



Journal

Identities >

Global Studies in Culture and Power

Latest Articles



Open access

0

Views

0

CrossRef citations to date

1

Altmetric



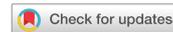
Articles

'Everything went according to the rules'. Female citizen sponsors' legal consciousness, intimate citizenship and family migration law

Betty De Hart & Elles Besselsen

Received 02 Nov 2017, Accepted 24 Jan 2020, Published online: 16 Feb 2020

Download citation

<https://doi.org/10.1080/1070289X.2020.1723310>

Full Article

Figures & data

References

Citations

Metrics

Licensing

PDF

ABSTRACT

Academic literature has studied the legal consciousness of common citizens: the way ordinary people think and talk about law in their everyday lives. Building on this literature, we explore how Dutch female citizens with a migrant partner experience the impact of migration law on their everyday lives. We questioned how legal consciousness is linked to intimate citizenship, thus demonstrating how 'private' matters such as intimate relationships, marriage, and family have a profound impact on citizenship. Based on two sets of interviews, conducted in 2000 and 2016, we were able to determine how these women, despite being citizens formally, experienced the profound impact of increasingly restrictive family reunification policies. Contrary to our expectations, female sponsors continued to express considerable support for restrictive migration law. In performing intimate citizenship, they claimed an exception from the strict application of the rules for their particular family situation, rather than radical change.

In this article



consciousness, intimate citizenship, family migration, belonging, mixed-status families, gender

Introduction

This contribution focusses on the experiences of female citizen sponsors with the application procedure for the admittance of their migrant partner to the Netherlands. We use Ewick and Silbey's approach (1998, 1995), who studied 'legal consciousness' by exploring the narratives of 'ordinary' people about the law in their everyday lives. So far, this approach has not been used to analyse the experiences of mixed-status families: families that consist of both citizens and foreign national members. The concept of legal consciousness helps us to detail the profound impact of family migration law on the lives of citizen partners in mixed-status families.

Connecting legal consciousness to the concept of *intimate citizenship*, we explored how the female citizen sponsors understand and redefine their position as Dutch citizens, after being confronted with migration law as a consequence of their relationship with a migrant partner. Thus, we contribute to feminist perspectives that have demonstrated that 'private' matters such as intimate relationships, marriage, family and gender have a profound impact on citizenship and belonging i.e. the personal is political.

We limited ourselves to female sponsors because we were interested in how gender matters in citizens' experiences with family migration procedures, as women meet with the most restrictive side of family migration law. In the past, family migration policies directly discriminated on the basis of gender, with stricter conditions for family reunification for female than for male sponsors (Bhabha and Shutter 1994; Bonjour 2009; De Hart 2003). Nowadays, studies have demonstrated that female sponsors still face more difficulties with fulfilling e.g. income requirements for family reunification than men, due to their disadvantaged labour market position and care tasks (WODC 2009). Consequently, family migration law impacts men and women differently (Strasser et al. 2009).

In this paper, we look at how female citizen sponsors talk about family migration procedures and its impact on their everyday lives. In doing this we aimed to understand how encounters with immigration law in their intimate life affected their sense of citizenship, membership, and belonging. We carried this out by making a comparison in time. Having held interviews with Dutch female sponsors in 2000 and 2016, we were able to compare the impact of family migration law in two periods: before and after the introduction of new, stricter requirements in Dutch family migration law that make it more difficult for sponsors to bring over a family member. We hypothesised that for the women interviewed in 2016, the impact of migration law on their daily lives had increased and, consequently, that they would evaluate this impact in negative terms. If there was indeed a relationship between the impact of family migration

In this article  sense of citizenship and belonging, then possibly one could also assume that
the sample of 2016 would experience a more intense redefinition of their intimate

citizenship. As will be demonstrated in this article, these expectations were only partly fulfilled.

In what follows, after describing our theoretical framework and methodology, we present a brief historical overview of Dutch family migration policies. This refers not only to the requirements for the admittance of family members but also to the ways in which the migration framework is organised: centralisation and digitalisation, especially, have had a significant impact on how women experience family migration policies. We then looked at their narratives about family migration procedures, using Ewick and Silbey's framework. Subsequently, we sought to answer the question whether these narratives have changed due to the more restrictive family migration policies of recent years. Furthermore, we used the concept of intimate citizenship to explore how in their narratives women redefine their positions and belonging as Dutch citizens. In the conclusion, we attempt to provide an answer to the question of how legal consciousness is linked to intimate citizenship and belonging, and the shifts over time.

Theoretical framework: legal consciousness and intimate citizenship

In their ground-breaking study *The Common Place of Law*, Patricia Ewick and Susan Silbey used the concept 'legal consciousness' to look at how ordinary people think and talk about law in their everyday lives, and how their perceptions of law influenced the way they handled law (Ewick and Silbey 1995, 1998). They found that, irrespective of gender, ethnicity or class, people tell three stories about law: before the law, with the law, and up against the law. Those who are *before the law*, see the law as just, impartial, and rational with clear and well-known rules and procedures, distanced from everyday life. They will not easily challenge law, except when this serves a general interest. Those who are *with the law*, see law as a resource they can use to serve their own goals. It is a game that can be won, if played with the right means, such as sufficient money and a good lawyer. Those *up against the law* see law as an unjust, oppressive system, the product of unequal power. Law is neither objective nor fair, but arbitrary and unpredictable. People act in violation of the law, and use tricks to avoid or use it. Delay, mistakes, deception or lies, humour or making scenes, are all forms of resistance. According to Ewick and Silbey, these three stories are always present at the same time in how people talk about law. Each of the stories invokes a different set of normative claims, justifications, and values to express how the law ought to function, as well as different constraints on legal action. They suggest that it is impossible to criticise the law (up against the law) without having some ideal of law as just and fair (before the law), so that even when law is perceived negatively, its power and hegemony is confirmed. This means that people often invoke all three stories at the same time in talking

In this article  it is not possible to categorise people in those who use the *with the law* story, and each of the other stories. on the other hand.. They note, however, that

disadvantaged groups, based on gender, race or ethnicity and class, are more likely to tell the *up against the law* story. Hence, the social position of people, and the experiences that arise from that position, are vital for their legal consciousness (Nielsen 2000, 1087).

Ewick and Silbey's work has spurred a growing body of literature on legal consciousness that has painted an increasingly diverse picture, studying various disadvantaged groups such as the disabled, same-sex couples, lower class female divorcees, welfare recipients, and family members of people with chronic brain disorder (e.g. Engel and Munger 2003; Hernández 2010; Hull 2003; Marshall and Barclay 2003; Nielsen 2000). These studies show that legal consciousness is fluid and contextual and that people may shift in their legal consciousness as a result of the interface of perceptions, experience, and interaction with legal services, courts, and other members of the community (Hernandez 2010). What these studies have in common is that they all look at citizens within national borders, neglecting the issue of migration or transnationalism.

Recently, the literature on legal consciousness has broken out of the confines of the nation-state, looking at the experiences of migrants (Abrego 2011; De Hart, Van Rossum and Sportel 2013; Gehring 2019; Kubal 2013; Menjivar and Lakhani 2016; Schwenken 2013) and their (lack of) citizenship. So far, this literature focusses mostly on undocumented migrants, exploring how they, in spite of their exclusion from formal legal status, claim rights and regularisation. They may do so, appealing to their inclusion in other social fields, such as education (Abrego 2011; Kubal 2013) or by extracting hope from regularisation practices in other countries (Schwenken 2013). This literature also notes the transformative impact of the legalisation process on irregular migrants' intimate and civic lives, reifying notions of the deserving immigrant vis-à-vis the law (Menjivar and Lakhani 2016). Contrary to this literature which focusses on those excluded who aim to be included, our female citizen sponsors had been included, but now experience exclusion as a consequence of their choice of partner. As Dutch citizens, they belong to a privileged group with, in principle, unlimited formal access to the national territory and its institutions. As European Union citizens, they also enjoyed privileges, such as the right to free movement within the EU and easy travelling across the globe (Castles 2005). However, as women, they are part of a disadvantaged social group and through their choice for a migrant partner, their social positioning undergoes significant change. The question is to what extent their experiences with exclusion result in a redefinition of intimate citizenship and belonging.

The concept of legal consciousness lends itself well to being linked to that of intimate citizenship, as they both involve the everyday life of ordinary people and their intimate relationships. Legal consciousness is about the mundane, daily experience of law in everyday lives, not so much

In this article  formal legal procedures, but rather about bureaucracies and paperwork e.g. in order to marry, or to apply for a residence permit. Similarly, intimate

citizenship literature sees citizenship as an embodied practice and everyday experience (Lister 2007). Both connect the experiences with the state, its laws and institutions to the very personal experiences in private life, relationships, family, sexuality and reproduction.

As explained in the introduction of this Special Issue (Bonjour and De Hart, 2020) like legal consciousness, the intimate citizenship literature remains largely 'within' national borders, and issues of migration, migration law and ethnicity receive only limited attention. Using the concept of 'intimate citizenship' helps us to highlight the crucial relationship between citizenship and intimate life. Looking at mixed-status families, we provide new insights on citizenship as a lived practice which shapes and is shaped by meaningful social relationships, in particular by family relationships. The rather unexpected confrontation with migration procedures offers the opportunity to show how intimate citizenship is shaped by experiences with the status, rights and identities tied to citizenship and how they are impacted by their very personal choice for a migrant partner. Their narratives demonstrate that they are well aware of this personal choice being at odds with state interests. We argue that these women try to solve this tension by claiming inclusive citizenship based on dominant discourses of gender and family, and exceptions to the rule, rather than a change of rules.

Methodology

We used two sets of interviews with Dutch women with a migrant partner: 15 interviews conducted by the first author in 2000 and 10 interviews conducted by the second author in 2016. In all cases, the women were sponsors to migrant men from outside the European Union.¹ The partners had 18 different nationalities, predominantly African (12). Others were Middle Eastern (7), South American (3), North American (2) and one European (but not Union citizen). The women met their partners in different ways. If the couple met in the Netherlands, the migrant partners often had a precarious residence status as irregular migrants, (failed) asylum applicants, labour migrants, or tourists. Others met their partner abroad, during holidays, work or studies. They all applied for a residence permit for their partner at some point. At the moment of the interview, for some, the procedure was completed, sometimes years ago, for others, the procedure was still ongoing. Overall, most of them succeeded in having their partner admitted. Experiences varied from a relatively easy procedure of several months, to complicated procedures taking several years. None of our respondents went to court, although some appealed the decision with the immigration authorities. We used the same interview guide for both sets of interviews. Each interview started with the question of how the couple met and

relationship, or how the relationship was impacted by migration procedures. All interviews were recorded and transcribed. Respondents were recruited through social networks, through websites of mixed-status couples (especially buitenlandspartner.nl) and through the snowball-method. We analysed how the women we interviewed used the three stories about law when narrating their experiences with Dutch family migration policies, as well as how they talked about intimate citizenship and belonging.

All interviewed women were citizens and white women, without a migrant background. They gained Dutch citizenship at birth, and had no or only limited experiences with migration in their personal life before they started their relationship. For them, it was a first, often shocking confrontation with state intervention into their private lives that had a profound effect on their legal consciousness, citizenship and belonging. Most respondents had higher professional or academic education (8 of 15 women of the first sample and 7 of the 10 women of the second sample), which is somewhat above the educational level of the general Dutch population (50% in 2018, between 25 and 35 years, Central Bureau Statistics). The educational and income level of the second sample was higher than that of the first sample, which will have influenced their experiences as well as the outcome of family reunification procedures. Hence, we assume that our samples were relatively successful in accomplishing the family reunification procedure, and others in more precarious socio-economic situations will experience more difficulties; thus, our sample is not representative.² However, the 2016 sample met with the more restrictive family reunification policies, as explained in the next paragraph.

Dutch family migration policies

In the period under consideration, Dutch family migration policies went through four significant changes. Firstly, family reunification became increasingly problematised. Although already in 2000, it was certainly not viewed positively, since then, it has come to be seen as being particularly negative: built on images on the 'import' of young, low-educated, Muslim women from Turkey and Morocco; also labelled 'non-western *allochtones*'.³ These marriages were seen as the result of backward cultural practices such as forced and arranged marriages, resulting in integration problems for Dutch society (Bonjour and De Hart 2013).

Secondly, this problematisation resulted in the introduction of restrictive measures i.e. the income requirement and the pre-entry test were introduced with arguments of the 'failed' integration of these people of migration background, irrespective of citizenship but equally apply to citizens who do not have a migration background and want to bring over their migrant

In this article  and Block 2016). Dutch citizens do not have preferential rights in family  have to meet the same requirements as third-country nationals. This

development had already started in the 1990s, with the introduction of an income requirement in 1991, and the obligation to apply for a long-term visa from abroad in 1998 (Bonjour 2009; De Hart 2003). For the women interviewed in 2000, these were the most important hurdles. They struggled with meeting the income requirements as starters on the labour market, because of care tasks, part-time or low-paying jobs, or because they returned from long-term residence abroad. After 2003, the income threshold increased from 70% of the social minimum (for married couples, 100% for cohabiting couples) to 120% of the minimum wage in 2004. In 2010, it was decreased to 100% of the minimum wage in response to a decision by the European Union Court of Justice.⁴ Studies have shown that these income requirements especially affect women (WODC 2009). In 2006, the pre-entry test (*Integration Abroad Act*) was introduced, which tests the migrant partner's language ability and knowledge of Dutch society before coming to the Netherlands. Applying only to those who need a long-term visa, exempting EU and 'western' nationalities such as the United States and Canada, allegations of racial discrimination were made by human rights organisations.⁵ Nowadays, only about half of the family migrants complete the exam successfully.⁶ Furthermore, the application fees have increased significantly over time: fees for a long-term visa went up from 258 to 430 euros in 2003; to 830 in 2005 and even up to 1250 euro in 2011. In 2012, the fees decreased again as a result of case law of the European Union Court of Justice; nowadays it is 171 euros. Other costs involve fees for the pre-entry test (150 euros), and language courses.

A third relevant development concerns the institutionalisation of migration policy. This changed migration offices from *street level bureaucracies* into *system level bureaucracies* (Bovens and Zouridis 2002; Lipsky 2010), limiting the face-to-face contact with applicants to a minimum. Of the 2000 sample, most applicants met face-to-face with local immigration officers who either decided or advised on their application. Nowadays, the decision is made at the central level by the Immigration and Naturalisation Service (IND) and has become digitalised. The application form can be downloaded from the IND-website, and submitted with the required documents, without any personal contact. The availability of the internet has made government information, as well as NGO information on migration procedures more accessible, although only for those with computer access and capabilities.

Fourth, the Europeanisation of national family migration policies should be mentioned. As European citizens and their family members have an automatic right to move and reside freely within the territory of the European Union, some EU citizens have seized the opportunity to avoid restrictive national rules by moving to another EU member state, returning to their country of citizenship under the more favourable European law conditions (the so-called Europe route, Rytter 2012; Staver 2013).⁷ This offers an alternative for people who have difficulties satisfying

In this article  ome requirement or integration measures. Although the Dutch government ite constitutes 'abuse' of European law. according to the European Union

Court of Justice it is a perfectly legal use of free movement rights.⁸

As legal consciousness and intimate citizenship are embedded in the social context, we expected these changes in family migration procedures to alter the ways in which female sponsors of the 2016 interview sample talked about law as compared to those interviewed in 2000. Although with the stricter requirements, the 2016 sample had more hurdles to overcome, the institutional context, Europeanisation and problematisation of family migration policy also offered different opportunities to handle these hurdles.

We now turn to the three stories about law: before the law, with the law and up against the law: how women narrated them, and how this impacted the way they talked about intimate citizenship. We also address the question of how and what changes occurred in these narratives over time.

Narratives on law and intimate citizenship

Before the law

Few women interviewed in 2000 told the *before the law* story, in which law is seen as just, predictable and distanced from personal experiences. Most women were rather critical of migration law, and only a few were willing to support it unequivocally. Contrary to our expectations, it would appear that of the women interviewed in 2016, the *before the law*-story was more common, rather than less, in spite of the stricter family migration requirements described in the previous paragraph. Respondents interviewed in 2016 expressed criticism but also significant support for the requirements they met with. Women in both samples who told the *before the law*-story, expressed understanding for the existing family reunification policies, that they described as logical and fair, even with significant hurdles to overcome. Below, we provide the stories of Linda (2000) and Angela (2016).

Of the 2000 sample, Linda (26) and David (24) wanted to move from Tanzania to the Netherlands. David needed a long-term visa, for which Linda did not meet the required income level. However, she was pregnant and after the baby's birth, the income requirement would no longer apply.⁹ David joined Linda after 6 months of separation; their baby was by then 2-months old. Linda did not describe this separation as stressful, but as a logical consequence of Dutch family migration procedures:

In this article  Everything went according to the rules. That is good about the Netherlands, as long as
I can be by the rules, you have nothing to fear. At least that is how I experience it.

You know from the start: this is the procedure, and you know where you're at (...).

With us it was just standard, these are the rules, that is clear, you need to meet these requirements and once you meet them, then there is no problem.

Of the 2016 sample, Angela fell in love with Tony, from Gambia, who was an irregular migrant in the Netherlands. After learning that Tony's irregular status in itself was no grounds to refuse him a residence permit, they started the procedure. Tony returned to Gambia for 6 months to do the pre-entry test and to arrange for the necessary documents. Although, at the time, Angela found the procedure frustrating, unfair and expensive, in the interview that took place a few years later, she said the rules were 'fairly reasonable', supporting both the income requirement and the pre-entry test:

I often talk with people who are angry that they have to comply with the income requirement of 1600 euros gross. And then I think: sorry, guys, I am way above that level, (...). That requirement is really quite normal, because I could not manage with 1600 euros. So I think, quit making a fuss. (...) If you do it for love, but without money and income, love is gone rather quickly. Financial problems are why relationships break up. So, I think the rules are quite reasonable.

Both women stressed the interests of the state in regulating migration, distancing the law from their personal experiences and daily life. Linda did so most explicitly, separating the 'private' sphere of her marital relationship and motherhood from the public interests of state regulation of migration. She confirmed the legal fiction that their child did not exist until it was born:

Yes, it was a pity, but I knew that before I came to the Netherlands, so ... I knew it was not possible, so you prepare yourself. (...) You needed a permanent job and I did not have one. But there were exemptions and having a child was one of them. And yes, there was no child, only after the child was born, could the procedure be started. So I had been told. You needed the birth certificate of your child. Well, that was not there, because the child was not there yet (laughs). That all sounds very logical, obviously.

Similarly, Angela described the checks of her relationship with Tony by the IND in a distanced way, and a justified state practice:

I send all those Skype talks and Facebook things and WhatsApp's that we had. And I think: this IND officer is now reading all my personal stuff, but that is to prove that we have a relationship. And if that is necessary, well, there are also many men and women who are betrayed and I do not say that will not happen to me, but I do not think it is unjustified that they ask that.

In this article   rms of intimate citizenship, some differences between both women can be  told the stories of other citizen women with a migrant partner who she knew

personally or from the news-media, who had experienced much more difficulties. Hence, in connecting her perception of law with her sense of citizenship, she compared her situation not to that of other Dutch citizens, but with other female citizens with a migrant partner. In this way, implicitly, she excluded herself from the group of 'normal' Dutch citizens with full citizenship rights, thus reducing her dissatisfaction. She had expected an even more intrusive state:

I would have thought that maybe they [the IND] will start an inquiry to see whether it is a marriage of convenience, or that I fell for it. That they think that someone marries a Dutch national just for economic reasons. I would have expected them to look into that, but they did not.

Linda also experienced exclusion from the group of Dutch citizens socially, as she felt other Dutch people did not understand her situation. Instead, she expressed feeling a connection with other Dutch women with a migrant partner, with whom she exchanged information and experiences. This is where her story has some aspects of '*up against the law*', and she experienced a sense of exclusion from citizenship and loss of belonging.

Angela too, exchanged information with other Dutch nationals with a migrant partner but, as we have seen, she distanced herself from their critique. She reified the dominant discourse of Dutch family migration policy more than Linda. Linda accepts the rules as they are, but Angela provides a further justification, explaining how the immigration rules protect couples from breaking up due to financial problems, and Dutch sponsors from abuse by the migrant partner. To her, the private interests of family relationships and those of the state in regulating migration, are not contradictory, but overlapping: the Dutch state is a protective state rather than an intrusive one. Nevertheless, she also had criticism, especially on her legal obligation as a sponsor to manage the file of her partner, and the dependent residence permit until he would be able to naturalise (after 3 years of marriage) or obtain an independent, permanent residence permit (after 5 years). She felt this placed undue responsibility upon her, and made her partner dependent on her. We will return to this issue of dependency and other gendered implications of migration procedures later in this contribution.

With the law

Although in both samples the *with the law* story was least prominent, it was a bit more common in the 2016 sample. It seems the 2016 respondents had more means and opportunities to 'play the game' by its rules. This was the consequence of two developments in family reunification described above: the changed institutional context and Europeanisation. As to the first, digitalisation has made information on the procedures is more readily available on the internet

In this article  extensive use of social (internet) networks of mixed couples. This made them  d less dependent on authorities to acquire the correct information. Secondly.

Europeanisation offered new opportunities to play the game, especially the Europe route that was not used by the 2000 sample. Below, we present the stories of Marion (2000) and Paula (2016) who both struggled to meet the requirements for family migration.

When Marion (39) met Mimoun from Morocco (32), he was an irregular migrant. When they consulted a lawyer, they found out that due to her combined disability and unemployment allowance, Marion did not meet the income threshold. Paula, 40 years old, met Kwame in Ghana while working there. After their marriage in Ghana, it took them 6,5 months to receive a short-term visa for Kwame to visit her in the Netherlands. During his stay, she got pregnant. As a self-employed worker, Paula did not meet the income threshold.

Both women developed different strategies to deal with the hurdle of the income requirement. Marion prepared their application with a migration lawyer, arguing why an exception to the income requirement should be made. Accompanied by letters from her medical doctor and psychiatrist, she explained how her physical and mental health would be damaged if the relationship broke up or she was forced to accompany Mimoun to Morocco. On lawyers' advice, they also got married. Paula and her husband decided to take the Europe-route by moving to Bulgaria. Although to Paula, it sometimes felt as if they were circumventing the law, they played the law as a game by its rules. She constructed a story, explaining that she had always travelled a lot, and that Bulgaria seemed like an obvious choice.

Both women explained their acts in terms of strategy and play. Marion explained how she used her illness strategically:

I had the feeling like: if they reject this, this is so well documented. Everything is covered. With all these statements, I cannot imagine that they reject it. If they do, I have a good chance on appeal. Because it is true what it says, and in a way, this illness of mine came in handy. And the lawyer said: chances are, when they receive this entire file, that they won't even read it. They might feel discouraged to go against it.

Paula expressed more unease about what she did:

You do not want to lie, but you have to. This friend of mine had lived in insecurity for six months. I could not have done that. (...)But it does not feel good, it is not what you want to do. It feels like you are doing something wrong. But in the end, your family is more important than these rules. And you do nothing wrong because it is allowed. (...)

Both women also expressed understanding for restrictive family migration policies. They did not question the need for state regulation of migration and its restrictiveness. As Marion explained:

In this article  wanted Mimoun to stay. But I do not think that all illegals in the city here
 be able to stay. I am not bothered by illegals. I understand very well why they

come here. I understand that all the better because I know that of Mimoun and friends of his. But I also understand that not everyone can stay here.

On the other hand, in performing intimate citizenship, she claimed the right to live in the Netherlands with the partner of her choice, challenging the importance of borders. The women negotiated their desire to obey migration law, that they considered to be legitimate, with a strongly felt need to protect their family life. Marion said:

I just want to be with this man. So you can stand on your head, but it is going to happen. Who is this guy saying that I cannot marry this man? That is the idiocy of borders. (...) I am involved with this man, I love him and want to be with him. And because he comes from another country, that may not be possible.

Paula stressed her intimate citizenship rights in response to the suggestion that they could live together in Ghana, instead of the Netherlands:

I experienced it like they pushed me in the corner of a Dutch woman with that Ghanaian man, that is not right. That felt really uncomfortable. And then, when you find out that it is impossible to live together in the Netherlands just through the front door, like you would want (...). Then you feel like that is injustice, why are citizens, Dutch citizens, disadvantaged?

Hence, claiming the rights of Dutch citizenship is a plea to be included, to remain part of Dutch society, but also a claim to the right to choose the partner of their choice and establish a family.

Up against the law

In both interview samples, that of 2000 and of 2016, the *up against the law* story was most prominent: law as a system of oppression, unjust, arbitrary and unpredictable. It was always told in combination with the story of *before the law*. Karen (2000) and Felicia (2016), who had both faced significant procedural hurdles and what they saw as maltreatment by immigration authorities, narrated this story.

Karen (25) met Abdel (29) from Algeria when he was awaiting a decision on his application as a migrant worker. It took Karen and Abdel 6 months to obtain the permission to get married, after going through intrusive interviews by immigration authorities who suspected that their marriage was a sham. Felicia (55) met her partner Joseph (38) from Gambia during a holiday. She had had partners from other countries before, but no earlier experiences with family migration law.

In this article  narratives an *up against the law*-story, is that the experience changed their entire Dutch legal system and its institutions. using the terms humiliation.

disrespect, discrimination and mistrust. Karen suspected that authorities did not play by the rules and purposely tried to sabotage their marriage:

The bureaucracy in this country is working against you, you do not realize that beforehand. You have the idea that this is an honest country, where people are treated fairly, according to the law. Well, the way the police works against us, that has nothing to do with the law. That is just to spite, trying to delay, so that we get so stressed out, that we break up. (...) You know, and that is why you really lose your trust in the system, in the law, in its enforcers.

They also felt mistreated because authorities pointed out to them that their relationships did not conform the dominant gender norms. In Karen's case, immigration authorities questioned why Karen was the breadwinner, while Abdel, who was not allowed to work during the application procedure of his residence permit, was financially dependent on her. It is these 'unlikely' characteristics that made them suspect as a couple standing out from 'normal' couples (see D'Aoust 2013). Felicia explicitly addressed this, in her eyes, paternalistic state behaviour:

The questions by the IND make you feel like you are some stupid cow who cannot determine whether a man marries her for her money, residence or because he cares about her. And I know that there are some women who cannot, but I am an assertive woman of 55, who has lived through a considerable number of relationships, I am no retard, I see perfectly well whether I am being duped or not. The Dutch government behaves like a sort of protector of poor, sad women who are cheated by foreigners who want a visa. But that is none of their business.

Interestingly, Felicia evaluates the 'Dutch protective state' in significantly more negative terms than Angela (under *before the law*), as an intrusion into her private choices, and discrimination of her as a woman. More women, of both interview samples, rejected this intrusive, 'protective' state, that they felt stereotyped them as women, their partners as racialised others, and mixed relationships as problematic.

Here, it is important to note that these gendered and racialised stereotypes were not limited to authorities, but also circulated in women's social environment. It was part of the reason why some of the families and friends were reluctant to accept the partner, and occasionally withheld their support. Even if that was not the case, some women felt estranged from their social environment which, in their eyes, did not understand what they were going through. Karen felt she could not share her experiences, even with those who were supporting her marriage:

In this article   edding, people said; so now he can stay. But he cannot stay, he still has to  his country. (...) They know. but you cannot understand it if you do not

experience it yourself. If I say: it costs a lot of time and energy, they understand, but they have no grasp of how it permeates everything. Or they give advice that is not useful at all, that does not apply in your situation. So they try to understand, but they do not understand it at all.

The women telling the *up against the law* story felt justified in using lies and tricks. Karen and Abdel lied to the immigration authorities about Abdel, who was working without permission, like several other migrant partners of respondents. Felicia bought fake pay slips and a labour contract in Gambia to prove Joseph had a job there, justifying it with: 'you do everything to get your guy here'. She also promised her partner that she would not report an eventual relationship break-up to the IND, in order to prevent his deportation in such case. She was not the only one who promised this to her partner. The preparedness and easiness with violating the rules indicate a non-acceptance of migration policies. Still, overall, despite expressing critique on Dutch migration law, its enforcement and its impact on their daily lives, they obeyed the rules, doing whatever it takes to meet the requirements, for as long as it takes.

In justifying breaking the rules, women appealed to intimate citizenship rights in ways that reifies dominant norms: economic worth, self-sufficiency and love. Furthermore, men working 'black', like Abdel, also served to resist racialised notions of migrant masculinity duping European women and profiting financially from them (the so-called *Bezness* discourse, Odasso, 2020), herewith they also confirmed the gendered notion that men should not be financially dependent on women.

Here, the fourth development that we identified above demonstrates itself: the problematisation of family migration. This problematisation discourse affects the ways in which Dutch citizens without a migration background positioned themselves and defined their intimate citizenship. They expressed the notion that family migration law applies to migrants and *allochtones*, citizens of migrant background, and were surprised and shocked that it applied to them too, especially the women in the 2016 sample. For most respondents, the experience with migration law was a renewed, unexpected acquaintance with the Dutch state. It was unexpected not only because family migration law is not supposed to apply to them as Dutch citizens but also because they had never before experienced first-hand, such intrusions by the state. It was these intimate citizenship experiences that made them feel excluded from Dutch society.

This acquaintance with the intrusive state was less unexpected for women of lower class socio-economic background, who had had similar experiences before, e.g. as welfare recipients. Still, they too expressed shock that, as Dutch citizens, their intimate citizenship was affected: it was more than just the state intervention itself in their intimate lives; it was the sense of exclusion

In this article   l) nation and its territory, where they experienced a sense of loss of  onging. and that is not the same as in other fields of law. Felicia felt that the

IND was asking questions that were not allowed in the other fields of law that she worked in.

And now, apparently, I need their permission to move on with my life. And you notice, when you are confronted with it, how bad it is. How it does not comply with your sense of justice, because it is about someone you love. That is even worse than when it is about yourself, but of course it is also about myself.

However, these citizenship rights, in their view, do not apply equally to all. On the one hand, they criticise the preferential treatment of Union citizens as compared to Dutch citizens as well as the differential treatment of various groups of third-country nationals that face different requirements. On the other hand, many of them differentiate between 'good' and 'undeserving' citizens (Anderson 2013), mentioning groups like older Dutch men with younger Asian women, relationships that are not genuine, 'immoral relationships', forced marriages, that deserve disadvantaged treatment, while they themselves do not.

In this way, restrictive family migration law remained protected from radical critique. In terms of legal consciousness, even the most critical women such as Karen and Felicia, often expressed the ideal of law as just and impartial (*before the law*):

Those are the rules, they say. Okay. I understand, I know that many, many sham marriages are concluded, and that a lot is fake. That is why I cooperate, and am willing to have all those silly interviews. And I stay calm and friendly, and whatever(...). As an outsider, you think that those interviews are justified, that is what people say. And it is justified, because there are many sham marriages. But if you are in the middle of it, it is frustrating, especially if you are in good faith. It feels inhuman, you think: why are they doing this to me?

Feelings of exclusion for many women led to considerable stress, and some expressed being torn between giving up and sticking with it, expressing a wish to leave the Netherlands, or staying put. In response to their intimate citizenship experiences, they often sought contact with other women in the same position, and redefined their social position as a Dutch woman with a migrant partner, or as mixed couples, a group distinct from other Dutch citizens.

Conclusion

In the burgeoning literature on legal consciousness, the link of experiences and perceptions of law with citizenship is largely ignored. The concept of intimate citizenship is especially suitable to

In this article  they both are about the domain of everyday life.

The concept of legal consciousness helps us to further understand what intimate citizenship entails. The Dutch women in this contribution are formal members of the Dutch nation and although this membership is not directly at stake, they experience it as being at stake: the inclusion or potential exclusion of their partner and of their love life is a key part of their relationship to the state. The theoretical framework of legal consciousness enables us to analyse in detail the ways in which they interpret these experiences and respond to it. The issue of migration law enabled us to explore a field in which state law may be particularly intrusive, threatening to divide families, excluding them from the nation-state and thus more directly than other fields of law directly impacting experiences of citizenship.

Still, understanding how legal consciousness and intimate citizenship are linked is not easy. With Ewick and Silbey, we found that female sponsors tell contradictory stories about law: criticising family migration law but also supporting it, as well as its aims, even if they faced considerable hurdles themselves. This support did not become less as migration law became stricter over time; on the contrary, women subscribe to the necessity of the more restrictive rules, especially referring to other categories of people who make them necessary (migrants, older Dutch men, sham marriages). Here, they reflect the politicised discourses on migration in the Netherlands (Berkhout et al 2015).

If they claim rights, they do so largely based on their individual, particular circumstances. In the end, in spite of all their critique, their plea is not to change the rules but leave room for individual circumstances to make it fair (see also Block, 2020). Furthermore, women are not particularly critical (*up against the law*) regarding the rules *per se* but rather, their gendered enforcement practices towards them as Dutch female citizens with migrant men as racialised others. It is here where their negative evaluation of law leads to the strongest feelings of exclusion from citizenship and belonging. As Dutch citizens, they feel they should have a right to live in the Netherlands with the partner of their choice. As women, they feel they have a lesser claim to these rights, based on gendered negative stereotypes. It is here, where they do no longer fully experience the privileged position of being a citizen and the rights connected to it. Further research into the experiences of mixed-status families including male citizen sponsors could tell us to what extent these experiences and redefinition of citizenship are indeed gendered.

Disclosure statement

No potential conflict of interest was reported by the authors.

Notes

1. What constitutes the European Union, has changed over time. In the first set of interviews, one of the respondents had a husband from Poland, at the time, not yet part of the EU.
2. In 2017–2018, 71% of family reunification visa applications were granted. Ministry of Justice and Security, *Rapportage Vreemdelingenketen* January–June 2018, p. 14.
3. Allochtones is a Dutch policy term that also became common in public discourse. It refers to persons who are themselves born abroad, or one of their parents is born abroad. Autochtones have two parents born in the Netherlands. Hence, a Dutch citizen born in the Netherlands can still be an 'allochtone'. Because of its negative connotations, it was recently replaced by the term 'persons with migration background'.
4. European Union Court of Justice, C 578/08, 4 March 2010 (*Chakroun*). On 1 January 2019, the required level is € 1.745,07.
5. Human Rights Watch, *The Netherlands: Discrimination in the Name of Integration*(2008).
6. *Monitor Basisexamen Inburgering Buitenland*, Significant (2015).
7. Council Directive 2004/86/EC. European Court of Justice. *O and B*, 12 March 2014, C-456/12.
8. European Court of Justice. *Metock*, 25 July 2008, C 127/08.
9. At the time, women who had a child below the age of five did not have an obligation to look for a job and were entitled to welfare benefits. This exception to the income requirement was abolished in 2001.

References

1. Abrego, L. J. 2011. "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims Making for First and 1.5 Generation Immigrants." *Law & Society Review* 45 (2): 337–370. doi:10.1111/j.1540-5893.2011.00435.x. [[Crossref](#)], [[Web of Science ®](#)], [[Google Scholar](#)]
2. Anderson, B. 2013. *Us and Them? the Dangerous Politics of Immigration Controls*. Oxford: Oxford University Press. [[Crossref](#)], [[Google Scholar](#)]

In this article   udulich, and W. Van der Burg. 2015. "The Politicisation of Immigration in the *The Politicisation of Migration*. edited by W. van der Burg. G. D'Amato. and D.

- Ruedin, 97–118. London: Routledge. [\[Google Scholar\]](#)
4. Bhabha, J., and S. Shutter. 1994. *Women's Movement: Women under Immigration, Nationality and Refugee Law*. Staffordshire: Trentham Books. [\[Google Scholar\]](#)
 5. Block, L. (2020). *'I'm Not Entitled to be Married in Germany? Am I German or Am I Not?' Narratives and Discursive Strategies of Citizen Sponsors in the German Spousal Migration Context*. Forthcoming in *Identities*. [\[Taylor & Francis Online\]](#), [\[Google Scholar\]](#)
 6. Bonjour, S. 2009. *Grens En Gezin: Beleidsvorming Inzake Gezinsmigratie in Nederland, 1955–2005*. Amsterdam: Amsterdam University Press. [\[Google Scholar\]](#)
 7. Bonjour, S., and B. De Hart. 2013. "A Proper Wife, A Proper Marriage. Constructions of "Us" and "Them" in Dutch Family Migration Policy." *European Journal of Women's Studies* 20 (1): 61–76. doi:10.1177/1350506812456459. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
 8. Bonjour, S., and B. De Hart. 2020. "Intimate Citizenship: Citizenship, Membership and Belonging in Mixed-status Families." Forthcoming in *Identities*. [\[Google Scholar\]](#)
 9. Bonjour, S., and L. Block. 2016. "Ethnicizing Citizenship, Questioning Membership. Explaining the Decreasing Family Migration Rights of Citizens in Europe." *Citizenship Studies* 20 (6–7): 779–794. doi:10.1080/13621025.2016.1191429. [\[Taylor & Francis Online\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
 10. Bovens, M., and S. Zouridis. 2002. "From Street-level to System-level Bureaucracies: How Information and Communication Technology Is Transforming Administrative Discretion and Constitutional Control." *Public Administration Review* 62 (2): 174–184. doi:10.1111/puar.2002.62.issue-2. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
 11. Castles, S. 2005. "Hierarchical Citizenship in a World of Unequal Nation-States." *PS Online* 38 (4): 689–692. [\[Google Scholar\]](#)
 12. D'Aoust, A. M. 2013. "In the Name of Love: Marriage Migration, Governmentality, and Technologies of Love." *International Political Sociology* 7 (3): 258–274. doi:10.1111/ips.12022. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)



14. De Hart, B., and. 2013. "Law in the Everyday Lives of Transnational Families: An Introduction." *Onati Socio-Legal Series* 3 (6): 991-1003. [\[Google Scholar\]](#)
15. Engel, D. M., and F. W. Munger. 2003. *Rights of Inclusion: Law and Identity in the Life Stories of Americans with Disabilities*. Chicago: University of Chicago Press. [\[Crossref\]](#), [\[Google Scholar\]](#)
16. Ewick, P., and S. S. Silbey. 1995. "Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative." *Law and Society Review* 29 (2): 197–226. doi:10.2307/3054010. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
17. Ewick, P., and S. S. Silbey. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press. [\[Crossref\]](#), [\[Google Scholar\]](#)
18. Gehring, A. 2019. *Pensioners on the move. A socio-legal study on retirement migration from the Netherlands to Spain and Turkey*. PhD Radboud University Nijmegen. [\[Google Scholar\]](#)
19. Hernandez, D. 2010. "I'm Gonna Call My Lawyer:" Shifting Legal Consciousness at the Intersection of Inequality." *Interdisciplinary Legal Studies* 51: 95–121. [\[Google Scholar\]](#)
20. Hull, K. E. 2003. "The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage." *Law & Social Inquiry* 28 (3): 629–657. doi:10.1111/j.1747-4469.2003.tb00210.x. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
21. Human Rights Watch. 2008. "Discrimination in the Name of Integration. Migrant's Rights under the Integration Abroad Act." <http://pantheon.hrw.org/legacy/backgrounder/2008/netherlands0508/netherlands0508web.pdf> [\[Google Scholar\]](#)
22. Kubal, A. 2013. "Conceptualizing Semi-Legality in Migration Research." *Law & Society Review* 47 (3): 555–587. doi:10.1111/lasr.12031. [\[Crossref\]](#), [\[Web of Science ®\]](#), [\[Google Scholar\]](#)
23. Lipsky, M. 2010. *Street-level Bureaucracy. Dilemmas of the Individual in Public Service*. New York: Russell Sage Foundation. [\[Google Scholar\]](#)

25. Marshall, A. M., and S. Barclay. 2003. "In Their Own Words: How Ordinary People Construct the Legal World." *Law & Social Inquiry* 28 (3): 617–628. doi:10.1111/j.1747-4469.2003.tb00209.x. [Crossref], [Web of Science ®], [Google Scholar]
26. Menjívar, C., and S. M. Lakhani. 2016. "Transformative Effects of Immigration Law: Immigrants' Personal and Social Metamorphoses through Regularization." *American Journal of Sociology* 121 (6): 1818–1855. doi:10.1086/685103. [Crossref], [Web of Science ®], [Google Scholar]
27. Nielsen, L. B. 2000. "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment." *Law and Society Review* 34 (4): 1055–1090. doi:10.2307/3115131. [Crossref], [Web of Science ®], [Google Scholar]
28. Odasso, L. 2020. Family Rights-Claiming as Act of Citizenship: An Intersectional Perspective on the Performance of Intimate Citizenship Identities: Global Studies in Culture and Power. Identities. Global Studies in Culture and Power, Taylor & Francis (Routledge). [Google Scholar]
29. Rytter, M. 2012. "Semi-legal Family Life: Pakistani Couples in the Borderlands of Denmark and Sweden." *Global Networks* 12 (1): 91–108. doi:10.1111/glob.2011.12.issue-1. [Crossref], [Web of Science ®], [Google Scholar]
30. Schwenken, H. 2013. "'The EU Should Talk to Germany' Transnational Legal Consciousness as a Rights Claiming Tool among Undocumented Migrants." *International Migration* 51 (6): 132–145. doi:10.1111/imig.12118. [Crossref], [Web of Science ®], [Google Scholar]
31. Significant. 2015. *Monitor Basisexamen Inburgering Buitenland*. <https://zoek.officielebekendmakingen.nl/blg-885828.pdf> [Google Scholar]
32. Staver, A. 2013. "Free Movement and the Fragmentation of Family Reunification Rights." *European Journal of Migration and Law* 15 (1): 69–89. doi:10.1163/15718166-12342024. [Crossref], [Web of Science ®], [Google Scholar]
33. Strasser, E., A. Kraler, S. Bonjour, and V. Bilger. 2009. "Doing Family. Responses to State Constructions of 'The Migrant Family' across Europe." *The History of the Family* 14 (2): 165–176. doi:10.1016/j.hisfam.2009.02.005. [Taylor & Francis Online], [Web of Science ®], [Google Scholar]

WODC. [Google Scholar]

Additional information

Funding

This work was supported by Stichting Ammodo, Amsterdam the Netherlands and conducted while both authors were working at the Amsterdam Centre for European Law and Governance, University of Amsterdam. The Netherlands



Information for

Authors
Editors
Librarians
Societies

Open access

Overview
Open journals
Open Select
Cogent OA

Help and info

Help & contact
Newsroom
Commercial services
All journals

Keep up to date

Register to receive personalised research and resources by email



Copyright © 2020 Informa UK Limited [Privacy policy](#) [Cookies](#) [Terms & conditions](#)
[Accessibility](#)



Registered in England & Wales No. 3099067
5 Howick Place | London | SW1P 1WG

In this article

