

# Welfare chauvinism

*A critical history of the universal Dutch welfare state*

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## Introduction

In 2013, the Dutch Minister of Social Affairs, Lodewijk Asscher, and the British political journalist David Goodhart presented their opinions about the ideal of the free transfer of people on the European labor market. They argued that the large flow of Eastern European labor migrants has recently confronted lower-educated workers on national labor markets with unfair competition. In times of economic adversity, these workers are losing their jobs to less expensive or illegal labor migrants on a (too) large scale. Asscher and Goodhart did certainly not propose to simply close the borders of their labor markets to these migrants. Instead they posed a core question: how would it be possible to protect the position of lower-educated native workers on the national labor market, without fundamentally harming European non-discrimination principles? Or, to put it more sharply, how can national labor legislation differentiate between citizens and strangers, without violating national and international statements of equal treatment? In short, Asscher and Goodhart wanted to ask attention for the negative side-effects of the free transfer of EU-people on national labor markets.<sup>1</sup>

Apart from the discussion about unfair competition and (un)employment on national labor markets, the proposal was followed by a more principled discussion about letting strangers join the national welfare state system in the first place – although it is not to say that Asscher and Goodhart *wanted* to provoke this particular debate. Rather, the political debate about the access of immigrants to national social welfare provisions has been reinforced by the rise of new rightist and populist political parties during the last two decades. The discussion does clearly demonstrate, however, that migration and welfare state issues are strongly intertwined in this kind of discussions. Furthermore, this ‘intertwinement’ is perceived as a highly complicated and controversial matter.<sup>2</sup>

Seen from a historical perspective, the question of letting strangers join the welfare state refers to a simple but solid intrinsic logic of the welfare state system. Any welfare state, namely, has known both mechanisms of inclusion and exclusion. Welfare provisions had to distinguish between those who did and those who did not fit the criteria for being part of a certain welfare community. In defining the social groups that were entitled to certain welfare provisions, thus,

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<sup>1</sup> L. Asscher & D. Goodhart, ‘Code Oranje voor vrij werkverkeer binnen EU’, *De Volkskrant* (August 17, 2013) 37; see also the live stream of the debate with Asscher and Goodhart in *De Balie*, Amsterdam, May 13, 2013 ([www.debalie.nl](http://www.debalie.nl)).

<sup>2</sup> See for instance the position of the populist party in the Netherlands, as referred to in: R. Giebbels, ‘Pak problemen arbeidsmigratie aan zonder EU’, *De Volkskrant* (August 19, 2013) 10; for a more general interpretation of the intertwining of migration and the welfare state see also D. Goodhart, ‘Grootschalige immigratie werkt ondermijnend’, June 6, 2013 ([www.socialevraagstukken.nl](http://www.socialevraagstukken.nl)).

the political debate simply always had to distinguish between insiders and outsiders. Although the welfare state has generally been praised for its universal, inclusive, open and egalitarian character, in fact, exclusion has always been just as present in social welfare policies. To put it differently: despite its admirable universal principles and impressive results for many social groups, there is also a drawback to the history of the welfare state. The question whether or not strangers should be granted access to the welfare state system might be (come) such a 'dark history'. This thesis will have its focus on this more exclusive downside of, in particular, the Dutch welfare state. The reason for this lies in the intertwining of the postwar history of migration and the welfare state itself.

### **Migration and the welfare state: historical and current questions**

In many (post-)industrial societies of Western Europe, national welfare states were developed after the Second World War. From then onwards, the nation state took large responsibilities in organizing and funding a system of social security, health care and education provisions, and a subsistence level for every member of the welfare state community. In his renowned work *Zorg en de staat* (1989 [1988]), sociologist Abram De Swaan has described this historical development as a process of collectivization, that, particularly since the nineteenth century, took place in interaction with the process of building national states all over Western Europe. The national welfare institutions that resulted from this came with a strong tendency towards expansion – regarding both the quantity and quality of the provisions.<sup>3</sup>

The universal and inclusive character of the welfare state became problematic as the economic circumstances became worse in the mid-1970s. Despite some small critiques on the (then) recent alterations and expansions of the system, however, the universal and collective foundation of the welfare state was not doubted as such – according to De Swaan. In the conclusion of his book, he indicated that any form of principled agreement on the future of the universal welfare state was completely absent. Rather, both right- and leftwing politicians got lost in a rhetorical fight over the financial boundaries of the system: a rhetorical fight that eventually focused on the gaps and leaks of the system.<sup>4</sup> Hence, the historical questions at stake

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<sup>3</sup> A. de Swaan, *Zorg en de staat. Welzijn, onderwijs en gezondheidszorg in Europa en de Verenigde Staten in de nieuwe tijd* (Amsterdam 1989 [1988]) 226-235. This tendency certainly holds good for the history of the Dutch welfare state, as discussed at p. 107-112; 217-223.

<sup>4</sup> De Swaan, *Zorg en de staat*, 235-238. As he expressed it: 'In werkelijkheid is de onderliggende eenstemmigheid over de grondslag van de verzorgingsstaat nog zo groot dat ze grotendeels onopgemerkt bleef. De discussie richt zich vooral op betrekkelijk recente toevoegingen die door hun voornamelijk symbolische waarde de totale uitgaven nauwelijks beïnvloeden. (...) Over toekomstige maatregelen ter collectivisering van voorzieningen bestaat echter geen enkele eenstemmigheid.' (see p.237).

here are: how did politicians deal with the universal and expansive character of the welfare state since the 1970s? Did they critically reflect on this universality or remained this foundation as such really undoubted? And how, then, did they try to reverse or delay further expansion of the community and institutions of the welfare state in times of economic adversity? These questions will be picked up again later in this introduction – and then will also be translated to the framework of the Dutch political debate. First, we should turn to a short postwar history of (labor) migration.

The parallel postwar Western European history of migration roughly evolved in three phases: from temporary labor migration to family reunification and eventually permanent settlement. First, as a result of large economic growth rates, postwar industrial societies in Western Europe were confronted with large labor shortages and started recruiting temporary labor forces from Southern European countries. This recruitment was also stimulated by the development of the welfare state as such, as national workers started refuse certain jobs and increasingly demanded high-quality labor conditions: 'Its [the welfare state's] benefits contribute to the ability of workers to engineer the labor market shortages that are the immediate condition that both stimulates and justifies migration.'<sup>5</sup> Seen from this perspective, the coming into being of the welfare state let the labor market little choice but to recruit migrant workers. The 'guest worker-system' that arose had a temporary character and was meant to be a net contribution to the welfare state: as workers, the migrants contributed to the system of social security by paying income taxes, and, as non-citizens, some (expensive) welfare provisions were not accessible for them.<sup>6</sup> Because of the temporariness of the system, unemployment was not perceived as a problem. Work was the only legitimate reason for migrants to reside in a host country. If less jobs were available, or when their ability to work was definitely hindered by age or sickness, work permits would not be renewed and migrants would return to their home countries – at least, that was the political expectation.<sup>7</sup>

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<sup>5</sup> G.P. Freeman, 'Migration and the political economy of the welfare state', *The annals of the American Academy of Political and Social Science* (1998) 57.

<sup>6</sup> See for instance: Freeman, 'Migration and the Political Economy of the Welfare State', 52-54; A. Geddes, 'Migration and the welfare state in Europe', *Political Quarterly* (2003) 150-152; V. Guiraudon, 'Including Foreigners in National Welfare States: Institutional Venues and Rules of the Game', in: B. Rothstein & S. Steinmo (ed.), *Restructuring the Welfare State. Political Institutions and Policy Change* (New York 2002) 132-133; J. Halfmann, 'Citizenship universalism, migration and the risks of exclusion', *British Journal of Sociology* 4 (1998) 513-514.

<sup>7</sup> S. Castles, 'The Guest-Worker in Western Europe – An Obituary', *International Migration Review* 4 (1986) 761-765, 769-775; Freeman, 'Migration and the Political Economy of the Welfare State', 55-60; D. Jacobson, *Rights across borders. Immigration and the decline of citizenship* (London 1996) 21-39.

The national welfare states (the host countries) were mistaken, as became undoubtedly clear in the wake of the 1973 oil crisis and the global recession that followed. The stagnating economies caused unemployment rates to increase and most national welfare states decided to put an end to labor migration. For two reasons, however, the prospect of 'going home' had been fundamentally changed by then already. First, most migrant workers had not yet achieved their economic aims of earning and saving money to take back home. At this point, an early return did not seem feasible because the economic situation had deteriorated not only in the host country, but also in the migrants' home countries. Second, although the migrant workers were denied citizenship and complete access to welfare benefits, at least part of their wage was 'social' in the host countries: they earned access to a set of social benefits and protections – albeit restricted – based on their rights and contributions as workers. So instead of returning home, migrant workers stayed and, when necessary, received some unemployment benefits. Gradually, the temporary character developed a more permanent horizon, in which the reunification with family members became a relevant issue. As the socio-demographic structures of the immigrant population changed, so did their access to and claim of welfare benefits. Welfare provisions such as education and health care were now on a large scale extended to family members of migrants workers. Furthermore, as migrant families instead of single migrant workers resided in the host countries, their communities became a more permanent part of the state population – now mostly defined as ethnic minorities.<sup>8</sup>

In the Netherlands, postwar migration and welfare state development are very familiar with these historical patterns. In the wake of labor shortages in the 1960s, Dutch employers started recruiting migrant workers from Southern European and Northern African countries on a large scale. Their stay was considered to be temporary. This 'temporariness' was confirmed by the absence of cultural integration policies: in the historical line of 'pillarization', migrants were encouraged to preserve their own, distinctive identity through the creation of separate societal institutions (such as mother-tongue classes in primary schools, consultative bodies, and religious associations).<sup>9</sup> Although the recruitment of labor migration stopped in 1974 due to the recession, the number of immigrants did not decrease – mainly because family reunification had started in the 1970s as well. The first step towards general policy acknowledgement of a more

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<sup>8</sup> Castles, 'The Guest-Worker in Western Europe', 761-765, 769-775; Freeman, 'Migration and the Political Economy of the Welfare State', 55-60; Jacobson, *Rights across borders*, 21-39.

<sup>9</sup> H. Entzinger, 'The parallel decline of multiculturalism and the welfare state in the Netherlands', in: K.G. Banting & W. Kymlicka (eds.), *Multiculturalism and the Welfare State: recognition und redistribution in contemporary democracies* (2006), 179-181.

permanent stay of migrants was the Minorities Policy introduced by the Dutch government in 1981. Despite the large-scale improvement of their access to welfare benefits and the extension of political rights for legal residents, many immigrants lost their jobs during the restructuring process of Dutch industry in the early 1980s. As the Minorities Policy changed into the Integration Policy in 1991, the permanent settlement of immigrants was fully recognized.<sup>10</sup>

Ever since then (and even before), on the other hand, the heterogeneous Dutch society has been confronted with the rise of new political parties and public attitudes that question the need and legitimacy of the state supporting strangers and/or ethnic minorities. Here, the question of the universality of the welfare state and the question of dealing with continuous migration meet again. In the 1990s, in Dutch politics, opinions about migration and the welfare state were primarily concerned with illegality. Illegal work and illegal misuse of welfare provisions by strangers – as little as it might have been – were perceived clear ‘leaks’ in the welfare state system that could effectively be fought. In line with De Swaan, it is interesting to see how this debate critically reflected on the tendency to universality of the national welfare state. The question is, whether or not fundamental doubts about the universal foundation of the welfare state arose? And what was the background of this exclusive political attitude?

### **Welfare chauvinism**

The political attitude that wants to exclude ‘strangers’ from social welfare provisions increasingly prevails in current public discourse.<sup>11</sup> In literature, since the 1990s, this discourse is referred to as *welfare chauvinism*. The underlying assumption is that an increased cultural diversity threatens the boundaries and, eventually, the legitimacy of the national welfare state. With regard to the historical questions posed earlier in the intertwined history of migration and the welfare state, *welfare chauvinism* can also be understood as a discourse that critically reflects upon the universality of the welfare state. It criticizes its expansion with regard to the scale of the ‘national’ welfare community. Although the term has only become salient in relation to the rise of new rightist political parties since the 1990s, it is not without a history. Political attitudes that question the institutions and instruments of the universal welfare state have been present ever since the beginning of the postwar welfare state development. Exactly in the political debates about granting strangers (mostly labor migrants) access to national welfare provisions,

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<sup>10</sup> Castles, ‘The Guest-Worker in Western Europe’, 765-766; Entzinger, ‘The parallel decline of multiculturalism and the welfare state in the Netherlands’, 177-191.

<sup>11</sup> See for instance: J. van der Waal, (et al), ‘Some Are More Equal Than Others: Economic Egalitarianism and Welfare Chauvinism in the Netherlands’, *Journal of European Social Policy*, 20 (2010) 350–363.

this complicated discussion has taken place. Hence, *welfare chauvinism* has an interesting political and historical background. The challenge of this thesis is to explore and reveal this historical background of the discourse of *welfare chauvinism* as it is currently prevailing in Dutch politics. This challenge is not aimed at the eventual definition of the ethical boundaries of the Dutch welfare state. Instead, it is meant to map out the complexity that has characterized political discussions about the universal character of the Dutch welfare state since its large-scale establishment after the Second World War. The following research question will be guiding: *How did initial motives, institutions and instruments of the postwar Dutch welfare state account for the boundaries of the early national welfare community and how have Dutch politicians, in their discussions about letting 'strangers' join the welfare state, critically reflected upon the universal character of this system ever since?*

## Chapter outline

Why would politicians argue for the exclusion of 'strangers' from the welfare state in the first place? Several motives that are concerned with mutual trust, solidarity, national identity and deservingness can provide an answer to this question. Chapter I will discuss all four of them in their relation to the *welfare chauvinist* discourse. *Welfare chauvinism* as discourse, secondly, reacts upon specific institutional features of the welfare state (most particularly its redistributive principles and its national legislative framework) as well as is connected to specific institutional venues, such as political parties. Furthermore, it is important to have a look at the instruments that account for the actual in- and exclusion of 'strangers' in state bureaucracy: how could a *welfare chauvinist* eventually reach his goal? Chapter I, therefore, will also pay attention to the institutional features and bureaucratic instruments that are connected with a *welfare chauvinist* discourse. The approach will be mainly conceptual – and as such account for a set of research criteria concerned with the motives, institutions and instruments that belong to the discourse of *welfare chauvinism*. Those research criteria, subsequently, enable a thorough analysis of the historical background of *welfare chauvinism* in Chapter II, III and IV.

Chapter II will demonstrate until what extent the development of the Dutch welfare state was characterized by a tendency towards universality. The historical analysis, thus, will start with an analysis of the motives behind the postwar innovative system of redistribution. In order to clearly map out the institutions and instruments that became the backbone of this system, the development of legislation regarding three social conditions will be analyzed: unemployment, old age, and poverty. Of course, the welfare state was concerned with other

social conditions as well (such as education, labor disability and housing). The Unemployment Act (1952), the Old Age Pensions Act (1957) and the Social Security Act (1965), however, are all based on a different principle of redistribution. Therefore, three of them already account for a clear overview of how, in the initial Dutch welfare state, public welfare goods were redistributed and – perhaps even more important – how the boundaries of those three redistributive ‘welfare systems’ were defined. The political debates regarding those early provisions were not yet much concerned with the in- and exclusion of non-citizens of the welfare provisions. However, the mechanisms of in- and exclusion that were developed in the first two decades after the Second World War turned out decisive for the political discussions about the in- and exclusion of non-citizens (most notoriously labor migrants) in the welfare community from the late 1960s on.

In this line of reasoning, Chapter III is concerned with the first political debate that explicitly discussed the social and juridical position of labor migrants. Dutch politicians did so in the debate regarding the policy document *Nota Buitenlandse Werknemers* (1974) and the *Wet Arbeid Buitenlandse Werknemers* (1979) that followed from it. In the 1970s, the political debate mainly focused on questions of labor migrants on the national labor market. This was a highly economic discourse, that defined access to welfare provisions through labor only. The public debate, however, had a more moral and ethical focus, that slowly found its way into parliament. Furthermore, the side-debate about spontaneous migration, illegal workers and illegal strangers made the connection between access to welfare provisions and legal residency a growing topic of interest. This connection was made explicit in the amendments to the Unemployment Act and the Social Security Act in the 1980s and, eventually, in a new act in the 1990s that made legal residency a direct condition for access to any social welfare provision. These amendments and the political debate regarding the so-called *Koppelingswet* (1998) will be analyzed in Chapter IV.

Eventually, the historical analysis of the political debates about granting ‘strangers’ access to certain welfare provisions will enable us to better understand the motives behind the current discourse of *welfare chauvinism*. In short, thus, the historical perspective in this thesis demonstrates that this exclusive discourse, that now seem to hamper the access of strangers to welfare state provisions, is preceded by similar exclusive political attitudes. Those attitudes can only be understood in their critical relationship to the tendency towards universality that is part of the foundation of the postwar Dutch welfare state. Seen from this perspective, the discourse of *welfare chauvinism* enables a critical rewriting of the history of the universal Dutch welfare state since the end of the Second World War.

## I Welfare Chauvinism

### *Motives, institutions and instruments*

The concept of *welfare chauvinism* was used for the first time by political scientists Jørgen Andersen and Tor Bjørklund in their 1990 article on Progress Parties in Norway and Denmark. In order to explain the rise of these new rightist political parties in postindustrial societies, they argued, structural societal transitions had to be incorporated in the analytical framework. The parties should not be understood as flash protest parties, but instead as a more thorough reaction on the increasingly heterogeneous character of postindustrial societies, due to postwar mass migration. The postwar development of the welfare state, or, more in particular, its increasing financial problems since the mid-1970s, was another structural concern. The Progress Parties, according to Andersen and Bjørklund, developed a political discourse in which the immigration issue was approached from the economic perspective of the redistribution of resources between ‘us’ and ‘them’. The authors used the concept of *welfare state chauvinism* to describe the political attitude that ‘welfare services should be restricted to “our own”’.<sup>12</sup>

The connection of questions of migration and questions of welfare, introduced by the concept of *welfare state chauvinism*, has turned out to be highly appealing to political scientists, sociologists and economists. Since 1990, then, the term *welfare chauvinism* has made its entry in research concerned with public welfare state support and public attitudes towards immigrants.<sup>13</sup> The first paragraph of this chapter, therefore, will explore the motives that the *welfare chauvinist* discourse consists of: how can public support for national welfare provisions be linked to assumptions about strict(er) boundaries of the welfare community?

However, as was already made clear in the article by Andersen and Bjørklund, *welfare state chauvinism* is more than a current discourse or a short-living political attitude. The concept is related to the socioeconomic question of redistribution in the welfare state as well as to

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<sup>12</sup> J.G. Andersen & T. Bjørklund, ‘Structural Change and New Cleavages: The Progress Parties in Denmark and Norway’, *Acta Sociologica* 3 (1990) 203-214, quote on page 212.

<sup>13</sup> See for instance: M.M.L. Crepez & R. Damron, ‘Constructing Tolerance: How the Welfare State Shapes Attitudes About Immigrants’, *Comparative Political Studies*, 42 (2008) 437-463; M. Hjerm & A. Schnabel, ‘How much heterogeneity can the welfare state endure? The influence of heterogeneity on attitudes to the welfare state’, *Nations and Nationalism* 2 (2012) 346-359; S. Mau & C. Burkhardt, ‘Migration and welfare state solidarity in Western Europe’, *Journal of European Social Policy* 19 (2009) 213-229; P. van Parijs, *Cultural Diversity versus Economic Solidarity* (Brussels 2004); W. van Oorschot, ‘Who should get what, and why? On deservingness criteria and the conditionality of solidarity among the public’, *Policy & Politics* 1 (2000) 33-48; W. van Oorschot, ‘Making the difference in social Europe: deservingness perceptions among citizens of European welfare states’, *Journal of European Social Policy* 1 (2006) 23-42; T. Reeskens & W. van Oorschot, ‘Disentangling the “New Liberal Dilemma”: On the Relation Between General Welfare Redistribution Preferences and Welfare Chauvinism’, *International Journal of Comparative Sociology*, 53 (2012) 120-139; J. van der Waal (et al.), ‘Some Are More Equal Than Others: Economic Egalitarianism and Welfare Chauvinism in the Netherlands’, *Journal of European Social Policy*, 20 (2010) 350-363.

political-institutional developments such as the rise of new political parties. In this line of reasoning, the literature generally emphasizes that the concept of *welfare chauvinism* is not exclusively culturally rooted: the denial of access to welfare benefits is not based on a simple cultural or ethnic racism per se. Rather, *welfare chauvinism* touches upon a socioeconomic argument (or anxiety) about the future preservation of welfare provisions and institutions.<sup>14</sup> Apart from the current political discourse, therefore, a question about the development of the welfare state system so far comes into view. In the second paragraph of this chapter, the large-scale social, economic and political background against which *welfare chauvinism* came into being will be explored.

Essentially, *welfare chauvinism* is concerned with the mechanism of boundary-drawing. The discourse, therefore, is particularly focused on the tension between inclusion and exclusion in the welfare state: it is the paradox of ‘the combination of egalitarian views on the one hand and restrictive view pertaining to the deservingness of immigrants on the other hand’<sup>15</sup> that is most interesting. This paradox leads to the question about how exclusive the welfare state system actually is. Does *welfare chauvinism* in the end refer to an immanent feature of the welfare state system?<sup>16</sup> And if it does, how is this exclusive attitude functioning in political and bureaucratic practice? In order to answer these questions, the third paragraph further defines mechanisms and instruments of in- and exclusion in the welfare state.

In short, the concept of *welfare chauvinism* as a political discourse is linked to socioeconomic and political institutions as well as practical policy instruments. Hence, the term has significance on the whole spectrum from public rhetoric to actual policy. In the following paragraphs, the discourse of *welfare chauvinism* as well as its sociopolitical background and practical instruments will be discussed in further detail. The approach will be mainly conceptual, but, at the same time, constantly translated into more concrete research questions that can be used by the political historian studying the tension between migration and the welfare state.

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<sup>14</sup> Banting & Kymlicka, ‘Introduction: Multiculturalism and the welfare state – setting the context’, in: ibidem (eds.), *Multiculturalism and the welfare state*, 39-43; H. Kitschelt, *The Radical Right in Western Europe* (Michigan 1995) 259-262.

<sup>15</sup> W. de Koster, P. Achterberg & J. van der Waal, ‘The new right and the welfare state: The electoral relevance of welfare chauvinism and welfare populism in the Netherlands’, *International Political Science Review* 3 (2012) 6.

<sup>16</sup> Kitschelt, *The Radical Right in Western Europe*, 263-264.

## Public opinions about the welfare community: *welfare chauvinism* as discourse

In its very essence, the discourse of *welfare chauvinism* is concerned with the boundaries of the welfare community. Or more precisely: with the supposed shift of these boundaries. The shift of the boundaries of the welfare community is first of all concerned with attitudes, values and beliefs: the political culture of 'belonging' is at stake here. *Welfare chauvinism* as a discourse, then, revolves around welfare state support as expressed in public attitudes towards policies of redistribution. The goal of this paragraph, then, is to explore the different aspects that public support for welfare redistribution consist of: assumptions about solidarity, mutual trust, national identity and criteria of deservingness. It is a specific interpretation of these four motives that accounts for a *welfare chauvinist* discourse.

### *Solidarity and trust*

In order to function in the first place, the welfare state system demands some agreement about solidarity among the members of the community – defined here as the consensus on what is social justice.<sup>17</sup> Solidarity is one of the main components of a welfare community as it provides mutual values upon which redistributive conditions can be founded.<sup>18</sup> For example: if the members of a community mutually agree upon the value of providing health care for the less wealthy among them, schemes and arrangements for contributions and benefits will be supported, based on the consensus about what is socially just.

In addition, a fundamental part of the agreement about redistributive welfare schemes is based on mutual trust. In order to support the community system of redistribution, contributors want to be sure that no-one can take advantage of the benefits without contributing to the system. When possible free-riding activities are monitored, controlled and, when necessary, punished by independent institutions, members are more likely to trust the redistributive system as a whole – and remain willing to contribute to it. Trust also gains from the ability to assess the behavior of other members of the community. Hence, trust has to do with mutual expectations: 'when we live with others on terms of justice, regulating our behavior by principles that often require us to forego advantages that we would have been able to grab in a free-for-all, we do so in expectation that those others will practice similar restraint.'<sup>19</sup>

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<sup>17</sup> M. Hjerm & A. Schnabel, 'How much heterogeneity can the welfare state endure? The influence of heterogeneity on attitudes to the welfare state', *Nations and Nationalism* 2 (2012) 350.

<sup>18</sup> D. Miller, 'Social justice in multicultural societies', in: P. van Parijs (ed.), *Cultural Diversity versus Economic Solidarity* (Brussels 2004) 13-31.

<sup>19</sup> Miller, 'Social justice in multicultural societies', 26f.

It is the mutuality that conditions both solidarity and trust, then, that has given rise to the assumption that *homogeneity* is very helpful in establishing and preserving welfare state support: if one member can identify with his fellow members of the welfare community, it is supposed to be easier to assess their behavior and, therefore, to trust them and reach mutual agreements about what is socially just. Logically, as *heterogeneity* is understood to hamper mutual identification, a more diverse social composition might challenge trust relations and consensus on social justice. In this line of reasoning, immigration could cause a decrease of trust and solidarity in the welfare community and hence lead to a lower support for the welfare state in general. The mere presence of diversity is understood as an insufficient explanation for lower welfare state support by most researchers, but they do recognize the importance of trust as a complex, but very relevant connection between diversity and support for welfare state agreements<sup>20</sup>:

It is not diversity per se that leads to reduced welfare support, but trust may be reduced as a result of diversity, and this reduced trust may be responsible for lower welfare state support. Thus, 'trust' subtly slips between diversity as cause and welfare state support as an effect.<sup>21</sup>

Seen from the perspective of *welfare chauvinism*, in short, moral support for redistributive welfare policies that is based on solidarity and trust might decline when non-members enter the community. The question is, however, whether both trust and solidarity require a cultural or ethnical (e.g. national) membership as a basis for sharing of moral values or trusting each other. As political theorist David Miller points out: 'The debate here is about whether this needs to be a national identity in the normal sense, or whether a common loyalty to a set of political institutions – some form of constitutional patriotism – may give a sufficiently strong sense of shared identity.'<sup>22</sup> Apart from the importance of shared solidarity, in the end, the question of nationality or shared national identity does matter to the discourse of *welfare chauvinism*.

#### *Nation state and national identity*

Geographically, the sovereignty of the Western European nation states was developed through the drawing of political-military boundaries. It were nationality policies, however, that during the nineteenth century demonstrated and confirmed sovereignty by culturally excluding 'outsiders'. The relationship between state and citizen was intensified during the last decades of the

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<sup>20</sup> M.M.L. Crepaz, 'Public opinion on multiculturalism, trust, and the welfare state', in: Banting & Kymlicka (eds.) *Multiculturalism and the welfare state*, 92-116; Miller, 'Social justice in multicultural societies', 13-31.

<sup>21</sup> Crepaz, 'Public opinion on multiculturalism, trust, and the welfare state', 109.

<sup>22</sup> Miller, 'Social justice in multicultural societies', 29.

nineteenth century, when social policies started to bound citizens to their state even more. Migration, among other things, has challenged this traditional state sovereignty by challenging the capacity of nation states to exclude (for instance because of international human rights treaties that allow family reunification and, by doing so, overrule national state policies). Furthermore, the triangular relationship of state, nation and citizen – usually described as national citizenship – has lost its leading role in defining the rules of social systems. Membership of the nation state is no longer a prerequisite for membership of the redistributive system of welfare.<sup>23</sup> In short, national welfare states have lost their ‘nationality’: the unity of the state and its citizens that they used to be applied to. This development is not only distinguishable as a large-scale background incentive to *welfare chauvinism* (see the second paragraph of this chapter), but also concretely belongs to a *welfare chauvinist* discourse, as the argument of a shared identity is translated into a perception about deservingness.

### *Deservingness*

Traditionally, discussions about welfare state support have been connected with ideas about a kind of ‘laziness’. Well into the twentieth century, there was a widespread belief (or concern) that too much social provisions would only make people less hard-working, less responsible, and less ambitious.<sup>24</sup> Although this attitude has lost most of its foundations by now, the connection between support for redistributive schemes and public opinions about ‘deservingness’ is still highly relevant – especially when studying an attitude that explicitly wants to deny immigrants access to certain welfare provisions. The main question is: ‘What do [people] regard as *just* rules or criteria for redistributing the total sum of contributions’?<sup>25</sup>

In his article about public perceptions of access to redistribution benefits, sociologist Van Oorschoot has distinguished five ‘deservingness’ criteria.<sup>26</sup> The relative weight of perceptions of deservingness depends, among other things, upon the dominant cultural values in a certain

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<sup>23</sup> C. Joppke, *Immigration and the Nation State. The United States, Germany and Great Britain* (Oxford/New York 1999) 1-7; J. Halfmann, ‘Welfare state and territory’, in: M. Bommers & A. Geddes, *Immigration and Welfare: challenging the borders of the welfare state* (London 2000), 34-50; J. Clarke & J. Fink, ‘Unsettled attachments: national identity, citizenship and welfare’, in: W. van Oorschoot, M. Opielka & B. Pfau-Effinger, *Culture and Welfare State. Values and Social Policy in Comparative Perspective* (Cheltenham 2008) 225-244; J. Halfmann, ‘Citizenship universalism, migration and the risks of exclusion’, *British Journal of Sociology* 4 (1998) 513-534. As Halfmann expresses it: “The historical strength of the nation-state consisted in its capability to establish citizenship as a right of individuals within a territorially bounded realm. Its current weakness results from the limits of territoriality as a basis for membership vis-à-vis the transnational membership rules of other social systems of modern society.” (see p. 514).

<sup>24</sup> See for instance: De Swaan, *Zorg en de staat*, 160-175.

<sup>25</sup> W. van Oorschoot, ‘Who should get what, and why? On deservingness criteria and the conditionality of solidarity among the public’, *Policy & Politics* 1 (2000) 43 (italics added).

<sup>26</sup> Van Oorschoot based this criteria on the empirical and theoretical work done by De Swaan, *Zorg en de staat* (1989); F. Cook, *Who should be helped: public support for social services* (Beverly Hills 1979); and J. Will, ‘The dimensions of poverty: public perceptions of the deserving poor’, *Social Science Research* 22 (1993) 312-332.

society, for instance based on religion or ideology.<sup>27</sup> A first criterion, then, is whether or not there is *control* over neediness: can a person be held responsible for his neediness or does he lack such control? A *welfare chauvinist* interpretation of this criterion would argue that, if an outsider that is able to perform labor joins an existing national welfare community, but remains unemployed, he does not lack control over his neediness and hence should not be supported by the welfare system.

Second, the intensity, immediacy and scale of the *need* itself are perceived relevant. This criterion mostly revolves around the question whether or not, in a specific case, welfare support is understood to be the humanitarian thing to do. It is therefore mostly applied in to war refugees, political asylum seekers and – more general – to relatively vulnerable social groups such as children, sick/disabled people and old people.

The question of *identity* (already referred to above) comes third in line. Here, it is the feeling of distance between contributors and recipients that matters mostly – as contrasted to a feeling of ‘belonging’ or a shared identity. From a *welfare chauvinist* perspective, one could argue that in the welfare community, when a shared identity based moral agreement about social justice is missing, the traditional members want to shut out the incoming non-member from the welfare arrangements. It is this third criterion, in other words, that most concretely ‘might result in an unwillingness to support needy people from ethnic minorities or foreign residents in general’.<sup>28</sup>

Fourth, the *attitude* of the recipients is a relevant topic: are recipients docile, grateful and/or compliant for the support? A widespread concern among *welfare chauvinists* is that ‘they’ (mainly lower-educated, needy migrants) come here in order to simply misuse ‘our’ very supportive welfare system. This concern is often referred to as the ‘welfare magnet’ or ‘welfare tourism’. In this line of reasoning, the attitude of the immigrant is perceived as anything but grateful and docile, and, instead, is portrayed as deliberately violent on the welfare state arrangements. Despite the fact that this assumption has generally been proven wrong, it remains an argument repeatedly used in the *welfare chauvinist* discourse.<sup>29</sup>

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<sup>27</sup> W. van Oorschot, ‘Popular deservingness perceptions and conditionality of solidarity in Europe’, in: Van Oorschot et al., *Culture and Welfare State*. An important example is concerned with the increasingly dominant meritocratic values of modern societies. Regarding this, Van Oorschot expresses himself as follows: ‘Citizens are nowadays increasingly expected to be active and to provide for themselves. This is a message that in our view quite easily may form a basis for the general idea that those who are in need do not take up their responsibility well, and can, therefore be blamed for their neediness. If people are blamed, they do not deserve support, and there is no need for a comprehensive welfare state.’ (Van Oorschot, 284f).

<sup>28</sup> Van Oorschot, ‘Who should get what, and why?’, 35.

<sup>29</sup> M. Kremer, *Vreemden in de verzorgingsstaat. Hoe arbeidsmigratie en sociale zekerheid te combineren* (Den Haag 2013) 23-34; 35-36.

Lastly, deservingness is understood to be a matter of *reciprocity*. Today's recipients are judged by what they have contributed before and/or by what they are expected to contribute in the future.<sup>30</sup> In the case of outsiders, a natural arrears regarding the contributions made to the welfare community can be easily used as an argument for exclusion by *welfare chauvinists*. Even initial outsiders, who did fully integrate into the community, can still be confronted with them being non-members and hence non-contributors in former days as well.

It has become clear that some criteria of deservingness allow for a very concrete *welfare chauvinist* interpretation; others do so to a more indirect extent or do almost not at all. In short, then, welfare state support on a discursive level is concerned with reaching consensus about the value of solidarity, the establishment of mutual trust relations, mapping and interpreting a shared identity and the exact definition of several deservingness criteria. A *welfare chauvinist* approach of the boundaries of a welfare community, for an important part, takes place at this discursive level. The discourse of *welfare chauvinism* can hence be analyzed, explained and criticized as an interpretation of the motives of solidarity, trust, identity and deservingness.

When looking further into the political history of the Dutch welfare state and its attitudes with regard to 'strangers', therefore, those four motives should consequently be taken into account. Subsequently, it is important to realize that public attitudes, however interesting, do not end with verbal discussions and then evaporate. In understanding the discourse of *welfare chauvinism*, thus, we should take into account the developments of actual redistributive systems as well as actual policies of inclusion and exclusion. To those institutions and instruments behind the *welfare chauvinist* discourse we now turn.

### **Institutional framework: the sociopolitical context of *welfare chauvinism***

The discourse of *welfare chauvinism* reacts on the redistributive mechanisms of the welfare state as well as several political institutions that represent the welfare state. The socioeconomic and political background of *welfare chauvinism*, therefore, refers to the development of these mechanisms and institutions as well as to the dilemmas that accompanied them. Three important institutional features, then, have triggered (or at least stimulated) a *welfare chauvinist* discourse. The connection between those institutional characteristics and *welfare chauvinism* is not always causal, but this particular discourse cannot be understood without this complex institutional background.

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<sup>30</sup> Van Oorschot, 'Who should get what, and why?', 35-37.

### *The system of redistribution: the question of universality*

The welfare state is a system of extensive redistribution. It redistributes means vertically, from the rich to the poor, and horizontally, from, for instance, the healthy to the sick. It constantly needs to define its contributors and its beneficiaries, as well as its financial and practical boundaries. As the socioeconomic background of *welfare chauvinism* is at stake here, the relevant question is on what principle this redistribution is based? Roughly speaking, this question should be answered twofold with conditionality and universality.

Conditional welfare provisions, firstly, are mainly labor-related insurances. Contributions and benefits are strongly related: the benefits in case of, for instance, disability to work are based on the amount of contributions that has been paid as well as the former level of income. In this system of conditional redistribution, social solidarity plays an indirect role: contributions can be used for the payment of benefits for others as long as the contributor himself is not in need of benefits. Thus: 'most existing social security systems are designed to appeal to the self-interest of taxpayers and to notions of reciprocity by linking benefits to prior contributions.'<sup>31</sup>

This conditionality does not apply to universal welfare provisions, in which all citizens pay contributions according to their means, but benefits are the same for every citizen. Inequality between different social strata is expected to be reduced by this system of redistribution: it often functions as a vertical redistributive mechanism.<sup>32</sup> For this system, social solidarity is understood to be very important as contributors need to perceive this leveling policy as 'social justice'. It is therefore claimed that, for the universal redistributive mechanism to function, identification between the contributor and the beneficiary is a prerequisite. In this line of reasoning, the blurring of shared identities by increased cultural diversity is said to undermine the support for and legitimacy of the universal welfare state.<sup>33</sup>

Against the background of *welfare chauvinism*, this implies that access for strangers to conditional welfare provisions is far less problematic (and historically far more customary) as is their access to universal welfare provisions. Therefore, one should expect a *welfare chauvinist* attitude to be stronger in the political and public debates regarding universal welfare provisions – an emphasis that the political historian studying welfare state institutions should keep in mind.

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<sup>31</sup> A.H. Bay & A.W. Pedersen, 'The limits of social solidarity: basic income, immigration and the legitimacy of the universal welfare state', *Acta Sociologica* 49 (2006) 419f.

<sup>32</sup> I. van Vliet, 'Sociale zekerheid in de klem', in: K. Schuyt & R. van der Veen (red.), *De verdeelde samenleving. Een inleiding in de ontwikkeling van de Nederlandse verzorgingsstaat* (Houten 1994 [1986]) 97-101; C.L.J. Caminada & K.P. Goudwaard, 'Herverdeling van inkomen door sociale zekerheid', *Openbare Uitgaven* 2 (University of Leiden, Law Faculty; 2001) 2-3.

<sup>33</sup> D. Miller, 'Multiculturalism and the welfare state: theoretical dimensions', in: Banting & Kymlicka (eds.), *Multiculturalism and the Welfare State*, 327-329.

### *National welfare states vs. international economic communities*

Today, economies are open systems with little boundaries. To a large extent, national economies have merged into a global economic system of distribution. This means that, from a socioeconomic perspective, people and goods can be freely transferred anywhere. Welfare states, on the contrary, are closed systems with clear boundaries. Free transfer of people and goods, in this case, is a complicated matter as the distribution of public welfare 'goods' can only take place *within* those boundaries. This leads to an important paradox: the openness of national economies enabled migrants to enter national welfare states, which, for their part, were in need of additional labor force. However, the exclusion of non-members was and still is crucial for the legitimacy and basic functioning of a closed system like the welfare state. Hence, 'the openness of national economies poses enormous challenges to the viability and character of welfare states.'<sup>34</sup> So, apart from being a historical process, national welfare legislation in an international or supranational framework is an important question that effects the discourse of *welfare chauvinism*. This becomes especially clear in the tension between European institutions and individual EU member states. European legislation obliges the free transfer of EU citizens on all national labor markets in the EU – including honoring the non-discrimination principles and the right to equal labor conditions. Restrictive migration policies of the nation states have therefore become controversial or even impossible. One should keep in mind, thus, that the institutional embedment of the national welfare state in Western Europe in the European community limits the discourse of *welfare chauvinism* in its actual latitude.<sup>35</sup>

### *Political parties*

As described at the beginning of this chapter, the first definition of *welfare chauvinism* was used in order to analyze the rise of new rightist political parties in Denmark and Norway. The *welfare chauvinist* discourse is thus closely connected to the rise of a new political voice. In his significant work on 'the radical right' in the spectrum of political parties, political scientist Herbert Kitschelt explored the welfare assumptions of new rightist voters. He argued that the so-called 'less educated blue-collar worker' feared the future of their social safety net 'due to the channeling of funds to immigrants who have not contributed to the system' and hence developed a *welfare chauvinism*.<sup>36</sup> The rise of the new rightist parties (or populist parties) should be understood as the politicization of this anti-immigrant attitude combined with strong pro-welfare positions – a

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<sup>34</sup> Freeman, 'Migration and the political economy of the welfare state', 52-54, quote on page 54.

<sup>35</sup> Kremer, *Vreemden in de verzorgingsstaat*, 29, 50-52, 81-91.

<sup>36</sup> Kitschelt, *The Radical Right in Western Europe*, 260.

combination so far unknown in the democratic political party spectrum that has ranged from left-libertarian to right-authoritarian. An important argument in Kitschelt's analysis forms the decline of the social formation of the working class as the driving force behind social policies and eventually the welfare state.<sup>37</sup>

Another party policy feature should therefore be emphasized here as well: the so-called 'new liberal dilemma'. In postwar Western Europe, it were the social-democratic labor parties that took the lead in the transformation of single social policy arrangements into one extensive, inclusive system of redistribution: the welfare state. Their traditional electorate – the working class – gained a lot from the inclusive character of the new provisions. For the social-democratic parties, however, it is difficult to maintain both their inclusive attitude towards the redistributive system (now including immigrants) and their traditional popular electorate (that now feels threatened by the inclusion of immigrants as the new 'deserving poor').<sup>38</sup> Hence this 'new liberal dilemma', Kitschelt rightly concludes, is closely connected to the rise of the new rightist parties:

Its quest to sustain a comprehensive welfare state *and* a multiculturalization of advanced European capitalist democracies may provoke a welfare chauvinist backlash among the indigenous population that skilled rightist politicians may incorporate into a broader right-authoritarian electoral coalition.<sup>39</sup>

In short, the shift of the traditional social democratic electorate in the political party spectrum accounted for the rise and institutionalization of a new political voice, in which the *welfare chauvinist* discourse could get its public and political audience.

*Welfare chauvinism* as a discourse, in conclusion, is accommodated by and related to three institutional frameworks. First, it criticizes the universality of certain redistributive welfare arrangements, whereas it perceives conditional welfare arrangements more neutral. Second, it is clearly limited by international and/or supranational socioeconomic legislation. Third, it has found its audience in the form of a political institution – a new political party. This threefold institutional embedment of the *welfare chauvinist* discourse should be taken into account when studying the political debates about setting the boundaries of the welfare community in the history of the postwar Dutch welfare state.

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<sup>37</sup> Kitschelt, *The Radical Right in Western Europe*, 257-265.

<sup>38</sup> D. Goodhart, 'Too diverse?', *Prospect* (February 20, 2004); T. Reeskens & W. van Oorschot, 'Disentangling the "New Liberal Dilemma": On the Relation Between General Welfare Redistribution Preferences and Welfare Chauvinism', *International Journal of Comparative Sociology*, 53 (2012) 120-124.

<sup>39</sup> Kitschelt, *The Radical Right in Western Europe*, 268.

### Policy instruments: *welfare chauvinism* and political bureaucracy

In the *welfare chauvinist* discursive as well as in its institutional embedment, many observations already referred to mechanisms of inclusion and exclusion. What, then, are these mechanisms at a practical, political and bureaucratic level? Most importantly, policies of inclusion and exclusion are based on the acknowledgments of rights and, eventually, on the assignation of citizenship. Traditional civic rights such as liberty and equality of course apply to every human being, but, in contrast, social and political rights can be assigned selectively (and hence be inclusive or exclusive). Migrant workers in postwar Western Europe, at first, gained some social rights based on their legal status as residents and their participation in the redistributive system of conditional, labor-related welfare benefits. As their stay got a more permanent character, social rights were gradually extended. Full membership status, including political rights then, could only follow from naturalization and the according assignation of national citizenship. However, the so-called 'denizenship' status occurred far more frequently: the assignation of a permanent resident status with, mostly, complete access to welfare provisions based on social rights, but without the political right to vote. This status has blurred the distinction between citizens and non-citizens and their respective entitlement to welfare benefits.<sup>40</sup>

Furthermore, the questions of rights and citizenship point at the venues where inclusive and exclusive policies are actually executed and implemented: bureaucratic, administrative and constitutional courts, that are organized by highly standardized procedures and consistent sets of rules that guarantee equal treatment. As political sociologist Virginie Guiraudon stated it:

The inclusion of legally residing foreigners in the welfare-state has been quite extensive during the last decades although it ran against the goals of migration control policy and took place while ethnocentrism rose, media coverage was negative, and electoral anti-immigrant campaigns focused on migrants as 'welfare abusers'.<sup>41</sup>

So despite public opinions or a political culture of *welfare chauvinism*, it is noticeable that there are bureaucratic institutions that simply work on their own. In other words: apart from the *wish* to deny immigrants certain social rights (and hence access to, for instance, universal welfare provisions) the discourse of *welfare chauvinism* has to deal with standardized mechanisms of decision-making that may work into the exact opposite direction. When understanding *welfare chauvinism* historically, this practical component should definitely be taken into account.

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<sup>40</sup> Jacobson, *Rights across borders*, 33-39; Z. Layton-Henry, 'Citizenship or Denizenship for Migrant Workers' in, idem. (ed.), *The Political Rights of Migrant Workers in Western Europe*, 186-195.

<sup>41</sup> V. Guiraudon, 'Including Foreigners in National Welfare States: Institutional Venues and Rules of the Game', in: B. Rothstein & S. Steinmo (ed.), *Restructuring the Welfare State. Political Institutions and Policy Change* (New York 2002) 149.

## *Welfare chauvinism in historical research*

In order to trace back features and forms of *welfare chauvinism* historically, it has become clear that the discourse as such is connected to actual redistributive institutions, political parties and bureaucratic procedures. In the chapters that follow, therefore, the analysis will not only ask for motives behind political statements about in- or excluding strangers. It will take into account the institutions and instruments that might embed, restrict and implement those opinions as well. In other words: *welfare chauvinism* is approached as a set of discursive assumptions about the in- and exclusion of strangers in the national welfare state, which can only be really understood if linked to their institutional context and applied instruments. This approach leads to the following set of research questions for the political historian:

- Motives: What was the then dominant interpretation of solidarity, trust, national identity and deservingness with regard to letting strangers join the welfare state community?
- Institutions: How were the (proposed or supposed) boundaries of the welfare state eventually embedded institutionally, with special regard to the principle of redistribution, international legislation and political parties?
- Instruments: What set of rights or citizenship-status was assigned to strangers and what was the relation between the practical bureaucratic procedures and the then dominant political assumptions?

Based on these research questions, the initial motives, principles of redistribution and policy instruments of the Dutch welfare state can be defined very precisely (Chapter II). Furthermore, the framework of questions regarding *welfare chauvinism* enables the historical analysis of the development of in- and exclusion since then (Chapters III & IV). Unlike the traditional approach to the history of the Dutch welfare state, as it will become clear, this analysis emphasizes the discussions that were *not* pursued very far, and will focus on social groups that remained largely unnoticed or unwanted as potential target groups of universal social welfare provisions. In this respect, we now turn to a history of postwar the Dutch welfare state that has remained largely unknown so far.

## **II The development of the Dutch welfare state (1945-1965): *In- and exclusion in the postwar welfare community***

After the Second World War, Dutch politics set off with a large-scale implementation of social welfare provisions. In the Netherlands as in other Western European countries, the primacy of the state in organizing social affairs such as labor, health care and education became less controversial. This political transition took place at a moral level, but at the same time implied new socioeconomic principles for the redistribution of social 'goods'. Furthermore, new assumptions about the juridical foundation of citizens' access to social provisions won ground. This chapter will look further into the foundations of the Dutch welfare state system by exploring its motives, institutions and instruments – and does so by studying the implementation of some pioneering social welfare provisions for unemployment, old age and poverty. However, the overall perspective will focus on how these principles and provisions worked for 'strangers' (in this period mostly labor migrants). Particular attention will hence be paid to discussions about the in- or exclusion of this social group, or, in other words, to discussions about the (denial of) access to certain welfare provisions. In order to get a precise view of the position of labor migrants in the postwar Dutch welfare state, the chapter sets off with a short description of the prewar situation.

### **Before the Second World War: strangers at the Dutch labor market**

In September 1933, the Minister of Social Affairs, Jan Rudolph Slotemaker-de Bruine, presented a plan for strictly regulating labor by strangers. He stated that the Dutch position on the European labor market had become problematic. Due to severe economic circumstances and an increasing unemployment among their populations since the late 1920s, most European countries closed their labor markets for strangers without work permits. For a long time, because of the fostered ideal of free transfer of people and goods, the Netherlands refused to do so: strangers could still work here if they wished to. However, in the wake of largely increased unemployment among Dutch laborers, this position needed to be reconsidered. In other words: in order to protect the Dutch labor market, new legislation for regulating the access of strangers was required. The future act, therefore, would oblige employers to possess a formal work permit for each stranger they employed. This permit was only granted and extended if it was proved that the stranger's activities in the company could not be performed by a Dutch worker equally well. Exceptions would be made for foreigners who came from a country in which Dutch laborers

were likewise unhampered to work – mostly because a treaty existed between both countries about a reciprocal free access to the labor markets.<sup>42</sup>

Because of rapidly increasing unemployment, Dutch politicians were already convinced of the need of protecting the Dutch labor market. Although no one preferred to give up the ideal of free transfer of people, the plan of mandatory work permits was generally received with great acceptance in parliament. There were two questions of political debate, however. First, it was argued, the proposed rules could be too easily circumvented: strangers who did not get a work permit still could start their own business in the Netherlands and offer their services as a self-employed person. The act would only be useful, according to several members of parliament, if a work permit would also become mandatory for self-employed strangers. Eventually, the government accepted this line of reasoning and promised, that the according legislation would follow soon.<sup>43</sup>

The second, more moral question concerned the retrospective implementation of the act: What would happen with strangers who had legally worked in the Netherlands for years and did so with great loyalty? If their position could be taken over by an unemployed Dutchman, theoretically, the stranger lost his right to stay and had to be deported. The government argued that this would not be the case just like that, as the position of a loyal employee that had been built up for years was not something that could be easily replaced. *If* a procedure of replacement would follow, it would depend upon the attitude of the particular homeland towards Dutch laborers there. Furthermore, the parliament insisted, government institutions should not lose sight of a certain standard of humanity. Under these conditions, the basic principle that the presence of strangers could no longer be at the expense of the employment of Dutch citizens, was generally accepted by parliament.<sup>44</sup>

Although the Labor Act for Strangers (*Vreemdelingenarbeidswet*) of 1934 was an example of legal exclusion of ‘strangers’ from the Dutch labor market, this was not yet the case in practice. Until the Second World War, foreigners (still mostly from Belgium, Luxembourg and

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<sup>42</sup> *Handelingen der Staten-Generaal II, Bijlagen 1932-1933*, 268 “Regeling van het verrichten van arbeid in loondienst door vreemdelingen”, no. 2 ‘Ontwerp van Wet’, 1-2; Idem, no. 3 ‘Memorie van Toelichting’, 2-4.

<sup>43</sup> Accordingly, the part “in loondienst” expired from the headline of the legislation. *Handelingen der Staten-Generaal II, Bijlagen 1933-1934*, 163 “Regeling van het verrichten van arbeid door vreemdelingen”, no. 1 ‘Voorlopig Verslag’, 1-2; Idem, no. 4 ‘Gewijzigd ontwerp van wet’, 10; Idem, no. 6 ‘Amendementen van de heer Schaepman c.s.’, 15; *Handelingen der Staten-Generaal II, 1933-1934*: March 1, 1934, p. 1446-1453; Idem, March 2, 1934, p. 1456-1457.

<sup>44</sup> *Handelingen der Staten-Generaal II, Bijlagen 1933-1934*, 163, no. 1 ‘Voorlopig Verslag’, 2; Idem, no. 2 ‘Memorie van Antwoord’, 6-7; *Handelingen der Staten-Generaal II, 1933-1934*: March 1, 1934, p. 1446-1453; Idem, March 2, 1934, p. 1456-1457. There was only one exception to the general acceptance. Politician Visser acknowledges the problematic position of the Dutch labor market, but argues that “dit wetsontwerp de toch reeds zwakke positie, ik kan gerust zeggen de rechteloze positie van vreemdelingen, die hier zijn, nog verzwakt, terwijl bovendien het toch reeds problematische asylrecht, zoals dat hier voor vluchtelingen wordt toegepast, daardoor nog meer in gevaar komt.” (*Handelingen der Staten-Generaal II, 1933-1934*, March 2, 1934, p. 1457).

Germany) found their way into the Dutch labor market – and were besides willingly received. However, the Labor Act for Strangers laid the foundation for the postwar regulation of access to the labor market and its growing social welfare provisions for non-citizens.<sup>45</sup> At the same time, directly after the war, another motive for regulating access to social welfare provisions was presented.

### The postwar motive of social justice

Based on the experience of mass unemployment and the rise of totalitarian regimes in the 1930s, the establishment of societal peace was a topic of political debate during the Second World War already. Therefore, while in exile, the Dutch government paid attention to questions of social security and social justice. In 1943, the Minister of Social Affairs, Jan van den Tempel, installed a committee that should perform an exploratory investigation of the foundation and organization of a future system of social welfare provisions. The chair of the committee was assigned to Aart van Rhijn, the then permanent secretary of the Ministry of Social Affairs. Referring to the Atlantic Charter of 1941, the two gentlemen agreed upon ‘freedom from want’ as the basic principle of the future system: they stated that the ideal of social justice would only be reached if no human being needed to be insecure any longer about fulfilling the daily needs of him and his family. It was social security based on this principle, then, that should provide social stability. This line of reasoning was not new anymore. It was already acknowledged and encouraged internationally and it was described in detail in the famous British report *Social Insurance and Allied Services* (1942) by William Beveridge and his committee members – which was very inspiring to the Dutch politicians.<sup>46</sup>

After the liberation of the Netherlands in 1945, the Van Rhijn-Committee published its observations and recommendations in a tripartite report on social security. Most importantly, the Committee proposed a fundamental adjustment to the juridical foundation of the welfare system. Instead of the relationship between employer and employee, the Committee argued, it was the relationship between community and individual that should be the starting point for defining access to social welfare provisions and hence for the boundaries of the welfare

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<sup>45</sup> L. Lucassen, ‘Sekse en nationaliteit als ordenend principe. De uitsluiting van vrouwen en vreemdelingen op de Nederlandse arbeidsmarkt (1900-1995)’, in: C. van Eijl, L. Heerma van Vos & P. de Rooy, *Sociaal Nederland. Contouren van de twintigste eeuw* (Amsterdam 2001), 89-96.

<sup>46</sup> J.M. Roebroek & M. Hertogh, ‘De beschavende invloed des tijds’. *Twee eeuwen sociale politiek, verzorgingsstaat en sociale zekerheid in Nederland* (Tilburg 1998) 225-233; K. Schuyt & E. Taverne, *1950. Welvaart in zwart-wit* (Den Haag 2000) 287-291; *Sociale zekerheid. Rapport van de Commissie, ingesteld bij Beschikking van den Minister van Sociale Zaken van 26 maart 1943, met de opdracht algemeene richtlijnen vast te stellen voor de toekomstige ontwikkeling der sociale verzekering in Nederland* (1945) Part I, 1-18.

community. This relationship was most clearly represented by the possession of citizenship: individual membership of the Dutch community. Therefore, the Committee suggested that citizenship should become the new juridical foundation of the welfare system. In other words: it was citizenship that should become decisive in giving or denying access to social welfare provisions. In principle, then, all citizens were entitled to social welfare. Accordingly, it was the community of citizens, represented in the state, that was held responsible for securing the entitlements of its members. On the other hand, a maximum individual effort of citizens, in order to prevent themselves from becoming in need of social welfare provisions in the first place, was assumed to be reasonable as well. Here, an interesting field of tension between communal duties and individual responsibilities became visible.<sup>47</sup>

The new juridical foundation confronted the Committee with questions about organizing and funding such a national welfare system. Up until then, the connection between contributing and receiving was the guiding principle: employees paid their contributions and, in return, were entitled to benefits in periods of unemployment. However, this insurance model, based on a contract between employer and employee, was insufficient for a new welfare community that would consist of *all* citizens instead of those who performed labor only. Therefore, the Committee proposed a 'mixed system' of both insurance funds and state resources. This meant that the welfare state system would become neither a ultimate charity institution (everyone simply receives) nor a change machine (only who pays, receives).<sup>48</sup>

Although the suggestions and recommendations of the Van Rhijn-Committee were received with hesitancy at first, the report did set the framework for the postwar Dutch welfare state system as well as for the new definition of the Dutch welfare community.<sup>49</sup> By extending the legal foundation of the welfare system to all citizens, the welfare community got a far more universal character. On the other hand, the boundaries of the welfare community became more explicit. In principle, they would become national: bound to the possession of Dutch citizenship. It is interesting, therefore, to have a further look at the political assumptions about 'strangers' and their relation to the developing postwar welfare community. How were 'strangers' eventually in- or excluded in legislation regarding unemployment, old age and poverty in the first two decades after the Second World War?

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<sup>47</sup> Van Rhijn-Committee, *Sociale Zekerheid* Part I, 15-17; idem, Part II, 3-9.

<sup>48</sup> Idem, 10-22.

<sup>49</sup> For an extensive historical analysis of the reception of the Van Rhijn-report, see: W. van der Zwaard, *Van rechtsgrond tot grondrecht. Sociale wetgeving en het dilemma van particulariteit (1840-1960)* (RMO; Den Haag 2013) 44-57.

## Welfare provisions for unemployment, old age, and poverty

In general, postwar plans regarding social welfare legislation were received with acceptance and approval. Dutch politicians were fully aware of the importance of social stability in the period of political and economic reconstruction after the Second World War. Most parliamentary discussion, therefore, was not about *if* a certain welfare arrangement was wished for, but rather about who should be responsible, *who* should contribute and *who* might be beneficiary. To put it differently: in this period, the political motives behind new legislation were relatively consonant with each other, whereas the according instruments and institutions were a topic of more political debate. This pattern was also visible in the discussion – if made explicit at all – about the position of strangers in the developing welfare state system.

### *Unemployment Act 1952*

The experience of mass unemployment in the 1930s caused postwar Dutch politics to urge legislation regarding mandatory employee insurances. The active role of the state in the combat and prevention of mass unemployment – still controversial in the 1930s – was now generally accepted by all political parties. In 1948, therefore, Willem Drees, Minister of Social Affairs, presented a plan for a system of mandatory unemployment insurances. He emphasized the importance of an insurance system that would be supported *and* funded by employees, employers and government. The unions of the different labor sectors would become responsible for the payment of benefits in times of reduced pay or unemployment. Besides, the state committed itself to the implementation of a supplementary social provision, that would take care of the workers that were excluded from the system of insurance. However, the organization and funding of this additional state provision was not yet included in the 1948-plan.<sup>50</sup>

In general, the plan was received positively by the Dutch parliament. However, there was political debate about the relation between contributions and benefits. Although almost everyone supported the part of the plan that made contribution by employers mandatory, some politicians were not pleased with the proposed obliged contribution for employees. They argued that the risk of unemployment inevitably belonged to a capitalist industrial society and, therefore, its 'leaders' (both the state and the employers) should be paying for this societal risk. The government countered this argument by stating that the state was already responsible for

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<sup>50</sup> Roebroek & Hertogh, *De beschavende invloed des tijds*, 186-187; *Handelingen der Staten-Generaal II, Bijlagen 1948-1949*, 704 "Verplichte verzekering van werknemers tegen geldelijke gevolgen van onvrijwillige werkloosheid", no. 2 'Ontwerp van Wet', 1-8; Idem, no. 3 'Memorie van Toelichting', 12-13.

paying all the other costs that came with unemployment: the process of returning to work, or, seen from a more negative perspective, a long-term provision of social assistance for the unemployed. Furthermore, Minister of Social Affairs Dolf Joekes (he succeeded Drees in 1948) defended the plan by emphasizing that political agreement was already reached with the national unions of both employers and employees. In the end, he met the political critics halfway by expanding the financial share of the state up to 50% instead of 33%. Now, employees were compelled to pay only up to 25% of the required contributions.<sup>51</sup>

Another topic of discussion concerned the boundaries of the welfare community of this arrangement. There was some discussion about whether or not farming as a work sector should be included in the insurance system, as a lot of temporary (seasonal) labor was done there. Some politicians expressed the fear that those temporary workers would claim a relatively too high amount of benefits. This fear, however, was declared invalid by the government, as the voluntary labor insurance that was implemented in this sector earlier had not experienced such problems so far. Furthermore, a system of insurance for self-employed persons was desired by the parliament. However, it was difficult to include these persons in the definition of 'employee' completely. This was only possible to the extent that they completed their self-employment with some hours of paid employment. Therefore, to put it shortly, the mandatory system of labor insurance remained restricted to employed workers exclusively.<sup>52</sup>

In the fall of 1949, the Unemployment Act (*Werkloosheidswet*) was approved by the Dutch parliament. The system of mandatory unemployment insurances became operative on July 1<sup>st</sup>, 1952.<sup>53</sup> During the political debate about the social provisions for unemployment, there already was a great deal of attention for the implications of such legislation for other domains of social insurance and social welfare. Although the Unemployment Act was considered to be a very important step in organizing and regulating the insurance of labor income, Dutch politicians were well-convinced of the necessity of further legislation, especially regarding social security.<sup>54</sup>

In the political debate about a mandatory insurance of unemployment, the position of foreign workers was not a topic at all. In the second Article of the plan presented in 1948, an 'employee' was defined as someone who performs paid labor inside the Netherlands. Requirements such as the possession of Dutch nationality or Dutch citizenship were not mentioned. According to the

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<sup>51</sup> *Handelingen der Staten-Generaal II, Bijlagen 1948-1949, 704*, no. 4 'Voorlopig Verslag', 25-28; *Idem*, no. 6 'Memorie van antwoord', 33-37; *Handelingen der Staten-Generaal II*: meeting of June 24, 1949; June 28, 1949; June 29, 1949.

<sup>52</sup> *Idem*.

<sup>53</sup> Roebroek & Hertogh, *De beschavende invloed des tijds*, 188; *Handelingen der Staten-Generaal I*: September 7, 1949.

<sup>54</sup> *Handelingen der Staten-Generaal II, Bijlagen 1948-1949, 704*, no. 1-7 (paragraphs "Het verband van de wachtgeld- en werkloosheidsverzekering met de andere sociale verzekeringen" and "Druk der sociale lasten" in each document).

new legislation, therefore, foreign workers who possessed a position of paid employment were obliged to contribute to the system of mandatory labor insurance as well as entitled to receive benefits from it. Once a legal part of the Dutch labor market, thus, with regard to the system of mandatory insurance, a foreign worker possessed exactly the same rights and duties as any Dutch worker.<sup>55</sup> Due to the mandatory and conditional character of this welfare provision, motives of trust, solidarity or deservingness gave no cause for any *welfare chauvinist* attitudes.

One should notice, of course, that the Labor Act for Strangers of 1934 remained valid and would remain so until 1969. After the Second World War, furthermore, the labor market policy regarding strangers became also restrictive in practice. In the prewar implementation of the act, despite the restrictive legislation, work permits were principally granted in all cases *unless* an equally Dutch employee was (expected to be) available. Hence, the labor market policy with regard to strangers was still quite open. Although the act as such was not changed after the war, the attitude in granting work permit applications did change. Work permits for strangers were not distributed anymore *unless* their appointment was of public interest for the Netherlands. So, the principle of the labor market policy changed from 'yes, unless' into 'no, unless'. This change was neither initiated nor plead for by the government, but by the district employment offices that were responsible for granting the work permits.<sup>56</sup> At this point, it was rather a bureaucratic practice than a political discourse that caused increasing exclusion of foreign workers.

In politics, at the same time, a temporary deactivation of the 1934 act was proposed and accepted by the Cabinet in 1948 (although the implementation as such remained valid). The Ministry for Social Affairs also ordered an increasing amount of exemptions for professional groups or individuals. Furthermore, the first sectorial recruitment agreement (for recruiting of Italian guest workers in the coal-mines) stemmed from 1948 as well. The incentive to finally replace the 1934 act came from the labor treaties with the EEG en the Benelux: employees from these countries should principally be exempted from the work permit system. It was therefore replaced with a new act concerning work permits for strangers in 1964 (the *Wet Arbeidsvergunningen Vreemdelingen* was implemented in 1964 and the *Vreemdelingenarbeidswet* from 1934 was dissolved in 1969).<sup>57</sup> In short, since the end of the Second World War, the Labor Act for Strangers functioned rather ambiguously between bureaucratic exclusion and political inclusion.

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<sup>55</sup> *Handelingen der Staten-Generaal II, Bijlagen 1948-1949, 704, no. 2 'Ontwerp van Wet', 1.*

<sup>56</sup> T. de Lange, *Staat, markt en migrant. De regulering van arbeidsmigratie naar Nederland (1945-2006)* (Den Haag 2007) 42-46.

<sup>57</sup> *Idem*, 47-49, 67, 102-112.

### *Old Age Pensions Act 1957*

A second large-scale political concern of postwar Dutch politics was the social provision for elderly citizens. They were a socially very diverse group. Old age workers, mostly, could receive a pension based on the Disability Act (*Invaliditeitswet*) of 1921. In 1947, furthermore, a temporary arrangement was already implemented for elderly workers that were excluded from those provisions. Soon after the Second World War, then, the Dutch government felt the need to formulate and implement a permanent system of provisions that would include all elderly citizens. Firstly, the government assigned the Socio-Economic Council (*Sociaal-Economische Raad*) for an exploration of the principles and possibilities of organizing an old age pensions provision – the results of which were reported in 1954.<sup>58</sup> The plan proposed by Minister Suurhoff of Social Affairs in 1955 was based on this results.

Old age pensions were presented as the first social welfare provision based on the community principle (as proposed in the Van Rhijn-report as well), with ‘residence’ as its formal juridical foundation.<sup>59</sup> An old age pension could be rightfully claimed from the age of 65 onwards by all who had been residing (read: all who had had a clear societal basis in the Netherlands) between the age of 15 and the age of 65. The provision for old age pensions was organized as a national insurance model – which was a novelty in the system of legislation and organization of social welfare provisions in the Netherlands. It was funded by mandatory contributions in the form of income taxes paid by all employees. Hence, paying income tax to the Dutch state was a proof of residence, even if the performed labor had taken place outside the Netherlands. About the model of national insurance was little if any fundamental discussion. In parliament, some discussion about the position of married women and the centralized organization of collecting contributions did take place. Eventually, however, the Dutch parliament rapidly approved the Old Age Pensions Act (*Algemene Ouderdomswet*) in 1956, which then became effective on January 1<sup>st</sup>, 1957.<sup>60</sup>

In the plan that was presented in 1955 and the eventual Old Age Pensions Act of 1957, legal foreign workers were explicitly included in the welfare community (also see Article 6 of the plan). During years of paid employment in the Netherlands, both Dutch and foreign employees

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<sup>58</sup> Sociaal-Economische Raad, *Advies inzake de wettelijke ouderdomsverzekering* (Den Haag 1954).

<sup>59</sup> In Dutch: ‘ingezetenschap’. See: *Handelingen der Staten-Generaal II, Bijlagen 1955-1956, 4009 “Algemene Ouderdomsverzekering”*, no. 2 ‘Ontwerp van Wet’, 1

<sup>60</sup> Schuyt & Taverne, 1950. *Welvaart in zwart-wit*, 292-296; Roebroek & Hertogh, *De beschavende invloed des tijds*, 289-302; *Handelingen der Staten-Generaal II, Bijlagen 1955-1956, 4009*, no. 2 ‘Ontwerp van Wet’, 1-6; Idem, no. 3 ‘Memorie van Toelichting’, 26-53; *Handelingen der Staten-Generaal II, 1955-1956, 4009*: March 15, 1956; March 20, 1956; March 21, 1956; March 23, 1956.

were obliged to pay contributions in the form of income taxes, which were used by the government to fund the old age pensions provision. Because they had paid these income taxes, foreign employees were seen as residents and hence could claim an old age pension from the Dutch state from the age of 65 onwards. However, the actual entitlement to an old age pension was restricted based on the following rule: for every year between the age of 15 and the age of 65 that a person entitled to an old age pension *had not* resided in the Netherlands, the annual pension was cut with 2%. This rule was also applied to Dutch citizens.<sup>61</sup> One question asked during the parliamentary debate, therefore, if the cut old age pension would be sufficient as subsistence level for both Dutch citizens and foreign employees that had only worked here for several years.<sup>62</sup>

In the official clarification of the plan, it became clear that Article 6 would be mostly applied to guest workers from Belgium and Germany, who were employed in the border areas. During the parliamentary discussion, their position was explicitly questioned by some politicians, most notoriously Kees van der Ploeg of the Labour Party (PvdA). He argued that guest workers in the border areas were mostly working inside, but living outside the Netherlands. Therefore, as those workers contributed to the system through the payment of income taxes, but were not registered as 'residing' here, difficulties in their legal claim to an old age pension might arise. In other words, Van der Ploeg acknowledged practical problems while, at the same time, principally arguing for equation of foreign employees and Dutch employees. Anyone who had contributed to the system, he argued, should be paid the old age pension he was entitled to:

Ik voorzie met het systeem nogal moeilijkheden. Hoe zal het systeem b.v. werken met betrekking tot de vaststelling van de rechten van grensarbeiders en andere personen, die niet onafgebroken onder de verzekering vallen? Zal het mogelijk zijn om met de beperkte registratie hier voldoende uit te komen? Men zal toch ingevolge de opzet van de wet moeten vasthouden aan het stelsel van de verzekering, d.w.z. dat de rechten gebaseerd dienen te zijn op de premiebetaling en dat deze rechten ook werkelijk worden gerealiseerd.<sup>63</sup>

Minister Suurhoff of Social Affairs reassured Van der Ploeg and others that this kind of bureaucratic barriers would be overcome by a correct and complete administration of the contributions to the old age pension provision. Absence of registration in the municipal register of residence, then, should not lead to the denial of any entitled claim to an old age pension.<sup>64</sup>

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<sup>61</sup> *Handelingen der Staten-Generaal II, Bijlagen 1955-1956, 4009*, no. 2 'Ontwerp van Wet', 1-3; Idem, no. 3 'Memorie van Toelichting', 33, 54.

<sup>62</sup> *Handelingen der Staten-Generaal II, 1955-1956, 4009*: March 15, 1956, p. 3833.

<sup>63</sup> *Handelingen der Staten-Generaal II, 1955-1956, 4009*: March 15, 1956, 3855-3856 (quote on p. 3856).

<sup>64</sup> *Handelingen der Staten-Generaal II, 1955-1956, 4009*: March 20, 1956, p. 3887, 3895; idem, March 21, 1956, p. 3914.

Principally, thus, a full inclusion of strangers who had contributed to the system was pursued and possible practical hindrances to this goal were tried to overcome. However, in practice, the position of foreign employees remained surrounded with some shadowiness. In the end, retirement essentially meant unemployment – and hence the loss of the work permit that made a legal residence possible in the first place. It became unclear, for instance, whether or not strangers could still claim an old age pensions based on ‘residence’ after they had returned to their home countries. Furthermore, although the claim of former foreign employees to an old age pension paid by the Dutch state might remain legally valid, the actual receipt of these benefits became a complex practice, dependent on for instance bureaucratic organizations in their home countries.<sup>65</sup> Eventually, practical problems surrounding the principled inclusion of non-citizens that had actually contributed to the system, would become more complex than Dutch parliament could have acknowledged at this point. They would become a topic of public and political debate later on, as will be described in Chapter III.

#### *National Assistance Act 1965*

For a long time already, in Dutch politics, social security was seen as the final piece of the national social welfare system. However, it took a lot of political debate to transform the payment of assistance to the poor from a private favor into a legal right. In 1947, a governmental committee was assigned for designing a law that could replace the Poor Law of 1912. It took the Committee Replacement Poor Law (*Staatscommissie Vervanging Armenwet*) seven years to present their results and an according plan of legislation. On the hand, this was a surprise, as the plan actually was not much more than a codification of societal practice, albeit with a few adjustments. On the other hand, the Committee was hampered by its immense assignment (‘to investigate the legislation and regulation of the complete sector of societal assistance’<sup>66</sup>), by bureaucratic quarrels between representatives of two Ministries, and by fundamental differences of opinion between the Committee members who were delegates from private charity organizations and those who were state representatives. In its final report, the Committee argued that the state should aim at one system of regulating all assistance (both material and immaterial) to the poor. The Committee considered private (church) charity institutions best capable of organizing the assistance, as they could offer a combination material and immaterial support at once. Because social security was a matter of national societal

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<sup>65</sup> M. Pluymen, *Niet toelaten betekent uitsluiten. Een rechtssociologisch onderzoek naar de rechtvaardiging en praktijk van uitsluiting van vreemdelingen van voorzieningen* (Den Haag 2008) 55-58.

<sup>66</sup> “(..) een onderzoek in te stellen omtrent de wettelijke voorzieningen welke op het stuk van de sociale charitatieve zorg zullen dienen te worden getroffen.” [*Eindrapport van de Staatscommissie Vervanging Armenwet* (Den Haag 1954) 13].

interest, however, *all* assistance to the poor should be funded by state resources. Thus, the Committee presented a new interpretation of the principle of subsidiarity.<sup>67</sup> As said above, this was fairly a codification of societal practice: although the Poor Law of 1912 made private charity organizations formally responsible for assistance of the poor, in postwar society, up to 80% of the assistance payments stemmed from public resources. The parliament firmly rejected most of the assumptions and recommendations of the Committee. Most politicians argued in the exact opposite direction: assistance should be a legal right and hence be not only funded, but also organized by the state. A future act needed to codify this principle. Whether or not there was some room left for organization of assistance by private charity organizations, in their opinion, was a question to be further discussed.<sup>68</sup>

In August 1962, after several adjustments to existing legislation, Veldkamp (the then Minister of Social Affairs and National Health) and Minister Klompé of Societal Work presented their plan for a National Assistance Act. This new act should finally replace the Poor Law of 1912. Social assistance for people who could not meet the subsistence level on their own was defined as a matter of national interest and, therefore, should be organized, funded and controlled by the state (at a municipal level). The assistance should be material only: the moral discourse surrounding assistance up till then was perceived too demeaning. Instead, the Ministers proposed the connection of assistance to a process of returning to work – which would eventually be more satisfying for both state and individual. Social assistance, therefore, would not be without obligations for the recipient and individual responsibility of every citizen remained an important focus of the plan. Its foundation, however, consisted of a motive of solidarity: the newly reached consensus that society as a whole was responsible for the basic wellbeing of its single members. This new consensus implied a decline of the principle of subsidiarity, which had been dominant in social welfare policies up till then. The societal duty of assistance in the case of poverty was now clearly assigned to the state.<sup>69</sup>

Of course, the codification of the primacy of the state in organizing social assistance led to some political debate with the (mostly protestant) proponents of subsidiarity. They also criticized the distinction between material and immaterial assistance. Without any radical adjustments, however, the National Assistance Act was accepted by the Dutch parliament in

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<sup>67</sup> L. van der Valk, *Van pauperzorg tot bestaanszekerheid. Armenzorg in Nederland 1912-1965* (Amsterdam 1986) 198-200; Roebroek & Hertogh, *De beschavende invloed des tijds*, 308-310; *Eindrapport van de Staatscommissie Vervanging Armenwet*, 20-27.

<sup>68</sup> Roebroek & Hertogh, *De beschavende invloed des tijds*, 310-311.

<sup>69</sup> *Handelingen der Staten-Generaal, Bijlagen 1961-1962*, 6796 "Nieuwe regelen betreffende de verlening van bijstand door de overheid", no. 2 'Ontwerp van wet', 1-8; Idem, no. 3 'Memorie van Toelichting', 9-13; Roebroek & Hertogh, *De beschavende invloed des tijds*, 311-313; Van der Valk, *Van pauperzorg tot bestaanszekerheid*, 200-206.

April 1963. The system of national assistance became effective from the 1<sup>st</sup> of January 1965 onwards. It was perceived as the desired final piece of realizing a national welfare system (at least for the time being).<sup>70</sup> This demonstrated how much the ideal of social justice on a national scale had become settled in Dutch politics.

However, this social justice on a national scale was of a strong exclusive character in some respects. It was with the development of a social welfare provision regarding poverty, namely, that the position of 'strangers' in the Dutch welfare state became more critical. Whoever legally resided and worked in the Netherlands but did not possess the Dutch nationality, was excluded of the national assistance, as presented in the plan for a National Assistance Act in 1962. It was clearly stated in the first Article: every *Dutchman* in need is entitled to assistance by his government.<sup>71</sup> Only as 'exception', because of a contract of reciprocity with the homeland or based on humanitarian motives in the case of refugees, assistance by the Dutch government could be granted to strangers.<sup>72</sup> In practice, this meant that most of the labor migrants who legally resided here could apply for assistance when needed. As this application probably meant they were unemployed for a period longer than covered by their unemployment insurance, they did so at the risk of losing their work/residence permit completely. In principle, then, in contrast with the provisions for unemployment and old age, the system of national assistance excluded strangers from its welfare community. Most interestingly, then, is that this national character of the social security provision was accepted in parliament without any fundamental discussion.

### **In- and exclusion in the early Dutch welfare state: principles, problems and prospects**

In the two decades that followed the end of the Second World War, the blueprint of in- and exclusion in the Dutch welfare state was firmly established. The national welfare system was based on different principles of redistribution. First, the model of mandatory labor insurance obliged all employees to contribute part of their income to a general fund, to which employers and the state paid mandatory contributions as well. The fund was used for the payment of benefits in case of unemployment. Although the system was implemented as a general provision

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<sup>70</sup> *Handelingen der Staten-Generaal II, Bijlagen 1962-1963, 6796*, no.4 'Voorlopig Verslag', 1-12; Idem, no. 5 'Memorie van Antwoord', 1-16; *Handelingen der Staten-Generaal II, 1962-1963, 6796*: April 2, 1963; April 3, 1963; April 4, 1963; April 10, 1963; Schuyt & Taverne, 1950. *Welvaart in zwart-wit*, 296-297; Roebroek & Hertogh, *De beschavende invloed des tijds*, 311-313; Van der Valk, *Van pauperzorg tot bestaanszekerheid*, 206-216.

<sup>71</sup> *Handelingen der Staten-Generaal II, Bijlagen 1962-1963, 6796*, no. 2 'Ontwerp van Wet', 1: "Aan iedere Nederlander, die hier te lande in zodanige omstandigheden verkeert of dreigt te geraken, dat hij niet over de middelen beschikt om in de noodzakelijke kosten van het bestaan te voorzien, wordt bijstand verleend door burgemeester en wethouders."

<sup>72</sup> *Handelingen der Staten-Generaal II, Bijlagen 1962-1963, 6796*, no. 2 'Ontwerp van Wet', 6; Idem, no. 3 'Memorie van Toelichting', 29.

for the entire labor market, the access to welfare still was conditional, and defined on individual basis: only if you had paid contributions, you could receive benefits. This principle worked the other way around as well: although the provision was applied to the *Dutch* labor market exclusively, all employees who paid income taxes, could receive benefits from the general fund – whether or not they possessed Dutch citizenship. Seen from this perspective, this part of the system tended to universality instead of nationality.

The system of national insurance used for funding and organizing the provision for old age pensions, worked quite similarly. All employees, including foreign employees, contributed part of their income to a general fund, as did the state. The fund was used to pay an old age pension to *all* above the age of 65, who had legally resided here (and paid income taxes) between the age of 15 and the age of 65. Thus, foreign workers that were legally employed in the Netherlands – in accordance with the international convention – built up their old age pensions just like Dutch citizens did. Due to the cutting clause and the loss of work/residence permits after retiring, their claim to the payment of an old age pensions by the Dutch state could become caught in a complicated, bureaucratic process – that might not even bring in enough benefits to live from. However, full inclusion of anyone who had contributed to the system was the principle. Exclusion, if any, was mainly of a practical sort.

Exclusion only became principled in the system of national assistance, which was designed to fight poverty. Paid by state resources, this provision was exclusively aimed at Dutch citizens who could not make the subsistence level on their own. Strangers could only receive social assistance based on international agreements or in case of humanitarian need. This, although it was applied often in practice, was perceived as exception to the rule: in the system of national assistance, exclusion of non-citizens was the principle.

As the postwar welfare system consisted of different redistributive mechanisms, several problems were discernible from the mid-1960s onwards. Most important was the level of complexity that had come to characterize the welfare state system. As far as Dutch citizens were concerned, the blueprint of rights and duties was relatively clear: they had access to all national provisions. If they were in a position of paid employment, they had access to labor provisions as well, but, on the other hand, they were obliged to contribute considerable part of their income to the welfare system. Foreign employees that legally resided in the Netherlands had the same obligations as Dutch employees, but, in return, did not possess similar access to all national provisions like Dutch citizens had. This postwar blueprint of in- and exclusion in the Dutch

welfare state is remarkable, as before the Second World War, apart from the contribution principles in the Labor Act for Strangers of 1934, strangers were neither explicitly excluded from nor explicitly included in any social provisions. In the postwar welfare system, then, the principle of contribution was partly replaced by the principle of nationality. In other words: the system principally excluded strangers from certain social provisions, while including them in others. The principle tendency, however, still was towards inclusion.

As mentioned before, also from the mid-1960s onwards, a large-scale recruitment of Southern European guest workers began. Their work capacities were needed to fill the deficiencies on the Dutch labor market. As they legally resided here, they also joined the welfare system – and hence were confronted with the in- and exclusive welfare institutions that have been described above. The distinction between ‘employee’ and ‘citizen’ that had defined the access to national welfare provisions now became harder – especially when not only the guest workers, but also their families wanted to reside in the Netherlands more permanently. In the decades that followed the establishment of the Dutch welfare state, the access of these groups to provisions regarding unemployment, old age and poverty needed to be further defined and regulated. The question now is, whether or not exclusion became a drawback of the postwar welfare system usually renowned for its idealistic, generous and inclusive character. In other words: to what extent has (a form of) *welfare chauvinism* been present as a political discourse that criticized the tendency towards inclusion that characterized the initial postwar Dutch welfare state? In order to answer this question, in the next two chapters, three political debates concerning the further access of strangers and foreign employees to the Dutch welfare state system will be analyzed.

### **III Labor migrants in the Dutch welfare state in the 1970s**

#### ***Two political debates on access to labor welfare provisions***

As the presence of labor migrants in Dutch society became extensive and permanent, questions about the rights and needs of labor migrants became a topic of large-scale political and public debate. How did Dutch politics and Dutch society deal with the status of 'immigration country'? Who was representing the needs and rights of migrants and how were their opinions transferred into the realm of political decision-making? These questions were first of all answered during two political debates in the 1970s, that will be analyzed in this chapter. To begin with, a policy amendment about the presence of labor migrants was discussed in parliament: the *Nota Buitenlandse Werknemers* (accepted in 1974). As a consequence of this policy statement, a new law was accepted in 1975 that strictly regulated the stay and rights of labor migrants. This *Wet Arbeid Buitenlandse Werknemers* generated large political and public discussion as did the policy amendment from 1974. By analyzing these two debates, this chapter provides a broad perspective on the Dutch labor market and the (social and juridical) positions of recruited and spontaneous labor migrants in it. The focus will be on the motives underlying the debate and the according principles of redistribution (concerning migrants' access to labor welfare provisions) that was plead for by different political and public actors.

#### **Setting the framework of the discussion: the *Nota Buitenlandse Werknemers* (NBW)**

At the 14<sup>th</sup> of January 1970, the confessional-liberal government (led by prime-minister De Jong) presented to the Dutch parliament a first real effort to define the basic assumptions and goals of labor migration policy. The policy amendment presented by Minister Roolvink of Social Affairs (called the *Nota Buitenlandse Werknemers*; here referred to as the NBW) was concerned with the position, rights and needs of labor migrations on the Dutch labor market. Three closely connected motives were guiding for the government's stance in the NBW. First, the presence of foreign employees was considered to be permanently necessary. The Dutch labor market simply could not manage without labor migrants anymore. In this respect, labor migration policy was meant to reduce the internal tensions at the labor market. For instance, labor migrants accepted jobs that Dutch employees did not wanted to do anymore because of low wages or bad working conditions.

Despite this clear economic interest in recruiting foreign labor capacity for the Dutch labor market, the second assumption in the NBW asserted that the Netherlands were not an immigration country, nor willing to obtain such a status in the future. For the Dutch government, this implied that spontaneous migration should be restricted and labor migration should be preferably limited to formal channels of recruitment. Furthermore, the stay of any labor migrant was still perceived to be temporarily. Family reunification and humanitarian needs were morally accepted matters, but, according to the government, demographic features of the Netherlands did not allow unrestricted permanent settlement. This assumption was actually motivated by another policy document, that was presented by the liberal Minister Polak of Justice together with the NBW. He was very negative about the recruitment and employment, as he feared bad integration and unfair competition at the labor market. Eventually, Polak argued, a large social problem could arise, which would harm future Dutch generations.<sup>73</sup>

The third assumption both applied and reflected upon the first two assumptions. It was explicitly concerned with the rights and needs of labor migrants. Essentially, a foreign employee at the Dutch labor market was treated just like any other Dutch employee. Here, the non-discrimination principle was guiding: foreign employees should equally have full access to welfare provisions that were based on the payment of income taxes (unemployment insurance, old age pension, child allowance and health insurance). Besides, in their new living and working environments, labor migrants were understood to be 'vulnerable' persons in need of extra care and support, for instance regarding housing. So, economic interests of recruiting and employing foreign labor forces were translated into access to certain welfare provisions and even positive discrimination. More implicitly, however, the NBW still defined the rights and needs of labor migrants in their practical and temporal status of employee only.<sup>74</sup> This would lead to practices of unequal treatment, as was made explicit during the public and political debate that followed the presentation of the NBW.

In order to give public organizations an opportunity to reflect on the proposed labor migration policy, a public hearing was held at May 14 and 15, 1970. Representatives from a wide range of interest groups (employers, employees, churches, welfare organizations) were present

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<sup>73</sup> In the words of Minister Polak: "De voortdurende klemmende vraag naar buitenlandse werkkraft geeft mij met het oog op de toekomst aanleiding de aandacht op de toenemende groei van het aantal vreemde arbeiders te vestigen. Bij uitstek de lagere functies in het arbeidsproces worden door hen ingenomen. (...) Zij komen uit steeds verder afgelegen landen (..) Daarmee zou gepaard gaan dat de integratie steeds trager zal verlopen. Aldus kan een sociaal probleem groeien, waarvan latere geslachten de wrange vruchten zouden plukken." See: De Lange, *Staat, markt en migrant*, 129-130; quote on p.130.

<sup>74</sup> *Handelingen der Staten-Generaal, Bijlagen 1969-1970, 10504 Nota buitenlandse werknemers*, no. 2; J. Schuster, *Poortwachters over immigranten. Het debat over immigratie in het naoorlogse Groot-Brittannië en Nederland* (Amsterdam 1999) 181-185.

at the hearing. An important say in the hearing had welfare foundations for labor migrants (*Stichtingen Welzijn Buitenlandse Werknemers*), that had spread over the country during the 1960s. They wanted to further a general consciousness of the position of labor migrants in Dutch society and, in this respect, were explicitly acknowledged in the NBW.<sup>75</sup> In general, however, there was a large discrepancy between the stance of welfare organizations and the position of the government. The latter was firmly criticized for the economic character of its arguments. Public organizations demanded a more ethical approach of the position of labor migrants and hence situated the debate in the question of global welfare inequalities.<sup>76</sup>

This tension between an economic and an ethical (or moral) approach was visible in the stance taken by the welfare organizations regarding social insurances. Especially with regard to the (income) contributions that labor migrants paid for an old age pension, the welfare organizations did some very concrete suggestions. They argued that labor migrants would almost never collect the old age pensions they were entitled to – for instance because the average life expectancy in many home countries did not reach 65 years or, once returned, they were hampered by bureaucratic complications. In fact, this meant that their contributions eventually turned out to be a direct donation to Dutch society. From an ethical point of view, therefore, it seemed only fair to develop a different way to pay labor migrants the benefits they were entitled to. Some administrative objections were uttered to this suggestion, but the proposal as such remained on the table for parliamentary discussion, as the protocol of the first debate about the NBW in the parliamentary committee demonstrated.<sup>77</sup> Interestingly enough, this public stance regarding the rearrangement of contributions paid by labor migrants for old age pensions expressed a similar view on the ‘temporariness’ of the migrants’ stay.

A governmental reaction on the first parliamentary discussions and the public hearing was bound to come, but did only in the spring of 1974. The progressive government (led by prime minister Den Uyl) again firmly stated that the Netherlands were not supposed to be (come) an immigration country. Furthermore, Minister Boersma of Social Affairs announced that restrictive labor migration policies would be laid down in a future act on the employment of labor migrants

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<sup>75</sup> See *Handelingen der Staten-Generaal, Bijlagen 1969-1970, 10504*, no.2: “Over het algemeen kan met voldoening worden geconstateerd dat de landelijke en regionale stichtingen voor opvang en begeleiding zich in de afgelopen jaren krachtig hebben ontwikkeld en - meer dan voorheen het geval was - een belangrijke bron van informatie zijn geworden voor het regeringsbeleid met betrekking tot de buitenlandse werknemers.” (page 11).

<sup>76</sup> *Handelingen der Staten-Generaal, Bijlagen 1969-1970, 10504*, no.4 Verslag van een openbare hoorzitting; Schuster, *Poortwachters over immigranten*, 185-188; De Lange, *Staat, markt en migrant*, 129-137.

<sup>77</sup> *Handelingen der Staten-Generaal, Bijlagen 1969-1970, 10504*, no.4 Verslag van een openbare hoorzitting; idem, no.5 Voorlopig verslag.

(the *Wet Arbeid Buitenlandse Werknemers*; see next paragraph). This led to the question if and how permanent settlement should be actively discouraged. Several policy instruments were suggested, among which the penalization of employers for employing illegal labor migrants without a work permit and a quota for the maximum number of foreign employees per company/employer.

Most notoriously, the government proposed a ‘bonus’ of f5000,- for labor migrants who after two or three years voluntarily decided to return to their home countries. They would then have starting capital for new enterprises. Besides serving the goal of restricting immigration, the bonus was presented as an ethical arrangement of foreign developing aid. The possibility of paying entitled old age pension benefits to returning migrants was not discussed at all at this point. The non-discrimination principle for entitlement to social insurances, however, was confirmed once more.<sup>78</sup>

The proposition of the bonus went all wrong. Both the parliamentary committee (including representatives of the governing parties PvdA, ARP, KVP, PPR and D66) and the general public condemned it as a ‘piss-off-premium’. Once more, the committee proposed a rearrangement of the payment of old age pensions to labor migrants. The committee suggested to replace the bonus by the payment of all built up pension benefits at once in case of return. Further entitlement of the former labor migrant to old age pension benefits would then expire.<sup>79</sup> In the final version of the NBW, Minister Boersma resolutely rejected this. Apart from administrative objections, he thought it too dangerous for the national social security system to make the old age pensions redeemable in any form.<sup>80</sup>

In the plenary debate, finally, the Dutch parliament did not discuss the need of a labor migration policy focused on restriction as such. There was some discussion about the intended reintroduction of the permit system as well as about the bonus-arrangement. The latter was eventually dropped by the Minister – also due to bad publicity and criticisms of interest groups. In general, due to the proposed policy instruments for restricting labor migration, the question of the rights of the foreign employee (such as entitlement to social insurance benefits and free

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<sup>78</sup> *Handelingen der Staten-Generaal, Bijlagen 1973-1974, 10504*, no.9 Memorie van Antwoord; De Lange, *Staat, markt en migrant*, 137-144.

<sup>79</sup> *Handelingen der Staten-Generaal, Bijlagen 1973-1974, 10504*, no.11 Eindverslag, 8.

<sup>80</sup> As expressed in the final version of the NBW: “Hoewel het bekend is dat een lagere gemiddelde levensduur in de landen van herkomst normaal is, zou een wijziging in de op dit punt bestaande wetgeving afbreuk doen aan het daarin neergelegde principe. Enige vorm van afkoop van de AOW-uitkering voor Nederlanders zowel als voor vreemdelingen is steeds doelbewust buiten beschouwing gelaten. Afgezien van administratieve beslomeringen, die reeds een aanmerkelijke hinderpaal zouden opleveren, acht de ondergetekende dit een voor de sociale zekerheid zodanig gevaarlijk precedent dat hij hiertoe niet bereid is.” (*Handelingen der Staten-Generaal, Bijlagen 1974-1975, 10504*, no.12 Nota naar aanleiding van het eindverslag, p.15).

choice of employer) had become more critical.<sup>81</sup> It was exactly this question that received a lot of attention in the political debate regarding the act that wanted to further regulate labor migration policy and implement the according restrictive policy instruments: the *Wet Arbeid Buitenlandse Werknemers* that followed the NBW.

### **The legal framework and beyond: the *Wet Arbeid Buitenlandse Werknemers* (WABW)**

In November 1975, Minister Boersma of Social Affairs (ARP) and Minister Van Agt of Justice (KVP) presented their plan of legislation regarding the position of ‘strangers’ at the Dutch labor market to parliament. The proposal was clearly aimed at realizing a restrictive labor migration policy. Another motive was the stance that illegal employment of strangers should effectively be fought. Existing legislation, in their view, did not achieve these goals properly: both Ministers argued that some new policy instruments were required for controlling the recruitment and employment of labor migrants. These instruments should encourage employers to judge the need of employing labor migrants more critically and to search for alternatives more often. According to the proposal (and in line with the NBW), it would be the employer who had to apply for an ‘employment permit’ for each stranger he wanted to appoint. Furthermore, employers would be bound to a limit of 20 permits per enterprise. When an employer failed to apply for the employment permit, but did appoint the labor migrant, the employer was liable to punishment. The other way around, foreign employees still had the obligation to possess a work permit. This obligation expired only after five continuous years of performing paid labor in the Netherlands. However, the application process now would be the employer’s responsibility.<sup>82</sup>

In the explanatory memorandum, the twofold motive that was behind the legislation proposal was made explicit. On the one hand, it was the importance of efficient and realistic labor market policy that called for new legislation regarding (illegal) labor migration, the government argued. On the other hand, however, the position and freedom of foreign employees, once admitted legally, had to be protected: their juridical position (for instance regarding the right to free choice of employer) was not be lost sight of. Therefore, the presented plan of legislation was said to balance both motives in the best possible manner.<sup>83</sup>

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<sup>81</sup> *Handelingen der Staten-Generaal II, 1974-1975*, October 16, 1974; October 24, 1974; October 29, 1974; Schuster, *Poortwachters over immigranten*, 192-194; For an overview of the proposed policy instruments see: De Lange, *Staat, markt en migrant*, 137-144.

<sup>82</sup> *Handelingen der Staten-Generaal II, 1975-1976*, 13682 ‘Bepalingen inzake het doen verrichten van arbeid door buitenlandse werknemers (*Wet arbeid buitenlandse werknemers*)’, no.2 Ontwerp van Wet; idem, no.3 Memorie van Toelichting; De Lange, *Staat, markt en migrant*, 190-194; Schuster, *Poortwachters over immigranten*, 196-198.

<sup>83</sup> *Handelingen der Staten-Generaal II, 1975-1976*, 13682, no.3 Memorie van Toelichting, 7-9.

The debate that followed the presentation of the plan denied this balance: it was exactly the social and juridical position of legally admitted foreign employees that would be harmed by the policy instruments of the WABW. The enormous critiques that followed the proposal – during the preparatory phase before the actual parliamentary discussions already – often referred to this supposed deterioration of the rights of labor migrants that were legally employed here. As in the debate regarding the NBW, the need of a restrictive labor migration policy was principally acknowledged by all parties. Several practical policy instruments in the first design of the WABW, however, were confronted with many protests. Interestingly enough, those protests were especially uttered by parliamentary representatives of governing parties, such as the labour party (PvdA), D66 and the more radical PPR. Also, the liberal party (VVD) criticized the policy instruments for harm freedom of labor and a free labor market. In this respect, public organizations, labour unions and politicians reacted relatively similar to the proposal. On the other hand, the confessional governing parties, to a very large extent, agreed with the motive behind the proposed legislation as well as with the suggested policy instruments for realizing a restrictive labor migration policy.<sup>84</sup>

The first policy instrument that was strongly criticized was the replacement of the work permit (applied for by the employee) with the employment permit (applied for by the employer). Generally, this would make the foreign employee too dependent from employers, employment offices and eventually the aliens police. For instance, in case of a long illness of the employee, an employer unilaterally decides to apply for withdrawal of an employment permit and his request is granted by the employment office. The legislation was not clear about what happened with entitlements to disability or unemployment insurances after termination of the employment permit. Or even worse, as the employment permit was an absolute condition for legal residence, the foreign employee would have not a leg to stand on with the aliens police. The proposed WABW would not protect him, because it was only concerned with the juridical position of the labor migrant that *did have* an employment permit. In other words, the WABW did weaken the juridical position of the legally admitted labor migrant, as explicitly was argued by the PvdA and D66. The Communist Party (CPN) even spoke of a form of ‘modern slavery’ and principally rejected the complete proposal.<sup>85</sup>

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<sup>84</sup> *Handelingen der Staten-Generaal II, 1975-1976, 13682, no.5 Voorlopig Verslag; Idem, no.9 Eindverslag; Kommentaar van het Nederlands Centrum Buitenlanders en de 17 regionale Stichtingen welzijn buitenlandse werknemers op het ontwerp van wet ‘Wet arbeid buitenlandse werknemers’* (Utrecht 1975); De Lange, *Staat, markt en migrant*, 194-211; Schuster, *Poortwachters over immigranten*, 198-208.

<sup>85</sup> De Lange, *Staat, markt en migrant*, 197-199; *Kommentaar van het Nederlands Centrum Buitenlanders*, 5-12.

The limit of permits per enterprise deteriorated the rightful position of the legal labor migrant in a different way. Here, the freedom of choice of labor was at stake. Once appointed here, at least during the first five years of employment, labor migrants could only perform jobs in enterprises that had not yet reached the maximum of 20 foreign employees. This was said to hamper labor mobility and promotion prospects of foreign employees in general – an obstacle especially criticized by the liberal VVD. From a more fundamental perspective, expressed by PvdA and D66 representatives, the limit of permits meant a discrimination of foreign employees as compared to their Dutch and EEG-colleagues. Equal arguments were used to criticize the clause that set a period of five years of continuous paid labor as a condition for exemption of an employment permit and hence free access to the labor market. Firstly, it was harder to complete these five years, as for any new appointment a new employment permit was required. Secondly, it was argued, (the right to) labor mobility was cornered again. Representatives of the PvdA and D66, therefore, proposed to reduce the number of years in which an employment permit was obligatory to the (in their view) necessary minimum of three.<sup>86</sup>

In the plenary parliamentary debate that followed these first protests, the different political parties remained divided. First, the confessional governing parties agreed upon the motive of a restricted labor policy as well as upon the chosen policy instruments. In order to really regulate legal labor migration, as representative Van Dam (ARP) argued, the proposed instruments were the most applicable in the end. Despite the fact that he shared part of the uttered objections against the policy instruments, he also felt that the government should be given strong means in order to fulfil its responsibility in the fight against illegal labor. Second, the exact opposite opinion was uttered by more radical democratic political parties like the PPR, PSP and the CPN. Representatives Van der Lek (PSP), Van der Heem-Wagemakers (PPR) and Meis (CPN) expressed their prohibitive objections against the motives and instruments of the proposed legislation. The instruments were highly underrepresenting the interests of the foreign employee himself and the motive of a restrictive labor migration policy as such was just a matter of exclusive Dutch self-interest – that was strongly condemned by these parties. Their objections, thus, were both principled and practical. Representatives of the socio-democratic parties (PvdA; D66) and the liberal party (VVD) positioned themselves in-between of these contrasting points of view. It was not the principled motive behind the legislation as such – a restriction of labor migration – that

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<sup>86</sup> *Handelingen der Staten-Generaal II, 1975-1976, 13682*, no.5 Voorlopig Verslag; Idem, no.9 Eindverslag; De Lange, *Staat, markt en migrant*, 199-204; *Kommentaar van het Nederlands Centrum Buitenlanders*, 14-15.

they perceived problematic, but rather its realization through practical instruments that deteriorated the social and juridical position of the legally admitted foreign employee. In this line of reasoning, representatives Albers (PvdA) and Imkamp (D66) proposed several adjustments to the policy instruments similar with the ones from the preparatory phase (see above).<sup>87</sup>

It were those two socio-democratic parties that eventually switched towards supporting the proposal. They felt that their practical objections were met sufficiently. For: the final version of the WABW stated that employer and stranger would be obliged to apply for an employment permit *together*. Furthermore, the period of five years was shortened to three years (which also was in accordance with European and other international treaties that the Netherlands were part of). The limit of permits per enterprise stayed in place, but was no longer applied to foreign employees that switched jobs *inside* the enterprise – so that labor mobility and promotion prospects were guaranteed. On the other hand, this would give the government an instrument for regulating labor migration at the labor market in structural and effective manner.<sup>88</sup> It took almost two more years, then, before the First Chamber discussed and eventually approved the WABW. During these years, some of the provisions of the act were already applied in the practice of recruitment and employment of foreign employees.<sup>89</sup>

After the WABW came into force on the first of November, 1979, much public ado soon arose. As the Dutch government introduced the new act with a publicity campaign against illegal employment, many illegal labor migrants were dismissed. Their position became a topic of moral and juridical debate, both in public and in politics. In the public realm, the publicity campaign was criticized for its emphasis on the penalization of employers: this had caused the employers to radically dismiss their illegal workers. The claims of illegal labor migrants based on the legal provisions in the WABW were considered too unprotected; their position was called ‘rightless’. In the so-called ‘Piss-off-book’ (*Rot-op boek*), a democratic platform of foreign employees even recalled the denounced bonus of the NBW debate: had that controversial arrangement been accepted, at least, dismissed foreign employees would have something. Now, in their view, foreign employees were left empty-handed, despite all their contributions.<sup>90</sup>

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<sup>87</sup> *Handelingen der Staten-Generaal II, 1975-1976, 13682*, September 2, 1976.

<sup>88</sup> *Handelingen der Staten-Generaal II, 1976-1977, 13682*, no.1 Gewijzigd ontwerp van wet; idem, no. 1b Memorie van antwoord; *Handelingen der Staten-Generaal II, 1975-1976, 13682*, September 7, 1976; idem, September 9, 1976; De Lange, *Staat, markt en migrant*, 197-204.

<sup>89</sup> *Handelingen der Staten-Generaal I, 1978-1979*: October 31, 1978; November 7, 1978; De Lange, *Staat, markt en migrant*, 211-212.

<sup>90</sup> Platform van democratische organisaties van buitenlandse arbeiders, *Rot-op boek. Over de eerste gevolgen van de Wet arbeid buitenlandse werknemers* (Amersfoort 1980).

Meanwhile, the government also feared massive redundancies and rapidly accepted a transitional arrangement for illegal foreign employees in the spring of 1980. Based on this legal arrangement, illegal workers could report themselves at the district employment offices, that would then look into the possibility of legalizing their jobs – which worked out for about 1500 illegal foreign employees.<sup>91</sup> Furthermore, a formal political evaluation took place between 1981 and 1984. Based on three evaluation reports, the Dutch parliament kept debating on the need and practices of the WABW. Interesting was the fact that the practice of granting employment permits and checking them during a period of three years was actually implemented rather flexible. This, however, did not end in a modification of the act as such – not even when a revision of the WABW came up in the 1980s.<sup>92</sup>

### Labor migrants and their welfare entitlements

In conclusion, then, what have these two debates about the position of labor migrants at the Dutch labor market to do with the question of *welfare chauvinism*? Both the debate about the NBW and the WABW were concerned with the position and rights of labor migrants that were legally admitted to the Netherlands. At least in theory, the non-discrimination principle was guiding for regulating their juridical position at the Dutch labor market and in Dutch society. They should eventually have the same duties and rights as any Dutch employee. Free access to the labor market and its welfare provisions, however, was hardly compatible with the main motive behind both the policy amendment the actual act: the need of restricting labor migration in order to protect and stimulate national employment. Especially illegal employment was to be fought. Therefore, access to the Dutch labor market was restricted by employment permits. In order to receive full freedom at the labor market, furthermore, paid work had to be continuously performed for a period of three years. In practice, this troubled the social and juridical position of legal foreign employees during these first three years. Income taxes (for, among other things, unemployment and disability insurances as well as old age pensions) were to be paid, but in the case of dismissal or disability, claiming benefits always came with the insecurity of losing one's employment permit (and hence residence permit) completely. As mentioned *explicitly* in the final version of the NBW, disability to work could eventually be a reason for terminating a residence permit as such.<sup>93</sup> Furthermore, in the debate surrounding the NBW, a practical kind of

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<sup>91</sup> De Lange, *Staat, markt en migrant*, 213-216.

<sup>92</sup> *Idem*, 213-230.

<sup>93</sup> *Handelingen der Staten-Generaal, Bijlagen 1974-1975, 10504*, no.12 Nota naar aanleiding van het eindverslag, p.24: "Ten aanzien van legale werknemers wordt om de uitsluitende reden van ziekte niet tot intrekking van de verblijfsvergunning

exclusion with regard to payment of old age pensions was explicitly mentioned by some public and political actors, but the suggestions to overcome it remained completely unmentioned during the coming into being of the WABW.

In this case of labor migration legislation, exclusion of social welfare provisions was not a political motive as such. By most politicians, exclusion was rather perceived an unfortunate, negative side-effect of necessary restrictive measures in labor migration policy. Therefore, in the parliamentary debate surrounding the NBW and the WABW, socio-democratic political parties like PvdA and D66 were especially focused at limiting this side-effect as much as possible. They did so not by doubting the restrictive motive as such, but by altering and adjusting the proposed policy instruments that were causing the exclusion. In the end, then, they agreed with a weakened form of exclusion, as, also for them, restriction of labor migration was the prior goal.

At the end of the 1970s, in conclusion, the troubled social position of foreign employees was an indirect, but acknowledged part of restrictive labor migration policy. The scope of these exclusive and restrictive measures, however, had become much smaller by then. The WABW was not applied to legal strangers with an unconditional residence permit, nor to strangers that were entitled to legal residence based on international treaties (most notoriously EEG-citizens). In addition, exceptions were made for special professional groups, such as guest teachers, journalists and international conveyors.<sup>94</sup> In other words, the tendency towards universality and inclusion – despite all political debates concerned with the deteriorated social and juridical position of labor migrations – still was in place. It only makes sense, then, that political debates about access to welfare provisions in the 1980s and 1990s were no longer concerned with the position of foreign employees. In order to further protect the national welfare state system, Dutch politicians turned towards the only group left for (possible) exclusion: illegal strangers. Instead of connecting the access to welfare provisions to the condition of legal employment, they now bent to legal residence as an absolute condition – as became clear in the debates preceding and regarding the so-called *Koppelingswet* (1998), to which we now turn.

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overgegaan. Ten aanzien van legale werknemers die een uitkering genieten wegens arbeidsongeschiktheid wordt intrekking of niet-verlenging van de verblijfsvergunning in het algemeen slechts overwogen in geval de uitkering op grond van de arbeidsongeschiktheid zodanig laag is dat aanvulling van de bestaansmiddelen ten laste van de openbare kas noodzakelijk blijkt, terwijl evenmin uitzicht bestaat op aangepaste arbeid.”

<sup>94</sup> De Lange, *Staat, markt en migrant*, 204.

## IV The social security ultimatum

### *Excluding 'strangers' from social welfare provisions since the 1980s*

The postwar legislation regarding unemployment, old age pension, and poverty as well as the 1970s-legislation concerning restrictive labor migration policy has changed ever since. An important motive for change was the increasing perception that access to the Dutch welfare provisions should be fundamentally connected to the right to stay in the Netherlands as such.<sup>95</sup> In 1985, a large-scale revision of the social security system was presented and discussed in Dutch parliament. Several adjustments and transitional arrangements to unemployment and assistance welfare legislation were mapped out.<sup>96</sup> This context enabled legislation on unemployment and poverty to be altered regarding their accessibility for strangers. The alterations will be discussed in the first paragraph of this chapter. In the 1990s, then, a new act was prepared in order to make the connection of social welfare provisions and legal residence explicit at last. Secondly, therefore, the coming into being of this so-called *Koppelingswet* (1998) will be discussed. In this act, a set of ideas about access to social welfare provisions as connected to both employment and legal residence was laid down. Eventually, it incorporated a view on the universality as well as conditionality of the Dutch welfare state.

#### **Unemployment and poverty in the 1980s**

With the coming into being of the WABW, legal employment of strangers had already been bound to a set of legal criteria and rules. In other words: employment at the Dutch labor market and, hence, access to its welfare provisions was bound to a framework of conditions. However, the legislation regarding labor welfare provisions as such – most notoriously the Unemployment Act – did not contain similar conditions for defining legal employment. In order to be entitled to claim welfare benefits in the case of unemployment, one should have paid his contributions, whether it was in a position of legal or illegal employment. This changed in 1985, as a new version of the Unemployment Act was presented to the Dutch parliament by the Lubbers-I cabinet. In short, the confessional-liberal government argued that illegal employment should not be rewarded with legal welfare benefits any longer. A fear that illegal strangers were enabled to continue their stay in the Netherlands thanks to the receipt of legal labor welfare benefits was

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<sup>95</sup> Pluymen, *Niet toelaten betekent uitsluiten*, 43-45.

<sup>96</sup> *Handelingen der Staten Generaal II, 1985-1986, 19383 'Invoeringswet Stelselherziening'*, no.2 Voorstel van Wet.

behind it. Therefore, it was suggested, the Unemployment Act should become as exclusive as the National Assistance Act as far as illegal employees were concerned.<sup>97</sup>

Apart from the more fundamental statement that illegal employees were no longer entitled to welfare benefits in case of unemployment, some policy instruments were introduced to achieve this goal. Most notoriously, any employee that wanted to claim unemployment benefits should register for employment at one of the district employment offices. Benefits would no longer be paid (whether or not contributions had been paid) if this obligation was not met. As registration was impossible for an illegal stranger without any formal residence papers or legal work documents, they would not have access to labor welfare provisions anymore.<sup>98</sup> At this point, due to several initial objections against this policy instrument, the government reassured the parliament that the legal regulation of social security *was not* used as an instrument in achieving immigration policy goals. However, it was argued, the legislation regarding unemployment benefits should be brought in line completely with the stipulations of the Immigration Law – which had not been the case so far.<sup>99</sup>

The National Assistance Act, in contrast, had had a nationality clause from the very beginning. In the act of 1965, the payment of assistance to strangers was institutionalized as an exception to the rule. In practice, however this meant that assistance was paid to all ‘treaty-strangers’ as if they were Dutch citizens. This was equally perceived a legal obligation of the government like the payment of assistance to Dutch citizens was. In all other cases (for instance regarding ‘non-treaty-strangers’ and illegal but tolerated strangers), the payment of assistance was understood to be a possibility – a competence – instead of a legal duty. These practical boundaries were institutionalized in the new National Assistance Act of 1991, that was discussed and accepted in parliament in 1987-1988. From now on, the legal duty to the payment of assistance existed for Dutch citizens, treaty strangers (like strangers from all European partner countries) and *all* strangers that legally resided here. This community of beneficiaries was completely defined in the first article, whereas up until then only Dutch citizens were named here (and strangers were

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<sup>97</sup> *Handelingen der Staten Generaal II, 1985-1986, 19261 “Verzekering van werknemers tegen geldelijke gevolgen van werkloosheid – werkloosheidswet”, no.2 Voorstel van Wet, Article 19-1F: “Geen recht op uitkering heeft de werknemer die op grond van de Vreemdelingenwet (Stb. 1965, 40) kan worden uitgezet.” (p. 6-7); idem, no.3 Memorie van Toelichting, 29-38; 50-52. See also: L. Clermonts, J. van der Marck and C. Terweijden, *Illegalen komen niet hier. Gebruik van collectieve voorzieningen door vreemdelingen zonder verblijfstitel* (Nijmegen 1990) 27; Pluymen, *Niet toelaten betekent uitsluiten*, 51-55.*

<sup>98</sup> *Handelingen der Staten Generaal II, 1985-1986, 19261 ‘Werkloosheidswet’, no.2 Voorstel van Wet, 9-10; see also H.J. Simon, ‘Het uitsluiten van illegale vreemdelingen van (semi-)overheidsvoorzieningen’, *Nederlands Juristenblad* 14 (1987) 429-434.*

<sup>99</sup> *Handelingen der Staten Generaal II, 1985-1986, 19261, no.15 Nota naar aanleiding van het eindverslag, 36-38.*

only mentioned in Article 84). Tolerated strangers still fell in the category of ‘possible payment of assistance’, in which their ‘tolerated’ status had to be registered somewhere. Illegal strangers were completely excluded from any form of assistance, except in the case of extremely urgent humanitarian need.<sup>100</sup>

In fact, this adjustment meant an enormous extension of the number of beneficiaries that were legally entitled to social assistance. The nationality criterion of being a Dutch citizen, hence, became less directive: strangers that legally resided here would be given an entirely equal status. This adjustment was generally perceived as being only righteous and in line with the already existing practice and international and EU-treaties. Most political discussion, thus, was directed at setting boundaries between the payment of assistance as legal duty and as possible competence. In *any* case of assistance request, several CDA and PvdA politicians argued, it should be undoubtedly clear which category was to be applied. In juridical journals, as well, this was uttered as the greatest fear of all: that a group of undefined strangers would arise, that could not be expelled based on immigration legislation, but, at the same, was not registered as being tolerated – and hence did have no access to any means of existence. The exclusion of non-registered tolerated strangers as well as illegal strangers, however, was not disputed as such.<sup>101</sup>

At the end of the 1980s, then, two lines of reasoning can be distinguished in the arguments used by the government for the adjustments to social welfare legislation.<sup>102</sup> First, gradually, social welfare policy came to the fore as an instrument of excluding strangers. From an increasingly interdepartmental perspective, Dutch politics started to connect social welfare legislation with the question of illegal strangers and their social and juridical position in the Netherlands. Although social welfare policy as an instrument in immigration politics was denied at first, in the late 1980s, several research committees were assigned by the government with the task of exploring such a policy connection.<sup>103</sup> It was the Ministry of Justice that became increasingly dominant in this debate. Responsible for the problem of illegal strangers, this Ministry was always concerned with finding new control mechanisms. Social welfare policy turned out to be a

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<sup>100</sup> *Handelingen der Staten Generaal II, 1987-1988, 20459 ‘Wijziging van de Algemene Bijstandswet, inzake de bijstandsverlening aan vreemdelingen’*, no.2 Voorstel van Wet; idem, no.6 Nota van Wijziging; Pluymen, *Niet toelaten betekent uitsluiten*, 45-50.

<sup>101</sup> *Handelingen der Staten Generaal II, 1987-1988, 20459*, no.3 Memorie van Toelichting; idem, no.4 Voorlopig Verslag; idem, no. 14 Eindverslag; *Handelingen der Staten Generaal II, 1990-1991, 20459*, no.30 Voorlopig verslag van de vaste kamercommissie voor Sociale Zaken en Werkgelegenheid; P.E. Minderhoud, ‘Ontwikkelingen inzake de bijstandsverlening aan vreemdelingen’, *Migrantenrecht* 6 (1991) 122-127.

<sup>102</sup> For a clear overview of the arguments used in this period: see Pluymen, *Niet toelaten betekent uitsluiten*, 62-73.

<sup>103</sup> See for instance the report of the *Interdepartementale Coördinatiecommissie Vreemdelingenbeleid*, the *Notitie Herziening Vreemdelingenwetgeving* and the report *Positie van niet-Nederlanders in Nederlandse stelsels van sociale en culturele voorzieningen* by the so-called ‘Heroverwegingsgroep’ – e.g. discussed in Pluymen, *Niet toelaten betekent uitsluiten*, 64-65.

possible one – as was eventually confirmed by the important research report of the Zeevalking Committee, which will be discussed in the next paragraph.

The second line of reasoning was based on the minorities policy that was also introduced in the 1980s – and stood at very bad terms with immigration policy. In all the debates concerned with the connection of legal residency and access to social welfare provisions, the non-discrimination principle was said to be harmed. From the perspective of the minorities policy, which had set the further integration of minorities as its goal, any form of extra control when applying for access to welfare provisions was perceived discriminatory. In this respect, it was argued, the nationality principle still stood firmly: natives (perhaps only defined as such by external characteristics) would not be controlled, whereas legally residing strangers (that were said to have the equal rights as Dutch citizens) would. The connection of access to welfare provisions to legal residence – only there to fight a small group of illegals – effected *all* strangers in Dutch society (legal or illegal). How was this consequence to be politically justified?<sup>104</sup>

Furthermore, several investigations demonstrated that illegal strangers only made little use of social welfare provisions, mainly due to the large risk of expulsion. This led to critical questions of, among others, PvdA-politicians. During the discussion on the adjustment of the National Assistance Act already, they argued that illegal strangers only ‘misuse’ the provision for social assistance on a small scale, as the risk of being caught and expelled was very high.<sup>105</sup> How then, despite these objections, did access to welfare provisions as a policy instrument in the fight against illegality still come about in the 1990s? One part of the answer lies in the 1989 report of the Scientific Council for Government Policy (WRR) on this topic. This council argued that illegal strangers still had access to welfare provisions easily. Therefore, the WRR plead for the introduction of compulsory identification when applying for public welfare services. This point of view has strongly shaped the motives of the Lubbers-III cabinet for using social welfare policy as an instrument in the fight against illegality in the 1990s – despite the fact that the report has been firmly criticized by several authors and politicians ever since.<sup>106</sup>

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<sup>104</sup> Minderhoud, ‘Ontwikkelingen inzake de bijstandsverlening aan vreemdelingen’, 122-127; T. Havinga, K. Groenendijk & L. Clermonts, ‘Aan de grenzen van de verzorgingsstaat. Verblijfsrecht en het gebruik van collectieve voorzieningen’, *Migrantenstudies* 2 (1991) 30-43. As expressed at page 41: “Formele uitsluiting treft dus slechts een klein deel van de immigranten. Om die uitsluiting te realiseren vindt een systematische controle plaats op het verblijfsrecht van zeer veel immigranten.”

<sup>105</sup> *Handelingen der Staten Generaal II, 1987-1988, 20459*, no.4 Voorlopig Verslag, 6-7.

<sup>106</sup> Pluymen, *Niet toelaten betekent uitsluiten*, 71; Clermonts e.a., *Illegalen komen niet hier*, 18.

### **A new definition of exclusion: the *Koppelingswet* (1998)**

In March 1990, in line with its objective of restricting illegal and unwanted immigration, the Lubbers-III cabinet (CDA/PvdA) assigned the Committee Zeevalking.<sup>107</sup> The Committee needed to look further into the factors that preserve and enable illegal immigration. Hence, among other things, it was argued that they should investigate the accessibility of the Dutch social welfare system. The policy intentions of the government revolved around the Ministry of Justice: its immigration policy (e.g. the domestic aliens police) was understood to be in need of assisting policies of other departments. Both the obligation to identification and the coupling of general access to welfare provisions to the legal right to stay were mentioned as policy instruments in need of further definitions and recommendations. However, the position of legally admitted strangers was not to be harmed by any of these possible future policy instruments: in all their arrangements and suggestions, the Committee had to conform to the non-discrimination principle.<sup>108</sup>

In the final report, published in March 1991, the Committee uttered one over-all advice, on which their policy recommendations were based completely. It was in the interest of neither the stranger nor Dutch society to live with an undefined, unclear residence status, they argued. First of all, therefore, the Committee tried to solve the problem of ‘tolerated’ strangers: they had already been denied a legal right to stay, but their expulsion was not (yet) possible (mostly due to health conditions, bureaucracy or the circumstances in the home countries). The Committee plead to give these strangers a temporary legal right to stay. By doing so, from then on, one only needed to distinguish between legal (either permanent or temporary) and illegal strangers. The coupling of the legal right to stay to access to social welfare provisions could then be based on a simple principle: illegal strangers should be generally excluded from social welfare provisions. All others should be generally included. As the main goal pursued in this case was a consistent government policy, where no policy was hampered by another one, this basic principle was to be applied to all social welfare provisions at once. Of course, international treaties and human rights needed to be followed, so education and health care were to a large extent exempted from this basic principle of exclusion in case of illegality.<sup>109</sup>

This general recommendation came with several smaller, more practical advices. Most notoriously, from a bureaucratic perspective, a connection had to be established between the

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<sup>107</sup> See also: *Handelingen der Staten-Generaal II, 1993-1994, 23715 ‘Kabinetsformatie’*, no. 11 Brief van de formateur (including the coalition agreement from August 13, 1994) 34.

<sup>108</sup> Commissie Binnenlands Vreemdelingentoezicht, *Eindrapport* (1991) 1.

<sup>109</sup> Commissie Binnenlands Vreemdelingentoezicht, *Eindrapport*, 1-6; Pluymen, *Niet toelaten betekent uitsluiten*, 76-84.

General Register Office (GBA) and the VAS, the registration system for immigrants. A check on legal residence status should be implemented for *all* social welfare applications at the desk of the General Register Office. If the information about residence was unclear, the VAS could be consulted. In this way, illegal strangers could be easily traced down without harming the non-discrimination principle with regard to legal strangers. Furthermore, the Committee argued that attention should be paid to the actual expulsion of the illegal stranger – otherwise, the problem still remained unsolved after all. Excluded from all social welfare provisions, the government bore no more responsibility for the daily livelihood of any illegal stranger. However, there was a governmental responsibility in the process of returning. Regarding this point, the Committee suggested that an office for coaching this process would be sufficient – the rest would then be covered by societal organizations at a municipal level (just like in case of the homeless).

The government accepted the full Committee Zeevalking-report, but undermined its most important principle: that tolerated strangers would be treated equally with legal strangers as far as access to welfare provisions was concerned, albeit on a temporary basis. On the contrary, the government argued that tolerated strangers were in fact still illegal strangers – and hence advocated to exclude them. In addition, the government shook off all responsibility for the livelihood of illegal strangers, once excluded from all social welfare provisions. This meant that a situation, defined as unwanted before, became possible again: a stranger that has been denied a legal right to stay, but cannot be expelled at the time, is cut off from any form of livelihood.<sup>110</sup> The bottom line of the plan of legislation that was presented by the first Kok-cabinet (PvdA/VVD/D66) to the parliament at June 26, 1995, however, stuck with the equation of *tolerated* and *illegal* strangers – which would become a topic of debate later in the process.

In her dissertation *Niet toelaten betekent uitsluiten*, juridical sociologist Manon Pluymen has already done extensive research on the parliamentary history of the political debate that came along with the making of the *Koppelingswet*. The initial plan, as she clearly demonstrates, consisted of a collection of adjustments to immigration legislation and social welfare legislation. The alterations were aimed at discouraging and fighting illegality in the Netherlands. In this combat, the government thought the denial of access to social welfare provisions an effective instrument of control and, eventually, as an effective instrument to exclude illegal strangers. Essentially, therefore, two adjustments to the Immigration Act were presented (that were then further translated into all different social welfare acts). The plan, firstly, explicitly defined legal

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<sup>110</sup> Minderhoud, 'De koppeling van voorzieningen aan het verblijfsrecht van vreemdelingen', *Migrantenrecht* 9 (1994), 180-181; Pluymen, *Niet toelaten betekent uitsluiten*, 84-88.

stay for strangers and did so *not* in line with the recommendations of the Zeevalking Committee (see above). Secondly, the legal right to stay was connected to access to social welfare provisions (the coupling principle of Article 8b<sup>111</sup>). This second regulation meant in fact a full inclusion of all EU-citizens as well as all unconditionally admitted strangers. It implied principled exclusion of all other legal strangers (although they might be conditionally admitted). However, the clause did not forbid their eventual inclusion in certain welfare provisions, if this was in accordance with the specific legislation regarding these provisions.<sup>112</sup>

The critique of the parliamentary committee of Justice that directly discussed this initial proposal, revolved around the consequences of this coupling principle for legal strangers. All representatives shared the conviction that illegal strangers should be principally excluded for welfare state provisions. However, in the first proposal, principled exclusion was applied on a much larger scale. In general, the CDA and VVD representatives agreed with this approach. D66 and PvdA representatives, on the other hand, strongly criticized it. D66 even explicitly distanced itself from the initial statement in the coalition agreement of 1994 and took the full freedom to speak critically of its own government. The PvdA representatives stated:

In hoeverre [is] het principiële juist en tevens opportuun om na eerst in artikel 1b de categorieën vreemdelingen die rechtmatig verblijf in Nederland genieten vast te stellen, vervolgens in artikel 8b het merendeel daarvan (de categorieën 1b-2,-3,-4,-5) uit te sluiten van toekenning van verstrekkingen, voorzieningen en uitkeringen? Deze leden kunnen vooralsnog niet inzien dat een wetsvoorstel dat specifiek gericht is om illegalen van voorzieningen uit te sluiten, tevens rechtmatig hier verblijvenden van voorzieningen uitsluit.<sup>113</sup>

In this line of reasoning, D66 proposed the reversion of the coupling principle: only illegal strangers would be principally excluded, so all legal strangers (all categories named in Article 1b) would be principally included. Legal strangers could only be excluded if the specific legislation regarding certain provisions stated it.<sup>114</sup> The government agreed with this proposal directly and redefined the coupling principle. Instead of defining who *had* access to welfare provisions, it was

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<sup>111</sup> Art. 8b: "Vreemdelingen die hier verblijven kunnen slechts aanspraak maken op de toekenning van verstrekkingen, voorzieningen, uitkeringen, ontheffingen en vergunningen bij wege van beschikking van een bestuursorgaan indien hun verblijf rechtmatig is overeenkomstig artikel 1b, en onder 1, tenzij bij of krachtens het wettelijk voorschrift waarop de aanspraak gegrond is het tegendeel uitdrukkelijk is bepaald" – see: *Handelingen der Staten Generaal II, 1994-1995, 24233* "Wijziging van de Vreemdelingenwet en enige andere wetten teneinde de aanspraak van vreemdelingen jegens bestuursorganen op verstrekkingen, voorzieningen, uitkeringen, ontheffingen en vergunningen te koppelen aan het rechtmatig verblijf van de vreemdeling in Nederland", no.2 Voorstel van Wet, 2-3.

<sup>112</sup> *Handelingen der Staten Generaal II, 1994-1995, 24233*, no.2 Voorstel van Wet; idem, no.3 Memorie van Toelichting. See also Pluymen, *Niet toelaten betekent uitsluiten*, 88-98; 108-109.

<sup>113</sup> *Handelingen der Staten Generaal II, 1994-1995, 24233*, no.4 Voorlopig Verslag, 12.

<sup>114</sup> Idem, 13.

now stated who *had not*.<sup>115</sup> Only the socialist party (SP) and the green party (GroenLinks) asked why the coupling principle should be laid down in the first place. Once more, they referred to investigations that had demonstrated that misuse of welfare provisions by illegal strangers was almost absent. Any application for welfare support by an illegal stranger, in their opinion, would end in a failure (and probably expulsion) because of the Compulsory Identification Act. In this line of reasoning, they argued, social welfare policy could hardly be an effective instrument in the fight against illegality. This, however, remained a minority position in the parliamentary committee.<sup>116</sup>

Essentially, based on the coupling clause, social welfare legislation was about to become an instrument of immigration policy. What did the coupling principle mean concretely for social welfare policy itself, especially for provisions regarding unemployment, old age pensions and social assistance? The coupling principle in the Unemployment Act meant that only Dutch employees and foreign employees that were in the possession of an unconditional legal residence permit were entitled to labor welfare provisions. Furthermore, the Immigration Act now stated that only legally residing strangers could obtain the status of ‘employee’. However, independent from the coupling principle, the Unemployment Act defined any stranger who had legally performed labor in the Netherlands (based on the possession of an employment permit) entitled to labor welfare provisions. In practice, thus, all legal employees, whether or not unconditionally admitted, were entitled to unemployment benefits.

In the Old Age Pensions Act, up until then, the juridical foundation of ‘legal residence’ was defined based on the question if someone had his main social basis in the Netherlands (for instance because of family or work). Due to the coupling principle, it was redefined literally in the sense of the legal right to stay here. If a stranger was not entitled to legally reside here, he could claim no old age pension. However, as did the Unemployment Act, the Old Age Pensions Act made a large-scale exception for strangers who had legally performed labor at the Dutch labor market – and hence had paid contributions.

With regard to the provision for national assistance, already changed in the late 1980s, the principle of exclusion changed as follows: only Dutch citizens and strangers that were in the

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<sup>115</sup> *Handelingen der Staten Generaal II, 1995-1996, 24233, no.7* Nota van Wijziging. As said in the revised Article 8b: “Vreemdelingen die niet het in artikel 1b bedoelde rechtmatig verblijf genieten, kunnen geen aanspraak maken op toekenning van verstrekkingen, voorzieningen en uitkeringen bij wege van een beschikking van een bestuursorgaan. De eerste volzin is van overeenkomstige toepassing op de bij wet of algemene maatregel van bestuur aangewezen ontheffingen of vergunningen.” 1. See also: *Handelingen der Staten Generaal II, 1995-1996, 24233, no.6* Nota naar aanleiding van het Voorlopig Verslag, 6; and Pluymen, *Niet toelaten betekent uitsluiten*, 88-98; 108-109.

<sup>116</sup> *Handelingen der Staten Generaal II, 1994-1995, 24233, no.4* Voorlopig Verslag, 5-8.

possession of an unconditional legal residence permit (and hence equated with Dutch citizens) could receive national assistance. The National Assistance Act, in addition, enabled the payment of assistance to other categories of legal strangers – even if their right to stay was conditional. This was mainly decided according to international rules. Due to the coupling principle, tolerated strangers were now excluded from social assistance completely. Theoretically, they had a chance to assistance by obtaining an assistance-statement from the aliens police. In practice, however, these statements were hardly issued. Finally, illegal strangers, who already were excluded from any assistance, now got also excluded from their last option: the payment of assistance in the case of extreme urgent humanitarian need.

Exceptions to the coupling principle were made for the juridical assistance, education for minors and access to health care – partly because of international obligations in this respect. This was also in accordance with the recommendations of the Committee Zeevalking.<sup>117</sup> In the plenary parliamentary debate about the *Koppelingswet* in October 1996, therefore, a large part of the debate was concerned with the practical regulation of education and health care provisions for illegal strangers. However, three other questions were present in the political debate as well.

First and foremost, a principled discussion was concerned with the necessity and legitimacy of the coupling principle as such. The idea that a legal right to stay was an absolute condition for access to any social welfare provision had already won ground for over a decade. As expressed by PvdA-representative Apostolou: “Een restrictief toelatingsbeleid is nodig in een samenleving die geconfronteerd wordt met werkloosheid, schaarste op de arbeidsmarkt en het streven naar behoud van de verworvenheden van de verzorgingsstaat.”<sup>118</sup> On the other hand, the idea that social welfare policy could serve as an instrument in immigration policy was still doubted by, for instance, the green party – due to the lack of proof of large-scale misuse of welfare provisions by illegal strangers.<sup>119</sup>

This particular discussion was translated into the question of excluding illegal strangers from unemployment benefits and national assistance. Here, it were the socio-democratic parties PvdA and D66 that plead for several ‘openings’ in the harsh exclusion of illegal strangers. With

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<sup>117</sup> *Handelingen der Staten Generaal II, 1995-1996, 24233, no.7* Nota van Wijziging. It said: “Van het eerste lid, kan worden afgeweken indien de aanspraak betrekking heeft op het onderwijs, de gezondheidszorg in acute noodsituaties, de voorkoming van inbreuken op de volksgezondheid, of de rechtsbijstand aan een vreemdeling.” For a general overview of the influence of the coupling principle on the legislation regarding unemployment, old age pension and poverty see: *Handelingen der Staten Generaal II, 1995-1996, 24233, no.8* Gewijzigd voorstel van wet, p. 7-8, 10-11, 13-14; Minderhoud, ‘De koppeling van voorzieningen aan het verblijfsrecht van vreemdelingen’, 179-186; Pluymen, *Niet toelaten betekent uitsluiten*, 98-108.

<sup>118</sup> *Handelingen der Staten Generaal II, 1996-1997, 24233, October 3, 1996; 443.*

<sup>119</sup> *Idem*, 457.

regard to unemployment benefits, they argued that complete exclusion of illegal strangers from the labor insurance model would actually stimulate illegal employment as such: the employer, after all, would no longer have to pay contributions to the system for his employee. As far as social assistance was concerned, both PvdA and D66 representatives plead for including the legal possibility of paying assistance to illegal strangers out of humanitarian reasons in the proposal. They criticized the clause that prohibited municipalities to develop a standardized procedure in this respect. However, State Secretary De Grave of Social Affairs (VVD) maintained in his reaction that enough policy freedom for municipalities was implicitly included in the *Koppelingswet*. He thus stated that every municipality was allowed to pay assistance based on humanitarian reasons in any individual case. In his view, further explicit allowance of the development of more standardized procedures, however, would undermine the effect of the coupling principle as such.<sup>120</sup>

On a more practical level, secondly, all political parties kept being concerned with a topic that had nothing to do with social welfare policy as such: the repatriation of illegal strangers. As repatriation was the final piece of an effective immigration policy, it was directly connected to the debate about the coupling principle. The latter would only really function as instrument in the fight against illegality, if illegal strangers that were completely excluded from any welfare support actually returned home. Although it was repeatedly stated that a discussion on the question of repatriation belonged to another policy domain, the primacy of immigration policy did hold up through the entire debate – as was also demonstrated by the active participation of State Secretary Schmitz of Justice (PvdA).

Thirdly, the debate focused on technical problems with the implementation of the act. An important condition for an effective functioning of the coupled system was the connection of the General Register Office (the GBA) and the registration system for immigrants (the VAS). The problem was that not all strangers who were registered at the GBA, were registered at the VAS as well. This meant that a remaining category of strangers arose, from which GBA information about their right to stay could not be checked with the VAS. In order to gain time to solve this problem, the parliament forced the implementation of the act to be postponed and demanded the promise of an extra round of evaluation. At July 1<sup>st</sup>, 1998, eventually, the *Koppelingswet* became operative.<sup>121</sup>

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<sup>120</sup> *Handelingen der Staten Generaal II, 1996-1997, 24233*, October 2, 1996, 420, 425; *Idem*, October, 16, 1996, 859-862.

<sup>121</sup> *Handelingen der Staten Generaal II, 1996-1997, 24233*, November 5, 1996. For an overview of the themes in the parliamentary debate see also: Pluymen, *Niet toelaten betekent uitsluiten*, 109-11; 115-128.

## *Welfare chauvinism at the start of a new millennium*

In retrospect, the implementation and evaluation of the *Koppelingswet* mainly consisted of further immigration legislation (for instance two amendments regarding repatriation of illegal strangers). Besides, the large-scale technical problems surrounding the practical implementation of the coupling principle remained a topic of public and political debate.<sup>122</sup> Both topics are extremely interesting, but not of direct relevance for the focus of this thesis per se. Therefore, in this final paragraph, a conceptualization of the exclusive features in the Dutch welfare state system at the beginning of the new millennium will be set up. How *welfare chauvinistic* the discourse had become?

Two main features have characterized the immigration debate since the 1980s. Firstly, during the 1980s and the 1990s, exclusion has become a political discourse as such. Compared to earlier decades, in the discussion, exclusion became a principled motive rather than a practical side effect in defining and evaluating instruments for in- and exclusion in the Dutch welfare state. Seen from this perspective, political scientists and sociologists were right to date *welfare chauvinism* as a discourse back to the 1990s. It was the position of the large group of legally admitted strangers, that, in the end, became subordinated to the fight against the much smaller group of illegal strangers. In the debate about the access to social welfare provisions (the policy domain of the Ministry of Social Affairs), typically, it was the Ministry of Justice that was dominant. All parts of social security have been confronted with the juridical ultimatum of the legal right to stay. Harsh juridical clauses have pushed the moral debate about social justice beside. These rules did not only exclude illegal strangers, but, in practice, also confronted legal strangers with more control mechanisms on their identity and residence status.

Secondly, on the contrary, the Dutch welfare state has become much more universal and less national during the 1980s and 1990s. On a large scale, strangers were equated with Dutch citizens and got full access to the welfare state system. This only applied to legal strangers that were admitted unconditionally, but, in practice, most strangers (now mainly EU-citizens) fell into this category. In fact, thus, the *welfare chauvinist* discourse could only turn towards actual policy instruments in the case of excluding illegal strangers from the universal Dutch welfare state. In current Dutch politics, however, *welfare chauvinism* is much more present than just in debates surrounding illegality. The conclusion of this thesis, thus, wants to further differentiate this current *welfare chauvinism* by looking at its historical background and character one more time.

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<sup>122</sup> See for instance: B&A Groep Beleidsonderzoek, *Evaluatie van de Koppelingswet. Een onderzoek naar de effectiviteit, efficiëntie en legitimiteit van de Koppelingswet* (Den Haag 2001); Pluymen, *Niet toelaten betekent uitsluiten*, Chapters 6-8.

## Conclusion

### The historical background and character of *welfare chauvinism*

Although state interference in the capitalist industrial economy was still a highly controversial business, in 1934, an act for regulating access of strangers to the Dutch labor market was accepted. It was the first time that the open socioeconomic boundaries were partly closed – at least principally. In order to protect Dutch workers from too much foreign competition and as a reaction to comparable international legislation, a system of work permits was introduced. Based on the Labor Act for Strangers (*Vreemdelingenarbeidswet*), from then on, foreign workers could only be appointed at open positions if no equally suitable Dutch worker was available. Hence, protecting the national labor market by restricting labor migration was already a prewar political motive. Exclusion, however, turned out to be a legal option rather than a practically applied tool. In practice, then, at the prewar Dutch labor market, nothing essential changed.

Due to the social and economic instability of the prewar years as well as the deeply rooted fear of its consequences, after the Second World War, new principles of social justice won ground in Dutch politics and society. With the community of citizens as its main foundation, the national Dutch welfare state was developed during the first two decades after the war. Employment, residence and citizenship became the legal criteria for access to welfare provisions in case of unemployment, old age and poverty respectively. In this system, strangers took a complex, not univocal position. As far as they were legally employed, they had the same rights and duties as any Dutch employee in case of unemployment and were also entitled to build up an old age pension. Claiming this old age pension, however, turned out to be less self-evident practice than the legislation suggested. Exclusion, if any, was thus of practical character. Principled exclusion of strangers became a topic only during the development of a provision for social assistance. The National Assistance Act of 1965 principally excluded all who did not possess Dutch citizenship. Due to bilateral and international treaties, large groups of legally residing strangers could still receive social assistance just like any Dutch citizen. This, however, was presented by the act as an exception, not as the rule. Still, the main tendency of the welfare state system was towards universality: ever since its development after the Second World War, the political motives, instruments and institutions of the Dutch welfare state have been far more inclusive than exclusive.

In the decades that followed, the amount of 'strangers' in the Netherlands grew due to the recruitment of labor migrants, spontaneous migration and family reunification processes. When it came to the relation between labor migration and the welfare state, it was mainly the debate about the social and juridical position of the legally admitted and appointed foreign employee that received attention. However, since the late 1960s, this position was overshadowed by a more urgent motive of Dutch politicians: the restriction of labor migration in order to protect and stimulate national employment. The Netherlands, it was argued, was no 'immigration country' nor was going to become one. In the legislation that followed from the motive of restricting labor migration, by the end of the 1970s, several exclusive instruments were accepted by the Dutch parliament. Not only were these instruments a strong tool in restrictive labor migration policies, they did also trouble the social and juridical position of the legally admitted labor migrant. On the other hand, as the WABW exempted many groups of strangers, exclusion was much more an unfortunate side-effect rather than a principled political discourse. The Dutch welfare state, in this respect, still remained very much inclusive as far as it concerned access to welfare provisions for foreign employees.

Since the 1980s, then, the attention shifted from the large group of legally admitted 'strangers' towards the smaller group of illegal strangers – and so did the political debate regarding social welfare legislation. Policies of different departments seemed to have become conflictive: if immigration policy denied an illegal stranger the legal right to stay, he could still receive social welfare benefits out of the welfare system – which gave semblance of legal residence. Based on the (although proven wrong) assumption that illegal strangers misused the welfare system on a large scale, firm measures were taken. Translated into legislation, this actually meant that the social and juridical position of legal strangers was now improved. On a very large scale, they became equated with Dutch citizens. Here, the tendency towards universality is visible once more in Dutch social welfare policy. A strong exclusive discourse – or *welfare chauvinism* – on the other hand, was applied to the groups of non-registered tolerated and illegal strangers. The instrumental ultimatum of the legal right to stay was applied very harsh: no legal right to stay meant absolutely no access to any social welfare provisions. Exceptions were only made with regard to education, health care and juridical assistance. Whereas in the 1970s welfare state policies were guided by labor market objectives, it was immigration policy that dominated the political discourse on social welfare legislation in the 1980s and 1990s.

In sum, in the political debates of this historical analysis, exclusion was almost never a principled motive as such. Of course: Dutch politicians repeatedly denied the status of the Netherlands being an immigration country and, accordingly, tried to close access to certain institutions of the universal welfare state for strangers. Those institutions, however, worked on their own to a large extent. In the end, also due to international treaties, expansion of the initial postwar welfare community remained the dominant tendency. In other words, an exclusive political discourse did not 'prevent' the eventual large-scale inclusion of strangers at all. At this point, a discrepancy between the political discourse about the accessibility of the welfare state and the actual institutions and instruments that regulate access to welfare provisions is clearly visible. Exclusion, then, rather was an unintentional practical outcome or an unfortunate side-effect that served a higher goal (such as the protection of the national labor market). Only in the fight against illegality – which originally was a juridical debate – exclusion of welfare provisions was deliberately used as a strong political motive *and* practical instrument.

What characterized the political debates about all forms of in- and excluding strangers, on a more general level, was discomfort and difficulty with regulating the boundaries of the universal welfare state system. As a real critical debate about the universalist tendency of the welfare state remained largely absent (as already stated by De Swaan), the political debates got stuck with the leaks of the system and focused on ever smaller groups of possible 'outsiders' – until eventually only illegal strangers were left. The *welfare chauvinism* that has come to the fore in current Dutch politics has definitely cut across this political stalemate. At least, the recent *welfare chauvinist* discourse broadly criticizes the universality of the welfare state and, instead, pleads for a real national welfare community. The historical analysis in this thesis suggests that it is hardly realistic that the discourse will be translatable into actual instruments and institutions of exclusion this time. Again this is due to, among other things, the international framework that the Dutch welfare state is part of. In this respect, current *welfare chauvinism* has an oversimplified character. In conclusion, then, especially in the light of current *welfare chauvinism*, the universalist tendency of the Dutch welfare state remains a field that needs further exploration. This leads to the following historiographical and policy-related fields of interest.

### Further fields of interest: the future of *welfare chauvinism*

The history of the Dutch welfare state has been written over and over again. It has become the well-known history of solidarity organized by the state, accompanied by increasingly high quality standards and large-scale bureaucratic expansion. In addition, it has become a positive history of generous and tolerant inclusion. This impressive historical background is often recalled when the financial and practical problems of the Dutch welfare are currently discussed. Far less attention has so far been given to historical developments that suggest a downside to this welfare state historiography. Histories, in which a political discomfort with the tendency towards inclusion has become clear – as well as the discomfort and difficulty that came with uttering such exclusive motives in public and parliament. This thesis wanted to write such a critical history: the history of including and excluding strangers in the Dutch welfare state. In this line of reasoning, further historical research on the Dutch welfare state should focus on parties and politicians as well as public organizations that have tried (or dared try) to criticize the universality of the welfare state system – and did so without denying its fundamental principle of social justice or getting caught in simple ethical boundaries.

Recently, it became clear again that current Dutch politicians in the welfare state can gain useful insights from such critical welfare state historiography. In December 2013, Minister Asscher of Social Affairs (PvdA) started a test that should advance integration of ‘strangers’ into Dutch society. In several municipalities, *all* newly arriving migrants were obliged to sign a so-called ‘declaration of participation’, through which they confirm that they have become acquainted with the basis societal foundations of the Netherlands. The declaration mentions mutual, active solidarity and participation as the bottom lines of the Dutch welfare state. Apart from their use in integration policies, these terms rather recall the critical debate about the participation of citizens in the welfare state that has bothered Dutch politics for quite some time now. The financial and bureaucratic problems of the welfare state, that, among other things, motivated the restrictive labor migration policies of the 1970s, are still far from being solved. Whereas the exclusive discourse of the 1990s has been eventually able to completely exclude a small group of illegal strangers from any access to welfare provisions, the universality (and tendency towards expansion) of the welfare state still is a solid given. Even more problematic is the fact that is exactly this universality that hardly bears any critique. It came as no big surprise, as was already stated before, that a real exclusive attitude eventually only won institutional ground in the domain of illegality. In Dutch political history, exclusive motives hardly have found their way into

welfare state institutions and instruments. In the current case of the over-simplified *welfare chauvinism* that is expressed by new political parties and inaccurately appeals on the possibility to exclude 'them' from 'our' welfare provisions, this is probably a good thing. A less ethical and less normative *welfare chauvinism*, however could function as a healthy critical perspective on the tendency towards expansion and inclusion of the national welfare state. After all, this tendency is currently in high need of a long-term (re)vision – as is generally acknowledged by Dutch politicians now. From a more policy-related perspective, therefore, the exploration of a more nuanced form of *welfare chauvinism* could contribute in the complicated but inevitable discussion about the future of the universal Dutch welfare state.

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