrants in a dominantly heterosexual non-migrant society. Given this double marginalization, intersectionality is a useful concept to keep in mind when reading this thesis.

Policy change

This thesis focuses on a policy change in a specific domain, that of immigration of homosexuals. By doing that, it offers a case study in the 'why' and the 'how' of policy changes. This has been researched in the context of immigration policies or public policies in general. Generally speaking, there are two theories on how policies change over time. Policies can change slowly and gradually, in a step by step process. This is

[33] Peumans, *Seks en stigma*, 30-34.
[34] L. Lucassen, and W. Willems (eds.), *Waarom mensen in de stad willen wonen* (Amsterdam, 2009), 270; R. Aldrich, 'Homosexuality and the City: A Historical Overview', *Urban Studies* 42.9 (2004), 1719.
[35] R. Buikema, and I. van der Tuin, *Doing Gender in Media, Art and Culture* (London, 2009), 63.
[36] G. Wekker and H. Lutz, 'A wind-swept plain: This history of ideas on gender and ethnicity in the Netherlands', available online at [http://www.atria.nl].

called 'incremental change' and is the type of change that Bonjour found in her study of the change in Dutch family migration.[37] The other option is a very abrupt and profound change, often associated with a crisis.[38] A crisis can be understood here as a new category of immigrants, a higher number of people applying or unclear existent policies.[39]

Why such changes take place is a question that has many more possible answers. In the case of incremental change, there is often a continuous debate. All actors engaging in this debate have a certain interest to defend. The outcome of this debate decides whether policy is changed or not. Bonjour showed this debate between civil servants at different ministries.[40] Walaardt did the same for multiple stakeholders in individual asylum cases.[41] Ringeling showed how a gap between policy and implementation gave the civil servants the necessary flexibility to apply the right policy to a specific case. This gap should not become too wide, to prevent arbitrary decision.[42] In the case of abrupt change, Alink has shown that political actors play an initiating role in crises and decide whether policy changes or not. Civil servants are only reactive in such cases. They either oppose or support a policy change, but do not initiate such reforms.[43]

Material

For this thesis several archives and other primary sources have been consulted. For Dutch policy, the archives of the Dutch Immigration and Naturalisation Service (IND)[44] are essential for any research into migration for this period. The International Homo and Lesbian Information center and Archive (IHLIA) holds some archives that touch upon homosexual migration.[45] One is the archive of a specific committee on homosexual refugees, which gives insight in how a specific lobby group worked.[46] The other archive is formed by Strange Fruit, an organization for homosexual immigrants.[47]

For looking into discussions at a governmental level, discussions in parliament have been researched as well.[48] These are available on line at the website statengeneraaldigitaal.nl, made available by the Royal Library in The Hague. It contains all proceedings of parliamentary sessions (for both chambers of the Dutch parliament), as well as proceedings of special committees which prepared plenary debates.

Additionally, the online available versions of the Alien Circulary were consulted as well. These have been published by the Center for Migration Law of the Radboud

[37] Bonjour, *Grens en gezin*, 291.
[38] Alink, *Crisis als kans?*, 14.
[39] Walaardt, *Geruisloos inwilligen*, 21.
[40] Bonjour, *Grens en gezin.*
[41] Walaardt, *Geruisloos inwilligen*.
[42] Ringeling, Beleidsvrijheid van ambtenaren, 208-9.
[43] Alink, *Crisis als kans?*, 218-9.
[44] National Archives, The Hague, *Ministerie van Justitie: Beleidsarchief Immigratie- en Naturalisatiedienst (IND)* [period 1956-1985], access no. 2.09.5027. Hereafter cited as NA – IND.
[45] International Institute for Social History, Amsterdam, *Internationaal Homo/Lesbisch Informatiecentrum en Archief (IHLIA).* Hereafter cited as IISH – IHLIA.
[46] IISH – IHLIA, 'Archief Werkgroep Vreemdelingen COC - platform homo-vluchtelingen', archive no. ARCH03279, six folders. Hereafter cited as IISH – IHLIA, Homo-vluchtelingen.
[47] IISH – IHLIA, 'Archief Strange Fruit', archive no. ARCH03217, 5 folders. Hereafter cited as IISH – IHLIA, Strange Fruit.
[48] These are available on line at [http://www.statengeneraaldigitaal.nl], made available by the Royal Library in The Hague.

University of Nijmegen.[49] Not all versions of the Circulary and its updates are available yet, but nevertheless it is the most complete collection available.

For this thesis, information from newspaper articles was essential for two reasons. Searches made in the online newspaper database of the Royal Library pointed out the cases of homosexual refugees that were not mentioned in the policy archive of the IND. Secondly, newspaper clippings often gave information that was not mentioned elsewhere. This information is valuable for a research topic in which not much has been published.

For this thesis I limited the number of newspapers to those digitally available in the Royal Library database.[50] I did this because newspaper articles are not the central source of this thesis, but mainly serve to illustrate or to point in new directions. For a more complete overview of Dutch journalism, other newspapers should be consulted on microfilm at the Royal Library. In a few cases quoted newspapers are not part of the Royal Library database. Such articles were found online (*Reformatorisch Dagblad*), in their respective separate database (*Trouw*) or because the clippings were part of the archives. In total fifty four newspaper articles are referenced in this research.

A special side note concerning the IND archives needs to be made here. The IND left two extensive archives. The first one is publicly accessible at the National Archives and contains documents that were relevant for the development of policy, hence the name 'policy archive'. The second one is the personal files archive, which is restricted, mainly because of privacy reasons. The personal files are generally of a more 'executive' nature, in the sense that they reflect how decisions were taken on the basis of general guidelines. However, Berghuis and Schrover do mention that some personal files caused changes in the general policy as well.[51]

The personal files can be consulted on file number or name, but not thematically. To consult the archive would require a sample, and acquiring permission is a long process. Tycho Walaardt found only two homosexuality-related cases in his sample of seven hundred files.[52] On the basis of this I decided not to include the personal file dossiers in my research for this thesis. The focus will be on the policy archive, which contains plenty of information to see how the policy on immigration of homosexuals changed.[53]

The focus on the policy archive has one downside which is a recurrent theme throughout this thesis. Documents were added to the policy archive when they were important for making or changing the policies. This means that often proceedings from a case are part of it, but the outcome is missing. Walaardt reflected this in the title of his dissertation 'Silently giving-in'. He said that often asylum seekers were 'silently'

[49] Available online at [http://cmr.jur.ru.nl/].

[50] This database is available on line through the search engine *Delpher* [http://www.delpher.nl], made available by the Royal Library in The Hague. Before *Delpher* the search engine was simply called *Historische Kranten*.

[51] C. K. Berghuis and M. Schrover, 'Persoonsdossiers in het archief van de Immigratie- en Naturalisatiedienst en haar rechtsvoorgangers (1906-) 1945-1985 (-1999)', in: M. Schrover (ed.), *Bronnen betreffende de registratie van vreemdelingen in Nederland in de negentiende en twintigste eeuw* (Den Haag, 2002), 152.

[52] Personal communication with Tycho Walaardt, 10 July 2013.

[53] NA – IND 931 'Toelatingsbeleid betreffende homosexuele- en niet-huwelijkse relaties, 1964-1983', 1 folder; NA – IND 2608 'Homofiele/heterofiele relaties tussen vreemdeling en Nederlander, 1973-1983', 1 folder; NA – IND 2658 'Situatie homosexuelen, 1979-1983', 1 folder; NA – IND 1379 'Transsexuelen, 1956-1971', 1 folder.

accepted on other grounds than as refugees.[54] When the outcome of a case did not become known from the archives, I have tried to find hints in other government sources or newspaper articles. This was successful in several cases.

The archives of the IND at the National Archives currently only cover the period until 1985. Access to policy-related files from later than 1985 is possible through requesting those at the relevant ministries. Those documents have not been considered for this thesis. Therefore, last chapter of this research relies more heavily on newspaper articles, government documents and secondary literature.

Methodology and Analytical Framework

The analytic method that has been used in this research was greatly inspired by the works of Walaardt and Ten Doesschate, as well as by Schrover. The first two authors wrote specifically on refugees, but in a way that can also be applied to other cases of immigration. Basically they looked for who was influencing the decisions (both) and which arguments they used (mainly Walaardt). This is exactly the focus that this research has as well. Schrover, with a focus on problematization, reminded me throughout the research to find out the deeper lying motivations of people and organizations that interfered with the decision making process.[55]

The material used for this thesis is interesting and often not used before. However, it does have its limits, especially in quantity. Therefore, and quantitative research was not possible. I made the decision to focus on specific cases and study those in-depth. An additional benefit of this is that it brings out the personal stories of homosexual men trying to migrate to the Netherlands. These personal stories have often not been recorded before.

Below follows an introduction to the immigration and asylum procedure that generally was used during the period of research. Out of this follows the analytical framework to assess the material in each of this thesis' chapters.

Decision-makers and other actors

Walaardt noted that the application system and the actors in this process changed throughout the period he studied, 1945-1994.[56] It is not practical to explain here the precise procedure at any given moment between 1945 and 2001. Therefore, only a general overview will be given here.

A foreigner who wanted to stay in the Netherlands for a longer time had to apply for a permit at the Alien Police, part of the local police force. When crossing at a border, the foreigner could be stopped by the Border Patrol which had the authority to refuse entry.[57] Both police forces judged case to case according to their standard instructions by the Ministry of Justice. Only when they refused to issue a residence or entry permit, the applicant could request a revision which was handled on a higher level. In case of a revision the Ministry of Justice was approached, most notably its Department of Alien Affairs and Border Patrol (the exact name changed during the period of this research).

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[54] Walaardt, *Geruisloos inwilligen*, 321.
[55] See for example Schrover's inaugural speech at Leiden University: M. Schrover, *Om de meisjes, voor de meisjes. Een historisch perspectief op problematisering en bagatellisering van onderwerpen die te maken hebben met migratie en integratie* (Leiden, 2011).
[56] Walaardt, *Geruisloos inwilligen*, 32.
[57] Swart, *De toelating en uitzetting van vreemdelingen*, 42-3.

The Ministry of Social Affairs was responsible for judging applications for a work permit.[58] Bonjour has shown with her study on policy towards family reunification that closer analysis can shown interesting debates among ministries.[59] In some cases in this research a debate was visible. In such debates, civil servants were in a position to interpret the existing policies in novel ways.[60] This was sometimes to the benefit of the applicant.

For asylum requests, the procedure was a bit different. Asylum seekers also applied at the local police force, but the decision was made at the Ministry of Justice. The Ministry of Foreign Affairs was an active stakeholder until 1991, afterwards it only provided information on the applicant's home country.[61] In the case of refugees, the Dutch representative of the United Nations High Commissioner for Refugees (UNHCR) had influence on the decisions of the Dutch government to admit groups of refugees.[62]

In both regular immigration and asylum cases, applicants had the possibility to appeal, in which case since 1965 the ACV (Advice Committee for Aliens) could be asked for an independent opinion.[63] The ACV advised directly to the Ministry of Justice which often took the advice in account but was free to ignore it. Also for both sort of cases the highest and final option for appeal was at the *Raad van State* (Council of State), the Netherlands' highest legal body.

Above are mentioned the formal decision-makers. Many other actors tried to influence these decision-makers. Walaardt especially showed how important these actors could be. Though Walaardt wrote specifically on refugees, the same actors influenced decisions in other immigration cases. These actors are theoretically numerous, but from Walaardt we can distill the following five categories: political parties and their politicians, action groups (refugee organizations, gay organizations), friends and family, media, and finally the migrant him- or herself.[64] All these different actors are schematically shown in Table A below.

	Regular immigration cases	Asylum cases
Decision-makers	local Alien Police; Border patrol	Ministry of Justice (civil servants / minister)
Decision-makers in appeal	Ministry of Justice (civil servants / minister); Council of State	
Official influence	ACV	ACV; UNHCR
Other actors	Political parties and politicians Action groups (refugee / gay organizations) Friends and family Media Migrants themselves	

Table A – Decision-makers and other actors in immigration and asylum policy.

[58] Walaardt, *Geruisloos inwilligen*, 35.
[59] Cf. Bonjour, *Grens en gezin*.
[60] Ringeling, *Beleidsvrijheid van ambtenaren.*; S. Bonjour, 'The Power and Morals of Policy Makers. Reassessing the Control Gap Debate', *International Migration Review* 45.1 (2011), 89-122.
[61] Walaardt, *Geruisloos inwilligen*, 32.
[62] Ten Doesschate, *Asielbeleid en belangen*, 36.
[63] Ibid., 34-5. Ten Doesschate notes that a similar committee existed since 1955, and that several committees focused on refugees existed next to the ACV. The ACV ceased to exist in 2000.
[64] Walaardt, *Geruisloos inwilligen*, 34-5.

The hypothesis concerning the decision-makers and other actors is twofold. First, as homosexual immigrants had to go through the same process as any other migrant (though this process was not favourable to homosexuals in the beginning), the same set of formal decision-makers and actors had influence on the outcome. The arguments they used might have been different in homosexual cases compared to non-homosexual cases. See for those arguments the next paragraph.

Secondly, the difference in actors is expected to be found among the informal actors. The hypothesis is here that –following Alink- political forces in the parliament were a driving force for change.[65] Next to that, it is expected to find the growing gay emancipation movement as an increasingly important claim maker.

Factors and arguments

Different actors were influenced by different factors that influenced the arguments they used to motivate their decision. A gay lobby group in the 1980s had completely different interests than a civil servant at the Ministry of Justice in post-war Netherlands. Structural factors such as the economical and political situation of the time shaped 'homosexual cases' just as they shaped general immigration policies. Some specific arguments are unique to homosexual cases. This diversity of factors and arguments is huge and very dependent on the case in question. Reducing them to a few helps analytically, but does not reflect the uniqueness of each and every case. With this I echo Peumans.[66]

It is however possible to identify broad context factors which surface in immigration and asylum cases as arguments in favor or against admission to the Netherlands. They serve as hypotheses according to which the material researched for this thesis will be analysed. Walaardt similarly made an overview of such factors.[67] The list he mentioned illustrates the diversity of arguments used in asylum cases. They range from a specific asylum regime or the economical situation of a country, to more individual factors such as the credibility of the applicant or his intelligence. Missing in Walaardt's list, but essential to understand homosexual immigration to the Netherlands is the influence of the gay emancipation movement, part of the broader social or sexual revolution that started in the 1960s.

Different factors emerge differently in each case. Some factors emerge explicitly as arguments in favor or against a case, like the economical situation. Other factors decided which arguments were used, like the political colour of a decision maker. A constantly changing context decided which arguments weighed the heaviest.

	Context factor	Possible Argument factors
A	Political situation	domestic political developments connections with politicians
B	Economic situation	solvability of the applicant employability of the applicant
C	Social situation	moral arguments pro- or anti-gay arguments
D	Legal factors	existing legislation or instructions

[65] Alink, *Crisis als kans?*, 216-7.
[66] Peumans, *Seks en stigma*, 25-6.
[67] Walaardt, *Geruisloos inwilligen*, 28, table 1.

		anti-discrimination arguments (fear of) precedent
E	Migration patterns	other groups of migrants numbers
F	International Situation	comparisons with other countries fear of communism/AIDS international reputation of the Netherlands
G	Case specific factors	character of applicant credibility of applicant's story networks of applicant

Table B - Factors and arguments in immigration and asylum cases

Table B lists all context factors that are assumed to play a role in immigration cases. All will be discussed in this thesis. The connected arguments in the right column are hypothetical and need to be confirmed in the research. They are based on the literature. Given the high number of arguments presented here, it is useful to highlight three important hypotheses for this thesis.

First, it is to be expected that to a large extent the same factors and arguments play a role in homosexual cases as they do in general immigration cases. These are foremost the arguments of a political, economic, legal and a personal nature (respectively A, B, D and G in table B). Also the presence of earlier groups of migrants might have influence on decision for later groups of migrants (factor E), as well as policies abroad (factor F).

Second, given the social changes that took place in the Netherlands in the sixties and seventies, it is expected that this social change will have had an impact on immigration policies. Direct impact could be the adaptation of policies to reflect social norms, like growing acceptance of homosexuality, but also new interpretations of marriages and other forms of relationships. Indirect impact could be a growing gay emancipation movement that influenced policy makers.

Thirdly, two general factors are expected to have played important and different roles in changing policies on gay immigration. Legal aspects would have prevented homosexuals to enter the country in the first period, while an emphasis on equal treatment in the eighties and nineties would have led to ending all forms of discriminatory policies. International factors that deterred the Dutch government to accept homosexual immigrants (fear of immoral behavior, fear of communism, fear of AIDS, fear of attracting too many homosexuals) are expected to change over time. Towards the end of the period I expect to find that a comparison with abroad will have motivated the Netherlands to embrace homosexuality also in their immigration policy.

The list as a whole structures the discussions in each sub-conclusion. It will be readdressed in the main conclusion of this thesis with an emphasis on the three main hypotheses. This will support a structured answer to the main research question on why and how a change in policy took place.

Chapter 1 – Status Quo: Homosexuality as contra-indication 1945-1960

1.1 Context

This chapter introduces the way homosexuality was looked upon in the Netherlands just after the Second World War. It aims to establish a status quo, to which the changes in the decades after can be contrasted. The official aim immigration policy was to keep immoral elements such as homosexuals out of the country. The cases of a Hungarian, a German and a Malaysian man will be discussed here. They confirm the above-mentioned approach, but at the same time show the difficulty of implementing this policy.

Political landscape

For the Netherlands, the Second World War ended in May 1945, but it continued to have a huge impact on the country for years after. Rebuilding the country and its economy were priorities for the post-war governments. This was done effectively, making it possible to enjoy considerable growth in the 1950s.[68] Together with this economic recovery, the post-war governments also advocated a social reform of the Netherlands. The country became more secular, and the system of 'pillarization' (verzuiling) was slowly abandoned.[69]

On an international level, the Netherlands was a founding member of new organisations such as the Benelux union, the European Community for Coals and Steel and the United Nations. The Dutch commitment to international cooperation, specifically in the field of migration, is illustrated by the fact that the first UN Commissioner on Refugees was a Dutchman.[70]

In this period the process of decolonization had a large impact on the society as well. Soon after the Second World War the Netherlands had to grant independence to the new Republic of Indonesia, while the relations with Surinam and the Dutch Antilles were revised.

Migration patterns

The Second World War caused approximately thirty million people to move around Europe. Jewish people moved to camps, soldiers moved to the battle fields and civilians escaped the fighting or the repressive regimes after the war. By the end of the war in 1945 still some 14 million people were displaced.[71]

Some of these displaced people came to the Netherlands as part of international resettlement schemes. These were mainly German Jews and Eastern Europeans who could not or did not want to return to their home states. According to Berghuis, the Netherlands judged refugees and displaced person in the post-war period from a profit perspective. This meant that people could stay when they benefited Dutch society.[72] The combination of a war-wrecked country, a shortage of housing and jobs, a fear for communism and a stream of postcolonial immigrants made the policy towards these groups quite harsh.

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[68] J. L. van Zanden, *Een klein land in de 20e eeuw* (Utrecht, 1997), 170, 179.
[69] Cf. A. Lijphart, *Verzuiling, Pacificatie en Kentering in de Nederlandse Politiek* (Amsterdam, 1978).
[70] Gerrit Jan van Heuven Goedhart, profile on line at [http://www.unhcr.org].
[71] C. K. Berghuis, *Geheel ontdaan van onbaatzuchtigheid* (Amsterdam, 1999), 9.
[72] Ibid., 237.

The postcolonial immigrants in this period were the people coming from the Dutch East Indies, present-day Indonesia. The largest group was free to enter the Netherlands, because they had Dutch citizenship. They moved for different reasons, either to recover from the war, or to escape increasing anti-colonial sentiments.[73] A smaller group of about 25,000 were called '*Spijtoptanten*', because they at first opted for Indonesian citizenship (*optant*), but later regretted (*spijt*) that choice and claimed their Dutch citizenship back. This group was not free to move back to the Netherlands. The recorded decisions in individual cases were researched by Ringeling and give valuable insight in what the decision making process of the Dutch government was.[74]

At the same time, the Dutch government saw emigration as a useful strategy to combat many of the problems the Dutch society was encountering (mainly housing shortage and a fear of pre-war levels of unemployment). Many Dutch people moved to the United States of America, Canada, Australia and New Zealand. In the period 1945-1960, about 377 000 people left the Netherlands.[75] The fact that the government considered the Netherlands a country of emigration rather than immigration also influenced the decisions they took concerning immigrant groups or in individual cases.[76]

Views on homosexuality

Since 1911 article 248bis of the Dutch penal code prohibited same-sex relations between an adult and someone below the age of twenty one. For heterosexual relations this was sixteen years. That means this article embodied the only legal discrimination of homosexuals in Dutch law. During the German occupation of the Netherlands, an article from the German penal code was introduced, prohibiting any form of homosexual conduct (between men). After the German occupation, 248bis was applicable again. Contrary to the German article, the Dutch 248bis did not discriminate between male and female homosexuality, though it was applied mostly to men. [77]

Article 248bis was based on official views on homosexuality of the time when the article was formulated which remained widespread until after the war. This view was that homosexuality was not innate, but acquired. It was believed that a person could be seduced to homosexual acts and then afterwards 'be' homosexual as well.[78] It was felt that especially young boys and adolescents needed to be protected against this danger. This line of thought is called the 'Seduction Theory', sometimes more sensationally called the 'Dracula Theory'. It was based on situations like prisons and ships, where large groups of men lived in all-male communities for a longer period of time and where 'sodomy' was a big concern to the authorities. In these situations it was found out that senior inmates/sailors 'passed on' their practices to the novices.[79] Though we would not call this behaviour homosexual per se in current days, it was definitely what the authorities were afraid of.

After the Second World War, European countries felt that the war had destabilized their countries not only economically, but also morally. It was believed that the allied forces

[73] J. E. Ellemers and R. E. F. Vaillant, *Indische Nederlanders en Gerepatrieerden* (Muiderberg, 1985), 38-42.
[74] Cf. Ringeling, *Beleidsvrijheid van ambtenaren*.
[75] C. J. M. Schuyt and E. Taverne, *1950. Welvaart in zwart-wit* (Den Haag, 2000), 229.
[76] Obdeijn and Schrover, *Komen en gaan*, 196.
[77] Tijsseling, *Schuldige seks*, 18.
[78] Ibid., 41-2.
[79] Hekma, *Homoseksualiteit in Nederland*, 44-45.

brought with liberty also a free moral. This caused a moral campaign that focused on, among others, homosexuality. In the Netherlands this resulted in higher rates of convictions on the basis of Article 248bis. Before the war there was an average conviction rate of below one percent, while after the war there were the two peak years 1949 and 1950 with conviction rates of 2.4 and 2.1 percent respectively.[80] After these years the moral campaign became less strong, and with it the conviction rate declined.

Different views on homosexuality existed in the Netherlands in this period. As a telling example of the most extreme view, the National Committee of Institutions for Public Moral Health lauded the German article 81/40 and proposed to continue this policy.[81] This opinion was not shared by the local police forces, which believed that homosexuality should only be criminalized when young people were at risk to be 'turned' into homosexuals, the philosophy that also formed the basis of Article 248bis. This point of view was expressed in a report of 1948 by the Amsterdam Vice Squad.[82] This led the Amsterdam police force to be quite tolerant towards the local gay scene, because they rather had homosexual people concentrated at a few places than scattered around everywhere.[83]

Obviously, the most progressive sounds were voiced by the emerging gay movement. Building on the foundation of the pre-war '*Nederlandsch Wetenschappelijk-Humanitair Komité*' the first organization aimed at the emancipation of homosexuals. This initiative went underground during the German occupation, but the network survived and formed the base for so-called Culture and Recreation Center (COC), founded in 1946.[84] Under close watch of the local police force, the COC published a magazine and even managed to establish two bars in Amsterdam in the 1950s. Though COC tried to spread its activities to the rest of the country, Amsterdam continued to host the most progressive atmosphere and some kind of gay scene.[85]

Homosexuality was seldom mentioned in Dutch media at the time. In newspapers, if homosexuality was mentioned, it often was related to blackmailing cases. In an article of 1951, a gang was arrested in Friesland that blackmailed people by threatening to reveal their 'abnormality'.[86] In 1959 a German movie with a homosexual theme was screened in the Netherlands. Confessional newspaper did not even mention the screening, while other newspapers lauded the fact that this 'problem' was now shown as well.[87] We can say that before 1960 there was no positive reference to homosexuality in the media. In the United States, historians speak of the 'Lavender Scare', when they describe the easy blackmailing that homosexuals faced. Because of their marginal position, they were easy scapegoats and they were put in the same category as communists. This culminated in the time of McCarthy and the purge of communists and homosexuals from the government system.[88] Though in the Netherlands homosexuals were policed, official purges did not take place.

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[80] M. Zeegers and J. Krul-Steketee, 'Het onheil van artikel 248bis', *Tijdschrift voor Psychiatrie* 22 (1980), 608.
[81] Koenders, *Tussen christelijk réveil en seksuele revolutie*, 510.
[82] Ibid., 534-535.
[83] Hekma, *Homoseksualiteit in Nederland*, 101-2.
[84] Ibid., 100.
[85] Ibid., 101.
[86] Leeuwarder Courant, 13 October 1951, 1.
[87] De Waarheid, 14 February 1959, 4.
[88] Cf. D. K. Johnson, *The Lavender Scare. The Cold War persecution of gays and lesbians in the federal government* (Chicago, 2004); and Hekma, *Homoseksualiteit in Nederland*, 102.

As part of their strategy to get homosexuality socially accepted, the COC organized debates on the topic with key jurors, doctors and psychiatrists from all layers of society. This did not change the societal view on homosexuality immediately, but as Hekma states, it slowly trickled down into the society at large. Another field of activities was the emerging international gay movement, in which COC tried to play a role. A first step to international solidarity of the gay emancipation movement was made already in the 1940s with a visit to a similar initiative in Switzerland.[89]

1.2 Homosexuality and Migration 1945-1960

Homosexuality from abroad

Societal views on homosexuality are hard to reconstruct when the topic was mostly ignored. In 1948 a new law on the penitentiary system includes a reference to homosexuality as an 'inclination', used in the context to separate those '*unsocietal elements*' from the other inmates.[90] A few years later, in a discussion on foster children, it is suggested that a boy turned homosexual because of the treatment of his foster parents.[91] Perhaps the strongest remark on homosexuality, with a foreign connotation which makes it interesting for this research, was made by the Catholic senator Ruijs de Beerenbrouck. When discussing the budget for Dutch New Guinea he painted a picture of a savage country, where murder and homosexuality were not incidents, but systems and rites.[92] In this way he explicitly defined homosexuality as something foreign and not Dutch. It is a late but classic example of colonial othering, which we also know from Ann Laura Stoler who wrote about the Dutch East Indies. She said any mentioning of homosexuality never concerned the Dutch, but either the indigenous population or the Chinese.[93]

On the international level, the fear for moral decay was shared by Interpol, which featured homosexuality as a discussion point on the agenda of several of its international conferences.[94] In 1952 the Dutch delegation presented twelve possible reasons for the rise in moral offences in general, and homosexuality in particular. Two of these reasons hinted at a foreign influence. First was the presence of liberation forces in the Netherlands, who lowered moral standards. Secondly, many soldiers, deportees and prisoners of war stayed for a long time in single-sex barracks, which led to homosexuality, pederasty and masturbation.[95] Compared to the other countries, the Netherlands contributed much more possible explanations for this 'problem', and Koenders remarked that this active approach felt like 'a political program'.[96] Also, we can see the 'Seduction Theory' at work here in the argumentation of the Dutch delegation.

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[89] Anonymous, 'Afdrukken van Zwitsersche indrukken', *Levensrecht. Maandblad voor vriendschap en vrijheid* (April 1946), n.p.
[90] TK 1948-1949, Handelingen Annex 1189.3, 9.
[91] EK 1951-1952, Handelingen 18 December 1951, 68.
[92] EK 1954-1955, Handelingen 1 June 1955, 598.
[93] L. A. Stoler, *Race and the Education of Desire. Foucault's History of Sexuality and the Colonial Order of Things* (Durham, 1995), 129 n96.
[94] Koenders, *Tussen christelijke réveil en seksuele revolutie*, 616-7.
[95] Ibid., 617.
[96] Ibid.

In 1957 an Interpol conference was dedicated exclusively to homosexuality. All member countries of Interpol were asked to make an inventory on the legal status of homosexuality, and how it was policed. The Dutch delegate to the 1957 conference was pleased by the comparison of the Dutch situation to other countries. In comparison to Germany, where all homosexual conduct was illegal, the Netherlands had much less crime related to homosexuality. The delegate defended the mild Dutch approach to homosexuality by stating that its policy was to protect youngsters and the public moral, clearly a reference to the 'Seduction Theory'. Homosexual relationships between adults did not endanger these interests. More practical arguments were the fact that homosexual acts between adults were difficult to trace and prone to be blackmailed when criminalized. Finally, the Dutch delegate also mentioned that homosexuality, like heterosexuality, could not be suppressed and that it was a deviation that needed medical rather than judicial attention. This is interesting, because just before he defended the Dutch system with the 'Seduction Theory' as an argument. This approach to homosexuality continued to play a role after the war, and influenced the way Dutch authorities thought about homosexuality in general, and thus also about allowing homosexual people into the country.

Non-normative sexualities in Dutch immigration procedures

Against this background of a general misunderstanding of homosexuality and the wide felt need to suppress it, it is hardly surprising that homosexuality was not a positive indication for foreigners staying in the Netherlands or wanting to obtain residence or labor permit. With little material available for this period, it is hard to give a general view of the government's treatment of these foreigners, but a few sources can certainly reveal a general pattern. Some references to pre-1960 cases are made in the policy archive of the Immigration Service. These references give an insight in what the official stance towards homosexual immigrants was in the post-war period.

To get an idea of what can be expected in terms of 'treatment' by the authorities of non-normative sexual behavior, a case of a transsexual is interesting. It is an early case and illustrates how the authorities dealt with non-normative sexualities in the 1950s. In June 1956 internal communication took place within the Ministry of Justice. It concerned a note on the immigration of transsexuals, presumably as a reaction to the sex change operation of an American soldier two years before.[97] The original note is not included in the folder, but notes from a telephone discussion on the matter is. In those notes, the general idea of sex-changing operations was disapproved, but at the same time the Head Department of Alien Affairs and Border Patrol (HV&G) saw no reasons to refuse a residence permit when no other objections could be raised. The Public Law (PR) department took a stricter stance: "*I would rather establish a construction that these people are immediately averted, because of their danger for the public morals, this on the ground of their sexual inclinations and the danger that medical-ethical impermissible operations would take place*".[98] HV&G responded that by reporting such cases to the Medical Inspection the willingness of certain doctors to perform such operations would cool down.[99]

[97] Nieuwsblad van het Noorden, 8 November 1954, 1.
[98] NA – IND 1379, telephone note PR to HV&G, dd. 15 June 1956.
[99] NA – IND 1379, telephone note HV&G to PR, dd. 20 June 1956.

In a similar climate of misunderstanding and disapproval, we can find the official reaction to homosexuals in the immigration procedure. There is a case from 1955 in which a German man claimed to be a refugee when he was arrested. When he told a story about meeting homosexuals and being a political refugee, he was evicted. Refugees with a possible criminal background (as homosexuality was seen as a moral offense) were not welcome in the Netherlands.[100] Since the material for this period is little and fragmented, it is impossible to give an in-depth analysis. Instead, the material will shortly be presented and discussed. Together it illustrates the status quo, the way the authorities dealt with homosexual foreigners up until 1960.

In a note from HV&G to the Secretary-General of the Ministry of Justice from July 1964 possible changes to the policy towards homosexuals were discussed. HV&G mentioned *"[t]he policy towards admission and eviction of foreigners was based on the fact that homosexuality is a deviation and that the common good requires the milieu of homosexuals to stay as small as possible*". [101] Thus he advised in favor of continuing the policy of aversion and eviction of 'homophiles'. This was the strict policy against homosexuals at least before 1964.

Besides these general comments and the German case referred to by Walaardt, three pre-1960 cases can be identified from the archives, those of three men, one Hungarian, one German and one Malaysian. The Hungarian and the German cases are mentioned in an internal note at the Ministry of Justice. In this the Secretary-General discussed the naturalization policy of homosexuals. He referred to two cases to support his remarks.

The Hungarian man arrived in the Netherlands already in 1940, and naturalization was refused in 1950. Since he was artistically and intellectually of a high level, there was a positive attitude towards him. Several letters of support were available, including one by the president of the Amsterdam high court. Also, a Member of Parliament Dr. Meulink (Christian ARP) enquired into this case. Nevertheless, the man lived in the same house as two Dutch men who were known to be homosexual.[102] The Hungarian, homosexual himself, thus was a 'notorious homosexual', since 'notorious' was defined as either living together with other homosexuals or being a member of an organization of homosexuals.[103] Notorious homosexuals were not eligible for naturalization, since they could not be considered to be able to assimilate.

The other case that the Secretary-General brought to attention was the case of a 59-year old German man that lived almost all his life in the Netherlands. He had two younger homosexual men living in his house and also he was a member of the –then not yet officially recognized– COC. Thus, he fully lived up to the definition of a 'notorious homosexual' and with that he was ineligible for naturalization. The German's earlier requests for naturalization were already declined, and the Secretary-General advised to do the same again: '*Where one can have some doubt towards [Hungarian], naturalization of [German] seems to me, though he has lived in the Netherlands practically since birth, not justifiable*'. Despite this flexible stance towards the Hungarian,

[100] T. Walaardt, 'Het Paard van Troje. Het verlenen van asiel door Nederland in de periode 1945-1955', *Tijdschrift voor Sociale en Economische Geschiedenis* 6 (2009), 86.
[101] NA – IND 931, note HV&G to SG, dd. 28 July 1964.
[102] NA – IND 931, note SG to Minister of Justice, dd. 2 November 1964, 1.
[103] NA – IND 931, note HV&G to SG, dd. 28 July 1964; Ibid., note SG to Minister of Justice, dd. 2 November 1964, 1.

Minister Scholten (CHU, orthodox Christian) noted a short but clear 'reject' for both cases on the note.[104]

In another note at the Ministry an interesting case was referred to that sheds light on the procedure in the 1950s. It is the case of a Malaysian man who was brought to the Netherlands by a man who had become Dutch by naturalization. The latter was a '*Spijtoptant*'. Interestingly, the man received Dutch nationality while Ringeling mentioned that part of the 'Spijtoptant'-policy was designed to keep out those who were '*a possible danger to the patriotic public order and morality'*.[105] Homosexuality in the 1950s was considered such a danger. He probably kept his sexuality secret, but when he wanted to get his partner to the Netherlands, problems arose.

For the Malaysian-Dutch couple it was not possible to rely on their relationship as a basis for residence. This was a non-existent possibility at the time. Actually, the fact that they had a relationship would rather diminish the Malaysian man's chances of coming into the country. The only chance for them to be reunited in the Netherlands was for the Malaysian man to independently get into the country, for example by obtaining a work permit. The document mentioned that they have been trying to obtain such a permit already in 1958, and continued to do so in 1959 (twice), 1960 and 1964 (twice). If in the earlier applications it was not known that the Malaysian man was homosexual, he was rejected on neutral grounds, such as unreliable income or housing. This remains unclear from the sources however.

1.3 Sub-conclusion

The situation in the Netherlands just after the Second World War was unfavorable to immigrants and to homosexual people in general. This was even more so for homosexual immigrants. The widespread belief that men could be 'turned' homosexual, and the idea that homosexuality was something non-Dutch definitely made it hard to immigrate for any openly homosexual person. It can be assumed that many of them did not mention their sexuality, and came into the country unnoticed. The 'spijtoptant' case is an example of this. He was not recognized as a homosexual during his application for Dutch citizenship, he only 'came out' when he assisted his Malaysian partner to come over.

The three cases identified in this chapter went noticed because they either had a homosexual relationship with a Dutchman (the Malaysian case), or because they were already monitored by the police (the Hungarian and German case). Non-marital relationships in this period were no basis for acquiring a residence permit, neither for heterosexuals or homosexuals. Marriage solved the problem for heterosexual couples, but the Dutch-Malaysian couple had to find other ways. Simply living together with other homosexuals in this period led to being labelled 'notorious homosexual', which was a guarantee for not being granted any residence permit. Members of the organization for homosexuals COC received the same label.

While the German man described above had lived in the Netherlands almost all his life, his homosexuality was too 'notorious' to be accepted for naturalization. Such behavior was clearly not approved by the authorities and wished to be kept out of the Netherlands, or in this case at least out of the Dutch nation. In the Hungarian case a nuance was made. He was of high cultural standing and apparently well-connected. The

[104] Ibid.

[105] Ringeling, *Beleidsvrijheid van ambtenaren*, 112.

tone in the archival material was much more positive towards him, despite the fact that he lived in a house with other homosexuals.

Interestingly, in the sources discussing the three cases, the main arguments against granting residence or job permits were not named. Unemployment or overpopulation were not named as arguments to deny these men the requested documents. The question whether one was 'notorious' homosexual was apparently much more important. As Tycho Walaardt found for refugees in the period 1945-1994, the same is true for these men, they managed to stay despite official rejections.[106]

Concluding, in the period immediately after the Second World War, an immigrant could better keep it secret that he was homosexual. Female homosexuality was not even mentioned in this period. When the police found out about someone's homosexual orientation, they would be controlled more tightly. This affected directly and negatively their chances in the immigration process. Homosexuality was clearly a 'contra-indication' to acquiring any type of residence permit. Only after 1960 a bit more room for nuance was created by new lines of thinking among the civil servants.

[106] Cf. Walaardt, *Geruisloos inwilligen*.

Chapter 2 - 1960-1972: Change of policy, but not 'con amore'

2.1 Context

In this chapter we will see how the status quo was challenged for the first time. We will see that the fear for high numbers of homosexuals coming to the Netherlands were ungrounded. New episodes of the cases presented in chapter 1 will show that this had a positive effect for homosexuals trying to obtain a residence permit, a work permit or even the Dutch citizenship. Finally, the chapter ends with material that is proof of the slow implementation of new policies and how this affected people's cases.

Political Landscape

In the 1960s the Dutch governments were mainly formed by confessional parties, joined in several coalitions either by the liberal VVD or the social-democrat PvdA. These governments were faced with the continuing Cold War tensions internationally. The social and sexual revolutions that swept Europe also had its effect on the Netherlands, where young people called for social and sexual liberation.

This was also the period that the Dutch government invited guest workers to fill up the labour shortages. Many more came to the Netherlands at their own initiative, since there was plenty of work available. Initially workers came from Yugoslavia, Spain and Portugal. Later also workers were recruited in Turkey and Morocco. The high number of guest workers was possible because it was suggested they would return when their work was over.[107]

Views on homosexuality

Tijsseling researched homosexuality in the Netherlands during the German occupation. She concluded that the implementation of strict legislation on homosexuality did not change anything in the Netherlands. The new rules were simply ignored or misinterpreted. She wrote that the real change in the view on homosexuality took place after the war.[108]

The 1960s witnessed the start of a social revolution that changed the country completely. Different explanations for this change are given, but include the process of depillarization and the economic prosperity of the period.[109] Whatever the exact explanation is, it is important to emphasize that in this period many social and sexual norms were challenged, including views on marriage, sexual behaviour and sexual orientation.

In 1961 the Minister of Justice repeated in the Senate that homosexuals who would come for such reasons to the Netherlands would be placed back over the border.[110] In the same year the Dutch gay organization COC celebrated its fifteenth anniversary. They send out a press release '*which was not possible seven years before*', a sign that things were changing. The organization itself noticed '*a scared aloofness makes place for a more unprejudiced approach*'.[111] Despite the social and psychological problems that they noticed for homosexuals in the Netherlands, they remarked that '*the*

[107] Obdeijn and Schrover, *Komen en gaan*, 267.
[108] Tijsseling, *Schuldige seks*, 155-6.
[109] Schuyt and Taverne, *Welvaart in zwart-wit*, 379-80.
[110] Leeuwarder Courant, 15 February 1962, 3.
[111] Het Vrije Volk, 7 October 1961, 7.

Netherlands shows to homophilia still a rate of tolerance that contrasts positively to the situation in most other countries.'[112] According to Hekma the sixties were also the period that several Dutch psychiatrists changed their views and published books which presented homosexuality as a normal variety to heterosexuality.[113]

This period witnessed an advance in visibility of homosexuality in the society, including the first openly gay people. Dutch author Gerard van 't Reve was the first openly gay public figure, after an interview on Dutch television in December 1963 in which he openly spoke about homoerotic themes in his works.[114] A year later, the VARA broadcasting station aired a program on homosexuality in which the chairman of COC Benno Premsela spoke publicly. In the same program two (anonymous) homosexual couples spoke about their relationships.[115] In 1968 there was a documentary on Dutch television on foreign homosexuals. The advertisement in the newspaper mentions that *'the Netherlands in the field of homophilia contrasts positively compared to the situation in surrounding countries'*.[116]

Figure 1 - A protest against Article 248bis on 21 January 1969.

Changing values in society made it possible that homosexuality changed from being a taboo into being discussed and even televised. This had its effect on the way foreign homosexuals were dealt with in the immigration policies. This chapter researches the way this change took place. In tandem with changing treatment of homosexual foreigners, these changing views on homosexuality also led to the abolishment of Article 248bis in 1971.

The abovementioned changes in societal views on homosexuality did not mean that homosexuality was suddenly accepted by the whole society. For example, in 1965 parliamentarian Van Dis of the orthodox Christian State Reformed Party (SGP) could still speak of the '*sin of Sodom*'[117] or the '*unnatural horrible sin of homosexuality*'.[118] Only slightly over five years later, social-democrat senator Broeksz pleaded in favor of full recognition of homosexual relationships and even marriages in the Dutch Senate.[119] In the Netherlands of the 1960s these two extreme views on homosexuality existed next to each other. In this schizophrenic political context, policy had to be made on immigration of homosexual men.

[112] Ibid.
[113] Hekma, *Homoseksualiteit in Nederland*, 108-9.
[114] AVRO, 'Literaire ontmoetingen: Gerard Kornelis van 't Reve', 11 December 1963.
[115] VARA, 'Achter het Nieuws: Homosexualiteit', 30 December 1964.
[116] De Tijd, 19 June 1968, 2.
[117] TK 1964-1965, Handelingen 28 April 1965, 1334.
[118] TK 1965-1966, Handelingen 13 October 1965, 214.
[119] EK 1970-1971, Handelingen 17 November 1970, 52.

2.2 Homosexuality and Migration

Discussion within Ministry of Justice on homosexuality

Since applications for residence or naturalization were dealt with at the Ministry of Justice, it is important to discuss the view on homosexuality at the Ministry. Though in many cases the Minister had the final say, the proposal for rejection or acceptance was drafted by a civil servant and was then sent upwards through superiors to the Minister for approval. This hierarchic system worked the same in every ministry and was designed to let lower civil servants do the research, and higher civil servants (or depending on the sensitiveness of the matter at hand the Minister) take the decision. To the historian it shows how the different actors within the ministry agreed or disagreed and what arguments were used.

We can reconstruct this internal discussion through comments made in notes on specific cases, or general notes written on the topic of homosexuality. The civil servants themselves noted that societal views on homosexuality were changing, but while it was used as an argument for a firm government stance against accepting homosexual immigrants[120], it was seldom used as an argument to relax the policy. Nevertheless, new thoughts on homosexuality had its influence on the social servants at the Ministry of Justice. This changed the chances for homosexuals for acceptance to the Netherlands.

Homosexuality in relation to immigration was discussed in a few of the earliest notes on homosexuality in the files that were consulted for this research. Reasons for these notes were either the (perceived) growing presence of homosexuals in the Netherlands, or the preparations for a new Foreigners Law (finally published in 1966).

The head of the Head Department for Alien Affairs and Border Patrol (HV&G) Mr. Fonteijn wrote a note to the Secretary-General of the Ministry of Justice, Mr. Tenkink. In this note he started with some observations, of which the first was that '*homosexual urges seem on the rise*'. And while he did not aim to explain this rise, he did give some suggestions. He suggested the '*continuing disintegration of responsibility in the welfare state*', '*growing organization of homophiles*', and among several others '*a diminishing sense of norms among non-homophiles*'.[121] But also he wrote that '*[a] deviation by the way'*, as he calls homosexuality, '*-one can perceive a parallel here with the disposition for delinquency- that in no way to a large extent needs to be innate, but that can originate and develop by influence of ones surroundings, the easier when the victim is younger*'.[122] And there we have, very clearly formulated, the 'Seduction Theory', as mentioned in chapter 1.

Fonteijn continued with his argument by referring to a certain Mr. Loeff[123] who was also approached to give his view on homosexuality. He represented a more 'modern' view which Fonteijn did not share. Loeff, probably a legal advisor, stated that homosexuality was an orientation that people were born with and which they could not change and (Fonteijn paraphrased) which the '*sufferer must then be able to give free reign*'.[124] Fonteijn discarded this view in the most cases, and stated that psychiatrists could be consulted and ended with the remark that '*unsocietal urges*' should be

[120] For example in NA – IND 931, note SG to Minister of Justice, dd. 2 November 1967.
[121] NA – IND 931, note HV&G to SG, dd. 28 July 1964.
[122] NA – IND 931, note HV&G to SG, dd. 28 July 1964.
[123] Perhaps the lawyer Mr. Jan Alouisius Lambertus Maria Loeff (1898-1985).
[124] NA – IND 931, note HV&G to SG, dd. 28 July 1964.

suppressed. In this way Fonteijn left open a slight ambiguity on whether he saw homosexuality as something acquired or innate. Nevertheless he was clearly in favor of the first.

Fonteijn ends his note with the assertion that homosexuals who had lived in the Netherlands for a long time would never be expelled. But he agreed with a certain Jhr. Van Sasse van Ysselt, who claimed that homosexuals should never be naturalized.[125] Less than three years later this is exactly what happened and it shows how radical a change took place within the department.

Another hint to the view on homosexuality at the Department was the note on the psychiatrists' report on the Dutch-Malaysian couple. Also written by Fonteijn, some harsh statements were made. *'It seems to occur rather seldom that a homosexual relationship remains –so to say- of a monogamous nature'*.[126] The psychiatrist mentioned that the Dutchman was really suffering from being separated from his partner, and that the relationship was of such sincere nature that no '*further consequences*' were expected. Fonteijn still concluded that it was important to refuse people who intend to continue or start a homosexual relationship in the Netherlands.[127]

Above we have seen that only Mr. Loeff proposed a more relaxed view on homosexuality. If homosexuality was innate, there would also be no risk for seduction and thus this argument against homosexual immigration would have to be dropped. Loeff was again referred to in November 1964, where it was mentioned that he was in favour of only taking the sexual behavior of a person into account when this person had a criminal record.[128] It is unclear here whether Loeff meant conviction related to sexuality (like on the basis of Article 248bis) or in general. The document in which Loeff had stated this, and thus the context of this statement, is not available. Two years later a similar line of argumentation was considered to reject an Italian man in 1966, as we will elaborate below. In this same note the definition of a 'notorious homosexual' was repeated to be someone who either lived together with another homosexual and/or was a member of the gay organization COC.[129]

In the discussion in 1964, only Mr. Loeff took a positive stance towards homosexuality. He was joined ranks three years later in the preparation of an internal note regarding homosexual immigrants. The positive voice comes from a certain Dr. Scholten, psychiatric advisor to the Ministry of Justice.[130] As we have seen above, psychiatrists contributed in this period to the normalization of homosexuality. Scholten wrote a reaction to a concept note that was prepared by Secretary-General Fonteijn in November 1967.[131] Several points and phrases in this concept note resembled the note of 1964, but new points were raised as well.

Scholten took a neutral stance towards homosexuality. He started with the observation that homosexuality could be either innate or acquired '*which is to be regarded as a neurosis*'.[132] He continued that as a neurosis it could lead to an offence. He then opposed the statement that homosexuality was on the rise, which was part of

[125] Ibid.
[126] NA – IND 931, note HV&G to SG, dd. 3 August 1964.
[127] Ibid.
[128] NA – IND 931, note SG to M, dd. 2 November 1964.
[129] Ibid.
[130] J. Euwema, *(Jeugd)psychiatrische diagnostiek in de forensische praktijk* (Haren, 2000), 26.
[131] NA – IND 931, note SG to Minister of Justice, dd. 10 November 1967.
[132] NA – IND 931, Letter J. M. Scholten to Mr. Fonteijn, dd. 6 November 1967.

the 1964 note and also –though less prominent- of the 1967 version. He argued that there was not enough information about homosexuality in earlier days. With a growing tolerance, it led to more people being open about it.[133]

Fonteijn had written in his concept note that '*[i]t is in my opinion extraordinary that between two men a foundation of love exists on which normally a marriage between man and woman would be based*'.[134] Scholten reacted that this was a subjective remark that was impossible to defend or attack. He continued by confirming that homosexual contacts were often of a short nature, but possibly because a legal framework like marriage was unavailable to them. Clearly the psychiatrist Scholten was a step ahead of the department and questioned whether the department kept the phenomenon of 'homosexuality' clearly separated from its possible harmful consequences, like blackmailing.[135]

The final remarks of Dr. Scholten shed a good light on how big the differences between him and Fonteijn were, and that Scholten was aware of this: '*I know I walk on very thin ice – which is also not my specialization: Could it not be considered to admit the homosexual – just like any other neurotic – while deporting him in case of unwanted social behavior? You will probably think of me as very cocky and perhaps also pedant – which was not my intention. If it is nonsense what I wrote in my question, I at least brought you a funny moment…*'.[136] The way Scholten had to pack his suggestion with some self-mockery shows that he expected this option not to be taken seriously.

The version of the note that was sent to the Minister (to which the reaction of Scholten was added) reflected the stance of the department, since it was approved by its highest civil servant, the Secretary-General. Compared to the 1964 version some changes did take place, though some old phrasings remained.

Most importantly, the 'Seduction Theory' was again formulated in the final version of the note, as opposed to the 'innate theory' as advocated by Loeff and Scholten. The suggestion that homosexuality was on the rise was almost literally copied from the 1964 version, including the suggestions for why that could be (see above). The note opposed strongly the fact that the government should change its moral norms, just because a '*small but loud-voiced group*' called for such a change. Therefore the note repeated that the government's policy on this issue should be the containment of the '*phenomenon*' (read: homosexuality).[137]

Nevertheless, the 1967 note very explicitly opened up new possibilities. It was the '*foundation of love*' that Scholten reacted to that opened up a possibility for homosexual men to migrate to the Netherlands. In the case of such a relationship, when scandals were avoided, and a permit for residence could be awarded on other grounds than the relationship, the 'inclination' of the applicant could be ignored.[138] Though formulated very dryly, this was a revolutionary conclusion in the sense that homosexuality changed from being a clear contra-indication to a possible neutral given under some additional conditions. The rest of this chapter will show why this radical change in policy took place in just three years, between the note of 1964 and the one of 1967.

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[133] Ibid.
[134] NA – IND 931, note SG to Minister of Justice, dd. 2 November 1967.
[135] NA – IND 931, Letter J. M. Scholten to Mr. Fonteijn, dd. 6 November 1967.
[136] Ibid.
[137] NA – IND 931, note SG to Minister of Justice, dd. 10 November 1967.
[138] NA – IND 931, note SG to Minister of Justice, dd. 2 November 1967.

"Charter flights full of homosexuals"

Above we have seen that the Dutch government did not want to attract homosexuals. In an internal note at the Ministry of Justice we encounter this fear of homosexuals from abroad quite explicitly formulated: "*Germans, whose real inclinations would be punishable in Germany, would come this way on a scale greater than now*".[139] This idea was closely connected to the 'Seduction Theory'. By making homosexuality something foreign and dangerous, it was a strong argument to keep the legislation against it. It was for example used by Minister of Justice Polak (Liberal VVD) during a discussion on Article 248bis: '*A point that we should also take into account here, is the legislation in the countries that border us. Generally speaking, the penalties against homosexuality are more severe in the countries that surround us than here. Too easy penalties could lead to the Netherlands becoming a sort of attractive haven for foreign persons with this inclination*.'[140] Witness to the fact that the Dutch authorities took this threat really serious was an official investigation that took place in 1965 into the believed '*charter flights of homosexuals'* that would come into the Netherlands.

Despite the fact that the previous chapter suggested that being a homosexual was a strong contra-indication for obtaining residence or labour permits before the 1960s, it is clear that Amsterdam nevertheless was a wanted destination for homosexuals. In January 1965, several newspapers wrote on the growing number of bars especially targeting a homosexual audience in the Dutch capital.[141] All articles mentioned that Amsterdam had a reputation abroad of being an attractive destination for homosexuals. According to *Het Vrije Volk*, this reputation was the result of a 'booklet' that mentioned Amsterdam as the city with the most 'meeting places'. The articles are short however, and did not cause many reactions in the media.

Later that year, a sensational murder did cause a moral panic in the media. The English film director Claude Berkeley disappeared and was found dead in a canal in September 1965. He had lived in the Netherlands for five years.[142] Two days after the first news reports, the *Telegraaf* already mentioned Berkeley's '*homophile character*'.[143] Slowly more facts about the personal life of Berkeley became known. It was also mentioned that Berkeley had been in touch with the police a month before because of an offense involving a young Italian, and that it was known that Berkeley had more '*short contacts with men and boys*'.[144] The *Leeuwarder Courant* wrote that the perpetrators should be sought among the men that linger around the public urinals, though this information was put in an additional article on the third page.[145] Soon after, the story gathered more details. The Italian boy was one of two that came to the Netherlands and found a place to sleep at Berkeley's house. Interestingly, both of them were led out of the country following the moral offense, but not Berkeley himself.[146] Because of these homosexual connections in the story, the case was referred to the Amsterdam vice

[139] NA – IND 931, note HV&G to SG, dd. 28 July 1964.
[140] PC Justice 1967-1968, Handelingen 19 October 1967, 23.
[141] Nieuwsblad van het Noorden, 13 January 1965, 2; Leeuwarder Courant, 13 January 1965, 5; Het Vrije Volk, 13 January 1965, 1.
[142] De Waarheid, 25 September 1965, 6.
[143] Telegraaf, 27 September 1965, 3.
[144] Het Vrije Volk, 29 September 1965, 1.
[145] Leeuwarder Courant, 29 September 1965, 1, 3.
[146] Limburgsch Dagblad, 30 September 1965, 1.

squad.[147] The case was not solved that year. It did cause some attention and very public remarks on the gay scene in Amsterdam, and the role that foreigners played in it.

Around the sensational murder on Berkeley, the *Telegraaf* relaunched the rumours of earlier that year, under the heading '*Is the capital becoming a Mecca for homophiles?*'.[148] After the news on Berkeley and his Italian boys, it was perhaps more credible that homosexual men from West-Germany and England visit Amsterdam, as the article suggested. The reporter noted that especially on Friday and Saturday night the number of foreign homosexuals in the Amsterdam bars was considerable. The Amsterdam vice squad was asked for a reaction: '*Neither do we know with certainty how many foreigners come here. Acts of homosexuality are not criminalized in the Netherlands, contrary to Germany and England. Exactly from those countries –but also more southern places- homophiles come to Amsterdam to spend their holidays or a weekend*'.[149] The police stated that they tried to slow down the stream of foreigners by limiting the number of bars frequented by homosexuals. Interestingly, they also tried to prevent homosexuals to obtain a work permit, but as the police was quoted: '*we also don't know of everyone whether they are homophile or not'*.[150]

It might well have been this article that prompted the Ministry of Justice to order a research into the influx of homosexuals in the Netherlands. In December 1965 the ministry requested the Municipal Police of Amsterdam to monitor the arrival of homosexuals through Schiphol Airport.[151] The Amsterdam police replied in March 1966 with five reports of officers who conducted such monitoring researches at the airport. These officers, backed by the airport police, the Royal Military Constabulary and customs officers, screened passengers and ordered luggage to be searched for 'attributes' that '*normally are used by homo-sexuals*'.[152]

On Friday, 28 January 1966, four flights from London landed at Schiphol Airport. On these flights, as the officer on duty reported, there was one foreigner who was probably homosexual, judging his '*appearance and statement'*, combined with the fact that he was supposed to stay in a hotel that was known to host homosexuals, the Hotel Maximilien in Amsterdam. In a second man's hand luggage the police found a powder puff, but that was not reason enough to keep the man any longer. Other individuals that looked like they could be homosexual had their luggage searched, but nothing suspicious was found.[153] Apart from these few hints, no evidence was found for the alleged massive influx of homosexuals through Schiphol. One officer still proposed that numbers might rise in the holiday season.[154] In this way, the officer opened up a possibility for the rumours to be true despite the outcome of the research.

Also hotels in Amsterdam were monitored, especially three hotels that were known to be '*meeting places of homosexuals'*.[155] The books of the hotels were checked especially for British men. The books of the three hotels (among which indeed the Hotel Maximilien) were checked for the period September-December 1965. The conclusion was that never multiple British men checked in at once, neither did British men seemed to

[147] De Waarheid, 4 October 1965, 3.
[148] Telegraaf, 9 October 1965, 6.
[149] Ibid.
[150] Ibid.
[151] NA – IND 931, Letter Municipal Police Amsterdam to HV&G, dd. 9 March 1966.
[152] NA – IND 931, Report Amsterdam Alien Police, dd. 28 February 1966.
[153] NA – IND 931, Report Amsterdam Alien Police, dd. 31 January 1966.
[154] NA – IND 931, Report Amsterdam Alien Police, dd. 28 February 1966.
[155] NA – IND 931, Report Amsterdam Police, section Hotel Controls, dd. 23 December 1965.

stay especially for the weekends, and finally, none of the men visited the hotels multiple times.[156] Together with the information from the airports, the police reports debunked the myth of incoming flights filled with homosexuals.

The report was sent back to the department with an accompanying note. In this handwritten note (unclear written by whom) it is remarked that the personnel at Schiphol Airport called the airplanes '*flikker-machines'*. Since the story seemed completely untrue, the writer of the notes jokingly adds '*It seems this name is more related to the lighting, because the research as undertaken by the Alien Police of Amsterdam did not yield any alarming result*'.[157]

This conclusion was taken over by the Secretary-General at the Ministry of Justice, when he wrote to the Minister of Justice in 1967, as an opening statement of the memo on homosexuals as discussed above, that '*charter flights with homos would fly on and off in the weekends is based on exaggeration'*.[158] He continued that based on facts, Amsterdam was indeed a destination for foreign homosexuals, but that the scale of this was not alarming.

The Secretary-General had consulted the Head Department of Alien Affairs and Border Patrol about the influx of homosexuals before writing to his minister. What he did not write in his note to the minister was the fact that the Amsterdam police apparently believed that the 'supply route' had changed from flying in through Schiphol to coming in via Dover, Oostende and the southern Dutch border.[159] The police did not have the personnel to investigate that route, while they clearly had the personnel to inspect incoming flights at Schiphol only a year before. The outcome of the Schiphol research was reassuring, the situation was not as bad as was feared. The Secretary-General then made a choice to not name this new route, and calling the situation '*not alarming*'.

For the time being the myth of the '*charter planes full of homosexuals*' was debunked. This did not mean no Englishman ever came to the Netherlands, as a news article from 1966 reveals.[160] It also did not mean that the Dutch authorities stopped comparing the Dutch situation with countries abroad. But at least a strong argument was taken from the hands of those opposing homosexuality. It was most likely those who had an interest in exaggerating the influx of homosexuals into the Netherlands. An official investigation was needed to prove them wrong. It is the context in which homosexuals immigrating to the Netherlands were judged.

2.3 Homosexuals in the Dutch immigration procedure

Besides the fear for attracting homosexual immigrants (whether short or long term), the immigration department was also faced with actual immigrants, that applied for either residence permits or naturalization. The fact that these files are part of the archives already indicates that they were important for the general policy. The cases of the Hungarian, the German and the Malaysian men will be discussed again. Also some

[156] Ibid.
[157] NA – IND 931, handwritten note, dd. 16 March 1966. The joke that is made refers to the meaning of 'flikker', which is both a derogatory name for a homosexual, but also a verb for 'flashing light' or 'flickering light'.
[158] NA – IND 931, Note Loco-SG to Minister of Justice, dd. 2 November 1967.
[159] NA – IND 931, Concept letter HV&G to Loco-SG, dd. 31 October 1967.
[160] Telegraaf, 10 May 1966, 5.

additional cases will be discussed. Together they illustrate and explain the change in policy at the Ministry of Justice in the 1960s.

1960-1967: Challenges to homosexuality as a contra-indication

In the previous chapter we have seen that the Hungarian man was labelled as a 'notorious homosexual' and thus not eligible for naturalization. Secretary-General Tenkink referred to a note from 1962 (not available but referred to in a later note) in which he proposed to be a bit more lenient in this case, but explicitly wishing to avoid giving the impression that the Ministry would support '*tolerance towards such homosexual deviations*'.[161] Apparently he changed his mind, because in the note of 2 November 1964 he said that the living conditions of the Hungarian (living together with two other homosexual men) would surely make him a 'notorious homosexual' and that a positive decision would be hard to defend. In the margin of the note is written '*Decline [Hungarian] and [German]*'. [162] This was presumably written by the Minister himself. There are no files after the ones from 1964 about this case, and so it remains unclear how this internal discussion continued. Whether the hard line of the minister was continued, or that some other factors were considered is not clear. These factors were his long stay in the Netherlands, his contacts on high levels and his artistic and academic qualities (see previous chapter).

With the changes at the department in mind, it is possible to guess how this case was reinterpreted. Especially if we know the outcome. Naturalizations officially take place by adopting a law in parliament. One law groups many requests for naturalization together. The document contains enough information to identify the applicants from the IND archives. By looking in the digital archives of the Dutch parliament, a matching naturalization could be traced.

In this case this strategy was succesful; the Hungarian man was finally accepted for naturalization. A naturalization law was drafted on 2 October 1968 that among 27 others would grant Dutch citizenship to a man with the same name, same age, an '*author and art critic*', and living in Amsterdam.[163] The explanatory memorandum that was added to the draft law tells that the man was living in the Netherlands continuously since 1940, which matches the information from the IND policy archive.[164] This man must have been the same Hungarian man, and he finally was naturalized on 16 October 1968.[165] No questions were raised in parliament and also the Committee on Naturalizations, that had to review the draft laws for naturalizations, approved the draft law.[166] No references to the sexual orientation of the man were made in any of these documents, so the decision must have been made at the Ministry.

In the note of 2 November 1964, the case of the Hungarian man was compared to the case of the German man who had lived in the Netherlands basically all his life. The German man was also called a 'notorious homosexual'. Though '*all advices about him were positive*', there was no doubt in this case that the German was a notorious

[161] NA – IND 931, note SG to Minister of Justice, dd. 2 November 1964, 2.
[162] Ibid.
[163] TK 1968-1969, Handelingen Annex 9841.2, 2.
[164] TK 1968-1969, Handelingen Annex 9841.3, 4.
[165] TK 1968-1969, Handelingen 16 October 1968, 448.
[166] TK 1968-1969, Handelingen Annex 9841.4.

homosexual and thus to be excluded for naturalization.[167] Because the man lived in the Netherlands for such a long time already, he was not deported.

Considering the harsh tone towards this case, it is remarkable that we can also find that the German man was naturalized just three years later. I applied the same strategy as with the Hungarian man. A German man with the same name, same age, 'women's hairdresser', who lived in the Netherlands almost all his life, was naturalized in May 1967.[168] Also in this case, the Committee on Naturalizations did not establish any objections.[169] This means the man was fully naturalized even before the 1967 version of the note on homosexuality was discussed at the Ministry of Justice. Rather than explaining the policy change at the Ministry, this case raises the bar even higher. What happened between 1964 and 1967 that it was suddenly possible that a known homosexual person could be naturalized, and in that way become Dutch?

To explain this, we come to an important case which we have discussed in chapter 1 already. In this chapter we will see how it challenged the existing policy. It was the case of the Malaysian man who had a relationship with the Dutch *spijtoptant*. Since their relationship was not recognized, the only chance for them to be reunited in the Netherlands was for the Malaysian man to get a work permit. They tried several times between 1958 and 1964. All these job permit applications were rejected.

Interestingly, this case caught the attention of a Member of Parliament, Daams PvdA). Perhaps he took an interest in the case because of the *spijtoptant* involved.[170] He had discussions with the Minister of Justice Scholten (CHU), which led to an additional research, including a psychiatric intervention. This was beneficial to the case, because in psychiatry, views on homosexuality were generally more advanced than in general society. The psychiatric intervention resulted in a positive appraisal of the relationship between the Dutchman and the Malaysian. '*The relationship between both men seems, according to Dr. Falies who emphasizes that he was only able to speak to [Dutchman], of a solid nature. As said, such relationships are very rare.*'[171] The note concludes that in that respect the relationship between the Dutchman and the Malaysian *'would not need to have much consequences'*. This probably referred to the moral 'scandal' that the authorities were afraid of. Despite this positive input the note ended with an advice for rejection.

Mr. Daams did not give up and approached the next Minister of Justice Samkalden in December 1965, who then offered –according to a later report '*not con amore*'[172]- to reconsider the case if the Malaysian man could secure work and housing independently in such a way '*to avoid scandal*', even when this would mean the Malay man would live in a different city than his partner.[173] This turned out to be a radical change from the past. It pretty much opened up the new view on homosexuality, because the Minister basically offered to ignore the homosexual relationship in his

[167] NA – IND 931, SG to Minister of Justice, dd. 2 November 1964, 2.
[168] TK 1967, Handelingen Extraordinary meeting 2 May 1967, 137; EK 1967, Handelingen Extraordinary meeting 23 May 1967, 173.
[169] TK 1967, Handelingen Annex 9062.4.
[170] During his term as a parliamentarian, Mr. Daams was very active on topic of 'spijtoptanten', people returning from Indonesia. Source: [http://www.parlement.com/id/vg09lkzkg4zq/f_h_j_m_frits_daams].
[171] NA – IND 931, note HV&G to SG, dd. 3 August 1964.
[172] NA – IND 931, note HV&G to SG, dd. 31 October 1967, 2.
[173] NA – IND 931, note HV&G to AV, dd. 9 January 1967, 1.

decision. However, the couple was not able to secure a reliable job placement and the request was again refused in September 1966.

A year later the request was resubmitted, and that was the reason for the internal note from which all the above is quoted. Despite the fact that Mr. Daams was again involved, and new recommendations were submitted, the couple did not live up to the requirements. A contract at an Indian restaurant was not deemed reliable, and housing was arranged at an address that was known with the Amsterdam moral police to house homosexuals. This was obviously not enough to 'avoid scandal', and the note was basically again an advice for refusal.[174]

This note was written by J. Boudewijn, working at the Head Department for Alien Affairs and Border Patrol, and was circulated among many stakeholders, judging the different types of handwriting on the document. In itself this is already a signal of how debated this case was. It also gives insight in the different lines of thought that existed within the department. Civil servant Bulthuis wrote the comment that '*the case [Malay] was indeed to be refused again. To promote a homophile relationship by granting a residence permit I hold as very unadvisable*'.[175] For him the issue of the homosexual relationship was more important than all other arguments. Head HV&G Fonteijn was more mild, saying that '*though [Malay] will probably be able to secure work, it seems to me that given the current circumstances there is no reason to admit a cook or kitchen boys'*.[176] For him the economic motive was the most important and in that sense he treated the Malaysian man as any other immigrant. Minister of Justice Samkalden himself commented that he would like to get advice about the problem of 'family reunification' for homosexual couples.[177] This request probably led to the note on homosexuality of later that year.

This time, homosexuality was not the only argument for rejection, since Minister Samkalden had demanded also a job and separate housing as requirements for the necessary permits. The couple –with contacts in the parliament!- was not able to secure these conditions in a satisfactory way. No reference to an official naturalization like the cases above could be traced. However, by looking for their names online we do know that a couple with the same names is buried in Charlois near Rotterdam, from which we can assume that the couple stayed together until the Malaysian man's death in 1985.[178] Next to the naturalization laws, this is another way of finding the outcomes when they are not part of the archives. The fact that the Malaysian man could stay is a good example of what Walaardt means with 'silently giving-in'.

One other case sheds a light on the immigration procedures for homosexual men in the Netherlands of the early sixties. It is the case of an Italian man who came to the Netherlands in 1962 to work at a company in Haarlem. He had met a Dutch man in Italy in 1956 and since the Italian man was a nurse, he took care of the ill father of his Dutch friend. When the Dutch police found out he had a (short) criminal record in Italy, including shoplifting and breach of railroad rules, he was ordered to leave the Benelux-area. In 1963 the Dutchman's lawyer told the police the two men were in a relationship, though the couple always denied this. Rumors however circulated that the Italian earned a lot of money by massaging other men. The Dutchman denied this, saying the Italian

[174] Ibid., 2.
[175] Ibid., 1.
[176] Ibid.
[177] Ibid.
[178] See www.online-begraafplaatsen.nl.

only massaged him and his late father. Still the Italian's request to return to the Netherlands was refused in 1964.[179]

This case featured in the documents together with the Malaysian man, because both cases concern a homosexual relationship, even when the Italian-Dutch couple never officially admitted this. Since it was a similar case, the civil servants tried to treat both cases equally. In 1966, the Italian man applied again from Germany –where he had found work- to return to the Netherlands. It seems that he knew what the obstacles were, because the Italian man had arranged to be lodged with a family in Haarlem.[180] In this way he would avoid the impression that he and the Dutch man were in a relationship, just like the Malaysian man was not allowed to live together with his Dutch partner.

The note, which discusses this new application, continued with some grounds on which the application could be rejected. Since the Italian was a citizen of the European Economic Community (EEC), at that time he could not be rejected unless he was a danger for the public order. The writer of the note, Boudewijn, suggested that the (as he honestly mentions 'perhaps outdated') criminal records, or the perceived 'milieu' (read: homosexual massages) in which he would work, could support the conclusion that the Italian man was a danger for the public order. Boudewijn's superior Bulthuis added that under Benelux legislation, 'danger for the public order' also included moral offenses and he referred to the *Vreemdelingencirculaire* (Alien Circulary) to support this.[181] This is one of the few direct references to the Alien Circulary in the folders that are researched here.

The note ends with a revealing comment. Though Boudewijn wrote all kinds of reasons to reject the Italian, the final paragraph reads as follows: "*Also not to promote the start or continuation of such a relationship [read: homosexual relationship], […] it is in my view to be rejected.*"[182] The decision was based on two earlier documents. One is the dossier on immigration of homosexuals from 28 July 1964, which mentions that homosexuality is an aberration and that the 'environment' of homosexuals should be kept as small as possible.[183] The other was the note of 2 November 1964, in which homosexuality was identified as an element foreign to the Netherlands and thus should be kept out.[184]

It is interesting that different arguments for refusal were raised in the document from January 1967, but that the final decision was again based on the –in this case only assumed- homosexual relationship, backed by documents of over two years old. By making the perceived homosexuality of the applicant the main issue, the decision of Boudewijn in this case indeed reflects the main message of the note of 1964, that homosexuals were to be barred from the Netherlands.

Though the four cases mentioned above differ much contextually, they all point in the same direction: homosexuality continued to be a strong contra-indication even until after 1964. Even when supporting material could be shown to the immigration police, people could be rejected only for being known to be homosexual, or –in the case of the Italian- for being suspected as homosexual. The decision of Minister Samkalden to be more lenient towards homosexuality in the case of the Malaysian is really a breaking point in

[179] NA – IND 931, note HV&G to AV, dd. 9 January 1967, 2.
[180] Ibid.
[181] Ibid., 3. Bulthuis referred to page C16, where the article on moral offenses is actually on C15.
[182] Ibid.
[183] See also NA – IND 931, note HV&G to SG, dd. 28 July 1964, 1.
[184] NA – IND 931, note SG to Minister of Justice, dd. 2 November 1964, 1.

the policy, and this explains why exactly these cases are part of the IND policy archive at the National Archives.

The decision of Samkalden was however not an unexpected turn. Changing views on homosexuality in society challenged the status quo. Refusing someone a residence permit just for being homosexual became difficult to defend. We have seen that civil servants wanted to stick to the clear guideline that a homosexual was not welcome. It was the Minister of Justice himself who opened up a clearly defined category of homosexuals who could be accepted. Perhaps pressured by a parliamentarian of his own party, Daams, the Minister had to admit that some homosexual relationships did not live up to the 'scandalous' nature that the policy was designed to keep out of the Netherlands. His decision to look at the case without putting homosexuality as the core argument helps to explain the gap between the negative decisions in the Hungarian and German cases and their respective naturalizations just a few years later.

We could say that the German, the Hungarian and the Malaysian posed a little crisis for the Ministry of Justice. How could they refuse people for being homosexual when they did not cause any problems? In line with what Alink concluded in her research, political actors ended the crisis by changing the policy. The new requirements that Samkalden formulated in 1965 in the Malaysian case were in fact a change in policy. These changes were small, but had a great impact on future applications for residence or labor permits. For example, it seems to have directly influenced the cases of the German and Hungarian men, who were the first two homosexual men granted Dutch citizenship while the authorities were aware of their sexual orientation.

1967-1969: Relaxation - Cases and decisions

A new case that appeared in documents later in 1967 was the one of a Spanish couturier. Saskia Bonjour described this case as the first time a homosexual relationship was acknowledged by the Ministry.[185] By that time the German man above was already naturalized.

The Spanish man lived together with his partner in Rotterdam. A residence permit was previously refused by the Rotterdam police, because of the homosexual relationship.[186] The Spaniard then asked for a revision of this decision, which was granted to him by the *Adviescommissie voor Vreemdelingenzaken* (A.C.V., Advice Committee for Alien Issues). This was a committee that existed in different forms since 1957 and which acted as an independent advisory board for appeals in immigration cases.[187] The A.C.V. thus saw reasons to grant him a residence permit. This revision caused the case to come under the renewed attention of the Ministry of Justice, where civil servant Boudewijn (the same who was involved with the Schiphol inspections) was preparing a report on homosexual immigration, which will be discussed below.

The Ministry realized that Minister Samkalden in 1965 had set a precedent that was not easy to ignore, namely that homosexuality in itself was not a reason to refuse a residence permit or job permit. Additional requirements were a job placement and housing that would not cause scandal. In the Spanish case the interpretation of the A.C.V. further questioned the validity of the second requirement. After all, what did

[185] Bonjour, *Grens en Gezin*, 120-121.
[186] NA – IND 931, note HV&G to SG, dd. 31 October 1967, 1.
[187] Walaardt, *Geruisloos inwilligen*, 36-7; Swart, *De toelating en uitzetting van vreemdelingen*, 351-67.

'scandal' actually mean? Boudewijn did not want to agree with the Commission too easily, he raised a few thoughts that could counter the verdict of the A.C.V. (which was advisory, not binding). For example, he raised some doubts whether arguments of protecting public order were not still applicable, even when views on homosexuality were changing. Also, he proposed to forward the case to the Ministry of Economic Affairs to get an opinion on the usefulness of the Spanish couturier for the Dutch labour market.[188]

Boudewijn realized very clearly that the outcome of this case would set an even clearer precedent than Minister Samkalden (accidentally) did in 1965. Therefore he proposed to let the Crown decide on the Spanish 'test case'.[189] This is a clear sign that a civil servant like Boudewijn did not want to be responsible for changing the policy. Finally, it is interesting that Boudewijn ends his report with mentioning the two counter-indications against the Spanish man, namely the fact that he had held back an earlier conviction, and the homosexual relationship itself. For Boudewijn this was still a counter-indication, while the German was already naturalized at this time despite being homosexual.

The report was sent to the Secretary-General of the Ministry of Justice, accompanied by a second note signed by the Head Department for Alien Affairs and Border Patrol Bulthuis. He questioned the suggestion to send this case to the Crown, since he saw enough guidance in the decision of the Minister Samkalden in the case of the Malaysian. He repeated that in his view Samkalden's decision effectively made homosexuality irrelevant if it was not causing scandal, and since the latter condition was quite subjective, it was not really a strict condition at all. This left only the requirement of having a job in order to obtain a residence permit, which was similar to any other immigrant at the time.[190] In this way Bulthuis agreed with the verdict of the A.C.V.

What is more interesting about the Head's comment is his view on the Ministry of Economic Affairs, which he believed 'in 9 of 10 cases' replied with the same message, that more research was needed and that a more thorough investigation would be done in one year. Waiting for this investigation the applicant was normally granted one year of residence, which later could be the basis for a permanent residence permit. In any case, the economic value of the Spanish man was proven, since he managed to create a flourishing little company in a short matter of time. This led Bulthof to conclude -'*contre coeur, when I think of further consequences and the rather discomforting situation around the theme of homophilia*'- that he will follow the advice of the A.C.V. on the Spanish case.[191] The outcome is known, because eventually, with a delay of a few years, the Spanish man was naturalized in March 1974.[192] This means the Spaniard received his residence permit in 1967, and apparently he applied for naturalization a few years later.

We know more of his background because of media attention. The attention in this case was not because of his homosexuality, or the revolution in immigration policy, but for the dresses that the Spanish man created. In the late sixties and early seventies his fashion shows were reported on in the Dutch newspapers. These reports are sometimes quite technical, focused on the fashion. Other reports are longer and also go into why the 'exotic' Spanish man works in Rotterdam.

The Spanish man came from Madrid to Rotterdam in 1966, so only one year before his application. Trained as a technician, he soon realized he was more attracted to

[188] NA – IND 931, internal note HV&G, dd. 19 October 1967, 2.
[189] Ibid.
[190] NA – IND 931, note HV&G to SG, dd. 31 October 1967, 2.
[191] Ibid., 3.
[192] EK 1973-1974, Handelingen 19 March 1974, 410.

the '*game with needle and scissors*'.[193] But he also stated that one could earn a lot with couture, because in Spain all people were willing to pay for fine clothes. Nevertheless he came to the Netherlands, because '*people in Spain look a bit weird at male couturiers'*[194], and in another article he speaks on this problem at length: '*Spain is not a free country. Spain does like fashion designers, as long as they are foreigners. I will say as an example; my mother does want to go to a fashion designer, if he is a foreigner. But if her son designs fashion, she doesn't like it that much. It's not work for men, they think. Here in the Netherlands it is possible. The boys and girls are more free.*'[195] With this quote the Spanish man implicitly revealed the real reason behind his move to the Netherlands. He packs the social non-acceptance of him being a fashion designer in an economic motive for which he moved. An explicit reference to his sexuality is left out, though.

By this time he already lived together, we know from the government files. But there is no reference to this in the newspapers. The Spanish man's remarks are interesting, because in the Netherlands of 1960s, fashion designing was not an everyday profession for men. It is mainly his own perception speaking here. Obviously the man escaped stigmatization from his own country by moving away from his family and social circles back in Madrid. In the Netherlands he probably ended up in the socially progressive circles of that time. These circles however were at the forefront of social innovation, accepted homosexuality and other non-normative behavior, but were far from representative for the whole country.

Though the change in policy was a radical one in theory, the practice for many homosexuals did not change immediately. Of this we have proof in the form of the case of a German man, of which only one short document gives a lead. Amidst the discussions on the Spanish case at the department, the police department of Amsterdam dealt with a German man who was arrested in October 1967, apparently because he was homosexual, frequented COC meetings and was living with an Australian man, his partner.[196] Perhaps the police force had recognized him as a 'notorious' homosexual and therefore arrested him and wrote this support to suggest to revoke his residence permit. He had lived in the Netherlands less than a year, and had on-and-off jobs at a hotel, while sometimes also living from the income of his partner. The hotel where the German was working had only positive references, and wanted to give him a contract. Unfortunately, this isolated document does not give insight in how this case ended. Also, no naturalization was found.

Besides this German case, there are some traces of other homosexual immigrants from this period, though they do not give any context. For sake of completeness, they will be mentioned shortly, to show that the cases discussed above were not unique.

One source is newspaper articles. In this period we can find some references to people who came to the Netherlands for reasons of their sexuality. One article from 1966 claims that an Englishman came to the Netherlands '*to do things that are forbidden in his own country'*.[197] Another article from 1967 mentions a family drama in which a man

[193] Telegraaf, 14 June 1969, 35.
[194] Ibid.
[195] Het Vrije Volk, 5 March 1971, 17.
[196] NA – IND 931, Report Amsterdam Alien Police, dd. 30 October 1967.
[197] Telegraaf, 10 May 1966, 5.

earned money through a homosexual relationship with a foreigner.[198] Another article from 1968 mentions a *'homosexual Moroccan'* in Amsterdam.[199]

Another source is a document from the archives that has no clear relation to the other material. It looks like an internal note of the police, as it is a list of issues related to homosexuality, including some references to foreigners. Since the Spanish, the Italian and the Malaysian cases are named in this list, the document should date from approximately 1967.[200] It notes the rising popularity of Amsterdam as a destination for homosexuals, and also notices growing homosexual prostitution. In this note, the COC is accused of handing out membership cards with fake identities for German under-aged homosexuals. Also it mentions that the British Consulate-General in Amsterdam complained that three British homosexuals were robbed by Dutch male prostitutes. Finally, a German man wanted to open a café exclusively for homosexuals in Groningen. All three cases support the presence of homosexual foreigners in the Netherlands. The note ends with a list of homosexuals who had applied for residence or labor permits, among whom an American artist, an American-Yugoslav publishers couple, a group of three American-Dutch employees of an airline company, and finally a German servant.[201]

Finally, also in the minutes of the Parliament references are made to homosexual immigrants living in the Netherlands in this period. In a debate in 1969 some cases of '*several years before'* are referred to, without giving much details. These were the case of a homosexual couple that lived together in Amsterdam and were threatened with the alien police if they did not pay a higher rent. [202] The other was a case in which a foreigner with a working permit was denied extension because of his homosexuality.[203]

However, these kinds of references might show something that can be expected, many homosexuals arrived in the Netherlands. But the lack of context means we cannot say that they necessarily came because of their sexuality.

[198] Het Vrije Volk, 13 October 1967, p. 25.
[199] Leeuwarder Courant, 9 October 1968, p. 13.
[200] NA – IND 931, '1. De vreemdelingendienst te Amsterdam', no date.
[201] Ibid.
[202] TK 1968-1969, Handelingen 22 April 1969, 2642.
[203] Ibid. 2644.

1969-1972: Practice versus policy

Above we have seen how the Dutch government slowly started to allow the immigration and even naturalization of openly homosexual men. Formally these men were accepted to the Netherlands when they fulfilled all requirements for immigration. However, they could not rely on family law for partner migration, which made their situation considerably more difficult compared to heterosexual immigrants. Also, the decision at the Ministry did not immediately resonate among the police and border patrol forces. They were the ones whose task it was to detect immigrants in the first place and continued to discriminate homosexual foreigners.

An interesting illustration of this difference between the policy made at the highest level in The Hague and the treatment of homosexual immigrants in practice is the case of a Dutchman who submitted complaints at the Ministry about his treatment at the border. This cluster of incidents took place in the period 1969-1972 and forms an interesting bridge to the following chapter.

As with other documents in the archive, they do not tell the story from the beginning, but we can reconstruct it from what the Dutchman wrote to the Minister of Justice in 1969. The immediate reason for his letter of September 25th that year was that he felt discriminated at the border crossing between the Netherlands and Germany at Nieuwe Schans, a small village in the northern province of Groningen. A German friend who he was driving was refused entry to the Netherlands for unclear reasons. First the German man supposedly did not have enough funds, but later the border patrol mentioned that the German '*wouldn't come in anyway*'.[204] The Dutchman felt clearly discriminated for being homosexual.

This was not an individual case. According to the Dutchman, he had had similar experiences with a Moroccan sculptor[205] in 1967 and with an Italian friend half a year before writing this letter. All in all it happened four times that his male companions were refused at the border for unclear reasons. The Dutchman however felt discriminated and reminded the Minister of what he had said in parliament, that discrimination of homosexuals did not take place. The Dutchman requested that the Minister would instruct his personnel on the ground better and to conduct a research into the mentioned discriminatory practices at the border.[206]

The Ministry did not take this complaint lightly and the request was forwarded to the Commander of the Royal Military Constabulary (*Marechaussee*).[207] A research was conducted and the results were sent back to the Ministry. In this letter we can read that on the day of the incident that prompted the Dutchman to write his letter, several German citizens were refused entry because '*lack of means'*.[208] As a second point, the Military Constabulary raised that the Dutchman was known at the border crossing to bring in 'hitchhikers' regularly, that were sometimes refused for, again, '*lack of means*'. The report underscores the fact that this has nothing to do with the fact that the Dutchman was homosexual. According to Article 8 of the 1966 Alien Circulary a tourist

[204] NA – IND 931, letter [Dutchman] to Minister of Justice, dd. 25 September 1969, 1.
[205] From the formulation it is not entirely clear whether the Dutchman was personally involved in this case or merely heard of it.
[206] NA – IND 931, letter [Dutchman] to Minister of Justice, dd. 25 September 1969, 2.
[207] NA – IND 931, note from HV&G to Commander Military Constabulary, dd. 6 October 1969.
[208] NA – IND 931, letter Military Constabulary to Minister of Justice, dd. 21 November 1969, 1.

coming in to the Netherlands needed to have a reasonable amount of money to sustain him or herself. The minimum amount was specified as 25 guilders per day.[209]

The report also reflected on the earlier cases. The Italian man did indeed try to cross the border in the company of the Dutchman on 25 October 1968, but was refused for having only 30 German Marks on him, not enough for a visit of five days to the Netherlands. When the Dutchman was asked about the nature of their relationship and he replied that the Italian was just a hitchhiker, the Military Constabulary told him that the matter was between the border patrol and the Italian only. The Military Constabulary confirmed that the Dutchman later on filed a complaint because of this treatment. Research by the border patrol itself confirmed that the Italian was refused entry for reasons of lack of money only, and not because of his homosexuality.[210]

As an added note suggests, the whole research was delayed quite a lot and therefore does not seem to have been a priority of the Military Constabulary.[211] The letter of the Dutchman to the Ministry of 25 September 1969 was answered a full three months later.[212]

A new episode occurred a couple of years later in 1971, when the same Dutchman wrote a letter to the new Minister of Justice, Van Agt (Catholic KVP). He mentioned an incident similar to the one described earlier, only now it concerned an Iranian friend.[213]

This time the Dutchman told the border patrol that the Iranian man was his friend and his guest, and thus that he did not need to have money on him. Nevertheless, the Iranian was denied entry for not having enough money. The Dutchman went to a different border crossing at Bellingwedde, where he could pass without problems after the officer on duty checked whether '*restrictions apply to Iranians*'.[214] According to the Dutchman, this proved the arbitrariness of the decision by the Border Patrol at Nieuweschans. When he had confronted the latter with the difference in treatment, he was answered in a threatening way.

The Ministry approached the Border Patrol at Nieuweschans for clarification immediately after receiving the letter. The Border Patrol saw the case as a daily routine, because it was their duty to keep people out that did not have sufficient means. This was the main reason for rejecting the Iranian. However, the Border Patrol also said that the Dutchman must have had a different story at the Bellingwolde crossing, which would explain why he and his Iranian friend could enter the country there.[215]

It seems the Ministry was not completely convinced by this view. In an internal letter at the Ministry the history of the Dutchman was explained and the conclusion was reached that the Dutchman might have been discriminated. A civil servant concluded that the officers on duty had acted from emotion rather than from ratio. It was a decision he could understand, but found not wise.[216]

The Ministry probably adopted this view and proposed, in cooperation with the Military Constabulary, that the cases of the 'friends' of the Dutchman would not be dealt with independently at the border crossing at Nieuweschans, to avoid '*thoughts of*

[209] Alien Circulary 1966, B-3.
[210] NA – IND 931, letter Military Constabulary to Minister of Justice, dd. 21 November 1969, 2.
[211] NA – IND 931, internal note Ministry of Justice, dd. 31 December 1969.
[212] NA – IND 931, letter HV&G to [Dutchman], dd. 31 December 1969.
[213] NA – IND 931, letter [Dutchman] to Minister of Justice, dd. 12 October 1971.
[214] Ibid.
[215] NA – IND 931, telephone note, dd. 26 October 1971.
[216] NA – IND 931, note G to HV&G, dd. 29 October 1971.

discrimination'.[217] If the Dutchman would bring another friend to the border crossing, the patrol would get in touch with the Head Alien Affairs and Border Patrol at the Ministry of Justice, and leave the decision to the Ministry. Together with a formal letter to the Dutchman the case would be closed.

A few days later the Military Consabulary brought in an additional argument. Apparently the Dutchman was declared bankrupt. And thus, his '*friends*' could be refused because their '*benefactor*' was not *'solvent'* anymore.[218] The civil servant at the Ministry noted that this was '*a rather rancorous attitude*' from the Military Constabulary. It did not change the case, since a letter was indeed sent to the Dutchman explaining the measures that were taken to avoid problems in the future.[219]

While the discussion above seems to be very clearly decided in favour of the Dutchman, the letter that was finally sent to him paints a more subtle picture. The Ministry obviously did not want to compromise the border patrol and thus started the letter in an explanatory, even apologetic tone. According to the letter the border patrol had done its job correctly. The word 'discrimination' was not even mentioned. The letter focused on the question whether the Iranian man had enough money and whether the Dutchman was solvent or not. [220]

The letter ended with the remark that the Ministry could not exclude the possibility that the Iranian man was wrongly refused and therefore offered financial compensation for the longer route the Dutchman had taken to the other border crossing. The letter as a whole gives the impression that the Ministry was afraid for public attention to the case. Walaardt has shown that for refugee cases this fear was not ungrounded.[221] This is confirmed by a passage in an internal note, in which also the financial compensation was discussed: '*Given the fact that we deal with a rather weak case of refusal, and Mr Flint for sure has the capabilities to unleash a large scale action if he is not satisfied, I would be inclined to meet his demand to reimburse the gasoline costs*'.[222]

This was not yet the end of the communication between the Dutchman and the Ministry. He declined the offer for compensation, but three weeks later writes again. After the first paragraph the Dutchman reiterates all his problems with the border patrol in an almost paranoid way.[223] For the Ministry it was enough. The civil servant asked permission to stop answering the Dutchman's letters, because he was not looking to '*engage in a correspondence relationship*' with the man.[224]

This series of communication over the course of almost four years gives a unique insight in the way new thoughts about homosexual immigrants reached the people who had to execute the law. Decisions from the Ministry only trickled down slowly. In the letter the Ministry writes that the new guidelines were communicated to the local (border) police. However, as late as 1975 State Secretary Zeevalking had to assure the same. It shows how a policy only slowly affected the practice.

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[217] NA – IND 931, handwritten note, dd. 9 November 1971.
[218] Ibid. Apostrophes in the original.
[219] NA – IND 931, letter HV&G to [Dutchman], dd. 25 November 1971.
[220] Ibid.
[221] Walaardt, *Geruisloos inwilligen*, 35.
[222] NA – IND 931, note from SG to HV&G, dd. 16 November 1971.
[223] NA – IND 931, letter [Dutchman] to Minister of Justice, dd. 1 March 1972; letter [Dutchman] to Ministry of Justice, dd. 21 March 1972.
[224] NA – IND 931, note from Rodrigo to SG, dd. 30 May 1972.

2.4 Sub-conclusion

The Spanish man was the first openly homosexual man who received a residence permit. The German and Hungarian men were the first ones who were naturalized. This was not because of their homosexuality, but despite of it. For this Spanish man, it was his independent economic position that gave the civil servants a strong argument to grant him a residence permit, despite him living together with a man. The advice of the A.C.V., in a way consolidating what Minister Samkalden said in 1965, was thus taken over, with a positive outcome for the Spanish man.

Minister Samkalden's conditions were formulated in the Malaysian's case, but the Malaysian was rejected. The case nevertheless set a precedent which the Ministry of Justice could not ignore. It did not take homosexuality out of the considerations completely, but downgraded it from an all-decisive contra-indication to a negative indication which could be compensated with other positive indications, like secured income and housing. By the end of the sixties such economic arguments were more important than the moral argument against admitting homosexuals to the Netherlands.

It is interesting to see that a parliamentarian played such an important role in the decisive case of the Malaysian man. Throughout cases in this research it is shown that influential contacts (especially in politics) were helpful to move a case forward. Specific gay emancipation groups did not play an important role in this period. As the COC was still struggling for recognition, they were not a credible stakeholder in the immigration process. The relaxation of the policy towards homosexual immigrants, the abolishing of article 248bis and the legalization of the COC in 1973 are all facets of the same phenomenon, normalization of homosexuality.

In this chapter we have seen that the radical change in policy concerning immigration of homosexuals in the 1960s was not implemented easily at the local level. Border patrol officers had their own interpretation of how to deal with homosexual men and it was only the very vocal Dutchman we saw at the end of this chapter that stood up for his right to bring friends with him over the border. The Ministry of Justice had to repeat many times that the new guidelines were communicated to the local police, but it remains unclear whether they were read.

Chapter 3 –Partner Migration 1971-1983

3.1 Context

The big change that took place in this period was the recognition of homosexual relationships as a reason for immigration. For the first time homosexual men could migrate to the Netherlands *because* of their sexuality, not *despite* it. From this period we have quite a lot of cases. This gives us the benefit of comparing cases with each other. We will discuss three cases of partner migration when the policy was not yet changed. Based on actual case documents we will assess why this change took place. After the policy change we will discuss another two cases to see how this policy was implemented.

Political Landscape

This chapter covers the period between the abolishment of Article 248bis and the introduction of general anti-discrimination measures with the new Dutch constitution of 1983. Before this period discrimination of homosexuals was explicit in the law (in the form of article 248bis), while after 1983 all forms of (implicit) discrimination of homosexuals were forbidden.

The period started with the economic crisis of the early 1970s, which also led the Dutch government to restrict labour migration in 1974.[225] The governments of this period consisted mainly of confessional parties, but several coalitions were made with the liberal VVD and the progressive liberal D66. These parties were clearly more progressive on social issues.

Figure 2 - Three posters calling for the election of homosexuals in Dutch elections in 1979.

[225] Obdeijn and Schrover, *Komen en gaan*, 267-8.

Views on homosexuality

In the previous chapter we have seen how it became possible for homosexual men to migrate to the Netherlands legally, without having to hide their sexuality. Even the abolition of Article 248bis did not mean that Dutch society accepted homosexuality fully. However, the socially progressive generation of the 1960s gained more political influence in the 1970s. The organization of homosexuals COC gained official recognition in 1973, a sign that homosexuality became more accepted. Hekma also observed a diversification in the field of gay emancipation groups in the Netherlands. Not only more groups became active, some of them became quite radical in their demands. They also worked more closely together with political parties to reach their goals. Especially organizations of lesbians were very vocal in this period, bringing female homosexuality much more to the foreground than before. The COC represented a moderate approach to emancipation of homosexuals in the Dutch society.[226] Perhaps therefore they became the preferred partner for the government to work with.

The previous chapter showed the change from homosexuality as an automatic contra-indication to a neutral fact for foreigners trying to obtain a residence or labour permit. This allowed men to stay in the Netherlands *despite* their homosexuality, not *because* of it. It was officially deemed irrelevant for the migration, but it was certainly not a factor that was in favor of the migrant. In fact, as we have seen at the end of the last chapter, homosexual immigrants continued to be discriminated against. A gap between policy and practice continued to be shown throughout this period.

The recognition of homosexual relationships happened at the same time as the recognition of heterosexual non-marital relationships. Both were slowly accepted as equal to marriage for the purpose of immigration. This change has been discussed by Saskia Bonjour and Sarah van Walsum. Bonjour tried to explain it by emphasizing the influence of the social revolution of the 1960 and the relaxation of moral values at the Ministry of Justice.[227] She particularly pointed at the influence of State Secretary Glastra van Loon, who features in this chapter a lot.

Van Walsum presented a different explanation. According to her, post-colonial migration patterns forced the Dutch government to recognize previously 'immoral' relationships such as same-sex relationships. She mainly points in the direction of Surinam, where it was a normal phenomenon for two women to hold a common household. This was reflected in the 1975 treaty between the Netherlands and Surinam, which regulated migration between the countries after Surinam gained independence in 1975. In this treaty non-marital relationships (either homosexual or heterosexual) were explicitly mentioned as a basis for migration.[228]

In an article reacting to this debate and Bonjour's differing view, Van Walsum wrote together with Jones and Legêne that the process of depillarisation cannot fully explain the change in migration policy in the Netherlands.[229] They pointed out the difference between post-colonial or post-independence migration from Indonesia and

[226] Hekma, *Homoseksualiteit in Nederland*, 125-7.
[227] Bonjour, *Grens en gezin*, 118, 128.
[228] Van Walsum, *The family and the nation*, 2008; Smit, *De toelating en uitzetting van vreemdelingen*, 165-6, 411.
[229] S. van Walsum, G. Jones, and S. Legêne, 'Belonging and membership. Postcolonial legacies of colonial family law in Dutch immigration policies', in: M. Schrover and D. M. Maloney (eds.), *Gender, Migration and Categorisation. Making Distinctions between Migrants in Western Countries, 1945-2010* (Amsterdam, 2013), 155.

Surinam. In Indonesia the different legal categories created for classifying citizens were used to determine who could migrate to the Netherlands. Only those from the most 'Dutch' category were allowed migration to the Netherlands. Already in Indonesia they lived according to Dutch moral standards. No adjustments were needed to accommodate them.[230] Interestingly, Ringeling found in the case of *Spijtoptanten* that strict measures against those who lived in cohabitation relaxed towards the final years of *spijtoptant* repatriation (1964 and 1965).[231] This coincided with the first relaxing norms at the Ministry of Justice towards homosexuality which we have seen in the previous chapter.

In Surinam, the legal system, including its pluralistic approach towards family law, was incorporated in a Dutch legal framework until 1975. Since all Surinamese by that time were considered equal, in 1975 it was not possible to allow only a 'Dutch' category to migrate to the Netherlands. According to Van Walsum c.s. this was recognized in the 1975 Treaty and continued to influence further revision of Dutch family law.[232]

In this interesting debate it will be interesting to go back to the sources and see whether both lines of arguments surface in the actual decisions made at the Ministry of Justice or outside of that institution, in a time when the gay movement became much more vocal on the issue of immigration policies for homosexuals.

[230] Ibid., 159.
[231] Ibid., 166; Ringeling, *Beleidsvrijheid van ambtenaren*, 127.
[232] Van Walsum, Jones and Legêne, 'Belonging and membership', 159-60.

3.2 Partner migration for non-married couples

Ministry's view on unmarried couples

As mentioned above, the opening up of migration for homosexual partner migration should be studied in the wider issue of opening up partner migration for non-married couples. For a long time marriage was seen as the only assurance of a moral relationship.[233] Until 1960 it was even forbidden for guest workers to bring their family.[234] Besides general non-acceptance, homosexual relationships were excluded legally because only marriages were recognized in migration policies. Since homosexual couples could not marry, they also did not enjoy the possibility of partner migration.

A change in this policy was introduced during a debate in the Dutch parliament on a new migration law (Vreemdelingenwet). A Member of Parliament recalled a case of a homosexual couple that lived together in Amsterdam. When they refused to pay a higher rent, the landlady called the alien police and the foreign partner of the couple was immediately ordered to leave. As the previous chapter showed, until 1967 a homosexual immigrant living together with another homosexual was considered 'notorious' and not eligible to stay. Because the foreigner had to return to a country where homosexuality was illegal, he did not protest against the decision as he was afraid for publicity.[235]

The reply of the liberal Minister of Justice Polak was new in the sense that he denied that a foreigner would be expelled solely on the grounds of living together unmarried (called 'concubinage' or 'cohabitation') or for having a homosexual relationship. He did make an exception for 'sensational' cases of concubinage, such as living together with a very young girl.[236] Polak seemed to suggest here that previously many people were expelled for reasons of immorality. Lucassen showed that for German housemaids this was not true, despite earlier studies which showed that many of them were expelled for minor moral offences. When they were expelled, it was for lack of means.[237] This was most likely true for other 'moral vices' as well, like concubines and homosexuals. Exceptions did exist, like the Italian boys in the case of the murdered English director which we have seen in the previous chapter.

Polak reiterated this view in 1970, when he stated that living together was not deemed '*dangerous for the public peace and order or national security*' anymore.[238] Interesting here is that the Minister grouped homosexuals and heterosexuals together and did not differentiate between them. It is noteworthy that this was five years before the Treaty with Surinam.

When Saskia Bonjour wrote on 'social revolutions' entering the Dutch ministries, she mainly referred to Jan Glastra van Loon. He was a member of the progressive-liberal D66 party, which had entered government in 1973 in a coalition of several confessional and progressive-left parties under PvdA prime minister Den Uyl. As State Secretary of Justice, Glastra van Loon was responsible for migration policies. From the start he proposed a liberal line, which brought him in conflict with his staff at the ministry.

[233] Bonjour, *Grens en gezin*, 119.
[234] Ibid., 65.
[235] TK 1968-1969, Handelingen 22 April 1969, 2642.
[236] Ibid., 2669.
[237] L. Lucassen, 'Tussen perceptie en praktijk. Het beleid van de Nederlandse vreemdelingenpolitie tegenover buitenlandse dienstbodes (1920-1940)', *Tijdschrift voor Sociale Geschiedenis* 25.2 (2000), 185-189.
[238] TK 1969-1970, Handelingen Annex 582, 1193.

Despite these conflicts, he introduced equal treatment for men and women when it came to (re)unification migration, and at the same time recognized homosexual relationships in this respect equal to heterosexual relationships.[239] Such changes did not need to be discussed in the parliament, since it was up to the State Secretary to define the guidelines for migration policy. En passant he legalized the COC as a legal entity, ending a protracted discussion on a national level.[240]

The new instructions concerning equal treatment were only communicated to the local police officers in charge of immigration affairs by Glastra van Loon's successor Zeevalking (also D66) in July 1975 with the remark that '*these policy guidelines are already applied several years at the department. It is of course important that you are aware of these.*'[241] These new rules also meant that local police officers were only authorized to issue residence permits and visa, while refusals had to be issued by the ministry itself. The fact that these decisions were sent around only two years after Glastra van Loon introduced them, as well as the fact that they only applied to marriages and relationships with Dutch people, led Van Walsum c.s. to conclude that the changes were not full-hearted.[242] According to them, this was the reason that Surinamese officials wanted to see these decisions officially repeated in the migration treaty.

Partner Migration: Discussions with the Ministry

As the Dutch letter-writer at the end of the previous chapter demonstrated, differences between policy and practice continued to exist. In 1973, this difference prompted a lawyer to approach the State Secretary of Justice directly for three of his clients.

Enkelaar was a lawyer and youth counsellor in Amsterdam who cooperated with the COC. He was approached in three cases for securing a residence permit for foreigners who were in a sustainable homosexual relationship with a Dutchman. Noting the similarity in these cases, Enkelaar approached the new State Secretary Glastra van Loon directly for comments. Enkelaar said in his letter that no problems existed when the foreign applicants fulfilled all formal requirements of the immigration law. This was in line with Minister Polak's comments from April 1969. But in such cases, the prospective migrant would be granted residence *despite* his relationship, not *because* of it. And it is this situation that Enkelaar tried to clarify, because he felt this should be possible.[243] In his letter he also wrote that he had been in touch with the Amsterdam foreigner police, to which the letter was copied.

What Enkelaar tried to clarify was how a homosexual man could apply for residence if his motive to come to the Netherlands was solely the relationship with a Dutch man in the Netherlands. He wrote that many of these people were afraid to apply for residence when the reason was the homosexual relationship, and Enkelaar wrote '*in my opinion rightfully so*', hinting at the behavior of the local police forces.[244] He proposed a system in which a residence permit would be issued for the duration of the relationship and suggested several mechanisms to assure that the immigrant in question would not become a financial burden to society.

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[239] Bonjour, *Grens en gezin*, 118-9, 128.
[240] Hekma, *Homoseksualiteit in Nederland*, 119.
[241] Interim instruction Alien Circulary, 7 July 1975.
[242] Van Walsum, Jones and Legêne, 'Belonging and membership', 164-5.
[243] NA – IND 931, Letter from Enkelaar to State Secretary of Justice, dd. 8 October 1973.
[244] Ibid.

Interestingly, Enkelaar explicitly drew a parallel with concubinage. In the cases when such a couple lived together for a long period, the Amsterdam police would urge the couple to get married, otherwise the foreigner would lose the residence permit. Since a marriage was not an option for homosexual couples, such behavior by the Amsterdam police made homosexual couples hesitant to apply for residency in the first place.

Glastra van Loon replied later that month. He basically agreed with Enkelaar's proposal, stating that he would not be against accepting foreigners who were in a sustainable homosexual relationship with a Dutch partner for the duration of the relationship.[245] He emphasized that in such cases the Dutch partner or any other Dutch person would have to financially support the foreigner, including possible costs for the return travel. He also mentioned he would inform the local police departments of this point of view.

Likely Enkelaar was not operating alone. Before Glastra van Loon answered him, he had a meeting with the COC. On the agenda were mainly three topics, first about a more flexible approach to relationships, secondly about homosexual immigrants, and finally about a wrong application of criminal law article 249 (sexual relationships with minors). Especially the second point is relevant here.

Minutes from the meeting were taken by the COC and sent to the Ministry for approval. In it, the outcome of the meeting seemed to have been quite positive, and probably guided the State Secretary's reply to Enkelaar. The best way to go about in cases when a couple wanted to apply for residence for the non-Dutch partner was to apply for a 'provisional residence permit' (in Dutch: *machtiging tot voorlopig verblijf*, mvv) at the embassy in one's home country. When this would be refused on the basis of the homosexual relationship, the applicant could direct the request directly to the Minister of Justice. Very openly the Ministry of Justice acknowledged here that '*not all the services abroad are informed*', and thus that there still existed a difference in treatment.[246]

A second step of the proposed procedure was that the foreign partner would come to the Netherlands with the temporary permit and applied to change this into a permanent residence permit. The State Secretary emphasized (just as he did in the letter to Enkelaar) that such relationships could not be fake relationships with the goal to obtain residence in the Netherlands.

Very interesting are the final remarks in the minutes of the meeting. Apparently the State Secretary made exceptions to the abovementioned procedure for people from countries where they would get in trouble with the authorities when it would become known they were homosexual. For these countries, such applicants '*can be placed in the category of refugees*'.[247] For them it would be possible to grant refugee status on the basis of humanitarian grounds. This resembled the so-called B-status, which would be introduced the following year.[248] Defining homosexuals as a specific category and include them in the legislation would be 'difficult'. Chapter 4 of this thesis will cover the discussion whether homosexual migrants could be refugees or not. However, it is the earliest suggestion that individuals could apply for refugee status because of their sexual orientation.

[245] NA – IND 931, Letter from State Secretary of Justice to Enkelaar, dd. 30 October 1973.
[246] NA – IND 931, Minutes of meeting State Secretary with COC, dd. 24 October 1973.
[247] Ibid.
[248] Walaardt, *Geruisloos inwilligen*, 36.

Both the request for clarification by Enkelaar, and the meeting initiated by COC were driven by cases that they knew about. They first wanted to find out how the Ministry would judge in cases of homosexual relationships. The archive contains a few of these cases, in which it becomes very clear what the difficulties were at the moment.

The first case is one of a Japanese man, who had been living in the Netherlands for a few years as an artist. The COC send a letter on his behalf to the Head of HV&G. His residence permit had expired already quite a while before, but he had managed to sustain himself by his creative work. For two years he had been in a relationship with a Dutchman, and for one year they lived together. The outcomes of the meeting with the State Secretary opened up new possibilities for this couple to end the semi-legal and insecure situation they were in. The Japanese man could now apply for legal residence. The State Secretary had one condition: the non-Dutch partner could apply for a provisional permit in the country of origin. The COC asked to make an exception in this case, since it would be costly, but also administratively difficult. On top of that, they wrote that the Dutch embassy in Tokyo might not be up to date with the latest guidelines.[249]

The reply of the Ministry immediately weakened one of the requirements laid down in the meeting a few months earlier. The Head of HV&G wrote that the Japanese man was asked to go to the Foreigner Police in Amersfoort, where he would be able to file a request for temporary residence. Also, the Ministry would not object to the Japanese waiting for the decision in the Netherlands.[250]

His decision was probably positive: the tone of the Ministry certainly was. Perhaps the fact that the Japanese man had an income already, made his case less problematic. As a puppet theater maker, he was mentioned in several newspapers in the 1970s and 1980s, even when he was still residing illegally in the Netherlands.[251] These references could be an indication that his case was solved positively and that he remained legally in the Netherlands. The intervention by COC clearly helped this case and it is therefore the first instance in which the lobbying function of COC explicitly targeted an individual case. We will see more of such instances in the next chapter on refugees.

A second phase in this discussion between COC and the Ministry of Justice reveals clearly that (homosexual) relationships between Dutch people and foreigners were not unique. In a letter of February 1974 the COC comes back to the Ministry asking for some additional concrete information, because '*we are repeatedly asked for more information*'.[252] Also they mention that '*several cases*' could wait in the Netherlands for the final decision on their application for residence permit, for which the Japanese case was perhaps the legal precedent.

The COC asked clarification on a few points. First, they wanted to clarify what a 'serious relationship' actually implied. They asked about a minimal period for a relationship to be considered 'serious' and whether cohabitation played a role in judging this. Second, they inquired about the possibilities for the foreign partner to obtain a work permit as well, in order to avoid dependency on the Dutch partner. Finally, the COC asked for other formal requirements, like the provision of financial guarantees.[253]

[249] NA – IND 931, Letter COC to HV&G, dd. 4 December 1973.
[250] NA – IND 931, Letter HV&G to COC, dd. 7 January 1974.
[251] For example: De Tijd, 14 December 1973, 10; De Tijd, 8 March 1974, 8; Het Vrije Volk, 26 March 1988, 30.
[252] NA – IND 931, Letter COC to State Secretary of Justice, dd. 18 February 1974.
[253] Ibid.

The second part of the letter readdressed the same issue that the Dutch man already encountered at the Dutch-German border, which I have discussed above. The COC asked about the extent to which the relevant officers were aware of the new regulations. They referred especially to local Alien Police forces. The Alien Police in Amsterdam was notorious for its harsh treatment of immigrants. The COC wrote '*experience with the Alien Police in Amsterdam has taught us to be very careful, which in our opinion should not be necessary'*.[254] They mentioned a case in which a man was asked to present himself at the Alien Police in Amsterdam. A high civil servant at the Ministry informed the specific Alien Police of his arrival. Nevertheless the Alien Police threatened the man with eviction. Obviously such incidents were reason for much feelings of legal uncertainty.[255]

The COC continued with strong remarks on 'police arbitrariness'. This included officers making people wait unnecessarily long and for unclear reasons, as well as ungrounded slander in dealing with people. The Amsterdam Alien Police and the Dutch-German border patrols were mentioned as the worst. The COC emphasized that these practices did not only target homosexuals, but also other foreigners. However, '*we especially deal with this, to the extent of the rather unsure situation around the abovementioned criteria and possibilities in which we have to trust people to a system that perhaps does not yet have the right attitude to deal with rather ambiguous situations*'.[256] The letter made clear that the COC was in direct touch with people who were dealing with this 'system' and used the COC to lobby directly at the Ministry for clearer rules on this.

The Ministry was reluctant to make too concrete concessions. The Ministry did not want to put a specific time-period on the rather open concept of a 'serious relationship', but did state that cohabitation would be taken into consideration as a relevant aspect. The Ministry emphasized that as in any other immigration case, financial guarantees should always be given. Concerning the working permits, the State Secretary referred to the Ministry of Social Affairs, who issued those. However, if the local labour market would allow it, a working permit would not be a problem.[257]

On the question whether prospective immigrants could wait for their decision in the Netherlands, the Ministry did not want to give a concrete concession, but continued the earlier mentioned standard procedure. In case return to a home country was difficult or even dangerous, an option to ask for an exception was always possible.[258] On the issues raised about police arbitrariness, the State Secretary replied that the heads of the local police forces were all informed about the regulations for homosexual and heterosexual foreigners. Also, on 21 February 1974 he requested those same heads of police to designate a high civil servant who could serve as contact point for cases with humanitarian aspects. This civil servant would then be the link between Alien Police forces, the Ministry, lawyers and other organizations that worked with foreigners.[259] This was a recognition of the growing role that non-governmental organizations played in influencing the decision making at the Ministry.

[254] Ibid.
[255] Ibid.
[256] Ibid.
[257] NA – IND 931, Letter HV&G to COC, dd. 21 March 1974.
[258] Ibid.
[259] Ibid.

3.3 Three similar cases in 1974

Introduction

Enkelaar, the lawyer who also approached the Ministry for more clarity, was not happy with the changes promised by the State Secretary in the letter of 30 October 1973. Enkelaar wrote the State Secretary again in April 1974 with the three cases that to his opinion were mismanaged by the local police forces. His clients experienced unnecessary tension and uncertainty.[260] In his letter Enkelaar wrote that all his clients were involved in serious relationships, as attested by himself, as well as by the Jhr. Mr. Schorerstichting, a foundation that offered mainly (psychological and physical) health services to homosexual people.

These three cases offer a unique insight in the decision making process, as these are three comparable cases in a limited time frame. First, they show to what extent 'police arbitrariness' that the COC complained about, actually existed. Second, since the reply of the Ministry is also archived, they show what were the decisive considerations for these men to receive residence permits. And thirdly, they offer the personal stories behind the general discussions.

Case: Man from Hong Kong

The first case relates to a man from Hong Kong with the British nationality. He was legally staying in the Netherlands around Christmas 1972 when he met a Dutchman with whom he started a relationship.[261] He applied for a residence permit in October 1973, but had by that time already overstayed his permit. On the basis of this, the Amsterdam Alien Police refused to give the Hong Konger a residence permit. According to the police, the Hong Konger needed a provisional residence permit (*mvv*). On top of that, the police wrote that the couple could have known that by the time the Hong Konger applied, the man was residing illegally in the Netherlands and was thus eligible for eviction.[262]

Enkelaar appealed for the decision of the Amsterdam Alien Police directly at the Minister of Justice. He wrote in the letter to the State Secretary that the extra attention could help the cases go forward. In his appeal to the Minister he gave more details. The sustainable relationship with a Dutchman gave ground for granting residence on the basis of humanitarian needs. Furthermore, the applicant was able to show proof of the fact that he lived together with the Dutchman, as well as proof of financial arrangements and insurances.[263] The appeal states that in doing so, all the requirements laid down in the State Secretary's letter of 30 October 1973 were fulfilled.[264]

The second part of the appeal was rather technical. In it, Enkelaar showed why the reasons of the Amsterdam police to refuse the Hong Konger were invalid. An important factor in this case was the fact that when residence was granted on humanitarian grounds, legally speaking a provisional residence permit was not required. Therefore, the first reason stated by the Amsterdam police was invalid. Second, if such a provisional residence permit was indeed necessary, it should have been mentioned at

[260] NA – IND 931, Letter Enkelaar to State Secretary of Justice, dd. 18 April 1974.
[261] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 1 March 1974.
[262] NA – IND 931, Decision Amsterdam Alien Police in the case of [Hong Konger], dd. 21 February 1974.
[263] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 1 March 1974, 1.
[264] The appeal states '13 October' while this should be '30 October'.

the time of filing the application (in October 1973) already. Therefore this requirement could be considered implicitly waived.[265]

The second reason for declining the Hong Konger was the fact that he was illegally residing in the country when the relationship started. Enkelaar argued the opposite, since the relationship started around Christmas 1972 when the Hong Konger was still legally residing in the Netherlands. A testimony by the Dutch partner was however dated 'Christmas 197**3**', an error that perhaps confused the Amsterdam police. Since the testimony itself was dated 17 October 1973, it became clear that indeed the previous Christmas was referred to.[266] Disagreeing with the formal requirements, Enkelaar added that in his opinion a genuine relationship could emerge when the foreign partner was staying illegally in the Netherlands.[267]

Just like the other two cases, which will be discussed below, this case was still in appeal with the Minister of Justice. As Enkelaar explained, with bringing these cases under the attention of the State Secretary, he tried to avoid a long process. A handwritten note shows that he was successful, because he secured a meeting with the State Secretary in May 1974.[268] A preparatory note for this meeting shows the Ministry's views on these cases.

In the preparatory note, written by the Head of Alien Affairs and Border Patrol (HV&G), the case was reviewed positively. Indeed, the request for a residence permit was declined on the basis that the relationship started when the foreigner was illegally staying in the Netherlands. While Enkelaar brought an undeniable argument against this, the note repeated the official guidelines.[269] Additionally it mentioned that the Hong Konger had entered the Netherlands for a second time in April 1973 and was at that point illegal. The mistake of stating 1973 instead of 1972 could urge a review of the decision made by the Amsterdam police. This should only be done by a thorough investigation of the whole case, argued HV&G.

A man from Hong Kong with the same name and age was naturalized in 1980.[270] We can therefore assume the man successfully managed to stay in the Netherlands.

Case: Spanish man

The second case of Enkelaar was a Spaniard who met a Dutchman at the Canary Islands in 1971. Towards the end of 1972 he arrived in the Netherlands and registered with the police on 10 January 1973. Afterwards he was living together with his Dutch partner in Amsterdam.[271] An application for residence at the Amsterdam Alien Police of 4 December 1974 was declined on 21 February 1974. Reasons for the refusal were threefold. The first reason was that the Spaniard did not have a provisional residence permit (*mvv*) when he entered the country. Second, the Dutch partner did not have enough resources to guarantee the subsistence of two people. Third, the Spaniard himself also did not have the means to support himself.[272]

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[265] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 1 March 1974, 2.
[266] Ibid.
[267] Ibid. 2-3.
[268] NA – IND 931, Letter Enkelaar to State Secretary of Justice, dd. 18 April 1974.
[269] NA – IND 931, note HV&G to State Secretary of Justice, dd. 25 April 1974.
[270] TK 1979-1980, Handelingen Annex 16023-2, dd. 30 January 1980 (draft law); TK 1979-1980, Handelingen 7 February 1980, 2813; EK 1979-1980, Handelingen 26 February 1980, 237.
[271] NA – IND 931, note HV&G to State Secretary of Justice, dd. 25 April 1974, 2.
[272] NA – IND 931, Decision Amsterdam Alien Police in the case of [Spaniard], dd. 21 February 1974.

Just like the case of the Hong Konger, Enkelaar was convinced that the request was declined wrongfully and also in the Spanish case he appealed at the Minister for revision. Again, Enkelaar emphasized that the request for a residence permit was based on the relationship. Therefore it could be granted on humanitarian grounds. On the first objection by the Amsterdam police, he replied by reiterating the argument that he used in the case of the Hong Konger, namely that in case of humanitarian grounds, a provisional residence permit could be waived.[273] Enkelaar added that the required provisional permit was only needed when entering the country, but since the Spaniard was already in the country when he applied for the residence permit, the requirement could also for this reason be seen as void.

Then Enkelaar continued to counter the argument that the Dutch partner of the Spaniard would not have enough resources to support a two-person household. Enkelaar noted that in the Netherlands many two-person households lived of a monthly income of 853 guilders. Next to that, he noted that the Spanish-Dutch couple was living very modestly and thus had enough of the small income that the Dutchman earned.[274] Additionally, the Spaniard was insured for both medical costs and general liability, thus lowering the risk of becoming a high financial burden on the Dutchman in case of any incidents. Another possible financial debt that the Spaniard could create was the fare of the travel back to Spain in case the relationship would come to an end. For this purpose, the Dutchman offered to deposit an amount to cover the travel costs at the local police, a common practice for spontaneous guest workers as well.[275] Additionally, the Dutchman arranged two people who would be his financial guarantors.[276]

The third argument, the fact that the Spaniard could not sustain himself, was easily countered with the argument that the Spaniard did not yet have a residence permit and consequently neither a work permit. The appeal stated that the Spaniard was working to learn the Dutch language and customs.[277]

The prepared reaction of the Ministry on this case was very positive. It turned out that new information showed that the Dutchman changed jobs and secured an income of 1301 guilders. He had a much better financial situation than his previously stated income. Combined with the financial guarantees it leads HV&G to conclude that '*Enkelaar's appeal can be granted*'.[278] The economic motive seems to be the only one that counted in this case. No word was mentioned about the normally needed provisional residence permit.

The final outcome of this case is unclear, because unlike the case of the Hong Konger, no consecutive naturalization case could be found. Considering the positive tone it is unlikely the residence permit was refused. More likely is the scenario that the relationship ended and the Spaniard returned to Spain.

Case: Moroccan man

The third case that Enkelaar brought to the attention of the Ministry was a Moroccan man. Around the turn of the year 1972/3 the man started a relationship with a

[273] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 26 February 1974, 1.
[274] Ibid., 2.
[275] N. Bouras, *Het land van herkomst. Perspectieven op verbondenheid met Marokko, 1960-2010* (Hilversum, 2012), 43.
[276] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 26 February 1974, 2.
[277] Ibid.
[278] NA – IND 931, note HV&G to State Secretary of Justice, dd. 25 April 1974, 2.

Dutchman, came to the Netherlands in July 1973 and left for a short while later that year. Upon his return he was confronted with the fact that he did not register properly and had his passport stamped with illegal entry. This made his further claim much harder. He managed finally to apply for a residence permit on 20 March 1974, but was denied this permit on the same day. The Amsterdam police listed six reasons, all of which were ungrounded according to Enkelaar.[279]

First of all, for the Amsterdam police it was a problem that the Moroccan lived in the Netherlands from July to October 1973 without having registered. The Moroccan claimed that he was not aware of these rules, but also stated that he would have been afraid of being evicted and being separated from his partner. That fear was not completely ungrounded, knowing the behavior of the personnel at Amsterdam's Alien Police. Enkelaar backs up his client by stating that the Moroccan's fear was grounded, and noted that from July to October 1973 the Moroccan was never informed of the need to register with the police.[280]

The second reason was that upon return to the Netherlands in November 1973 the Moroccan was accused of staying illegally in the country (because he did not register) and his passport was stamped accordingly. Enkelaar dismissed this conclusion completely, given the Moroccan's statement above. The Moroccan's return, not expecting to be stopped at the border, also spoke in his favour.[281]

The third reason was that the Moroccan was living in the Netherlands since 1 January 1974. In itself this fact would not be a reason for refusal, but the police hints on the fact that the man only appeared in person at the police station on the 20th of March. However, the Moroccan had already informed the police of his stay on 4 January, and thus in line with the requirement to register with the police, having learned from his previous experiences.

The fourth reason built on the second and third argument, that the man belonged to a category of foreigners that required a *mvv* for a stay longer than three months. Here the argument of the illegal stay resurfaced, but now more explicitly focused on the *mvv* that the Moroccan did not have. It remains unclear how the man managed to get into the Netherlands without it however, given that he was stopped in November for not having the *mvv* permit. To counter this argument Enkelaar used a similar strategy as in the previous two cases. Based on humanitarian considerations, the requirement of having a *mvv* when entering the country could be waived. Considering the Moroccan's case, Enkelaar was arguing in favour of this. Furthermore, the fact that the Moroccan filed a request on the 4th of January already and was not immediately told to leave the country should be regarded as a provisional waiver of the *mvv* requirement. These two arguments led Enkelaar to conclude that also the third and fourth reasons were void.

The fifth argument was that *'the Netherlands is not an immigration country'*. This was an argument used more often when dealing with such decisions, but Enkelaar did not even bother to mention this argument.

More important was the sixth and final argument, which tied in with the fifth argument, namely that the Moroccan's presence did not serve any particular interest for the Netherlands. Enkelaar's reply was threefold. First he stated that while the stay of the Moroccan was indeed irrelevant to the public interest, it was quite essential for the well-being of one Dutchman and his surroundings. Second, that this specific requirement was

[279] NA – IND 931, Decision Amsterdam Alien Police in the case of [Moroccan], dd. 20 March 1974.
[280] NA – IND 931, Appeal Enkelaar to Minister of Justice, dd. 12 April 1974, 1-2.
[281] Ibid., 2.

not based on any law. And thirdly, that in order not to be a burden to the state, certain financial guarantees should be provided.[282]

Enkelaar continued his appeal with additional arguments why the decision in the Moroccan's case should be reviewed and changed. According to the letter of the State Secretary of 30 October 1973 heads of police would be informed of that decision. Despite the required financial guarantees and even a confirmation of the homosexual relationship as genuine, the Amsterdam police did not grant the residence permit to the Moroccan and thus acted contrary to the instructions of the Ministry. Finally, Enkelaar mentioned that a report of the Jhr. Mr. Schorerstichting was included, which confirmed the relationship as genuine. Earlier we have seen the COC playing a role in the case of the Japanese. Here we see the second instance that such an organization played a role in an immigration case. We will see more of this in the next chapter.

The Ministry, in the preparatory note, did not go into all the arguments raised by the Amsterdam police. The public servant noted that the Amsterdam police had failed to consult the Ministry, formulated the arguments in an unfortunate way (referring to the argument that the Moroccan did not '*serve the interests of the Netherlands'*) and finally that it did not become clear whether the Amsterdam police had applied the specific instructions for foreigners with homosexual relationships. In fact, the civil servant mentioned that since it was well established that the relationship was serious and that the necessary financial guarantees were given, the case would be accepted for revision.[283]

A Moroccan man with the same name, year and place of birth was naturalized in 1981, confirming the conclusion of the civil servant above. It is remarkable that compared to the previous two cases, in this case the Amsterdam police tried to find new arguments to refuse the Moroccan entry to the Netherlands. The financial argument, playing a big role in the other two cases did not play a big role in the argumentation of the Amsterdam police. However, the Ministry overruled all of the arguments raised by the Amsterdam police and instead approved the application on the basis of financial guarantees, as being the essential requirements formulated by the State Secretary in 1973 already. This case makes very clear how official instructions did not immediately lead to changes on the ground. Foreigners like this Moroccan man in the 1970s could rely on an official legal framework to apply for a residence permit, but had to face discrimination in the process of doing so.

Comparison

When comparing these three cases, it becomes clear that the three parties involved, the Alien Police, the Ministry and the immigrant as represented by Mr Enkelaar, all used similar arguments time and again. The Amsterdam Alien Police mostly argued in a very technical way, emphasizing the rules to be followed to be eligible to stay. Since the police was accountable to the Ministry, they were not flexible in applying these rules. Mr Enkelaar used the same strategy in all three cases, by relying on a humanitarian motive, he not only created a reason to grant his clients a residence permit, he also effectively countered many technical requirements. The Ministry seemed to judge the cases using the framework of the State Secretary of 1973, which was quite economical in the sense that two out of four requirements deal with financial guarantees.

[282] Ibid., 3.
[283] NA – IND 931, note HV&G to State Secretary of Justice, dd. 25 April 1974, 3.

The positive outcome for two of the three cases, and the positive perspective painted in the preparatory note show that changes towards homosexual partner migration were imminent.

3.4 Contesting the existing framework

The archives do not contain cases from the years 1975-1976. Obviously similar cases took place during this period, such as the case of a Moroccan who started a relationship with his Dutch employer.[284] Some cases are known from the end of the seventies. One new issue was that of partner migration in which a non-Dutch person residing in the Netherlands has a homosexual relationship with another foreigner. Another new issue was a relationship in which the partners were not living together.

The first case was a Malaysian man who had applied for a residence permit to stay with his partner who was from an EEC-country (country not further specified). Apparently the request for residency was denied on 2 February 1977, after which an appeal was filed at the Council of State, the highest court of the Netherlands.[285]

The State Secretary at the time was Hendrik Zeevalking (D66). He explained to the Council of State his view and included very clearly the rationale of partner migration policy at that time. He started with the fact that partner migration was made possible for the foreign partner to which a Dutch person was married, and that changing norms opened this option up for non-married couples including homosexuals. He then explicitly excluded the possibility that a foreigner residing legally in the Netherlands opts for having his/her partner to come to the Netherlands. Even when the partner was a citizen from the EEC was not a reason to change this policy, '*seen the extensive consequences*'.[286] This seems contrary to an EEC treaty that made it possible for EEC citizens to be reunited with their spouse when they had secure a work contract for one year.[287] With the wider interpretation of marriage in mind that was in sway at the department, this should by 1978 also have included homosexual long-standing relationships. Nevertheless, the instructions from the Ministry only applied to partners (married or not) of Dutch citizens.[288]

Apparently the core of the appeal was the fact that discrimination existed between heterosexuality and homosexuality in this matter. The State Secretary denied this explicitly in his reply.

A second case on the same issue was the case of a British man who wanted to live with his British partner in Eindhoven. Of this case a decision of the State Secretary of Justice is part of the archive. It lists all the arguments against or in favor of allowing the man residency in the Netherlands on the basis of a homosexual relationship with a non-Dutch partner.

His partner already stayed in the Netherlands legally since February 1976. The British man then arrived in January 1978 to visit his partner and told the police he would

[284] Het Vrije Volk, 1 October 1976, 9.
[285] NA – IND 2608, letter State Secretary of Justice to Council of State, dd. 14 July 1977.
[286] Ibid., 2.
[287] Bonjour, *Grens en gezin*, 68.
[288] Interim instruction Alien Circulary, 7 July 1975.

not stay longer than three months. However, in March 1978 he applied for a residency permit with the reason to stay with his partner.[289]

The arguments of the Brit to stay were that his partner had an income that could support them both and that they already had a relationship for eight years. When the man living already in the Netherlands was a Dutchman, this would have been indeed enough for the other man to stay. But the State Secretary stated that only a Dutch person or a legally residing refugee could apply for this possibility.[290] The case was rejected.

These two cases make clear that towards the end of the seventies it was possible for Dutch people to invite a partner (whether heterosexual or homosexual) to migrate to the Netherlands. For non-Dutch this was not possible, not even for EEC-citizens.

A third case from this file is surprisingly late. It is a decision from 1981 on an appeal in a case where an Indonesian man applied for residency to stay with his Dutch partner. The difference between this case and cases from the early seventies is that apparently the two men were not planning to share a household together. Also, the Dutch partner could not or did not give financial guarantees to prevent the Indonesian man to become a burden to the state.[291]

This case started several years earlier in 1979 when the request to stay in the Netherlands was refused. The man appealed and the Advice Committee for Alien Affairs (A.C.V.) was asked to give its opinion on the case. The Committee gave a positive advice, arguing that a shared household was of secondary importance when the genuine relationship was confirmed.[292]

The State Secretary of that time was Ms Haars (CDA), who will play an important role in the next chapter that deals with homosexual refugees. In the case of the Indonesian man she did not agree with the Committee's opinion and overruled it. While she acknowledged the fact that people were free to shape their relationship as they desired, she pointed out the difficulty in judging such relationships as eligible for granting residence permits. A shared household was one of the few objective requirements and she did not want to drop that. If the couple was planning to move in together, she could agree with the decision of the Committee. Since that was not the case, she had to refuse the appeal again in order not to set a precedent.[293]

Interestingly, this State Secretary held the view that the possibility to be admitted to the country on the basis of a (non-marital) relationship was derived from the arrangements for married couples. Indeed a common household was part of the classic view of a marriage, but it was certainly not a legal requirement. It is interesting that about fifteen years before in 1966, the Malay-Dutch couple we have seen in the previous chapters was forced to live separately, because homosexuals living together would have caused scandal. It illustrates how quickly social norms were changing policy at the Ministry.

This case shows that until the early 1980s there was still discussion on the precise requirements around partner migration, homosexual and heterosexual alike. The option to be reunited with one's partner was exclusively reserved for Dutch citizens and other privileged groups like refugees. For other people residing in the Netherlands, such as

[289] NA – IND 2608, decision State Secretary of Justice, dd. 22 December 1978.
[290] Ibid.
[291] NA – IND 2608, Letter HV&G to ACV, dd. 23 June 1981.
[292] Ibid.
[293] Ibid.

guest workers, additional requirements applied. Couples that lived in these situations were forced to live together in order to prove the sincerity of their relationship.[294] In this way the government still had quite some influence on the lives of these people.

3.5 More cases: Ongoing discrimination?

Some cases from the early 1980s show that the rules remained misinterpreted and in many cases homosexual men were discriminated against. These cases come from a group that focused on homosexual refugees, which is the focus of the next chapter. For unknown reasons the group also helped other non-refugee immigrants with their immigration procedure. Perhaps these men were personally connected to members of this 'Committee on Homosexual Refugees', which chapter 4 will discuss more thoroughly.

Case: Colombian man

The first case could have been a personal contact of one of the leading people of the Committee, Janherman Veenker. It is the case of an Antillean-Dutch man that had a relationship with a Colombian man. Though the case is about the status of the Colombian man, the Antillean-Dutch man took all the action because he felt personally responsible for the situation his Colombian boyfriend was in.

The couple met when the Antillean-Dutch man was in Colombia in 1979, while has resident at the Dutch Antilles. Because his sexuality was not accepted in the Dutch Antilles, the Antillean-Dutch man came to the Netherlands quite soon afterwards and kept in touch with the Colombian by mail correspondence. When the Antillean-Dutch man finally secured a home and work, he travelled to Bogotá to pick up the Colombian in November 1981.[295]

On the 21st of December the Colombian man applied for a residence permit on the basis of his relationship with the Antillean-Dutch man. The request is denied the same day, because the local police was having doubts concerning the sincerity of the relationship. The police reasoned that '*[b]ecause the applicant only relied on the homosexual relationship after it became known to him that he would be removed from the Netherlands*', the relationship was not taken to be serious.[296] The Colombian was taken into custody to be taken out of the country. Apparently the Eindhoven police treated the couple badly for being homosexual.[297]

In the late December days the Dutch-Antillean man tries to take action to prevent his boyfriend being sent back to Colombia. He sends telegrams to the Minister of Justice and the Mayor of Eindhoven[298], takes a lawyer and keeps Janherman Veenker up-to-date. His lawyer started summary proceedings to get the Colombian out of jail and to let him stay in the Netherlands for the period of the process, the so-called suspensive effect. Unfortunately the last document in the archive is the call for the process on the 19th of January 1982, in which would be decided whether the Colombian could stay in

[294] Bonjour, *Grens en gezin*, 68.
[295] IISH – IHLIA, Homo-vluchtelingen 5, Request Liesker to State Secretary of Justice, dd. 24 December 1981.
[296] IISH – IHLIA, Homo-vluchtelingen 5, Decision Eindhoven Alien Police, dd. 21 December 1981.
[297] IISH – IHLIA, Homo-vluchtelingen 5, Request Liesker to State Secretary of Justice, dd. 24 December 1981.
[298] IISH – IHLIA, Homo-vluchtelingen 5, Telegram from [Antillean-Dutch man] to Minister of Justice, dd. 23 December 1981; Telegram from [Antillean-Dutch man] to Mayor of Eindhoven, dd. 23 December 1981.

the Netherlands. Also in this case the outcome is not known for sure. The Antillean-Dutch man mentioned that he would return to the Antilles if the Colombian was refused residence. A man by the same name opened a restaurant on Aruba in 1984.[299]

What the final decision was, and whether the restaurant owner in 1984 was indeed the same man, does not influence the fact that also in this case there seemed to be discrimination at play at the police station. A case from the same period in which also discrimination plays a role is discussed in more detail in the following paragraph.

Case: German man

A case in which the Committee on Homosexual Refugees invested a lot of energy, despite it not being a true refugee case was that of a young German man. He was from Krefeld, just across the border from Venlo in West-Germany, who had entered the Netherlands around the 1st of December 1981, then eighteen years old.[300] It is mentioned he lived together with his Dutch lover already since August 1981. This could mean that 1 December was the official date of entry after which they tried to keep the German man more permanently in the country. For this reason they filed an initial request for a one-year residence and working permit on 1 March 1982.[301] The Dutch man stated that when filing the request, the policeman on duty remarked that they '*could be happy that he did not decide on that*', hinting at their homosexual relationship.[302] Also, later on in their process they found out they could have applied for a five-year permit, but the police used their ignorance to change this into just one year.[303] Technically the German man was not an asylum seeker, since he did not apply for refugee status. Still the Committee discussed his case.

On 21 July that year the request was declined on two grounds. First, the relationship of the couple did not live up to the requirement of being 'serious and lasting'. Secondly, the Dutch partner was not deemed able to support the German man financially. The Dutchman did not agree with this reasoning. With their application they had send several letters of support, acknowledging the seriousness of the relationship and available for more questions. According to the Dutchman, none of them had been approached, but still the relationship was not believed to be genuine. He remarked: '*For us suspicion has risen that the widely spread misconception that homosexuals would live promiscuous per definition and thus cannot maintain a sustainable relationship, has strongly influenced the decision*'.[304]

Because the request was turned down, the German was ordered to leave the country in three days. On 29 July 1982 the couple filed a request for revision and suspensive effect, which meant the German could stay in the Netherlands until the outcome of the revision was known. The request was turned down on 9 August 1982. The Dutchman intensified his efforts. Later that August he wrote a letter to all political gay groups, political parties in parliament and the COC, with the request to take

[299] Amigoe, 12 November 1984, 1.
[300] IISH – IHLIA, Homo-vluchtelingen 5, Letter Ministry of Justice to Mr. F. W. A. van Straelen, dd. 3 December 1982; Ibid. Letter [Dutch friend] to fraction D66, dd. 9 January 1983.
[301] IISH – IHLIA, Homo-vluchtelingen 5, Letter Ministry of Justice to Mr. F. W. A. van Straelen, dd. 3 December 1982.
[302] IISH – IHLIA, Homo-vluchtelingen 5, Documents sent by [Dutch friend] to Janherman Veenker, dd. 4 February 1983.
[303] IISH – IHLIA, Homo-vluchtelingen 5, Petition [German man], dd. 29 July 1982.
[304] IISH – IHLIA, Homo-vluchtelingen 5, Documents sent by [Dutch friend] to Janherman Veenker, dd. 4 February 1983.

action.[305] The documents he sent with his letter contained the refusal of the Amsterdam police, the request for revision, the statements of friends and family on the relationship, and several letters between the German man and his parents.[306] Slowly he started to gain some support, both in political circles, as well as the COC. From the documents that the Dutchman sent to Janherman Veenker we learn that Dutchman was unemployed.[307]

On 29 September 1982 a phone call took place between the COC and an expert at the Ministry of Justice. This person stated that suspensive effect was only granted when the appeal had a chance of success. In order to proof financial support, there had to be a third person that would give financial guarantees for both the German and the Dutchman. Apparently this had been missing from the original application. The expert from the Ministry continued to say that when a couple would be married, other rules would apply, and the requirements seemed less strict. For married couples the Dutch partner did not need an income on his or her own, while for unmarried couples both partners needed financial stability. In a comment on this phone call the Dutchman concluded that one could speak of discrimination. Surprisingly, he did not speak of discrimination of homosexuals, but discrimination of the unemployed, who apparently were not allowed to start a relationship with a foreigner.[308]

The COC saw more types of discrimination. On 18 November 1982 the COC sent a letter to the State Secretary, political parties and political gay groups in which they asked attention for the case of the German and explained this injustice towards the unemployed and the unmarried. Also they mentioned that because homosexual people were not able to marry, one could also speak of discrimination of homosexuals in this case. The COC expressed their outrage to the fact that such types of discrimination took place at a time when '*the legislator is preparing to make discriminatory treatment on the basis of marital state or homophilia impossible*', referring to a new constitution that was in its final phase.[309] In a short accompanying message, the writer of the letter notes '*The case concerns the refusal of a residence permit on the grounds of a homosexual relationship, while when it would have concerned a marriage, a residence permit would have been granted*'.[310]

The decision on the revision came on 3 December, interestingly signed on behalf of the State Secretary by the same person that had the phone call with the COC. Hence, it does not come as a surprise that also the request for revision was turned down. The sincerity of the relationship was not named anymore as a ground for this, taking away a bit of the suspicion that the rejection was motivated by discrimination of homosexuals. The rejection this time focused solely on the financial situation. According to the Ministry, the given financial guarantee was not secure enough, but also it did not cover the Dutchman, who relied on public money. Indirectly the 'foreigner' would also benefit from this public funds, and this was reason to deny the application altogether.[311]

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[305] Ibid.

[306] IISH – IHLIA, Homo-vluchtelingen 5, Letter [Dutch friend] to COC, dd. 23 August 1982.

[307] IISH – IHLIA, Homo-vluchtelingen 5, Documents sent by [Dutch friend] to Janherman Veenker, dd. 4 February 1983.

[308] Ibid.

[309] Ibid.; Ibid., Letter COC to State Secretary of Justice, dd. 18 November 1982.

[310] IISH – IHLIA, Homo-vluchtelingen 5, Note attached to letter COC to State Secretary of Justice, dd. 18 November 1982.

[311] IISH – IHLIA, Homo-vluchtelingen 5, Documents sent by [Dutch friend] to Janherman Veenker, dd. 4 February 1983.

Not mentioned here, but elsewhere, it turns out that the German man was declared occupationally unfit for ninety percent. Though he applied for a working permit, he was not planning to start working.[312] Since this was a ministerial document, it is unsure whether the German man declared this himself, or that this was the conclusion of the ministry. Nevertheless, it can very well have been an additional reason for the ministry to suspect the German man to rely on public funds instead of earning an own income.

The letter that the COC had sent out came too late for the request for revision, but as in other cases, also here the possibility to appeal at the highest court in the Netherlands existed, the Council of State. The couple made use of this option in December 1982. Around this appeal the letter of the COC had its real impact. Later in December 1982 a parliamentarian from D66 informed about the case with the State Secretary.[313] The ombudsman of the PvdA informed the Dutchman that questions in parliament were not likely to be effective, since it was not clear anymore that homosexual relationships were discriminated against.[314] On top of this, in January 1983, questions on inequality between married and unmarried couples in immigration policy were posed in parliament by PvdA and VVD parliamentarians by the end of January. The parliamentarians based their questions on the new constitution (adopted in its final form just a few days before) that emphasized non-discrimination much more than before.[315]

Prompted by his frustrating experiences with the Dutch legal system, the Dutch friend joined a committee of the COC which wrote a note on discrimination in Dutch immigration policy. This was published in November 1983. The note attacked the 'heterocentrist' policies of Dutch immigration law and proposed changes to accommodate alternative relationship forms.[316] One can read the Dutchman's personal frustration with the topic in the note. This did not make him the most neutral person to write such suggestions.

In this case we know the outcome of this long process. It did not help the couple to find peace. A silent witness of what happened is a family advert published in *De Waarheid* of 28 June 1984. A certain 'Vino' announced that his little friend 'Pinnocchio' was dead, and that he would soon be with him. The second part of the announcement states that the German man committed suicide on 22 June, '*because he could not take it anymore*', which gave the Dutch man the courage to do the same on 24 June, '*what he wanted to do for months*'.[317] Sadly enough, the German man was to be buried in his hometown in Germany, while the Dutch man would be cremated in the Netherlands. It is a sad end to this case that got so much support among different groups in politics and the gay movement. In the archives consulted for this thesis no reference to this outcome is mentioned, while the frustration of the couple was caused by the legal procedures at the time.

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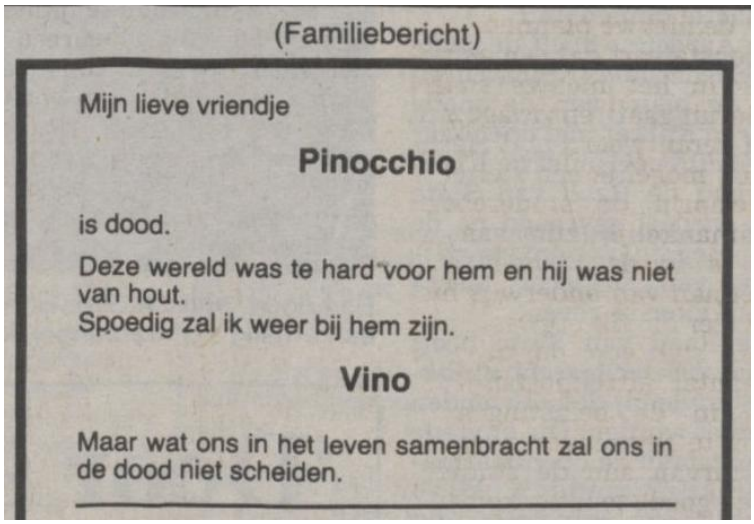
[312] IISH – IHLIA, Homo-vluchtelingen 5, Letter Ministry of Justice to Mr. F. W. A. van Straelen, dd. 3 December 1982.
[313] IISH – IHLIA, Homo-vluchtelingen 5, Documents sent by [Dutch friend] to Janherman Veenker, dd. 4 February 1983.
[314] IISH – IHLIA, Homo-vluchtelingen 5, Letter ombudsman PvdA to [Dutch friend], dd. 22 December 1982.
[315] TK 1982-1983, Handelingen Annex 692.2, 1383.
[316] IISH – IHLIA, Homo-vluchtelingen 6, 'Discriminatie in het vreemdelingenbeleid', November 1983.
[317] De Waarheid, 28 June 1984, 2.


(Familiebericht)

Mijn lieve vriendje

Pinocchio

is dood.

Deze wereld was te hard voor hem en hij was niet van hout.
Spoedig zal ik weer bij hem zijn.

Vino

Maar wat ons in het leven samenbracht zal ons in de dood niet scheiden.

Figure 3 - Obituary for 'Pinocchio' and 'Vino' (De Waarheid, 28 June 1984, 2).

3.6 Sub-conclusion

In this chapter we have seen that the radical change in policy concerning immigration of homosexuals in the 1960s was not implemented easily at the local level. Border patrol officers had their own interpretation of how to deal with homosexual men. This was already apparent with the vocal Dutchman bringing friends across the Dutch eastern border, and continued throughout the period. The Ministry of Justice had to repeat many times that the new guidelines were communicated to the local police, but it remains unclear whether they were read. This is also brought forward in the first direct talks between the COC and the Ministry on topics of common interest. It seems that only towards the end of the 1970s the police forces started to understand, appreciate and implement the guidelines.

Another main conclusion from this chapter is the introduction of partner migration for homosexual couples. From 1969 onwards unmarried or homosexual couples were allowed to stay in the Netherlands. This opened up the possibility to use such a relationship to migrate to the Netherlands. From 1973 onwards the first time people migrated to the Netherlands because of their homosexual relationship, not despite it.

Central to this policy change and a novelty at that point were the efforts of the newly legalized COC and several lawyers of which Mr Enkelaar was the most notable. In their daily work they encountered several cases in which men sought to be reunited with their Dutch partner. They felt discriminated against, because they were treated different from heterosexual couples, they had to comply with the requirements for regular immigration. The State Secretary agreed with the COC and the lawyers and his letter of 30 October 1973 was the basis for a change in the policy. From then on a homosexual relationship could be a basis for admission, lest financial guarantees were given to support the foreigner. Attempts made in the second half of the seventies to apply this possibility also to the foreign partners of foreigners legally residing in the Netherlands failed.

The fact that homosexuals were recognized in migration policies meant also that their behavior was influenced by it. In the sixties they were not allowed to live together. In the seventies we have seen above that homosexual relationships were only

recognized when they were long-term, monogamous and included a shared household. In a way, homosexual relationships were only eligible to be recognized in immigration policy when resembling marriage.

Besides the moral aspect, the financial aspect continued to play a role, and in this the discussions regarding homosexual immigrants were not different from general discussions on migration in the Netherlands. Always there was the fear of foreigners becoming a financial burden to the state. Financial guarantees were requirements that continued to be decisive throughout the seventies.

How do the cases discussed in this chapter feed into the discussion between Van Walsum c.s. and Bonjour? Why did partner migration for homosexuals become possible? While Van Walsum c.c. offer an interesting take on the influence of post-colonial migration on Dutch immigration law, I find the timing problematic. Their theory is dependent on the treaty with Surinam from 1975. Chapter 2 has shown that already in 1967 homosexuals were naturalized to Dutch citizens, while this chapter showed that unmarried couples were already allowed to stay in the Netherlands in 1969 and gained official recognition in 1973. Besides, in none of the cases discussed in this chapter a reference was made to something that could be linked to this line of thought. It did not play a role in decision making processes at the Ministry. Indeed, the 1975 treaty with Surinam was the first instance that such new views were put in official legal documents. But it seems more important that the same views already had an impact on decisions for several years.

Therefore it seems more likely to take Bonjour's explanation as a necessary first step. Dutch politicians of the late 1960s and the 1970s were influenced by the social revolution that urged them to review their policies. They started accepting homosexuals and unmarried couples already before 1975, so by the time the Treaty was negotiated, they were ready to include such a clause. Fifteen years earlier this would have been been impossible. However, Van Walsum c.s. might be very right when they state that Surinamese negotiators pushed for incorporating these new views in the Treaty, because they were not convinced with the sincerity of the Dutch authorities of implementing them. Also they are probably right in stating that the inclusion of these rules in the Treaty with Surinam was as an official recognition an important step and set an important precedent for further policy making.

A final interesting conclusion of this chapter is the fact that already in November 1973 an official representative of the Dutch government raised the possibility of granting refugee status to people who were facing difficulties because of their sexual orientation. State Secretary Glastra van Loon perhaps acted on his personal account, but such statements were made only several years later when homosexual men actually started applying for this status. This will be central to the next chapter.

Chapter 4 – Homosexual refugees 1979-1985

4.1 Context

Just as asylum cases form a specific topic within immigration law, homosexual refugees are a specific category within homosexual immigrants. In this chapter we will see that this was indeed an issue that was dealt with almost isolated from other immigration policies. In this chapter we have very rich material that will allow us to follow the two cases into detail. The first one was the reason for a change in policy, the second one shows the impact of this new policy.

Political Landscape

This rather short period between 1979 and 1985, the Netherlands saw a few short-lived governments. Throughout the period the Christian-democrat CDA was the ruling party, in coalition with either the liberal VVD, the progressive D66 or the social-democrat PvdA.

From 1979 another economic crisis rocked the Netherlands, causing high unemployment rates. Disagreement on the solution for this crisis was the main reason that some of the coalitions lasted very shortly.[318] Walaardt rightfully notices that during this economic unsure period, minority issues became a topic of debate in Dutch politics, and a first clear anti-migration party was established.[319]

Views on homosexuality

In this period the gay community itself became better organized. National events were organized in which the community showed its full diversity. Also gay newspapers and archives were founded. The COC lost its monopoly on representing homosexuals. Gay organizations were created for an array of different purposes, which included the creation of gay groups within political parties.[320]

During this period the gay community, assembled under the umbrella 'Pink Front', organized for the first time a big event out of the comfort zone of Amsterdam. The demonstration in Amersfoort was however hissed at and even physically attacked. This event made clear that homosexuality was far from being accepted in the Netherlands, and that there was a great difference between the big cities and the country side when it came to this acceptance. [321]

Overall it should be noted that the seventies in general witnessed an increasingly strong gay movement, which had the goal to change the Netherlands. The gay movement or the separate organizations that constituted it, became much more politically active.

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[318] R. Aerts a.o., *Land van kleine gebaren. Een politieke geschiedenis van Nederland 1780-1990* (Nijmegen/Amsterdam, 1999), 318-19.
[319] Walaardt, *Geruisloos inwilligen*, 188.
[320] Hekma, *Homoseksualiteit in Nederland*, 125-126.
[321] Ibid., 127.

4.2 Asylum for homosexuals?

Refugees were made into an internationally recognized legal category with the adoption in 1951 of the United Nations Convention relating to the Status of Refugees in Geneva (hereafter: the Refugee Convention). The Convention was altered in New York in 1967 to cover refugees in general. The Netherlands was signatory to both, and incorporated its definition of a refugee in the *Vreemdelingenwet* (Alien Law) in 1965. On the basis of this, refugee claims were assessed.[322]

Jan Willem ten Doesschate and Tycho Walaardt both researched the way this assessment process took place for general asylum claims. Ten Doesschate found that after 1976 the procedure for accepting refugees became more transparent, giving interest groups a stronger voice.[323] Walaardt challenged the focus in historiography on classic arguments as credibility, fear of persecution and fear of high numbers of refugees.[324] He pointed out the diverse reasons for an asylum seeker to come to the Netherlands, and the multiple arguments that could be in his or her favour.[325]

In the previous chapters we have seen that gradually possibilities were created for homosexual men to migrate to the Netherlands. This chapter focuses on a new category, namely people who could immigrate because they were homosexual. These were people that feared persecution on the basis of their sexuality. State Secretary Glastra van Loon had said in 1973 in a meeting with representatives from the gay community that people coming from countries where homosexuality was strictly forbidden and punishable, '*can be placed in the category of refugees*'.[326]

It took several years before the issue of granting refugee status on the basis of sexual orientation became more widely known. The first time it reached national media was during the 1979 International Gay Solidarity Day, when one of the main themes was the persecution of homosexuals in revolutionary Iran, and the call for granting refugee status to such victims of persecution around the world.[327]

Case material: first cases

In the same year 1979 the Pink Front wrote a letter to the State Secretary of Justice, mentioning a Spanish, an American and an Englishman staying in the Netherlands as homosexual refugees. More notably is the fact that the letter also mentions thirty Iranian refugees.[328] In a separate attachment to the letter the only case of female homosexual migrants to the Netherlands is mentioned. Two lesbian mothers with five children had to flee Northern Ireland because the respective father demanded their children back. It also mentions that the Netherlands refused the couple and that they moved onwards to Sweden.[329]

On the occasion of the International Gay Solidarity Day of 1979 *Het Vrije Volk* published an article which mentioned an American and an Englishman. The same article mentioned Iran again as a country that started to criminalize homosexuality. The

[322] Walaardt, *Geruisloos inwilligen*, 16.
[323] Ibid., 222-3.
[324] Ibid., 21-2, 310.
[325] Ibid., 211-24.
[326] NA – IND 931, Minutes of meeting State Secretary with COC, dd. 24 October 1973.
[327] Nieuwsblad van het Noorden, 2 July 1979, 1.
[328] IISH – IHLIA, Homo-vluchtelingen 4, Letter Het Roze Front to State Secretary of Justice, dd. 29 June 1979.
[329] NA – IND 2658, Attachment to letter of 29 June 1979, dd. 3 July 1979.

information in the article was -not surprisingly- from the Pink Front.[330] However, the presence of a large group of specifically homosexual refugees from Iran is not confirmed in other sources. The newspaper *Trouw* ran an article which mentioned five homosexual men who requested refugee status in September 1979.[331]

Figure 4 - A call for joining the International Gay Solidarity Day in 1979.

Committee on Homosexual Refugees

Prompted by these early cases and the national attention for the issues, a more formal approach to the lobbying process was started at the end of 1979, when three organizations from the Dutch gay movement sat together to form the Committee on Homosexual Refugees. These organizations were the COC, the Schorerstichting and the SVR (Stichting Vrije Relatierechten / Foundation for Free Relationships).[332] The Dutch Refugee Association VVN (Verenigd Vluchtelingenwerk Nederland) was not one of the founding organizations, but was involved from a very early stage. Also present during at least two early meetings was an employee of Amnesty International, who later clarified that he was only present on personal title, and not representing the organization.[333] The Dutch section of Amnesty International had difficulties in assisting homosexual refugees, because this was not included in the mission of the international mother organization until 1991.[334] Until then the organization did not count homosexuals as its target groups.

[330] Het Vrije Volk, 30 June 1979, 4.
[331] Trouw, 20 September 1979, n.p.
[332] IISH – IHLIA, Homo-vluchtelingen 4, Letter Schorerstichting to gay groups, dd. 8 January 1980. Confirmed by Ary-Jan van der Meer (SVR) in a radio-interview during the VPRO Gay Night, 28 June 1980, 4th hour, [38:40]-[42:46].
[333] IISH – IHLIA, Homo-vluchtelingen 4, Letter George Siemensma to Rob van Diggelen, dd. 29 September 1979.
[334] Nederlands Dagblad, 10 September 1991, 3.

While it is not clear when the committee officially started, the preparatory document for a meeting in October 1979 shows that the main points on the agenda were the formal set-up of the committee, its goals and its working methods.[335] In other words, the committee did not start much earlier than that. Also there is a letter from late September 1979 that mentions an earlier meeting.[336] We can therefore say that the Committee started in the summer or late summer of 1979. This supports the connection to the International Solidarity Day when protestors demanded the acknowledgment of gay refugees. By the end of 1979 the Committee had already three 'clients', a Polish man, a South-African and a Spaniard.[337] However, the South-African man left without a notice and the Spanish man was doing his military service in Spain. This left only the Polish man on which the Committee could focus.

From the start, the committee had a threefold goal, namely first, '*shelter and guidance of people who, on the basis of their homosexual orientation, flee to the Netherlands, to the extent they are not accepted as clients by the refugee organisations'*.[338] The committee saw itself as complementary to the existing framework of refugee organizations. They did not want to establish a separate refugee organization. When a homosexual asylum seeker was already accepted as a client by one of the official refugee organizations, the committee would assist the social worker in charge of the asylum seeker. One representative warned that it could be dangerous to explicitly focus on clients previously rejected by official refugee organizations. '*you run the risk that [the Ministry of] Justice will refuse any status already on the basis of this*'.[339]

Third and final goal of the committee was much more political than practical, to '*promote in a general sense that people who flee on grounds of homosexuality (discrimination, persecution, fear of persecution, etc.) will be accepted in the Netherlands as refugee*'.[340] This was clearly a continuation of the call that was made during the solidarity marches early that year. For this goal the Committee decided to invite representatives of all political parties who had a so-called 'gay group' among their members. In this meeting a member of the Pacifistic Socialist Party (PSP) was already present.[341]

While minutes of the meeting of 1 February 1980 are absent, a following meeting on 18 March 1980 shows how successful the invitation was. Four parties were present at that meeting, the left-progressive Political Party Radicals (PPR), the center-left Labour Party (PvdA), the earlier-mentioned left-progressive PSP and the conservative-liberal Liberal Party (VVD).[342] From other meetings it becomes clear that also the progressive-liberal D66 and the Communist Party Netherlands (CPN) took part. The center-right

[335] IISH – IHLIA, Homo-vluchtelingen 4, 'Aanloop naar bijeenkomst op 12 oktober', no date, but presumably 1979.
[336] IISH – IHLIA, Homo-vluchtelingen 4, Letter George Siemensma to Rob van Diggelen, dd. 29 September 1979.
[337] IISH – IHLIA, Homo-vluchtelingen 4, Notulen Werkgroep homoseksuele vluchtelingen 14.12.79, n.d.
[338] IISH – IHLIA, Homo-vluchtelingen 4, 'Aanloop naar bijeenkomst op 12 oktober', no date, but presumably 1979.
[339] IISH – IHLIA, Homo-vluchtelingen 4, Letter George Siemensma to Rob van Diggelen, dd. 29 September 1979.
[340] Ibidem.
[341] IISH – IHLIA, Homo-vluchtelingen 4, Notulen Werkgroep homoseksuele vluchtelingen 14.12.79, n.d.
[342] IISH – IHLIA, Homo-vluchtelingen 4, Verslag vergadering werkgroep 14 maart 1980, n.d.

Christian-Democrats (CDA) first participated through their youth branch CDJA, later through their working group on 'homophilia'.[343]

The Committee probably did not function in this form longer than five years. There are no documents of any activity after 1984. However, during this period, the aim of the Committee stayed similar to the points raised already in 1979.[344]

Despite its quite short existence, the Committee quickly made contacts with the most important political parties. As mentioned above, the number of cases was quite low throughout the Committee's active existence, but this was compensated by their active political lobby, which led to the formal acknowledgement of persecution for homosexuality as a possible ground for refugee status.

Recognition of homosexuality as a ground for asylum

This political lobby started with the Solidarity Marches, organized by the Pink Front, but this paragraph will focus on the contacts between the gay organizations and Dutch politics. It started with the letter that mentioned thirty Iranian refugees, quoted above. The letter was addressed to the State Secretary of Justice, and was a first attempt to address this topic at a Ministerial level. The reply stated that the existence of laws that criminalized homosexuality would not be enough in order to be recognized as a refugee one had to be persecuted as well.[345] In that sense the Ministry echoed the original requirement from the Refugee Convention.

The letter continued with more positive points. In cases when persecution of the asylum seeker had not yet taken place, but was to be expected upon return, the possibility existed to try to let this person stay on humanitarian grounds.[346] This was an echo of what Glastra van Loon had said year before. Another step in de facto recognition of homosexuality as a possible ground for asylum, but one that was very dependent on a case-to-case interpretation. The Ministry thus gave an opening to the Pink Front, which realized more lobby work needed to be done. Perhaps this led to the establishment of the Committee later that year.

The Committee tried the same early in 1980. They requested the State Secretary of Justice Ms Haars (CHU/CDA) to '*change your policy in such a way that those who are persecuted for homosexuality can in principle obtain refugee status*'.[347] The State Secretary replied, '*in accordance with the Minister of Foreign Affairs*', that homosexuality in itself would not lead to a refugee status, but that there needed to be a level of persecution involved. In that letter the State Secretary referred to a motion that was adopted in parliament that asked for clarity when it came to recognizing persecution for homosexuality as a possible ground for asylum.[348]

This motion was submitted during a discussion on the new draft migration law. This was the ideal occasion to influence the policy. Homosexual refugees were not at the core of this debate, but Mrs Beckers-De Bruijn from the left-progressive PPR made the statement that '*[i]n different countries people are persecuted because of their*

[343] IISH – IHLIA, Homo-vluchtelingen 4, Adressenlijst november 1981, n.d.
[344] IISH – IHLIA, Homo-vluchtelingen 4, Minutes committee meeting, 14 June 1982.
[345] IISH – IHLIA, Homo-vluchtelingen 4, letter Ministry of Justice to Het Roze Front, dd. 20 August 1979.
[346] Ibid.
[347] IISH – IHLIA, Homo-vluchtelingen 4, Letter of R. P. van Diggelen to State Secretary of Justice, dd. 9 January 1980.
[348] PC Justice 1979-1980, Handelingen 28 January 1980, 761. Motion was numbered 15649 nr. 16.

homosexuality. It concerns longterm deprivation of liberty and even death penalties. My fraction urges for clarity concerning the application of the asylum law on this issue'.[349] The motion was supported by the parliamentarians from PvdA, D66 and VVD. Beckers-de Bruijn and Harry van den Bergh (PvdA) were in close touch with the Committee for Homosexual Refugees, just as Wessel-Tuinstra (D66) would become that later when the D66 gay group joined the Committee.[350] For the VVD no specific contact in parliament was found, though Kappeyne van de Copello was specifically known for her efforts for emancipation of homosexuals.[351]

The motion Beckers-De Bruijn was adopted by the parliament on 12 February 1980, with only the orthodox religious parties SGP and GPV voting against.[352] In the comments after the voting procedure, the moderate confessional CDA mentioned that they voted in favor of the motion, as 'of course' also homosexuals are in principle entitled to the possibility to apply for asylum. CDA Parlementarian Van den Broek stressed however that their support of the motion did not mean that applications for asylum dealing with homosexuality should be processed differently or less rigid than other claims.[353] State Secretary Haars promised to look into possibilities to discuss the issue on the international stage.

The link between the Committee on Homosexual Refugees and the motion of Beckers-De Bruijn is not entirely clear. The Committee was founded before the motion, but the connections to Parliamentarians were made only after the motion. Nevertheless, we have seen that the Committee started lobbying for this topic already in 1979 and it is logic to assume the Committee had informal contacts with parliamentarians who shared their agenda, like Mrs Beckers-De Bruijn.

The adoption of the motion in parliament should be seen as a statement, but it did not change much practically. Nevertheless, it was often referred to in asylum cases which we will discuss below. A stronger legal framework was offered by a verdict of the Dutch *Council of State* (Highest Court in the Netherlands). Provisions in the refugee law, which were based on the original Refugee Convention, included persecution as part of a social group. On 13 August 1981 The *Council of State* defined this 'social group' as also possibly including homosexuals. Thus homosexuals were included as a group that could apply for asylum when they encountered problems with their sexuality in their home country.[354] The following cases will illustrate what cases led to this verdict and what the general arguments were in favour or against.

[349] Ibid.
[350] IISH – IHLIA, Homo-vluchtelingen 4, Letter Janherman Veenker to Hans Wolters, dd. 9 June 1981; Ibid. Letter Van Diggelen to Janherman Veenker, dd. 30 June 1981.
[351] Lemma on Annelien Kappeyne van de Coppello, accessed on line at [http://www.parlement.com].
[352] TK 1979-1980, Handelingen 12 February 1980, 2872.
[353] Ibid.
[354] NA – IND 2658, Verdict Council of State, department jurisdiction, dd. 13 August 1981, 10.

4.3 Refugee cases

Case: Polish man

The Committee dealt with only a few cases. One stands out for the high level of involvement, which is reflected by the large amount of documents related to it. It offers a unique insight in how the Committee went about in supporting the case of a gay refugee. On top of that, this was also a case that reached the parliament and was the case on trial at the *Council of State* in 1981.

The man arrived in the Netherlands on 4 July 1979. He claimed he immediately went to the COC.[355] However, he only applied for refugee status on the 22nd of August of that year. The man was born in 1953 and according to his own testimony realized he was homosexual around 1971. He kept it secret, but things came out around February 1978. He was blackmailed and threatened with losing his job if he would not stop his (homosexual) relationship. After he was fired he got a job at a restaurant where somebody blackmailed him again for not making his sexual orientation public. The Polish man then managed to obtain a passport in June 1979, which in communist Poland was only possible by bribing officials. He applied for a visit to his sick aunt in the Netherlands and flew to Amsterdam on the 4th of July 1979. His passport got stolen on 24 July 1979.[356]

It looks like this man was the same Polish man that was the Committee's client from the very start. It was the Polish man who '*found an excellent place to stay in the Bijlmermeer*'.[357] It could be that through the COC he got in touch with the Committee. Information about the first stage of his application is scarce, but probably followed the normal procedure. He applied for refugee status at the Amsterdam Alien Police and the request was processed by the Ministry of Justice. On the 6th of February 1980 the Polish man's request was officially denied. This decision came around the time of the motion Beckers-De Bruijn. Technically, the Ministry should have been aware of the motion by the time they rejected the Polish man.

In a letter to the Amsterdam police the rejection was motivated. It turns out that the Ministry did not think the reasons for the Polish man's request for refugee status were pressing enough, but rather of an economical nature. Also the fact that he had been able to leave his country was held against him.[358] These arguments are in line with what Walaardt called the 'classic' arguments of credibility and fear of persecution.

The Committee reconvened in March 1980, but the minutes do not contain the 'clients'. After a discussion on the motion of Beckers-De Bruijn, it is mentioned that she would be contacted about 'the Polish refugee' as well, undoubtedly the same man.[359] The following meeting in April proved how successful this was. On 21 March Mrs Beckers-De Bruijn asked questions in parliament regarding the Polish case. The questions were supported by exactly those parliamentarians mentioned earlier: Van den Bergh (PvdA), Wessel-

[355] IISH – IHLIA, Homo-vluchtelingen 5, Interview Alien Affairs with [Polish man], n.d.
[356] IISH – IHLIA, Homo-vluchtelingen 5, Letter State Secretary of Justice to Head of Police Amsterdam, dd. 3 June 1980.
[357] IISH – IHLIA, Homo-vluchtelingen 4, Minutes Committee on Homosexual Refugees, dd. 14 December 1979.
[358] IISH – IHLIA, Homo-vluchtelingen 5, Letter State Secretary of Justice to Head of Police Amsterdam, dd. 3 June 1980.
[359] IISH – IHLIA, Homo-vluchtelingen 4, Report meeting Committee, dd. 14 March 1980.

Tuinstra (D66) and Kappeyne van de Coppello (VVD). The questions explicitly named the Polish name by his initials, so that we know it was this exact case that was referred to. The parliamentarians asked why the case was rejected, how this decision related to the motion Beckers-De Bruijn, and asked whether the State Secretary agreed that homosexuality was persecuted in Poland.[360] The questions were even picked up by the press.[361]

Obviously the State Secretary confirmed the rejection of the Polish case, because the humanitarian reasons to stay in the Netherlands were not pressing enough, and the situation in Poland did not constitute 'persecution' as it is described in the Refugee Convention. Interestingly, the State Secretary does not write about the economic motive which was stressed by the Amsterdam Alien Police. The answers show that the motion Beckers-De Bruijn was a signal, but not a strong instrument. The Ministry just claimed they gave sufficient consideration, but finally rejected the case. Haars offered the Polish man to appeal.[362] Also the appeal was turned down on 3rd of June 1980. The State Secretary informed the Amsterdam Alien Police that day, stating that she expected the Polish man would leave the country within a month.[363] Overall, the motion Beckers-De Bruijn did not have its intended effect. Homosexual refugees needed more guarantees.

Revolutionary Appeal

The Committee members acknowledged the weakness of the Polish man's case. They wrote to all political parties in December 1980 that '*[f]or us it is clear now that to continue his stay here, [Polish man] cannot rely on the ongoing legal procedures*'.[364] The letter had a very activist tone, calling for all recipients to increase political pressure. Another appeal at the *Council of State* was mentioned as a last possibility.[365]

The Polish man did indeed appeal at the *Council of State* to revise the decision by the Ministry of Justice. His case was dealt with in January 1981. From the proceedings we know that a comparison was made with South Africa, where at that time the Apartheid regime caused a stream of refugees as well. The Netherlands did not approve of the South African regime, but did not accept any South African asylum seeker just for being affected by Apartheid. Similarly, it was acknowledged that Poland was not so progressive, '*but this did not mean that the Polish circumstances for plaintiff are so unfavorable, that these constitute reasons of humanitarian nature*'[366], reiterating the argument of the State Secretary's answers to the questions asked in parliament. Additionally, it was noted that according to the Polish man's own statements, life as a homosexual in Poland was possible.[367]

The final verdict in this case was only given on 13 August 1981, again a rejection. The court ruled that the Polish man faced discrimination in Poland, but that this could not be seen as fulfilling the requirement of 'persecution' for being recognized as a

[360] TK 1979-1980, Handelingen Annex 982.2, 1921-2.
[361] Trouw, 25 March 1980, n.p.
[362] TK 1979-1980, Handelingen Annex 982.2, 1921-2.
[363] IISH – IHLIA, Homo-vluchtelingen 5, Letter State Secretary of Justice to Head of Police Amsterdam, dd. 3 June 1980.
[364] IISH – IHLIA, Homo-vluchtelingen 5, Letter Committee on Homosexual Refugees to gay groups of political parties, dd. 1 December 1980.
[365] Ibid.
[366] IISH – IHLIA, Homo-vluchtelingen 5, Proceedings case State of the Netherlands vs [Polish man], dd. 6 January 1981.
[367] Ibid.

refugee. Since this was the highest ruling body in the Netherlands, the Polish man's request for refugee status came to an end here.

More revolutionary was that in this verdict the *Council of State* defined homosexuals as a 'social group' in the sense of the Refugee Convention. It was the first court in the world to do so officially. The specific paragraph deserves to be quoted in full here:

> *With the authorized of the Representative in the Netherlands of the United Nations High Commissioner for Refugees, the Department wants to make clear that by reasonable interpretation persecution for belonging to a specific social group could also mean to include persecution because of sexual orientation.*[368]

The verdict explicitly mentioned that this interpretation was made in accordance with the representative of UNHCR in the Netherlands. This shows that this paragraph was certainly not accidentally put in the verdict, but a well deliberated decision. The *Council of State* must have been very well aware of the legal consequences this interpretation of the Refugee Convention must have had. Legal consequences which could not be ignored as easy as the motion Beckers-De Bruijn.

The verdict of the *Council of State* meant the end of the Polish man's chances of being recognized as a refugee. However, it was not the end of his efforts to stay in the Netherlands. Since early 1980 the Polish man was in a relationship with a Dutch man. However, this was never the basis for his asylum claim, thus it never featured centrally in the case proceedings. The Polish man explained this in a letter he wrote to the group of parliamentarians that were so actively involved in his case. He wrote: '*In addition to this since one year I am in a relationship with a Dutch boyfriend. Because of my uncertain status and the risk of deportation, I think I cannot file a request on the grounds of my relationship*'.[369] His fear was based on what we have discussed in chapter 3, where it became clear that relationships commenced during illegal stay in the Netherlands could not be a base for a residence permit.

The couple lived together already since June 1980, around the time the case at the *Council of State* started. In March 1981 he still filed a request for a residence permit at the Zeist police.[370] This procedure was run completely separate from the asylum claim, but rejected on the 15th of May. In a preparatory document for the Committee's meeting of 23 October, it was mentioned that the residence permit was denied because the authorities saw the relationship as one with the sole purpose of obtaining residency. The writer of the preparatory document added '*rumour has it that the civil servant coloured his report of the interview with [Polish man] too much with his own negative conceptions around homosexuality*'.[371] Indeed the relationship was supported with several testimonies of people close to the couple. For example, the local pastor wrote that '*their friendship clearly carries the character of a sincere, sustainable*

[368] NA – IND 2658, Verdict Council of State, department jurisdiction, dd. 13 August 1981, 10.
[369] IISH – IHLIA, Homo-vluchtelingen 5, Letter [Polish man] to parliamentarians, dd. 25 January 1981.
[370] IISH – IHLIA, Homo-vluchtelingen 5, written document from Janherman Veenker to Leo Koppenrade, n.d. [presumably May/June 1981].
[371] IISH – IHLIA, Homo-vluchtelingen 4, 'Some information for meeting 23-10-1981', probably as an annex to the invitation sent on 13 October 1981.

relationship'.[372] One member of the Committee commented he personally thought the high number of statements was a big joke, '*you wouldn't do such a thing with a married couple?!*'[373] This underlines the difference between policy and practice which we have seen in the previous chapter.

On 26th of May 1981, the Polish man appealed for revision of the verdict and suspensive effect. His lawyer was a colleague of lawyer Enkelaar who played an important in getting homosexual partner migration recognized. A few months later his case at the *Council of State* was again rejected. This led to a rather complex situation which the Committee discussed in October 1981. Again the possibility was raised to bring the case under the attention of the State Secretary of Justice through parliamentarians. The Committee was divided on this issue. A contact of the COC had said that when parliamentarians play a direct role in a refugee case, the Ministry of Justice tended to ignore this and follow the normal procedures.[374]

A report of the meeting revealed that there were three reasons to refrain from seeking direct influence. Firstly, it was not common to cross-cut a legal procedure with political steps, since this could taint the independence of the judge. The two second reasons dealt with the short political crisis in the Netherlands of that time, in which the government resigned and was outgoing. The Committee decided to refrain from taking steps on the national political level because of this.[375] Also, the Polish man did not want any publicity, especially not naming him or his boyfriend.[376]

The final outcome of the Polish man's efforts is unknown. In a letter from one of the Committee's active members to the Polish man it is written that he could get a temporary working permit while waiting for the outcome of his appeal for revision for his residency permit. Because it was hard to find work, the writer of the letter recommended the Polish man to start studies.[377] After this, no more hints are available in the archives. His name could not be found in newspapers or naturalization records. Possibly he returned to Poland or moved somewhere else. His case did however change the chances for other men to try what he did not achieved; being recognized as a refugee on the basis of one's sexual orientation.

Case: Chilean man

One man who benefitted greatly from the verdict of the *Council of State* of 13 August 1981 was a Chilean man. Since in 1973 in Chile a coup d'état took place, many Chileans applied for asylum in countries like the Netherlands. His father was arrested in 1973, so the Chilean had to run his family's company for a few years. He stated that he had always felt different, that he was being bullied at his primary school for being

[372] IISH – IHLIA, Homo-vluchtelingen 5, Statement A. Klamer on relationship [Dutch man] and [Polish man], dd. 10 February 1981.
[373] IISH – IHLIA, Homo-vluchtelingen 4, Letter Willem-Jan Koch to Janherman Veenker, dd. 21 June 1981.
[374] IISH – IHLIA, Homo-vluchtelingen 4, Letter COC to [Polish-Dutch couple], dd. 9 June 1981.
[375] IISH – IHLIA, Homo-vluchtelingen 4, Note Leo Koppenrade on meeting 23 October 1981, dd. 5 November 1981.
[376] IISH – IHLIA, Homo-vluchtelingen 4, Document 'Arrangements made at meeting 23-10-81', n.d.
[377] IISH – IHLIA, Homo-vluchtelingen 5, Letter Janherman Veenker to [Polish man], dd. 27 October 1981.

different.[378] He also described how the military regime attacked homosexuals especially in the form of razzia's. He stated '*Striking was also that when razzia's were held among people who were guilty of political activities against the regime, homophiles were caught first. So for them it was extra dangerous to take part in such activities.'*[379]

In the same interview, the man gave two reasons why he decided to leave Chile. First he said it was because of his sexual orientation, which was clearly visible in clothing style and behavior. Together with his political activities from before the coup this made him live in daily fear of being arrested. Secondly, his university was closed down, so he could not finish his education to become a social worker. Interestingly, he also motivated why he chose the Netherlands. Unlike the fear of many Dutch politicians, the Chilean man did not come to the Netherlands because of the (relatively) relaxed attitude towards homosexuality. His reasons were much more practical. He had a brother who had lived in the Netherlands since 1968 and was willing to support him. The brother also had connections to an airline and could arrange affordable tickets. The Chilean man: '*The Netherlands seemed the only option'*.[380]

The man arrived in the Netherlands on 18 December 1975, but first stayed in the Netherlands as a tourist and then started studying with a scholarship. He got in touch with a counsellor quite early, probably through the University Asylum Fund already in 1975.[381] At least in September 1976 he had a meeting with a lawyer, again a colleague of Enkelaar, who advised him on his chances for obtaining a residence permit. '*If you would have a lasting homosexual relationship with a Dutchman or an EEC-citizen, I would see chances in a combination with your study plans*'.[382] Not a word was mentioned about refugee status. Also, in the previous chapter we have seen that in 1976 it would not have been easy to obtain a residence permit on the basis of a homosexual relationship with an EEC-citizen living in the Netherlands.

On 27 July 1978 the Chilean man applied for refugee status at the Amstelveen police, after having consulted his counsellor two months before.[383] The request was turned down in March 1979. He appealed in April 1979. The answer to his appeal was in line with the verdict from the A.C.V. which was consulted as well. Firstly, the Ministry could not speak of persecution of homosexuals in Chile in general. Second, the Chilean man had lived in Santiago for several years despite his homosexuality and despite his political activities. And thirdly, the Chilean man only applied for refugee status a long time after his arrival. These three reasons led to another refusal of his asylum claim. Also a residence permit was not granted, because the applicant had stated he did not wish to obtain such a permit for reasons of 'study' alone.[384] Interestingly, the Ministry did not refuse refugee status here because this was not part of the Refugee Convention. De facto the possibility for homosexuals to be granted refugee status was admitted here already in 1979.

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[378] IISH – IHLIA, Homo-vluchtelingen 5, Interview [Chilean man] by Ministry of Justice, dd. 4 January 1979.
[379] Ibid., 3.
[380] Ibid., 3-4.
[381] IISH – IHLIA, Homo-vluchtelingen 5, Report of the ACV, dd. 5 December 1979, 3.
[382] IISH – IHLIA, Homo-vluchtelingen 5, Letter Mr. D. Voorhoeve to [Chilean man], dd. 16 September 1979.
[383] IISH – IHLIA, Homo-vluchtelingen 5, Decision Ministry of Justice in the case of [Chilean man], dd. 13 May 1980.
[384] Ibid.

The decision of the *Council of State* in the case of the Polish man seemed to have been the direct reason for the Chilean to appeal at the same court with the help of a new lawyer, Mr. Hartkamp. The written plea notes of the lawyer are part of the archives, and it becomes clear that this lawyer did a lot of research and delivered a passionate plead in favor of his client.[385]

Hartkamp started his plead with a short summary of the Polish case, in which the *Council of State* recognized sexual orientation as a ground to obtain refugee status. Hartkamp set out to proof persecution in the case of the Chilean man. Quite early in his plea Hartkamp stated why discrimination on the basis of sexual orientation was to be taken seriously: '*A political conception you can swallow, a belief you can renounce, a free opinion you can keep to yourself, but your sexual orientation you cannot tuck away; then you tuck away the human itself*'.[386]

Hartkamp continued with the specific situation in Chile, where three factors reinforced each other in repressing homosexuality. These factors were the Catholic church, 'machismo' and the fascist military dictatorship. While the church and 'machismo' had always been there, since the coup d'état the situation for homosexuals worsened immensely. Hartkamp noted that not much is known about this type of persecution and that even big organizations like Amnesty International were not well informed. Additionally, he had two expert-witnesses shedding their light on the situation and commenting on why it was so hard to get information on the position of homosexuals in Latin-America.

After comparing the situation in Chile and Latin-America with the situation for homosexuals in the Netherlands, Hartkamp took away the fear for precedent; '*this does not mean that the Netherlands could be a refuge for all homosexuals in Chile'*.[387] He pointed out the specific combination of political and personal factors, like the Chilean's life story, what happened to his father, and the impossibility for him to live according to his sexual orientation in Chile. Additionally, his activities for the COC and the Chili Committee were mentioned, both of which would have resulted in heightened attention for him and his case. This meant also that the risk of being arrested upon return had grown while the man was in the Netherlands. Here we see that the lawyer raised arguments that Walaardt found decisive in a lot of individual cases of the same period.[388]

It is interesting that the lawyer raised the lack of knowledge on the situation of homosexuals in Latin America. In Europe there were action groups like the mentioned Chile Committee, who protested against the military regimes in their respective countries. Apparently the Chilean man joined such protests. The cause of homosexuals and the movement against the Latin American military regimes were a difficult combination. There was one reference to a demonstration by the Chile Committee in the Netherlands that had a slogan (in a demonstration) mentioning murder on homosexuals.[389] But information from a Swedish organization revealed that the Swedish Chile Committee '*would not like to treat that subject, even have difficulties talking about such things in general*'.[390] This showed that in this case homosexuals were excluded from

[385] IISH – IHLIA, Homo-vluchtelingen 5, Plea notes Mr. R. B. Hartkamp, dd. 2 June 1983.
[386] Ibid., 2.
[387] Ibid., 5.
[388] Walaardt, *Geruisloos inwilligen*, 211-224.
[389] IISH – IHLIA, Homo-vluchtelingen 5, Letter from Rob [van Diggelen?] to Janherman Veenker, n.d.
[390] IISH – IHLIA, Homo-vluchtelingen 5, 'Report Riksförbundet för Sexuellt Likaberättigande', n.d.

the group of Chilean political refugees, while they might have been political refugees themselves.

The Chilean case probably had a successful outcome, judging from the fact that he remained in the Netherlands. A few years after being officially accepted he appeared in a newspaper talking about the rather limited hospitality towards refugees in the Netherlands. He then worked in a factory in the Netherlands. In the article he did not mention his sexuality, but emphasized the experience of Chilean refugees.[391] Perhaps he was granted refugee status on the basis of his political activities rather than his sexuality. This would explain why legal scholars remarked in 1992 that no refugee status was granted to someone who fled his country because of his homosexuality.[392]

Other refugee case material

Some other cases have been handled by the Committee, and thus are part of the remaining archives. They are not as detailed as the cases discussed above. They are discussed here for the sake of completeness and to show the diversity of cases. The shortest of those cases is 'Ivan', a name scribbled in the sideline of the agenda for the Committee's meeting of 14 June 1982. He was mentioned there as a 'running case', but no connection to other cases could be made.[393]

A second Chilean man is mentioned in the meeting of 23 October 1981. His case was different from the other Chilean, since this man was not integrated at all. He was illegally in the Netherlands, whereas the other Chilean was on a study visa. He was isolated due to language problems, probably related to his short stay. Additionally he had traumatic experiences in Chili by being tortured and isolated from social contacts. The man was already a client at VVN (Refugee Work Netherlands) and thus out of the scope of the Committee. Interesting is the remark that the Polish case taught the lesson not to apply at the local police, but directly at the Ministry. An interesting example of how the Committee increased their knowledge of the procedures.[394] The man featured only once in the Committee's minutes.

In 1982 communication took place between Janherman Veenker, a central figure within the COC[395] and long-standing member of the Committee, and a South-African man who had applied for asylum on humanitarian grounds. The asylum request was denied, but since then the South-African started a relationship and was trying to get a residence permit based on the relationship. Veenker explained what the Committee could do for him, highlighting especially the contacts with the parliamentarians. He stated that *'[i]n the past we did succeed in preventing eviction on the last moment based on the intervention of some politicians*'.[396] The South African did not become a client of the Committee, because his name did not feature in any of the minutes.

[391] De Waarheid, 16 October 1987, 3.
[392] Bos, Pot and Willems, 'Grensverlegging of grensversperring?', 177.
[393] IISH – IHLIA, Homo-vluchtelingen 4, Agenda meeting 14 June 1982.
[394] IISH – IHLIA, Homo-vluchtelingen 4, 'Some information for meeting 23-10-1981', probably as an annex to the invitation sent on 13 October 1981.
[395] Eulogy of Janherman Veenker on line available at [http://www.loveexiles.org/janherman.htm].
[396] IISH – IHLIA, Homo-vluchtelingen 6, Letter Janherman Veenker to [South African], dd. 7 September 1982.

Also, in 1982 questions are asked in parliament about the case of a Portuguese man.[397] References to this case were not found in the Committee's archives, so perhaps this man was already helped by other organizations.

Veenker had a large personal network in the Netherlands and outside. These contacts were helpful in helping homosexual men that applied for asylum, but in two cases he also gave advice to men that did not even arrive in the Netherlands yet. It was Peter Ashman, a well-known gay activist from the United Kingdom[398], who approached his Dutch colleagues for information. The first case relates to a Chinese-Indonesian student in the UK. As part of the Chinese minority in Indonesia he already faced discrimination, and his sexuality made this even worse. On top of that he had used a false passport for all the visa renewals he made in the UK. Ashman: *'the likelihood is that the present Government would not grant [refugee status] because they wish to pursue a policy of friendship with Indonesia and are not so sympathetic to gay cases without clear proof that someone will be oppressed on his or her return. […] As Indonesia used to be a Dutch colony, it is just possible that you adopt a more sympathetic attitude to such people. On the other hand, you may be as strict as we are.'*[399] Unfortunately, there is no reply from Veenker in the archive. Veenker might have denied the fact that Indonesian applicants were treated more sympathetically, the days of the *'spijtoptanten'* were over. And finally he should have warned that a false passport made any asylum request more difficult.

The second time Ashman approached his Dutch contacts was for a Polish man who was active in the small gay community in Poland. Veenker told Ashman that it was difficult in the Netherlands and even more so considering their experiences with the 'Dutch' Polish case. '*He is more or less protected because there was some political fuss (questions in parliament by sufficiently influential politicians)*', Veenker seems to write with almost false modesty. [400] Was he trying to impress Ashman here? He continued to explain that the responsible State Secretary was from the Christian-Democrats, '*which party feels obliged to support an extremely severe and unchristian policy with regard to refugees*'.[401] He finally advised that chances were better when the Polish man would apply on the basis of a relationship.

The last described meetings of the Committee in the archives at the IISH took place in 1983. The last new case that came up was a Pakistani man that was refused by Amnesty International as a client. As we have seen before, homosexuals were not part of Amnesty International's international mandate. After he was declined as a client by Amnesty International, members of the COC and a lawyer took over.[402] An Englishman mentioned in the same report must have been the last 'client' of the Committee.

[397] De Waarheid, 5 April 1982, 2.
[398] Eulogy of Peter Ashman online available at [http://www.ilga-europe.org/home/news/latest/peter_ashman].
[399] IISH – IHLIA, Homo-vluchtelingen 6, Letter Peter Ashman to Janherman Veenker, dd. 25 July 1980.
[400] IISH – IHLIA, Homo-vluchtelingen 6, Letter Janherman Veenker to Peter Ashman, dd. 27 July 1981.
[401] Ibid.
[402] IISH – IHLIA, Homo-vluchtelingen 6, Report meeting Committee Homosexual Refugees, dd. 3 December 1982.

According to one of the committee members the Englishman had already travelled to another country though.[403]

The meeting in December 1982 still mentioned 'homosexual refugees' as the name of the Committee. One topic on the agenda was a discussion on 'dependent' relationships, which moved away from the refugee discussion proper. This supports the impression that the Committee lost its focus. As we have seen in the previous chapter, one case of a young German man took a lot of the Committee's attention, but was not a real refugee case. The last meeting of the Committee on homosexual refugees might have taken place on 19 January 1983, of which no minutes exist.[404]

The archives do contain some documents from which it becomes clear that the COC changed its focus to the broader topic of homosexual foreigners. On 10 June 1983, according to a handwritten note, Janherman Veenker was invited to the meeting of the '*vreemdelingen klupje*', or '*foreigner club*'.[405] The note was attached to a concept note on immigration law and non-marital relationships which would be the main discussion point.

4.4 International lobby

When Beckers-De Bruijn submitted her motion in 1980, State Secretary Haars was reluctant to make many commitments. However, the State Secretary did promise to bring up the topic internationally. Specifically this referred to looking into a redefinition of the Refugee Convention to include homosexuality as a 'social group'.[406] As the State Secretary was not planning to redefine the Convention herself, it seemed a rather contradictory pledge. In this paragraph we will discuss how on the Netherlands portrayed their own migration policies on the international stage. This will also shed a light on one of the hypotheses raised in the analytical framework of this thesis. It is the hypothesis of the international situation, which was a deterrant for change before. It seems however that increasingly, the Netherlands started to be pleased with comparing its policies towards homosexuals in general to other countries. Immigration policies might have been affected by this.

In the same month as State Secretary Haars pledged international action, the Dutch representative in the UN Human Rights Committee, Mr. Max van der Stoel, addressed the issue of discrimination of homosexuals. It is unlikely that this was a direct result of Haars' pledges. Not only was the topic slightly different, these statements in a UN platform were the result of a separate lobby. Around that time the United States had adopted a law which banned foreign homosexuals from entering the country. This was reason for the COC and several other gay organizations to ask attention for this in the national media. The agitation of the COC was partially explained by the fact that the

[403] Ibid.
[404] Ibid.
[405] IISH – IHLIA, Homo-vluchtelingen 6, Handwritten note from Willemien [Ruygrok] to Janherman [Veenker], dd. 1 June 1983.
[406] PC Justice 1979-1980, Handelingen 28 January 1980, 774.

American law directly affected people like an American homosexual who got the Dutch nationality a few years before. His American visa was now cancelled.[407]

A news article in the social-democrat newspaper *Het Vrije Volk* started with the statement that the gay organizations wanted to go to the United Nations to sue the United States for discriminatory measures against homosexuals. Chairman of the COC chapter in Rotterdam was interviewed in the article and made a comparison to Arabic countries banning Jewish people from entering their countries. The lack of interest was especially noticeable when homosexuals were executed in Iran just a few weeks before, according to the COC spokesman. He also mentioned the situation for homosexuals in Ireland and a Scottish man that was accepted to the Netherlands a week before.[408] Clearly, he tried to use this exposure to the issue to plead in favour of introducing asylum for homosexuals. As we have seen, within a few years after the publishing of this article, such measures were introduced.

The protests by the COC cannot be seen separate from the speech that the Dutch representative in the UN Committee in February 1980.[409] In it, Van der Stoel condemned all forms of discrimination, but singled out discrimination of homosexuality. He continued to say that he specifically addressed the United States and their representatives in the Committee. The speech concluded that '*the above mentioned immigration regulations are an unfortunate example of institutionalized discrimination*'.[410] 133 out of 150 Dutch parliamentarians supported the statement. It is therefore interesting that the speech ends with the apology that '*to many in this room my raising of this question may not be welcome. The subject is often considered tabu [sic], or embarrassing at the very least*.'[411] In other words, it might not have been convenient, but the Dutch delegation dared to bring it up.

Dutch Minister of Foreign Affairs Van der Klaauw responded to these remarks in a committee meeting, stating that he was proud that such comments were made in a UN context, and that it was an effective way to speak out on a topic where no other country took action.[412]

At the same time State Secretary Haars had promised to raise the topic of specifically homosexual asylum seekers. An internal note from the Ministry shows what possible international platforms were considered to do this. It started with a summary of the motion Beckers-De Bruijn, the official statements that were made after the vote and the commitments the State Secretary made. It stated that the issue could be brought up in two ways; Firstly, as a problem within the asylum system and secondly, as a human rights issue dealing with discrimination.[413]

The note also listed in what international platforms these issues could be brought up. As an asylum issue, the writer of the note proposed the United Nations, specifically its refugee Commissioner UNHCR, the Council of Europe, and within a Benelux framework.

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[407] Leeuwarder Courant, 29 January 1980, 5.
[408] Het Vrije Volk, 2 January 1980, 9.
[409] NA – IND 2658, 'Statement delivered by the Delegate of the Kingdom of the Netherlands', dd. 25 February 1980.
[410] Ibid.
[411] Ibid.
[412] PC Foreign Affairs and Development Cooperation 1979-1980, Handelingen 17 March 1980, 1390.
[413] NA – IND 2658, 'Betreft: Motie nr. 16 (Beckers-De Bruijn)', n.d. [April 1980], 1.

The note proposed to let the Dutch representative in the Council of Europe make a statement on persecution of people for their sexual orientation. The issue could be mentioned in the April session and discussed later on. The writer advised against first bringing up the issue in the Benelux Committee, both because he did not expect too much support from Belgium and Luxembourg on this topic, and because of the short time to influence them. '*In the Council of Europe we can at least expect some understanding from for example Scandinavian side'*.[414] Also, a discussion on this theme in the autumn session of the Council of Europe seemed beneficial, to see whether there was enough support to bring the topic up in United Nations context.

As a human rights issue, the writer proposed to bring the issue up in human rights committees of the UN and the Council of Europe. The note also referred to the comments by Van der Stoel already made in the UN Committee. The reaction that this statement caused made the Ministry of Foreign Affairs a bit hesitant to put too much emphasis on this topic.[415]

The note thus concluded that raising the topic as an asylum issue in the context of the Council of Europe would be the most fruitful strategy. This was done in a meeting of 21-25 April 1980. At agenda point 'Miscellaneous questions', the Dutch representative raised the point of '*requests for asylum emanating from persons who claim that they are subjected to acts of persecution owing to their homosexual tendencies*'.[416] The statement invited to share perspectives on this issue, which apparently Sweden, Austria and Switzerland accepted. From handwritten notes from the Dutch representative we learn that the Austrian representative claimed that similar cases were already granted refugee status on the grounds of being a social group.[417] Sweden stated that there was a concept-law that would make asylum on the basis of homosexuality possible. However, until 1984 this concept-law was not implemented.[418] Switzerland stated that they encountered similar problems as the Netherlands, and they accepted several of such cases as 'humanitarian cases', equal to the Dutch B-status.[419]

The issue that was raised by the Dutch representative was put on the agenda for the next meeting. Minutes of a meeting in 1981 show that the Dutch representative again mentioned the issue, but that '*doubts were expressed by several experts as to the advisability of attempting to extend the criteria of the 1951 Geneva Convention […] so as to cover such cases*'.[420] The concern was also expressed that it would be politically sensitive to introduce 'European standards' in the application of the Convention. Thus, two years after State Secretary Haars promised to bring up the issue internationally, not much was reached other than that representatives indeed mentioned the issue.

[414] Ibid., 2.
[415] Ibid., 3.
[416] NA – IND 2658, 'CAHAR 7th meeting', n.d. [April 1980].
[417] NA – IND 2658, handwritten notes Van Emde Boas, meeting Ministry of Foreign Affairs, dd. 13 May [1980].
[418] De Waarheid, 16 August 1984, 1.
[419] NA – IND 2658, handwritten notes Van Emde Boas, meeting Ministry of Foreign Affairs, dd. 13 May [1980].
[420] NA – IND 2658, Meeting Report CAHAR 9th Meeting, 8. 'Geneva Convention' is a standard reference to the original Refugee Convention.

4.5 Sub-conclusion

The recognition of homosexuals as constituting a social group in the framework of the Refugee Convention was an important step. It gave the legal possibility to apply for asylum and possibly be recognized as a refugee on the basis of persecution for being homosexual in one's home country. Compared to other policy changes discussed in chapters two and three, this change came about differently. In those cases, the Ministry of Justice reviewed and changed their internal guidelines. In the case of refugees, the *Council of State* gave the decisive verdict, in close cooperation with UNHCR. They must have been aware of the possible legal consequences. At the same time, the impression exists that the legal possibility that was created, was not used much.

Second of all, in this chapter the growing influence of lobbying groups became clear. This is a very important change. Obviously the Committee on Homosexual Refugees was central in the cases discussed. Also the COC itself, other gay organizations and refugee organizations became more important in influencing the outcome of the asylum requests. This supports Ten Doesschate's conclusion that lobby organizations had an influence on policy making towards groups of asylum seekers.[421] However, he noted a growing influence of such organizations in the sixties. The homosexual lobby groups only became professional enough in the second half of the seventies.

Especially interesting is the immediate close cooperation between gay lobby groups and political parties. Ten Doesschate described this strategy as a professionalization of general refugee organizations compared to their strategies in the 1960s. It seems that gay lobby groups learned from the more experienced general refugee organizations and other lobby groups. Given the fact that the gay lobby did professional work in changing the policy, it is surprising that the actual change came from the side of the judiciary. As a neutral body, the *Council of State* should not have been lobbied at. Perhaps such a process took place behind the scenes.

Furthermore, the case of the Chilean underlines the point that Walaardt made in his research. Migrants came to the Netherlands for multiple reasons. A homosexual asylum seeker was more than just that, and could emphasize that part of the identity that was most likely to convince the authorities. The Chilean probably got recognized as a refugee based on his political activities, not his sexuality. After all, this was a category that the authorities were more familiar with. This explains why the Chilean did not go into the books as the first homosexual refugee, even though he was a homosexual man receiving refugee status in the Netherlands. The important development here was that the Chilean could make his sexuality an important part of his request for asylum. Asylum seekers in the 1960s would have weakened their case by using this strategy.

From a historiographic point of view, it might even be incorrect to state that the Netherlands was the first country to accept refugees who claimed persecution on the basis of their sexual orientation. Evidence from the researched archives shows that Austria might have accepted homosexual applicants as constituting a social group in or before 1980 already.

The international lobby in the 1980s was not yet very successful, but it was the first instance that the Netherlands started to seek international coordination on such topics. The Netherlands even accused the United States of institutional discrimination of homosexuals, while we have clearly seen that at that time even in the Netherlands institutional discrimination –though more subtle- existed. Such international endeavours

[421] Ten Doesschate, *Asielbeleid en belangen*, 205.

might have shown the Netherlands that other countries were dealing with similar issues and –in the case of Austria and Sweden- were equally prepared to adjust their laws to incorporate refugees based on homosexuality. Also we see that gay rights were defended as part of a broader human rights issue. This also paved the way for the Netherlands to become even more active on this topic in the late eighties and especially 1990s, which will be discussed in the next and final chapter.

Chapter 5 – Netherlands on the forefront 1985-2001 – An Epilogue

This chapter serves as an epilogue. In chapters two, three and four we have seen new categories of immigrants being opened up for homosexuals. Each policy change was only made after a debate in which personal cases played important roles. As mentioned before, the adoption of a new policy was a first step, but successful implementation was often slow and difficult. This process we will observe in this chapter. Additionally, the Netherlands increased their efforts for gay emancipation and showed this proudly abroad.

5.1 Context

In the late eighties and the early nineties a coalition dominated by the Christian-democrats ruled the Netherlands. In 1994 for the first time in Dutch history, a coalition without a confessional party was formed. The 'purple' coalition of the liberal VVD, the social-democrat PvdA and the progressive D66 took the government. Their progressive social agenda put a stamp on Dutch politics until the turn of the century.

Economically the late eighties still dealt with the aftermath of an economic crisis. When this was dealt with, the economy started to grow towards a peak in the late nineties.

By the mid-eighties, formally homosexuals had similar rights when it came to migration law. They could bring their partner from abroad, they could apply for asylum and they were not refused for merely their sexuality. A note dedicated to homosexuality listed many priorities for the Dutch government in the field of gay emancipation, but did not mention anything related to foreign policy, and was really vague on homosexuality among immigrant groups.[422]

Anti-discrimination legislation in 1994 made this position even stronger. The advancement of gay rights reached a high point when marriage was officially opened up for same-sex couples in 2001, making the Netherlands the first country to do so.[423] A revision of the governmental policy towards homosexuality was published in 2001 and forms the end of this thesis. This will be discussed in the final paragraph of this chapter.

One big issue overshadowed the advances gay emancipation had made in the seventies and continued to make towards the eighties. A mysterious decease emerged in the media, known to only affect homosexuals. These were actually the first cases of HIV/AIDS, which would put a stamp on the gay community. The loose sexual moral that they developed in the seventies now led to the quick spread of this deadly decease. This also brought with it a negative and dangerous image of homosexuals. For the gay community itself it meant that around the late eighties and early nineties, a whole generation died because of HIV/AIDS.[424] For the United States this was a reason to limit the immigration of homosexuals even further.[425]

5.2 Gay immigrant organisations

Hekma noticed in his study of homosexuality in the Netherlands that in the early eighties the first 'coloured' gay organization existed. SuHO was an organization created for

[422] Note 'Government Policy and Homosexuality', TK 1987-1988, Handelingen Annex 19 504-11.
[423] Hekma, *Homoseksualiteit in Nederland*, 172-176.
[424] Ibid., 131-6.
[425] Leeuwarder Courant, 27 May 1991, 4.

Surinamese (black) homosexuals, to give them a place between white homosexuals and heterosexual Surinamese.[426] This problematic identity resembled the problems the Chilean refugee encountered. Because of his sexuality he was not a full part of the community of Chilean political refugees.

Specific for the period of the late eighties and the nineties was the further diversification of the gay community in the Netherlands. Hekma noted organizations for Surinamese women, Turks, Arabs and a study group on Quran and homosexuality.[427] These groups also constituted the largest groups of immigrants in the Netherlands.

Further archival research has yielded even more results. One of the organizations mentioned above was Strange Fruit, an organization started in 1989 within the context of the COC by some Surinamese and Arab friends.[428] The organization had quite some success, perhaps because of new funding opportunities by the municipality of Amsterdam. In 1995 the city council made funds available for its gay emancipation policy explicitly focusing on the emancipation of gay women and 'allochtones'.[429] Not much later Strange Fruit turned from a group within the COC into an organization on its own. The fact that they could count on financial support from the side of the city council is illustrated by the comment of one Strange Fruit's active members. During a strategic session he remarked '*diversity is popular with the city council at the moment*'.[430]

Other organizations benefited from this climate as well. From a meeting initiated by the Amsterdam city council, all the above mentioned organizations were listed, with additional organizations. These included the general gay organizations like COC and the Schorerstichting, but also very specific groups. It showed the diversity of gay organizations towards the end of the century in Amsterdam. This diversity could also have a more negative reason. In 1999 the board of Secret Garden named the Turkish organization for homosexuals a 'competitor'.[431]

The Note of 1988 was not internationally focused, but it did mention the existence of different cultural approaches to homosexuality in the Netherlands.[432] In the same note the Minister writes that more money would be reserved for gay emancipation organizations. Only one such organization that was clearly 'ethnic' was mentioned in the note: Sjalhomo, a Jewish pro-gay organization.[433] The Surinamese organization already stopped being active by then. The fact that Strange Fruit is the only organization that left a clear archive could be a sign that all other organizations were either too small or too short-lived to make an impact. The active support of the city council of Amsterdam showed that the double diversity of gay immigrant and/or gay ethnic groups was a welcome cause to support in the 1990s. When Amsterdam organized the Gay Games in 1998, charter flights of homosexuals were coming into the Netherlands. This time they were not feared like in the sixties. They had been invited.

[426] Ibid., 177.
[427] Ibid., 177-8.
[428] IISH – IHLIA, Strange Fruit 2, 'Plan tenth anniversary 1989-1999', n.d.
[429] IISH – IHLIA, Strange Fruit 2, 'Note Gay Emancipation Amsterdam', May 1995. An 'allochtone' was defined as someone who was born abroad, or at least one of whose parents was born abroad.
[430] IISH – IHLIA, Strange Fruit 4b, 'Kaderweekend 1998', dd. 12-14 June 1998.
[431] IISH – IHLIA, Strange Fruit 1, 'Overdrachtsdocument', dd. 1 July 1999.
[432] Note 'Government Policy and Homosexuality', 9.
[433] Ibid., 23, 27.

5.3 Case studies from the media

Netherlands vs America

In the summer of 1987 the Dutch newspaper *De Telegraaf* revealed that the Dutch military police (Military Constabulary) collaborated with special American forces to identify homosexual employees stationed at American military bases in the Netherlands. They did so by interviewing Dutch civilian homosexuals about their contacts with these men. The head of the organization of homosexuals in the Dutch army told the newspaper he first handed this information to his superiors, but when nothing was done, he decided to approach the press.[434]

The left-wing PPR took this occasion to point out the position of homosexuality in the American army. In the (formerly communist) newspaper *De Waarheid*, the case was discussed in detail. Next to the article a picture was published of a straight soldier embracing his girlfriend, with the tantalizing caption '*[i]n the Dutch army this is optional since 1974, in the American army it still seems obligatory'*.[435] A parliamentarian of the PPR party enquired about this with the Minister of Foreign Affairs. A member of the party's gay group commented that demonstrations would be organized in front the American embassy. Also he stated that the American homosexual soldiers that were identified should get a residence permit for the Netherlands.[436]

According to the social-democrat newspaper *Het Vrije Volk*, the State Secretary of Defense avoided answering the questions, while denying that the Dutch military police was involved. A spokesperson of the 'Support Committee for American Gay Soldiers' commented that several American soldiers have gone into hiding with friends. Interestingly, he observed another form of discrimination: *'for people from the United States it is easier to settle here than for Spanish or Moroccans'*.[437]

The reactions to the possible collaboration of the Dutch military police can be explained in two ways. In the previous chapter we have seen that in 1980 already, the Dutch government opposed the treatment of homosexuals in the United States. Considering that the Dutch government in 1980 prided itself in speaking out to their main ally, it was extra painful that the Dutch military police actually collaborated with American military services eight years later. Second, specifically the above-mentioned newspapers and political parties had a political gain to make by showing that it was not only Communist countries persecuting homosexuals. The United States also discriminated against homosexuals. Interestingly, only a year before, East-Germany loosened regulations around homosexuality.[438] Not surprisingly, only Het Vrije Volk and De Waarheid ran articles on this development. It made socialist states look better than the unfree societies they were often portrayed to be.

Almost no asylum for homosexuals

It is remarkable that again, the Netherlands pointed to America for discriminating homosexuals. After all, it was possible for gays to get asylum in the Netherlands since 1981 already. But was it really? In the case of the Chilean man in the previous chapter we have already seen that this option was not used throughout the eighties. This did not go unnoticed in the press.

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[434] Telegraaf, 9 June 1987, 3.
[435] De Waarheid, 10 June 1987, 4.
[436] Ibid.
[437] Het Vrije Volk, 4 July 1987, 7.
[438] De Waarheid, 23 January 1986, 6; Het Vrije Volk, 25 January 1986, 7.

Het Vrije Volk wrote in May 1990 that '*Homosexuality hardly acknowledged as ground for asylum*'.[439] The article mentioned that the COC published a brochure on homosexuality and asylum. In this the organization asked attention for the difficulties a person could have being homosexual in a country where that was forbidden. The State Secretary of Justice reacted that being homosexual in itself was not a reason to be recognized as a refugee. There needed to be proof of persecution.[440]

Interestingly, the orthodox Christian newspapers *Reformatorisch Dagblad* and *Nederlands Dagblad* published the same news using as a headline the quote of the State Secretary *'Careful policy for asylum of homosexuals'*.[441] While the headline frames the issue completely different, the article gives more precise information, quoted from the COC publication. According to the COC, in the ten years since the motion Beckers-De Bruijn 38 people applied for asylum on the basis of their sexual orientation. Twelve of those were more carefully researched, and only three people were admitted to the Netherlands. They were admitted on general humanitarian grounds, not their sexual orientation.[442] This is confirmed in the article quoted earlier, which stated that by 1992, no asylum seeker was granted refugee status on the basis of persecution for homosexuality.[443]

COC's active stance on this topic was probably caused by the case of an English asylum seeker who was refused a few months before. In March 1990 an article was published in the COC magazine about his case. In it the COC wrote that the Dutch government proclaimed to have a gay friendly immigration policy, but in practice this was not noticeable.[444] The man had arrived in 1989 but was ordered to leave the country when his asylum request was turned down. The COC claimed that because of their work, his case was reviewed, during which he could stay in the Netherlands.

The case of the Englishman was solved only two years later. Again he was not accepted as a refugee on the basis of his homosexuality. In fact the newspapers mentioned that the reasons for which he could stay in the Netherlands were unclear. The Ministry emphasized that with this decision they did not recognize a new category of refugees.[445] Apparently this was still the fear at the Ministry, and reason they did not grant him official asylum.[446] The headline of one of the articles translated as '*the Netherlands take pity over fled homosexual Brit*'.[447] Another article wrote that '*[o]ur national tolerance towards minorities is worldwide almost proverbial. Definetely when it concerns homosexuals.*'[448] This was put quite naively in a case where the British man went through a process of over three years, after which he was allowed to stay in the Netherlands under the same conditions as any other EC-citizen. Again, this was not the gay friendly policy that the Dutch government claimed to have.

One article connected the case with the Dutch foreign policy, which could be stronger on violations of human rights of homosexuals. The editor-in-chief of the Gay Krant, a gay newspaper commented that this should be priority, because when the

[439] Het Vrije Volk, 8 May 1990, 6.
[440] Ibid.
[441] Reformatorisch Dagblad, 8 May 1990, 5; Nederlands Dagblad, 8 May 1990, 3.
[442] Reformatorisch Dagblad, 8 May 1990, 5.
[443] Bos, Pot and Willems, 'Grensverlegging of grensversperring?', 177.
[444] SEK, March 1990, n.p.
[445] Nieuwsblad van het Noorden, 23 April 1992, 6; Limburgsch Dagblad, 24 April 1992, 3; Nieuwsblad van het Noorden, 24 April 1992, 7.
[446] Nieuwsblad van het Noorden, 24 April 1992, 7.
[447] Limburgsch Dagblad, 24 April 1992, 3.
[448] Nieuwsblad van het Noorden, 24 April 1992, 7.

borders of the European Community would open up, a large stream of unaccepted homosexuals would come to Europe. He felt supported by the State Secretary who stated earlier on that non-acceptance of homosexuals signified a lack of civilization.[449] This is an interesting comment. We have already seen that since the eighties the Netherlands became very vocal internationally on the issue of gay rights. This comment showed how they framed themselves as very progressive and civilized, contrary to the countries that did not treat homosexuals equal to heterosexuals. In this way the Netherlands could feel superior to many countries in the world, even the United States. Nevertheless, when looking at the practice of asylum cases, the situation in the Netherlands was not as positive as the Netherlands tried to portray it.

That things were slowly changing are shown by two known cases from 1992 and 1993 in which two refugees did get asylum on the basis of persecution for sexual orientation.[450] These were the cases of a Russian man and an Iranian woman. Also, in 1991 Amnesty International's mandate was finally changed to officially include homosexuals as well.[451] They broadened the definition of prisoners of conscience to include those who were imprisoned for their sexual orientation. This meant that an influential organization like Amnesty International could fight against persecution of homosexuals. Additionally, homosexual asylum cases became much more visible in Dutch media.

Personal stories

Specific to the nineties was something that was missing in all cases studied in the previous chapters. When cases of immigrants or refugees made it to the press, no personal stories were told. The Spanish couturier perhaps hinted at his sexuality, but not explicitly. The Chilean refugee was portrayed in the newspapers as a political refugee. Personal stories of homosexual immigrants or refugees were not published in the newspapers. Until 1993, when we find for the first time an open interview with a Romanian couple.

In 1993 some articles were published on the situation of homosexuals in Romania. A law from the communist era still made any homosexual conduct illegal. The law was not abolished by the conservative Romanian government of the early nineties. In fact, fear of AIDS made homosexuals even more persecuted then before.[452] This news led to an official investigation by the Dutch government to the situation of homosexuals in Romania, and whether the persecution was so severe that one could grant refugee status to those affected by it. Apparently the Ministry of Foreign Affairs believed that persecution of homosexuals had stopped after the Romanian revolution in 1989. Because of that they had turned many asylum requests by Romanian homosexuals down.[453]

The news about the official investigation was published together with an interview of two Romanian homosexuals who actually applied for asylum in the Netherlands. The Limburgsch Dagblad used a strong headline '*Seeking asylum torture for Romanian homos*'.[454] The couple from Romania was in a relationship since 1987 and escaped to the Netherlands in 1992. One of them got married to a woman in Romania and got a

[449] Ibid.
[450] Spijkerboer, 'Querelle vraagt asiel', 145, 169 n12.
[451] Nederlands Dagblad, 10 September 1991, 3.
[452] Nieuwsblad van het Noorden, 5 June 1993, 7.
[453] Limburgsch Dagblad, 23 October 1993, 5.
[454] Limburgsch Dagblad, 23 October 1993, 25.

daughter. When he came out as homosexual he lost his job and was followed by the police. He was arrested in 1987 together with 36 other homosexuals and put in jail. He was convicted to five years of confinement, but a general amnesty by Ceausescu led to his release.[455]

The couple was continuously harassed by the police. If they would break the anti-gay law, they would have gone straight to jail. When the revolution broke out in 1989, they had hoped for a change. But the same article was incorporated in the new law, and they decided to leave the country. Via a long route through Europe they arrived in the Netherlands and started the asylum procedure. In the meantime they learned to ride a bike, to speak Dutch and took a computer course. They remarked '*We can now live in one house, sleep in one room, walk on the street together, go to the movies together. This freedom makes it worth it to have escaped our mother country*'.[456]

The article continued with the problems the couple encountered in the process of their asylum request. It was initially turned down, because of the reasons mentioned above. The Ministry of Foreign Affairs had assumed that no persecutions of homosexuals took place since 1989. UNHCR, independent research and even the Romanian government itself showed proof that this was not the case. Persecution of homosexuals had persisted. This was the reason that the Ministry of Foreign Affairs ordered a new research into the matter. The new research would decide whether asylum request could be granted or not. Unfortunately no article on the outcome of their case could be traced.

Less than a month after the article about the Romanian couple, the *Limburgsch Dagblad* ran another article on a homosexual asylum seeker and his Dutch boyfriend.[457] While this seems a strange coincidence, in both cases the asylum seekers lived in Heerlen, where a large asylum center was located. Perhaps the article on the Romanian couple inspired the Dutch partner of a Sri Lankan asylum seeker to look for support.

The Sri Lankan man escaped his home country because of the tensions between the Tamils and the government. He was a Tamil himself and feared being arrested or worse. When he arrived in the Netherlands, he met a Dutch man with whom he started a relationship. The asylum request was turned down because the Ministry of Justice deemed the capital Colombo to be a safe place for the man to live. This was the so-called internal relocation alternative. When moving location within a country would solve the problem of an asylum seeker, refugee status would always be denied. This was part of the original Refugee Convention. Walaardt noted that this argument was used for many asylum cases of Tamils in the 1980s. The fact that the Ministry judged similarly in this case might seem consistent. However, it shows that the additional difficulty of the Sri Lankan being homosexual was not taken into account. It seems that the Ministry applied the guidelines for Tamil asylum seekers to the man, though the man was not accepted by his own community.

When the asylum request was turned down, the couple applied for a residence permit based on their relationship. Also this request was turned down, because they had not moved in together immediately when the Sri Lankan arrived to the Netherlands. By the time of the article the Sri Lankan was arrested for residing illegally in the Netherlands and was waiting to be flown back to Sri Lanka. The Dutch partner explained that their relationship was more difficult than the authorities thought: '*In Sri Lanka a homosexual relationship is absolutely taboo and it can even be sentenced with ten years*

[455] Ibid.
[456] Ibid.
[457] Limburgsch Dagblad, 13 November 1993, 15.

of jail. We had to keep our relationship secret her for his Tamil friends. That is because we were too late to request a residence permit on the basis of our relationship."[458] The Dutch man was now trying to prevent his partner to be sent back to Sri Lanka. With the delay of a few months, this was finally done in January 1994.[459]

This story makes clear that the procedures for assessing homosexual relationships were not sensitive to specific problems surrounding homosexuality. Also, it shows very well which strategies were at the asylum seeker's (or his partner's) disposal to influence the case. Though the Dutch man could not prevent his partner being sent back, he did delay this with a few months.

5.4 New Vision

In 2001 gay emancipation in the Netherlands reached a new level. Marriage was opened up for same-sex couples. It marks the end of the scope of this thesis. Also in 2001 the Dutch government updated its vision on homosexuality. Contrary to the note of 1988, the 2001 version was much more internationally focused.

On 13 February 2001 the State Secretary for Public Health, Wellbeing and Sports offered the note *Paars over Roze* (Purple about Pink) to the Parliament.[460] The ruling coalition between the 'blue' liberals and the 'red' social-democrats was called 'Purple'. Pink was taken to represent homosexuality and everything that had to do with it. The note was the product of the progressive cooperation of two governments with the same coalition from 1994 onwards. The note reported on the progress made in the years before and set out the vision for the years to come.

First it is interesting to have a closer look at the evaluating part of the note of the work done in the years before. There is a section on the immigration law, a whole chapter on the international policy and finally one paragraph on asylum centers. The report is very insightful on where the government stood at that point.

On the question of asylum for homosexuals the note emphasized that the Netherlands had a restrictive immigration policy, with the slogan 'strict but just'.[461] The note repeated the definition of 'social group' from the Refugee Convention to include sexual orientation. However, there needed to be a severe breach of human rights before the refugee status could be granted. Such a breach could be repressive laws with excessive punishments, systematic heavier punishments for homosexuals for regular crimes, and in general systematic discrimination which made a normal life impossible.[462] It should be noted that all of these were open concepts, which were still negotiable on a case to case basis.

The note used general language in the section on immigration law, since it was almost equal for heterosexuals and homosexuals alike. One requirement that was stricter for homosexuals was a financial requirement which could be easily solved by marrying. Since by the time of the note marriage for homosexual couples was not (yet)

[458] Ibid.
[459] Limburgsch Dagblad, 17 January 1994, 7.
[460] Note 'Paars over Roze', TK 2000-2001, Handelingen Annex 27017.2.
[461] Ibid., 27.
[462] Ibid., 27-8.

possible, an interim rule would apply that could waive the financial requirement.[463] The section on immigration and refugee law summed up all the possibilities that existed to come to the Netherlands, either as an individual, a partner or a refugee. However, no reference was made to its problematic implementation.

The chapter on 'international gay and diversity policy' named this a part of the government's human rights policy, which should be seen as part of a wider non-discrimination framework. The note listed all the instruments that were made available to work on those topics, especially through funds and calls for proposals.[464] All these instruments were either part of European Union or Council of Europe bodies. In a general matter the note remarked that *'[w]henever on the international level the possibility arises, the Netherlands asks attention for problems of discrimination for sexual orientation, in the framework of non-discrimination'*.[465] That this was not always possible was also admitted. The example was given of a UN conference where several countries threatened to step out of the conference when 'western countries' would continue to push for including sexual orientation in the outcome document.

The note furthermore featured an impressive list of projects on gay emancipation around the world supported by the Dutch government. These included mainly Eastern Europe, but also elsewhere in the world. Development organizations were subsidized to run projects on gay emancipation and an international conference was made possible in 1999. Also the Netherlands had lobbied for equal treatment of homosexual employees of international organizations around the world.[466]

A remarkable paragraph at the end of the note was dedicated to asylum centers. It mentioned that no special attention was paid to placements of homosexual asylum seekers. Also, no discrimination of those was known with the authorities.[467] The fact that such a paragraph was included tells that problems might have been expected in such centers.

An equally interesting part of the note was the part that explained the vision for the future. On international affairs it was rather short; only one paragraph was dedicated to the international vision, which basically proposed a continuation of the followed policies as described above. Only a few specific organizations were mentioned that would get financial support in the following years. What is more important however is the fact that one of the main goals of the new proposed policy was '*the continuation of the pioneering role of the Netherlands in the field of gay emancipation*'.[468] A very clear summarizing of how the Netherlands saw itself and its mission.

A constructive critical reaction was issued by the COC later in 2001. Under the name 'Pink about Purple', the COC turned the note's title around. While the COC had welcomed the fact that they were consulted in the process of drafting the note, they still had points for improvement. We will limit ourselves here to the comments that the COC made on the international policy and immigration laws. First of all, the COC lauded the clear international dimension: '*The fact that the note pays explicit attention to international*

[463] Ibid., 28.
[464] Ibid., 29.
[465] Ibid., 30.
[466] Ibid., 30-1.
[467] Ibid., 36.
[468] Ibid., 8.

affairs is a welcome fact. It is a recognition of the fact that gay and lesbian policies do not only apply within the national borders'.[469]

The COC had many comments on the international policy that the government proposed in the note 'Purple about Pink'. They criticized especially the way funds were made available for gay emancipation projects (and of which the COC used a fair share). More interesting are the two recommendations that the COC made. First, they asked the government to make gay emancipation a strict requirement for countries that wished to become an EU member state. Secondly, they called upon the government to demand annual progress reports from all EU member states on gay emancipation.[470]

While the comments of the COC on the international policy were mainly of a technical and constructive nature, on the immigration laws they were quite critical. The section opened with '*COC Netherlands is worried about the position of homosexual asylum seekers, displaced persons and refugees*.'[471] They mainly noted a lot of unclearness for the asylum seekers themselves and those that assisted them. On the asylum procedure they commented that it was not taken into account that people were afraid to even mention their sexual orientation as a reason for their asylum request. Furthermore, information on countries concerning homosexuality were either incorrect or outdated. We have seen this in the case of the Romanians above. Finally, general human rights organizations in the respective home countries refused to help asylum seekers or even worked against them.[472]

According to the COC these problems showed the necessity of continuing support of gay organizations worldwide. Nevertheless, they gave two clear recommendations for improvement. First, civil servants who worked with asylum seekers should be better trained in the specific problems that homosexual refugees could have. Second, they proposed a central contact point where all involved organizations could get reliable information about the asylum process and the situation of homosexuals around the world.[473] What they proposed was a sort of professionalized Committee on Homosexual Refugees, which stopped working some fifteen years earlier.

5.5 Sub-conclusion

Based on newspapers and secondary literature, it seems that from 1985 to 2001 the number of applications for asylum on the basis of sexual orientation grew. It could also be that those who did apply for asylum knew to get more attention for their case. For the first time there were personal interviews with homosexual applicants published in newspapers. These interviews contained information that in previous periods we have only found in closed case files and court proceedings. From these personal stories in the mid-nineties we learn that the applicants encountered many problems in the asylum process. Ranging from misunderstandings to outdated country information, this hindered homosexual asylum seekers in obtaining refugee status. Also it tells us that asylum seekers gained more agency in pushing for their cases outside of the formal asylum

[469] Note 'Roze over Paars', (2001), chapter IV, 'Internationaal beleid', n.p.
[470] Ibid.
[471] Note 'Roze over Paars', (2001), chapter IV, 'Homoseksuele vluchtelingen en asielzoekers', n.p.
[472] Ibid.
[473] Ibid.

procedure. Also, this chapter showed that in this period for the first time specific organizations dedicated to homosexual immigrants were formed.

What made this possible is that undeniably, discrimination of homosexuals in the Netherlands went down. The position of homosexuality in Dutch society became much more normal, though remained contested. The official policy of the Dutch government at the beginning of the period focused a lot on this internal gay emancipation. The note of 1988 had almost no references to gay emancipation abroad. While HIV/AIDS was on the rise, the Dutch government had not used this against the immigration of homosexuals.

The governments after 1994 started to be much more vocal on gay emancipation in international platforms. This was reflected in the note 'Purple about Pink' of 2001. In it, the government expressed explicitly the desire to play a pioneering role internationally in the field of gay emancipation. However, the gay community in the Netherlands, represented by the COC, was not satisfied with the vision of the government. Especially on the topic of gay asylum, the COC had much to remark on the asylum procedure, which was unclear for all involved and which was not sensitive for specific problems homosexual asylum seekers dealt with.

Sabine Jansen, a legal scholar who wrote about the asylum procedure in 2006, had a very sharp observation which also applied to the situation around 2001: '*The Dutch government says to raise the issue of discrimination on the basis of sexual orientation on the international stage, but in my opinion it does not take its own asylum policy serious, and neither the human rights of homosexuals in its country reports.*'[474] The difficulties encountered by homosexual asylum seekers in the Dutch asylum process stood in stark contrast with the way the Dutch government portrayed itself as a pioneer in the field of gay emancipation internationally.

[474] Jansen, 'Op de vlucht voor homohaat', 146.

Conclusion

In this section a synthesis of all the discussed material will be made to give an answer on the main research question: '*Why and how did Dutch immigration policy change from banning homosexuality to embracing it between 1945 and 2001?*'

In order to reach such an answer, a few elements of this research need to be readdressed. This will be done by giving an overview of the different chapter's outcomes. This will cover the descriptive part of the main question. Secondly, the analytical part will be discussed by using the framework as presented in the theoretical introduction. This will critically discuss the outcomes of this research. This section finishes with a short and comprehensive answer to the main research question.

In chapter one we have seen that in the post-war period in the Netherlands, homosexuality was not accepted by society. Formally a foreigner could get expelled when found to be homosexual, but in reality this did not happen much. Despite the repressive regime, the Dutch government and the media noted that compared to abroad, homosexuality in the Netherlands was relatively well 'contained'.

In the 1960s, the Ministry of Justice could no longer defend the stance that homosexuality itself was a threat to the Dutch society. When a homosexual foreigner was economically independent he would not be refused residency or even the citizenship. This change in policy was introduced by the Minister of Justice, perhaps influenced by Members of Parliament. Reservations were initially made for 'notorious' homosexuals, those who lived together or were a member of the COC. However, research shows that under pressure of the Advice Committee on Alien Affairs (A.C.V.) also those were naturalized in the 1960s.

Under influence of the sexual revolution, moral requirements for immigrants were challenged. Non-married couples and homosexuals demanded their relationships to be recognized for migration purposes. This time it was a State Secretary who introduced new guidelines on homosexual relationships. In those guidelines financial arguments were again decisive. The idea of the 'notorious homosexual' was readily forgotten; couples were now expected to live together to prove the sincerity of their relationship. Aggressive attitudes from civil servants and policemen and general misunderstanding caused discrepancies between policy and practice, to the frustration of many.

At the end of the 1970s a large-scale mobilization of the gay community called for asylum for those persecuted because of their sexuality. Lobby groups and other forms of political pressure paved the way but did not get the desired result. It was the *Council of State*, the highest legal body in the Netherlands, which redefined the refugee law in 1981 to include persecution on the basis of one's sexual orientation.

The final chapter showed very clearly that at least until 1992, no refugee was admitted for solely his sexual orientation. Additionally, the asylum and the immigration process remained vague and did not give sufficient attention to problems specific to homosexuals. Nevertheless, the Dutch government considered itself the champion in the field of gay rights and made it a priority to show this internationally.

The speed of this development deserves to be mentioned. In twenty two years from 1945 to 1967, the official policy was to keep homosexuals out of the country. Then in only fourteen years, homosexuals were allowed in, were naturalized, became eligible for partner migration and when persecuted they were even acknowledged for asylum. The twenty years from 1981 to 2001 saw advances in gay emancipation, but only very slow further improvements in the immigration process for homosexuals. How should we

categorize this change? Such a radical change in only fourteen years seems to be an abrupt change. However, the changes were introduced in a step by step fashion, which is incremental change. This fourteen year period of change was not one coherent reaction on a crisis in migration policy. Minister Samkalden in 1965 did not aim to set a process in motion to accept homosexual refugees. Rather, he reacted to an ad hoc situation which needed new guidelines. Similarly, additional changes were the result of constant new claims and insights. This clearly shows that incremental change is in fact a series of small crises. Each change was presented at the time as a new problem, which needed separate policy. Looking backwards we can see that this series of changes caused a complete turn in policy.

An important observation is also that a change in policy did not immediately mean a change in reality. Throughout the thesis we have seen that policy changes were not communicated well, or not implemented at the local level. This is an important factor that should be taken into account when studying policy changes.

We can now look at these findings from a more analytical point of view. Who pushed for this change? The first changes in attitude towards homosexuality were the result of psychiatrists who wanted homosexuality to be recognized as a natural variety, instead being labeled a disease or an acquired habit. It was their new insights that changed the view on homosexuality which was in sway at the Ministry of Justice. In the seventies the influence of some lawyers was visible, who felt that within the legal framework, homosexual relationships had to be acknowledged. Their claim was based on a strong notion of equal treatment. They encountered a State Secretary that basically agreed with this. Towards the end of the 1970s, the State Secretary was from a more conservative party, and this put a halt on further developments initiated by government officials.

Emancipation of homosexuals also made stronger organizations possible. Organizations like the COC and more radical gay groups actively looked for political influence. Their goal was to show that around the world people were persecuted for their sexual orientation and that these people needed refuge. They successfully worked together with political parties to make this view heard in parliament. However, the ruling government was reluctant to introduce such changes to the existing interpretation of the refugee law. It was the judiciary that actually took the step to widen the refugee definition to include homosexuals, with consent of the Dutch representative of UNHCR.

The gay community increasingly diversified throughout the nineties. Homosexual immigrants grew in number to the extent that they could establish (ethnic) gay groups. Also, for the first time homosexual immigrants and asylum seekers used the Dutch media to influence their case. For the whole period it must be mentioned that the Advice Committee on Alien Affairs often played a very progressive role.

The wide array of arguments that these actors used are listed in Table C. The broad context factors listed in the left column played a role in any given immigration case throughout the period of this research. However, we will focus here on factors that played a role specifically for immigration of homosexuals.

The political situation has often been named as an important factor for shaping immigration policies, and this has been confirmed in this research. Additionally, it seems that gay immigration became part of a political program the Dutch government used abroad to show its progressive civilized nature, which will be discussed more in-depth below.

Any study on immigration will show that almost all arguments boil down to economic arguments, and in this research that is not any different. Throughout the research period the financial independence of a homosexual migrant spoke in his favor.

The social situation is the only context factor specific to migration of homosexuals. Before the social situation changed in the 1960s, moral objections against homosexuality prevented even homosexual men who lived all their life in the Netherlands to be naturalized. The emancipation of homosexuality in the Netherlands played a big role in opening up immigration possibilities. This effect was increased by a growing gay community that lobbied for more rights.

While obviously the contemporary legal framework was decisive for who was admitted and who was refused, it is more interesting which kind of legal arguments were used. Equality between homosexuality and heterosexuality was not credible in the post-war period, but gained salience when gay emancipation proceeded. When anti-discrimination laws were introduced, these were used as arguments in favor of widening the possibilities for homosexuals. Also there were legal arguments working against homosexual migrants. In the post-war period the fear for 'charter flights of homosexuals' was real. The authorities wanted to prevent the Netherlands becoming a homosexual 'Mekkah'. As always, the government was afraid of shaping a legal precedent which would open new categories of people coming to the Netherlands.

The influence of post-colonial migration and with it forced recognition of non-normative relationship forms is an interesting suggestion made by Sarah van Walsum, but not confirmed in this research. Even in the case of an Antillean, arguments in this direction were not even mentioned. This does not mean per se that Van Walsum was incorrect, but it did not play a role in the material researched for this thesis.

While it was expected that the comparison with abroad could have played a negative role, this has not been confirmed. The fear that existed in the United States for homosexuals as communists and later as transmitters of AIDS has not been explicitly found in this research. Comparisons with abroad were made throughout the period. For each chapter evidence has been found that the Dutch government was very pleased with itself regarding the issue of homosexuality. In the post-war period the Dutch congratulated itself with the way homosexuality was contained. Later, gay immigrants were seen as a proof of the open mindedness of the Netherlands.

In the eighties and especially the nineties, the Netherlands started to present itself as the pioneer on gay emancipation. Gay rights were increasingly portrayed as an indicator of a civilized country. Dutch gay organizations probably played a role in this. Towards the end of the seventies they already organized annual solidarity events with homosexuals around the world. Through their growing political influence they might have conveyed this message to the Dutch government. Freedom of sexuality was a human right, and with the unique openness in the Netherlands, the country could be seen as a champion of human rights. For a small country like the Netherlands this was an interesting position to be in. By using this line of argument the Netherlands could even champion the United States in the eighties. When the US also started to accept homosexual refugees, the Netherlands changed their focus to Eastern Europe and other parts of the world.

Finally, like Walaardt suggested, personal characteristics were used as arguments in cases. In the earlier period, such arguments were used only within bureaucratic communication. Towards the end of the period, migrants themselves had the chance to use such arguments to gain support among a wider audience.

Context factor	Argument factor
Political situation	ad hoc possibilities, relevant connections **political program** (positive, only in the 1990s)
Economic situation	**Solvability** (positive) **Financial independence** (positive)
Social situation	**Relationship norms** (negative, until changed) **Gay emancipation** (specific)
Legal factors	**Equality principle** (specific), or 'the eternal straight precedent' **Discrimination arguments** (legal) **Precedent** (positive/negative) **Mekka effect** (precedent, negative)
Migration patterns	**Post-colonial migration** (specific, remains hypothetical)
International Situation	**Comparison with Abroad** (**Fear of Communism** (specific, negative, hypothetically, not confirmed) (**Fear of AIDS**, not confirmed for the Dutch case) **Netherlands as pioneer** (specific, positive)
Case specific factors	character, credibility, and connections

Table C - An overview of Context factor and Argument factors found to influence immigration policy for homosexuals 1945-2001.

The main research question '*Why and how did Dutch immigration policy change from banning homosexuality to embracing it between 1945 and 2001?*' can now be answered. Dutch immigration policy changed step by step, opening up one category of homosexual immigrants after the other. First homosexual individuals were allowed, then partner migration became possible and finally asylum seekers were accepted on the basis of their sexual orientation. This process shows that incremental change can cause a complete reversal of policy in relatively short period of time.

The most important factor which led to this change was the sexual revolution of the 1960s. This led to a stronger gay movement, a need for equal treatment and finally a government that used the pro-gay image abroad. At every step, a new legal framework had to be negotiated. While some Members of Parliament played a role in advocating for change, none of the policy changes discussed in this research was decided directly by the parliament. The change-making decisions were made at the Ministry of Justice or by the *Council of State.* The implementation process was negatively affected by a lack of understanding of the specific situation for homosexual migrants and refugees. Into the eighties implementation was also affected by persisting negative ideas about homosexuality.

What becomes clear of studying this process is that the Dutch government, perhaps led by influential gay lobby groups, started to define gay emancipation as a human right and a sign of civilization. The Netherlands as a small country could use such a niche position to play a pioneering role internationally. This constructed image did not reflect the reality of the immigration and asylum process for homosexuals. Many problems persisted even into 2001, when with the introduction of gay marriage the Netherlands confirmed its international status as the gay capital of the world.

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Figure 1

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Figure 2
Left poster: [http://www.geheugenvannederland.nl/?/nl/items/NAGO02:IISG-30051000345048/&p=1&i=5&t=7&st=bob%20van%20schijndel&sc=%28cql.serverChoice%20all%20bob%20%20AND%20van%20%20AND%20schijndel%29/&wst=bob%20van%20schijndel]
Middle poster: [http://www.geheugenvannederland.nl/?/nl/items/NAGO02:IISG-30051000345097/&p=1&i=9&t=16&st=flikker&sc=%28flikker%29/&wst=flikker]

Right poster: [http://www.geheugenvannederland.nl/?/nl/items/NAGO02:IISG-30051000637428/&st=homoseksualiteit%20verkiezingen&sc=%28cql.serverChoice%20all%20homoseksualiteit%20%20AND%20verkiezingen%29&singleitem=true]

Figure 3
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Figure 4
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