

PATIENCE AND PERSEVERANCE

The asylum procedure of Tamils and Iranians
in the Netherlands in the mid-1980s

Patience and perseverance. The asylum procedure of Tamils and Iranians in the Netherlands in the mid-1980s

Authors frequently refer to the mid-1980s as a watershed in West European asylum policies. Suddenly, large numbers of asylum seekers appeared from unfamiliar countries of origin. In response, the Dutch government, and that of other European countries, introduced restrictive measures. The general belief is that prior to this period it was easy to obtain refugee status, but now it became virtually impossible. When we look at case files of the Ministry of Justice on Tamils from Sri Lanka and Iranians, we see that few of them were rejected, although many cases did involve endless procedures. This article seeks to explain this apparent contradiction. One thing was clear: patience and perseverance were needed from those who wanted to stay.

Many authors have argued that in the mid-1980s the West experienced a 'refugee crisis' because of the arrival of 'New Refugees' and 'New Asylum Seekers'.¹ The refugees were new because they fled from different countries and presented different flight motives than those who came before. Their arrival in unprecedented numbers caused a crisis in many European countries, including the Netherlands, and resulted in drastic policy changes.² As a consequence, fewer asylum seekers navigated successfully through the asylum procedure.³ In the 1980s asylum seekers and refugees lost the positive image

1. D. Martin, 'The new asylum seekers. Introduction', in: D. Martin (ed.), *The new asylum seekers. Refugee law in the 1980s* (Dordrecht 1988) 1-22; D. Gallagher, 'The Evolution of the international refugee system', *International Migration Review (IMR)* 23: 3 (1989) 579-598; F. Caestecker, *Vluchtelingenbeleid in de naoorlogse periode* (Brussels 1992) 115; C. Boswell, 'European values and the asylum crisis', *International Affairs* 76: 3 (2000) 537-557, 538.

2. P. Muus, 'Shifting borders: The inclusion and exclusion of refugees and asylum seekers in the Netherlands', in: P. Muus (ed.), *Exclusion and inclusion of refugees in contemporary Europe* 3 (Utrecht 1997) 78-95, 79; F. Alink, *Crisis als kans? Over de relatie tussen crises en hervormingen in het vreemdelingenbeleid van Nederland en Duitsland* (Amsterdam 2006) 86-114.

3. J. Mertus, 'The state and the post-Cold War refugee regime: new models, new questions', *International Journal of Refugee Law (IJRL)* 10: 3 (1998) 321-348, 337.

they had during the Cold War.⁴ Claiming asylum became an undesirable act.⁵ Only a few authors opposed this idea of a watershed. Chimni, for example, argued that the differences between the Old and the New Asylum Seekers were overstated.⁶ The arrival of the New Refugees led to the introduction of what I call the *New Refugee Regime*.⁷ Within a few years, a restrictive regime replaced the previous liberal refugee regime. This article will show that this *New Refugee Regime* was restrictive on paper, rather than in practice.

There are four reasons why the *New Refugee Regime* came about. First and foremost, the number of asylum seekers increased. In the Netherlands, the number rose from 1,210 in 1982 to 5,640 in 1985, and 13,460 in 1987.⁸ The increase caused government officials to question whether the growth was ever going to stop. To bring the numbers down, the Netherlands, like other European countries, introduced restrictive measures. One solution was to offer asylum seekers temporary protection or to tolerate them without giving them refugee status.⁹ The increase was attributed to a growing number of refugees worldwide and to changes in communication and transportation, which facilitated migration.¹⁰ Another explanation was that after the recruitment of guest labourers ended, applying for asylum became one of the few options left for migrants.¹¹ Secondly, the nationality and flight motives of the New Refugees differed from their predecessors. Many authors argued that during the Cold War, admitting anti-communists served a political goal.¹²

4. M. Gibney and R. Hansen, *Immigration and asylum, from 1900 to the present*, volume 1 (Santa Barbara 2005) 446; J. Sztucki, 'The conclusions on the international protection of refugees adopted by the executive committee of the UNHCR programme', *IJRL* 1: 3 (1989) 285-318, 286; Mertus, 'The state and the post-Cold War refugee regime', 328.

5. J. Widgren, 'Asylum seekers in Europe in the context of South-North movements', *IMR* 23: 3 (1989) 599-605; M. Kjaerum, 'Refugee protection between state interests and human rights: Where is Europe heading?', *Human Rights Quarterly* 24: 2 (2002) 513-536, 513-514.

6. B.S. Chimni, 'The Geopolitics of refugee studies: A view from the South', *Journal of Refugee Studies (JRS)* 11: 4 (1998) 350-374, 369.

7. Mertus, 'The state and the post-Cold War refugee regime', 321-348; Kjaerum, 'Refugee Protection', 524.

8. D. Bronkhorst, *Een tijd van komen. De geschiedenis van vluchtelingen in Nederland* (Amsterdam 1990) 148.

9. A. Böcker, 'Gedogen als instrument van het Nederlandse asielbeleid', *Migrantenstudies* 14: 4 (1998) 248-261; Gibney and Hansen, *Immigration and asylum*, 446-447.

10. This was why Poul Hartling, the UN High Commissioner for Refugees, called the New Asylum Seekers 'jet age refugees'. See: M. den Hond, "'Jet-Age Refugees': in search of balance and cooperation', in: Martin (ed.), *The new asylum seekers*, 49-56, 49.

11. M.J. Gibney, 'Between control and humanitarianism: temporary protection in contemporary Europe', *Georgetown Immigration Law Journal* 14 (1999-2000) 689-707, 693.

12. C.B. Keely, 'The international refugee regime(s): The end of the Cold War matters', *IMR* 35: 1, Special Issue: UNHCR at 50: Past, present and future of refugee assistance (2001) 303-315, 306-307; L. Barnett, 'Global governance and the evolution of the international refugee regime', *IJRL* 14: 2/3 (2002) 238-262, 254.

The flight motives of the New Refugees were more difficult to understand. Many Europeans felt these non-Europeans warranted rejection because they belonged to a different culture.¹³

Thirdly, and partly as a result of the previous two factors, there was a growing need to distinguish between those who deserved protection and those who did not. Civil servants and others felt that the New Refugees did not meet the criteria of persecution as described by the 1951 Refugee Convention.¹⁴ New legal systems were installed to distinguish between genuine and bogus or economic refugees.¹⁵ Fourthly, an increase in government costs was anticipated at a time of economic downturn. It was feared that so-called bogus applicants were trying to benefit from the European welfare systems.

This article examines how civil servants justified their decisions and how advocates of asylum seekers and others countered these arguments. In the mid-1980s, Tamils from Sri Lanka and Iranians were two of the largest groups of asylum seekers to arrive in the Netherlands. The arguments of those who favoured restrictive policies and those who spoke on behalf of asylum seekers are grouped into clusters, which are called 'frames' here. Frames are series of claims strung together in a more or less coherent way. Frames diagnose, evaluate and prescribe. They not only define problems, but also present a moral judgment and a solution.¹⁶ Frames become visible when an inventory of arguments is made. Recently, several authors used this method to study the way asylum seekers appeared in media coverage and in political debates.¹⁷ Frame analysis revealed the repetition in arguments used by government officials and the counterarguments of opponents. The issue in this case was whether an asylum seeker deserved admittance. The actors diagnosed the problem in six ways, resulting in six frames in which arguments can be clustered: persecution frame, number frame, credibility frame, procedural frame, humanitarian frame, and cultural background frame. Arguments put forward by the authorities were morally evaluated and dismissed by the refu-

13. P.L. Martin, 'Epilogue. Reducing migration pressure: What role can foreign aid play?', in: W.R. Böhning and M.L. Schloeter-Parades, *Aid in place of migration. Selected contributions to an UNHCR-ILO meeting* (Geneva 1994) 241-254, 244.

14. A.R. Zolberg, A. Suhrke and S. Aguayo, *Escape from violence. Conflict and the refugee crisis in the developing world* (Oxford 1989) 278.

15. Boswell, 'European values and the asylum crisis', 541-543.

16. R.M. Entman, 'Framing: Toward clarification of a fractured paradigm', *Journal of Communication* 43: 4 (1993) 51-58, 52.

17. B. van Gorp, *Framing asiël. Indringers en slachtoffers in de pers* (Leuven 2006); L. d'Haenens and M. de Lange, 'Framing of asylum seekers in Dutch regional newspapers', *Media, Culture & Society* 23 (2001) 847-860; N. Lynn and S. Lea, "'A phantom menace and the new apartheid': The social construction of asylum-seekers in the United Kingdom", *Discourse & Society* 14 (2003) 425-52; H.C. Nickels, 'Framing asylum discourse in Luxembourg', *JRS* 20: 1 (2007) 37-59.

gees' advocates. One might expect that the preferred solutions would be either rejection or admission. In reality, actors – those in favour of admission and those against – met in the middle: admission, but not as a refugee.

This displays that there was a gap between the government's asylum policy and the intended results and implementation of new policy. In 1994 Cornelius and Martin argued that *'the gap between the goals of national immigration policy (laws, regulations, executive actions, etc.) and the actual results of policies in this area (policy outcomes) is wide and growing wider'*.¹⁸ Immigration policymaking in the Netherlands, it was argued, was a story of emerging gaps between policies and outcomes, later followed by attempts to close the gaps by tightening immigration regulations.¹⁹ In 2004 Cornelius and Tsuda explained the significant and persistence difference between immigration policies and their outcome by stressing the impact of legal rights groups, which made it difficult for authorities to implement policy changes.²⁰ Pressure groups, political parties and courts restricted the opportunity for manoeuvre. Other authors emphasised the reduction of states' sovereignty due to international treaties and supra-national powers such as the EU.²¹ On a national level, national authorities do not agree with local authorities, and local authorities do not have the means and tools to implement policies.²² This, too, explains the gap.

This article explores the discussions between those who favoured more restrictive policies (Dutch authorities) and those who supported leniency (pressure groups, for instance). This analysis will show that the room to manoeuvre was already restricted in the mid-1980s. That a gap existed between theory and policy put into practice is not very surprising. However, contemporaries were convinced that regulations had become stricter, and in the current debate scholars followed up on this and argued that the mid-1980s should be regarded as a breaking point. The main question is why

18. W.A. Cornelius, P.L. Martin and J.F. Hollifield, 'Introduction: The ambivalent quest for immigration control'. In: W.A. Cornelius, P.L. Martin and J.F. Hollifield (eds.), *Controlling immigration: A global perspective* (Stanford 1994) 3-41, 3.

19. W.A. Cornelius and T. Tsuda, 'Controlling immigration. The limits of government intervention', In: W.A. Cornelius (ed.), *Controlling immigration: A global perspective* (Stanford 2004; second edition) 3-48, 29.

20. Cornelius and Tsuda, 'Controlling immigration. The limits of government intervention', 4 and 11-14.

21. S. Bonjour, *Grens en gezin. Beleidsvorming inzake gezinsmigratie in Nederland 1955-2005* (Maastricht 2009) 31-34 and 312; T. de Lange, *Staat, markt en migrant. De regulering van arbeidsmigratie naar Nederland 1945-2006* (Nijmegen 2007) 399-404.

22. Cornelius, *Controlling immigration* (2004), 7-15; J. Van der Leun, 'Excluding illegal migrants in the Netherlands. Between national policies and local implementation', *West European Politics* 29: 2 (2006) 304-320; Bonjour, *Grens en gezin*, 313-319.

everybody who was active in this field believed in the existence of this gap. The answer is that the gap proved to be functional.

In the sections below, I first briefly discuss the Dutch asylum procedure and the asylum motives of the Tamils and Iranians. The main source for my research, to be discussed at length below, are individual case files of Tamil and Iranian asylum seekers created by the Dutch Ministry of Justice. Finally, the arguments that were used in these files are presented to explain the existence of the gap.

Dutch asylum policies

During the Cold War, the Netherlands witnessed the arrival of small numbers of asylum seekers coming from a limited number of countries. It is generally believed that most of them were readily admitted after relatively short procedures.²³ However, the reality was different. The admittance of asylum seekers was not easy or simple, despite the small numbers and the fact that they were fleeing communism. In the period 1957 to 1964 the admission rate of the Netherlands was 44 per cent, a figure that indicates neither leniency nor hospitality.²⁴ The most common reason for a rejection was that the applicant had passed through a safe country on their way to the Netherlands. Before the Tamils and Iranians arrived, the Netherlands was already receiving asylum seekers and refugees from non-communist or non-European countries. Between 1968 and 1973, 584 Portuguese men applied for asylum. They were fleeing the draft and colonial wars in Angola and Mozambique. In the 1970s, thousands of Chileans and Vietnamese were resettled in the Netherlands.

Asylum seekers who entered the Netherlands had to file an asylum application at a police station. After the intake, the main interview was scheduled. The interviewer (in Dutch: *contactambtenaar*) sent the minutes of the interview to the Unit Asylum Cases, Department of Immigration Affairs, residing under the Ministry of Justice.²⁵ A civil servant of this unit assessed each

23. Among others: D. van Dijck, *Het asielbeleid van de Europese Unie: een veiligheidskwestie? Een discoursanalytische studie naar de constructie van een gemeenschappelijke asielprocedure in Europa* (Antwerp 2005) 5; Bronkhorst, *Een tijd van komen*, 20 and 22; H. Fassmann and R. Münz, 'European East-West migration, 1945-1992', *IMR* 28: 3 (1994) 520-538, 527; Boswell, 'European values and the asylum crisis', 550.

24. The National Archive (hereafter NA), The Netherlands, Archive of the Dutch Naturalisation and Immigration Service and its predecessors (hereafter IND) 5.023.5027.357

25. More details see: M. Fullerton, 'Restricting the flow of asylum-seekers in Belgium, Denmark, the Federal Republic of Germany, and the Netherlands: new challenges to the Geneva Convention relating to the status of refugees and the European convention on human rights', *Virginia Journal of International Law* 29: 33 (1988-1989) 33-114, 74.

application. With the help of a lawyer, rejected applicants could request reconsideration. Asylum seekers who were not given the right to await the decision in the Netherlands could start summary proceedings in a court. If they lost their case, they were given a deadline by which to leave. If they won, their case was scheduled with the Advisory Committee on Aliens Affairs (ACV), which reviewed cases and gave non-binding advice. This was an officially independent committee. The lawyer for the asylum seekers, representatives of the Ministries of Justice and Foreign Affairs, and UNHCR advised the members of this committee. If the outcome was negative, the asylum seeker could lodge an appeal with the Council of State.

A refugee status, also called an A status, was issued to those who met the criteria of the 1951 Refugee Convention.²⁶ Interpretation of the refugee definition was not unambiguous. The various recognition rates of Tamils in different European countries demonstrate that the criteria of the Refugee Convention were not clear-cut. In France, 42 per cent of the Tamils obtained a refugee status, in the UK 62 per cent, while in Switzerland and in the Netherlands only 3 per cent acquired this status.²⁷ In the last two countries many Tamils received a status on humanitarian grounds, called a B status. The B status did not exist in France and the UK. Holders of the B status presented compelling humanitarian reasons why returning to their countries of origin was impossible. The legal position of holders of the B status was less favourable than that of A status holders; they did not automatically qualify for a study grant, family reunification and a refugee passport. This was the reason why asylum seekers continued instituting proceedings, and the asylum procedure stalled. In 1987, a new status was introduced: the C status.²⁸ This status granted a position equal to that of regular migrants. The C status denied the validity of the flight motives, but recognised that the applicants could not return to their native country.

26. A Convention Refugee is defined as any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to return to that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

27. D. Joly, *Haven or hell? Asylum policies and refugees in Europe* (Basingstoke 1996) 32; Bronkhorst, *Een tijd van komen*, 77; D. Lüthi, 'Sri-Lanka Tamilen in West- und Mitteleuropa seit der 1980er Jahren (Beispiel Schweiz)', in: J. Bade, P.C. Emmer, L. Lucassen and J. Oltmer (eds.), *Enzyklopädie Migration in Europa. Vom 17. Jahrhundert bis zur Gegenwart* (Paderborn 2007) 1011-1015, 1012.

28. R. Fernhout, *Erkenning en toelating als vluchteling in Nederland* (Deventer 1990) 140-141.

TABLE 1 *The total number of invited refugees and asylum seekers in the period 1982-1987 (excluding those coming from Eastern Europe)*

<i>Year of arrival</i>	<i>Total number of invited refugees</i>	<i>Total number of asylum seekers</i>
1982	513	840
1983	406	1,400
1984	481	2,304
1985	440	4,522
1986	371	3,650
1987	532	12,987

Source: H. Gooszen, *Vluchtelingen en asielzoekers. Demografische en sociaal-economische positie in Nederland*. NIDI rapport 1 (Den Haag 1988) 7.

The way asylum seekers were received changed in the 1980s. In the autumn of 1984, when the Tamils arrived, officials and refugee groups in Amsterdam and The Hague complained that it was impossible to house and assist all of them.²⁹ The authorities panicked and in April 1985 introduced regulations for the Tamils, known as the ‘Bed, Bath and Bread regulations’.³⁰ The Tamils no longer could choose where they wanted to settle, but were put in asylum boarding houses. They also lost their right to social benefits, and only received pocket money.³¹ The aim of this regulation was twofold: dispersing the Tamils relieved the tensions in the towns, and the authorities hoped that the attraction of the Netherlands would fade if Tamils had no right to social benefits.³² In 1987, this regulation was introduced for all asylum seekers.

Although the increase in numbers did not lead to new restrictive legislation – in contrast to Germany, Belgium and Denmark – Dutch asylum policy did become more onerous through stricter interpretation of the 1951 Refugee Convention, for instance the evaluation of the ‘well-founded fear of persecution’.³³ Moreover, applicants had to prove that authorities ‘singled them out’.³⁴ The Dutch authorities introduced three reasons why asylum seekers could be rejected on the spot: if prior to their arrival in the Netherlands they had resided in a safe European country where protection was available, if they had presented a fraudulent claim, and if they had never experienced threats to their lives or liberty.

29. Bronkhorst, *Een tijd van komen*, 73; Alink, *Crisis als kans?*, 88.

30. M. Schrover, ‘Why make a difference? Migration policy and making differences between migrant men and women (The Netherlands 1945–2005)’, in: M. Schrover and E.J. Yeo (eds.), *Gender, migration and the public sphere 1850-2005* (New York 2010) 76-96, 87-88.

31. Muus, ‘Shifting Borders’, 82.

32. Tamils Dutch Solidarity Association, *Tamils dupe van fouten in asielprocedure* (Amsterdam 1986) 2.

33. Fullerton, ‘Restricting the flow’, 83-84, footnote 258.

34. K. Bem, *Defining the refugee. American en Dutch asylum case-law 1975-2005* (Amsterdam 2007) 129-141.

Marxists, monarchists, Buddhists and beaches

In the mid-1980s, Tamils from Sri Lanka and Iranians were two of the largest groups of asylum seekers to arrive in the Netherlands. The Dutch public had an ambivalent image of Sri Lanka. On the one hand, civil war raged on the island, and atrocities were committed. On the other hand, Sri Lanka was an attractive holiday destination with beautiful palm trees and beaches. The image of Iran was more distinct. It was a country where first the Shah had exercised a detestable regime, which was replaced by an equally detested fanatical Islamic regime. There was a marked difference in the ways in which Iranians and Tamils were received. The arrival of the 3,500 Tamils caused a shock. Frequent reports about the Tamil 'invasion' appeared in the Dutch press.³⁵ The 1,500 Iranians trickled in, and their motives for fleeing were not disputed. There were also similarities between both groups: most of the Iranians and Tamils were men in their twenties.

Iranian asylum seekers

After the removal of the Shah in 1979, the new Islamic Republic of Iran introduced corporal punishment for those who infringed social and cultural norms, and banned the activities of the opposition. Soon afterwards, many politicians, Marxists as well as royalists, and intellectuals escaped from Iran, as did members of minorities, such as the Baha'i, Kurds and Armenians. Furthermore, those who were fleeing included women who did not want to comply with the new rules and dress codes.³⁶ Another reason was the fear of enlistment in the army, understandable in light of the Iran-Iraq war that started in 1980. The bulk of the Iranian asylum seekers was highly educated and had an urban background. Many of them belonged to the more modern sector of Iranian society and dressed and behaved in a Western style; these individuals would integrate easily into Dutch society, according to their advocates.³⁷

Iranian asylum seekers were refugees because they were fleeing a regime that was detested in the West. Between 1982 and 1986, 1,526 Iranians applied for asylum in the Netherlands; only 37 per cent were granted asylum.³⁸ An

35. T. van Dijk, 'Semantics of a press panic. The Tamil invasion', *European Journal of Communication* 3: 2 (1988) 167-187.

36. D. Madjlessi, *Over Iran en Iraanse vluchtelingen. Zes radiogesprekken van het VARA programma 'Tony van Verre ontmoet ...'* (Middelburg 1991) 3.

37. T. Hessels, 'Iraniërs in Nederland', CBS Bevolkingstrends 2e kwartaal 2004 (2004) 54-58, <http://www.cbs.nl/NR/rdonlyres/85A9B7F7-8B564024B535A02470FEC5A4/0/2004k2b15p054art.pdf>; Bronkhorst, *Een tijd van komen*, 100.

38. Bronkhorst, *Een tijd van komen*, 82 and 148.

explanation for this low percentage is that Iranians passed through safe third countries en route to the Netherlands. This percentage is misleading because it indicates the rejection rate, but not the number of asylum seekers who actually left the Netherlands. Many Iranians were granted a status during a follow-up procedure. Rejection was one thing, but repatriating the Iranians was a different matter.

A letter in the case file of the Iranian asylum seeker J. explained how he could increase his chances of asylum and which elements were regarded as decisive.³⁹ J. was advised by a friend to write down his story and learn it by heart because the Dutch police conducted interviews lasting many hours, and the asylum seeker had to present the same statements time and again. J. learned that he had to convince the Dutch authorities that the Iranian authorities had targeted him personally. He should come up with a minimum of two earlier arrests; only mentioning military desertion or membership of a political party was insufficient. The story should start with statements about the political activities of his father and relatives. It was good to add that some of them were detained. In addition, his friend advised, he had to connect a well-known attack by the police on the opposition in his area to his flight story. This friend explained that dates of events and names of politicians were checked by the Dutch authorities. It was important that he included a period of hiding in Iran in his claim. This proved that he had tried to remain in Iran. The letter indicated which elements Iranian asylum seekers believed the Dutch authorities regarded as crucial: being a politician or political activist, being 'singled-out' and having experienced periods of imprisonment and hiding. It is not surprising that credibility concerns arose after such a letter was found.

Tamils from Sri Lanka

The arrival of the Tamils in 1984 marked the beginning of 'a turbulent time in Dutch asylum policy'.⁴⁰ Several authors argued that the hostile reaction they were given was new.⁴¹ The Dutch policy of deterring the Tamils proved successful. Over half of the Tamils left voluntarily, mostly for France and Canada. The number of rejections of the first 1,320 decisions reached in cases of

39. The letter was found in his luggage: IND, NA, 5023.5028.1568, Letter sent by Iranian friend to I. (no date 1986).

40. F. Alink, A. Boin and P. 't Hart, 'Institutional crisis and reforms in policy sectors: the case of asylum policy in Europe', *Journal of European Policy* 8: 2 (2001) 286-306, 291-292.

41. J. van Selm, 'Asylum in the Netherlands: A hazy shade of purple', *JRS* 13: 1 (2000) 74-90; M. Hollands, *Leren uit de ontmoeting. Nederlanders in contact met asielzoekers en vluchtelingen* (Amsterdam 2006) 144; Muus, 'Shifting Borders', 83; K. Geuijen, *De asielcontrole. Argumenteren over mensenrechten en nationale belangen* (Amsterdam 2004) 68; Van Dijk, 'Semantics of a press panic', 172 and 185.

Tamils was high, only 1 received an A status, 55 a B status and 110 a C status; 1154 received a rejection.⁴²

Following the independence of Sri Lanka in 1948, tensions increased between the Singhalese Buddhist majority and the minority of Tamils with a Hindu background. The Singhalese demanded compensation for the colonial times when the Tamils were favoured. In the early 1980s, Singhalese Buddhist nationalism dominated national politics. As a result, the Tamil youth radicalised and called for greater autonomy or independence. Several resistance groups were formed, the most well-known being the Tamil Tigers. Singhalese politicians reacted and introduced the Prevention of Terrorism Act, which legitimised the use of violence (excessive) against Tamils. In July 1983, a group of Tamil extremists ambushed and killed thirteen government soldiers. The Singhalese military retaliated, targeting all Tamils. Soon afterwards, a state of emergency was proclaimed, and civil war commenced.

In January 1985, a Dutch civil servant made an inventory of 141 cases of Tamil asylum seekers. To him, all claims looked 'alike', and it was 'obvious' that they did not meet the definition of a refugee of the Geneva Convention.⁴³ This was a group of unmarried young men, born into families of farmers, who engaged in only marginal political activities, and who left because of general uncertainty. The example of the fisherman S. illustrated some of the recurring elements in their claims. S. explained that Tamil Tigers from his village snatched his boat and used it to escape after a bank robbery.⁴⁴ When one of the robbers was arrested, he pointed out to the authorities that S. was an accessory. After his arrest, S. was tortured and betrayed the other men who stole his boat. Now, he was a bank robber, a 'Tiger', and a traitor. His lawyer argued that his client was caught between two evils: the Tamil terrorists and the Singhalese authorities. Staying anywhere on the island was impossible.

Sources

My main sources are individual case files of asylum seekers from the Ministry of Justice. This source is unique and has rarely been used before due to privacy concerns.⁴⁵ For this paper, I used 35 case files of Tamils and 39 case

42. IND, NA, 5.023.5027 inv. nr. 3137, Letter sent by Secretary of State, subject: asylum procedure of Tamils (7/10/1986).

43. IND, NA, 5.023.5027 inv. nr. 3137, Report of interviewer R. to head of Department of Immigration Affairs, Subject: arrival of Tamils (17/1/1985).

44. IND, NA, 5.023.5028 inv. nr. 1513, Decision in first instance (29/7/1985); Reconsideration request (2/12/1987); Report of meeting at ACV (15/12/1987).

45. Only a few scholars in the Netherlands used this source, they focussed on the travel route and on the decisions: L. Doornheim and N. Dijkhoff, *Toevlucht zoeken in Nederland*

files of Iranians. These are all of the case files of these groups stored in the National Archive in The Hague. These case files are not a sample but a selection, and they do not represent the caseload. Later research at Doc-Direct in Winschoten, where all case files of asylum seekers are kept, revealed that not all Iranians were admitted, and that a high percentage of Tamils left the Netherlands soon after arrival.⁴⁶ The files of those who disappeared are thin, because they often left before the main interview. The case files I examined at the National Archive are extensive and contain jurisprudence, internal correspondence and letters from applicants, employers, politicians, journalists and Dutch friends. I refer to all those who tried to interfere in the asylum procedure as actors. The case files held at the National Archive relate to cases which led to discussion and dispute. These are the files that contain arguments, which make them suitable for this research. Thick case files showed the networks of asylum seekers, which were important because asylum seekers benefited from connections in the country of asylum.⁴⁷ In other words, the files in the National Archive illustrated why and by whom asylum seekers were included or excluded. Thickness, the criterion on which some case files were transferred to the National Archive, was useful for this research. In addition, I used a number of policy files from the Ministry of Justice, as well as files containing letters sent by the Dutch general public to the Minister.

Tables 2 and 3 indicate that from the case files studied, 29 per cent of the Tamils left the Netherlands, while all the Iranians stayed. The procedure of the latter seems unproblematic, but table 3 shows that only 26 per cent of the Iranians received a status in first instance. However, 92 per cent of the Iranians were given a status after the internal review exercise – the so-called Iranian project – in 1987. Table 3 illustrates the different starting points of the Tamils and Iranians in the Netherlands. By seldom admitting asylum seekers in the first instance, a restrictive image was created, but these rejections did not always result in departure.

148 (Gouda 1995); M. Hulshof, L. de Ridder and P. Krooneman, *Asielzoekers in Nederland* (Amsterdam 1992).

46. Among the 85 case files of Tamils, 60 left for an unknown destination. Of the 60 cases of Iranians, 21 left the Netherlands. They were not repatriated. From the 145 cases, only 11 were deported to Germany and France, all others left voluntarily.

47. P.I. Rose, 'Tempest-Tost: Exile, ethnicity, and the politics of rescue', *Sociological Forum* 8: 1 (1993) 5-24, 20.

TABLE 2 *Outcome of asylum requests (%) by 35 Tamils and the 39 Iranians (in %)*

<i>Final results of procedure of Tamils (N = 35)</i>		<i>Final results of procedure of Iranians (N = 39)</i>	
A status	6	A status	46
B status	26	B status	54
C status	31		
Tolerated status	6		
Residence permit after a marriage	3		
Deported	3		
Disappeared	26		

TABLE 3 *Phase of the asylum procedure in which the 35 Tamils and 39 Iranians received a status (%)*

	<i>Tamils (N = 35)</i>	<i>Iranians (N = 39)</i>
In the first instance	6	26
After reconsideration request	17	41
After advice of ACV	26	51
Internal review exercise	37	92
After appeal letter	49	95
After Council of State	59	100
Residence permit after a second application	71	

Persecution frame

The *persecution frame* clusters arguments relating to the question of whether the applicant had a well-founded fear of persecution. All Iranians, Tamils, their lawyers and others claimed that they were Convention Refugees because of past persecution; civil servants used the absence of persecution to justify rejections. Dutch decision-makers were confronted with unfamiliar refugee claims. Iranian monarchists and Marxists fled Muslim fanatics. Hindus claimed persecution by Buddhists. Civil servants recognised that the New Refugees fled inhumane conditions, but almost always concluded that they were not singled out by the authorities. There was consensus that the Tamils were at risk because of arbitrary violence, but the Singhalese authorities did not individually target them.⁴⁸ The only reason Tamil A. was rejected was his inability to prove that the authorities were pursuing him. That he could

48. Bem, *Defining the refugee*, 132 and 134; Remarks of civil servant of Ministry of Wealth, Health and Culture in: M. Heintze, W. Kiestra, M. Kool, G. Lam and C. Termeer, *Tamils in Nederland?* (Unpublished MA Thesis Anthropoly, Universiteit of Utrecht, Utrecht 1985) 35-36.

board a plane at the heavily guarded Colombo airport proved, in the eyes of Dutch civil servants, that he was not persecuted.⁴⁹ The same line of argument was used in cases relating to Iranians. The Dutch authorities rejected them because their authorities were not aware of their political activities or described these activities as negligible. Actors, especially lawyers, argued that the authorities were aware of the political past of their clients and that being an opponent of the regime, albeit at a low level, was dangerous.

Actors stressed that all Tamil applicants were persecuted because they were Tamil, male and between 16 and 32 years of age. Therefore, they were accused of links with the Tamil Tigers. Each Tamil was singled out because of their ascribed political opinions.⁵⁰ Virtually all Tamils who applied for asylum belonged to this group. While the procedures dragged on, lawyers collected information about the past experiences of their clients. By the time the ACV was reached, many case files contained letters from relatives who stayed behind. The relatives explained that since their departure, many Tamils had been killed or arrested. It was irresponsible to even think about returning, they claimed.⁵¹ Five case files of Iranians contained pictures of their bodies, proving that they were tortured.⁵² These letters and pictures had to prove that persecution awaited the applicant in case of repatriation.

Overall, the Dutch authorities rarely recognised that applicants met the criteria of the Refugee Convention, despite the arguments and proof offered by those who favoured admission. This was a characteristic of the New Refugee Regime. It became increasingly difficult to be recognised as a Convention Refugee.

Numbers frame

The *numbers frame* revolves around the argument that a small country like the Netherlands cannot cope with large numbers of immigrants. The Netherlands had a maximum 'absorption capacity', authorities claimed time and again. Each rejection letter contained the clause that the Netherlands was a small and overcrowded country. Authorities also pointed to the arrival of other migrants to justify rejections. In the public discourse it was taken for granted

49. IND, NA, 5.023.502 inv. nr. 1470, Decision in first instance (29/8/1985); Reconsideration request (21/1/1986).

50. See for example: IND, NA, 5.023.5028 inv. nr. 1470, Reconsideration request (29/10/1985) and IND, NA, 5.023.5028 inv. nr. 1662, Reconsideration request (3/2/1986).

51. IND, NA, 5.023.5028 inv. nr. 1470, Letter sent by mother (20/1/1987); IND, NA, 5.023.5028 inv. nr. 1256, Letters sent by mother (3/3/1986) and brother (3/11/1987); IND, NA, 5.023.5028 inv. nr. 1951, Letter sent by wife (30/12/1986).

52. Two examples are: IND, NA, 5.023.5028 inv. nr. 1219 and IND, NA, 5.023.5028 inv. nr. 474.

that large numbers of Tamils arrived.⁵³ Their numbers were, however, not extremely high when compared to other groups of asylum seekers. Roughly the same number of Christians from Turkey applied for asylum in the late 1979s and early 1980s.⁵⁴ A crucial factor was that the Tamils all arrived within a few months of each other and were highly visible because they slept on the streets of Amsterdam and The Hague.

One civil servant 'saw an enormous influx of illegal Tamils',⁵⁵ and the Secretary of State worried about the arrival of sixty to eighty Tamils weekly.⁵⁶ Another official feared that if no Tamils were deported, thousands of others would follow.⁵⁷ The fear of creating a precedent was evident in this remark. To reduce the attractiveness of the Netherlands, asylum seekers deserved an austere welcome, the authorities believed.⁵⁸ Two Dutch explained in letters that the Netherlands simply could not host thousands of asylum seekers because the country was already overpopulated.⁵⁹

The New Refugee Regime was characterised by the fear of an increase in state spending during a period of economic downturn. The cutbacks came at the expense of ordinary Dutch people, while asylum seekers were pampered, three Dutch citizens wrote to the Minister of Justice.⁶⁰ One woman mentioned that no fewer than 1,200 Tamils were roaming the streets of Amsterdam, but they would soon receive houses, while thousands of 'original' Dutch waited for years to get a house.⁶¹

Overall, arguments that fall within the numbers frame were mainly used in the public sphere. Numbers and costs were repeatedly discussed in the media. Authorities were not deaf to these arguments, and used them to justify restrictive measures. The applicants' advocates, understandably, did not use arguments that fall within this frame.

53. Alink, *Crisis als kans*, 86; C. Grütters, *Asieldynamiek: een systeemodynamische analyse van de Nederlandse asielpcedure in de periode 1980-200* (Nijmegen 2003) 58; P. Vasterman, 'Minder asielzoekers, geen nieuws?', *HP/DeTijd* (13/5/1994).

54. Bronkhorst, *Een tijd van komen*, 147-148.

55. IND, NA, 5.023.5027 inv. nr. 3137, Memo of civil servant of the Ministry of Justice (10/7/1984).

56. IND, NA, 5.023.5027 inv. nr. 3137, Memo of Secretary of State to Minister of Foreign Affairs, subject: questions asked in Parliament (15/1/1985).

57. IND, NA, 5.023.5027 inv. nr. 3137, Memo of head of Immigration Affairs department to Secretary-General and Minister of Justice (16/1/1985).

58. IND, NA, 5.023.5027 inv. nr. 3137, Memo of Minister of Welfare, Health and Culture to Council of Ministers (16/1/1985).

59. IND, NA, 5.023.5027 inv. nr. 2296, Letter sent by the woman K. (19/2/1985); Letter sent by the man R. (18/2/1985).

60. J.E. Dubbelman, "De filosofie is indammer'. De eerste reacties op de komst van de Tamils', in: J.E. Dubbelman and J. Tanja (eds.), *Vreemd gespuis* (Amsterdam 1987) 176-187, 184; IND, A96/3451, 1/611016, Letter sent by the woman T. (March 1987).

61. IND, NA, 5.023.5027 inv. nr. 2296. Letter sent by woman K. (19/2/1985).



This cartoon refers to the remarks of Ruud Lubbers, the Dutch Prime Minister, about the palm trees and the safe conditions on Sri Lanka. Source: *De Waarheid* (21/5/1985). Collection IISG (Kafak).

Credibility frame

The *credibility frame* provides evidence that authorities stressed that the New Refugees were not credible and used a lack of credibility as grounds for rejection. Scholars have stressed that credibility concerns were the most important reason for rejections and that assessing the trustworthiness of asylum seekers from other cultures was even more problematic.⁶² Authors argued that if asylum seekers presented coherent stories on several occasions, without

62. M. Kagan, 'Is truth is the eye of the beholder? Objective credibility assessment in refugee status determination', *Georgetown Immigration Law Journal* 17: 3 (2003) 367-415, 367-369; A. Vrij, *Detecting Lies and Deceit: The Psychology of lying and its implications for professional practice* (Chichester 2000) 179.

inconsistencies, they were defined as credible.⁶³ Case files show that interviewers repeatedly asked applicants the same question during the different stages of the asylum procedures. Kagan argued that proving their trustworthiness was probably the most important duty of a lawyer.⁶⁴ Suspicion and doubt were not typically Dutch. The Swiss authorities trivialised the flight motives of Tamils and regarded them as unreliable and economic refugees.⁶⁵ The Norwegians stationed a civil servant in Sri Lanka, who checked statements by asylum seekers. This Norwegian official concluded that in seventy per cent of the cases, there was no match with the statements of the applicants.⁶⁶

The Dutch authorities believed the Tamils were cheating because their real aim was to improve their financial situation in the West. The Tamils were said to be the first to be labelled fortune-hunters.⁶⁷ The Dutch Prime Minister in television appearances questioned why these men would come to a country that was more equipped for organising skating marathons rather than lying under a palm tree.⁶⁸

The public stressed the Dutch temptations: the Netherlands was ‘the land of plenty’, ‘the land of milk and honey’, where asylum seekers were pampered.⁶⁹ Another element that raised suspicion was the fact that men ‘should fight for their freedom’ and not leave their wives and daughters behind.⁷⁰ One civil servant added that ‘true refugees’ moved to neighbouring countries to continue their struggle.⁷¹ The image of Tamils was clear: they were unreliable profiteers.

Another reason for suspicion was that Tamils and Iranians recruited the help of travel agents, who provided them with fabricated stories and fake identities. The *real* reasons for migration remained unclear.⁷² The govern-

63. P. Granharg, L. Strömwall and M. Hartwig, ‘Granting asylum or not? Migration board personnel’s beliefs about deception’, *Journal of Ethnic and Migration Studies* 31: 1 (2005) 29-50, 41-42; J. Carlier, ‘Who is a refugee? Part II General Report’, in: J. Carlier, D. Vanheule, K. Hullman and C. Galiano (eds.), *Who is a refugee? A comparative case law study* (The Hague 1997) 708.

64. Kagan, ‘Is truth is the eye of the beholder?’, 367-369.

65. Lüthi, ‘Sri-Lanka Tamilen in West- und Mitteleuropa’, 1012.

66. O. Fuglerud, ‘Ambivalent incorporation: Norwegian policy towards Tamil asylum-seekers from Sri Lanka’, *JRS* 10: 4 (1997) 443-461, 454-456.

67. Dubbelman, ‘De filosofie is indammen’, 178.

68. Quote from discussions on television, see: Bronkhorst, *Een tijd van komen*, 73.

69. Dubbelman, ‘De filosofie is indammen’, 178.

70. Dubbelman, ‘De filosofie is indammen’, 176; Remarks of Secretary of State of Ministry of Justice, *de Volkskrant* (11/7/1985).

71. Anonymous civil servant quoted in: *Het Vrije Volk* (11/1/1985).

72. E. Neumayer, ‘Bogus refugees? The determinants of asylum migration to Western Europe’, *International Studies Quarterly* 49 (2005) 389-409, 390; R. Hansen and D. King, ‘Liberalism and the new policies of asylum: Liberalism’s dark side’, *Political Quarterly* 71 (2000) 396-403, 400.

ment attorney mentioned in his plea for an Iranian asylum seeker that two Pakistani had admitted to the Dutch authorities that they had bought their asylum claim from a travel agent in Lahore.⁷³ They explained that it was possible to buy a refugee claim for each European country and that the Netherlands was the most expensive because the interrogation was strict in that country. The attorney's story was not in any way related to the case of this Iranian. It was merely meant to create distrust of asylum seekers in general. The Dutch authorities were frustrated that most of the asylum seekers tore up their papers after arrival and flushed the remains down the toilet. It was impossible to establish their identities. One Iranian asylum seeker mentioned he destroyed his documents just before he landed at Schiphol Airport. He confronted the Dutch authorities, 'like so many of his compatriots', with concerns about his identity, an official complained.⁷⁴

Case files proved that Dutch authorities checked statements very carefully. The case file of one Tamil showed that research had revealed that his membership card of a political party was forged. The judge argued that he fabricated this document to support his asylum request.⁷⁵ He disappeared after the judge confirmed the negative decision. The Dutch ambassador to Sri Lanka investigated the case of a Tamil who claimed persecution, because of his affiliation with a Catholic priest.⁷⁶ The ambassador described his statements as far-fetched. These cases made clear that statements were meticulously tested, and often found incredible. However, they both received a C status. Credible or not, they stayed.

Many Iranians changed their statements during their procedures. No fewer than 22 of the 39 Iranians presented new elements or completely altered their flight motives after the first interview. At first, S. stated that he had to flee because he had spoken negatively about the Iranian authorities while queuing for food.⁷⁷ In the reconsideration request he claimed he was an active politician of the forbidden Marxist party. He explained that his political friends told him to hide his past. T.'s reversal was more drastic.⁷⁸ First, he claimed he supported the Shah; later he claimed he was a Marxist. He misinformed the Dutch authorities because, according to his agent, monarchists had the highest success rate since the Netherlands was a monarchy. To the annoyance of the authorities, G. 'suddenly became a very active politi-

73. Doc-Direct, 8607.14 inv. nr. 0126, Plea of government attorney (191/2/1986).

74. IND, NA, 5023.5028 inv. nr. 1938, Decision in first instance (6/9/1985).

75. IND, NA, 5.023.5028 inv. nr. 1260, Report of summary proceedings (25/7/1983).

76. IND, NA, 5.023.5028 inv. nr. 1844, Fax of ambassador to Sri Lanka (17/1/1986); Country of origin report of Ministry of Foreign Affairs (9/10/1986).

77. IND, NA, 5023.5028 inv. nr. 1153, Decision in the first instance (14/10/1983); Reconsideration request (8/11/1983).

78. IND, NA, 5023.5028 inv. nr. 1277, Reconsideration request (27/2/1985).

cian!⁷⁹ A refugee support organisation explained that when G. arrived he was tense, unprepared and confused, but later his mind was at ease.⁷⁹ According to a university lecturer, G. was reliable, but, he added, telling the truth was something the Dutch were familiar with, while Iranians were used to corrupt and abusive authorities. His lawyer stressed that G. grew up in a society that discouraged discussing politics with officials, and this was why he did not trust the Dutch interviewer. The dilemma in these cases was clear. S., T. and G. were not trusted. If their new stories were believed, the men qualified as refugees, but the fact that they altered their stories could not be ignored. The solution in the cases of S., T. and G. was identical: they all received a B status.

The *credibility frame* confirms that trustworthiness was important to the authorities, but lack of it was rarely decisive. Those who defended asylum seekers went to great lengths to prove their protégées were reliable.

Procedural frame

The *procedural frame* illustrates how various actors criticised the Dutch asylum procedure. A civil servant believed that the influx of Tamils would only stop if some of them were rejected *and* repatriated.⁸⁰ By issuing rejections, he felt the popularity of the Netherlands as a destination would fade, and the influx of Tamils would decrease. Actors believed the authorities purposefully waited to reach decisions in the hope that the Tamils would leave voluntarily.⁸¹ A lawyer added that the Ministry of Justice wished to avoid the idea that Tamils were welcome by making no progress in their cases.⁸² This tactic – which letter writers referred to as a deterrent policy – was successful, since half of the Tamils did leave.

The supporters of the Tamil and Iranian asylum seekers accused the Dutch authorities of arbitrariness because others, like the Vietnamese boat refugees, were recognised as refugees and they were not. They all fled tyrannical regimes; only the aggressors of the Tamils and Iranians were less well

79. IND, NA, 5.023.5028 inv. nr. 1874, Internal memo before decision in first instance (4/9/1986); Letter sent by Legal Aid (24/9/1985); Letter sent by Representative of Independent Iranian Lawyers Association (30/7/1985); Letter sent by a senior lecturer in Persian Languages of University of Utrecht (1986); Reconsideration request (3/10/1986); Evaluation form Iranian Project (7/12/1987).

80. IND, NA, 5.023.5027 inv. nr. 3137, Memo of civil servant of Ministry of Welfare, Health and Culture (16/1/1985).

81. H. Alderkamp, *De tegenstrijdigheid binnen het Nederlandse immigratie en vluchtelingenbeleid. Een beleid van waardige deelname aan de samenleving en uitsluiting van immigranten en vluchtelingen* (unpublished MA Thesis General History, University of Groningen, Groningen 2007) 31.

82. 'Nederland stuurt Tamils zoveel mogelijk terug', *de Volkskrant*, (9/3/1985).



In this cartoon the secretary of State (Justice) Korte van Hemel says: 'The plane from Bangkok with refugees from Cambodia and Vietnam has just landed. In the left corner chained 'rejected Tamils' are waiting for deportation. This cartoon perfectly illustrates the presumed arbitrariness of Dutch asylum policy. The Vietnamese refugees are men and women, and the rejected Tamil are all men. Illustration by Opland, Source: de Volkskrant (10/7/1985). Collection: IISG, PM (Opland/ICN).

known.⁸³ Another issue was that the Dutch authorities used the wrong country of origin information. This was the reason the Dutch civil servants misinterpreted what was going on in Sri Lanka and Iran and therefore assessed their cases wrongly.⁸⁴ Actors also stressed that Dutch asylum policies were too strict compared with other European countries. Several lawyers mentioned that the German authorities *did recognise* that the Singhalese authorities persecuted all Tamil men between the ages of 18 and 32.⁸⁵ It was unjust that two neighbouring countries assessed the cases of Tamils so differently.

83. Remarks of a Tamil, see: Heintze, *Tamils in Nederland?*, 54.

84. Tamils Dutch Solidarity Association, *Tamils de dupe*, 4, Bronkhorst, *Een tijd van komen*, 55 and 77.

85. For example: Doc-Direct, 8411.08.0063, Reconsideration request (6/12/1985).

The Ministry of Justice justified rejections by pointing to the existence of an internal flight alternative. The report of a committee led by Dutch diplomat Wijnaendts showed that returning to the north and east of Sri Lanka was problematic for Tamils, but that Sri Lankan officials and human rights workers assured them that the authorities were willing to offer returned Tamils protection in the southern part of the island.⁸⁶ Lawyers, refugee support groups and others argued that the Tamils were targeted throughout Sri Lanka.⁸⁷ A volunteer from Legal Aid, who visited the area, interviewed the same informants, and they told him that they were quoted incorrectly, and they disagreed with the conclusions drawn by the Wijnaendts Committee.⁸⁸ This volunteer was told that the repatriation of young male Tamils to Colombo was insane, and resulted in many arrests.

Since the Second World War, the 'safe third country' rule was the most important grounds for rejection. In the mid-1980s officials stated that Iranians and Tamils passed through safe countries where they could have settled, but refused to do so because it was easier to get asylum in the Netherlands, and large social benefits awaited them.⁸⁹ Actors argued that settlement in India was possible, because 50 million Tamils lived there. This was the preferred solution, since neighbouring countries shared cultural similarities, according to one politician.⁹⁰ Officials were seldom able to prove that a Tamil had passed through Germany. A rejection letter from the German authorities was traced in the case file of the Tamil couple R.⁹¹ They claimed that they had to leave Germany because they feared being repatriated. In a meeting between a priest, the couple and several civil servants, the latter promised that if the Germans tried to implement the deportation, the Netherlands would readmit them.

Tamil X. stayed for approximately ten days in Germany, before he came to the Netherlands. From the beginning, it was clear that Germany would take X. back.⁹² When he was threatened with deportation, villagers in Lochem (a Dutch village) formed a committee called 'the friends of X.', which harassed local politicians, the media and the Ministry of Justice with reports and ques-

86. IND, NA, 5.023.5027 inv. nr. 3137, Report of Mission of Foreign Affairs on Sri Lanka (17/5/1985).

87. Tamils Dutch Solidarity Association, *Tamils de dupe*, 11-13.

88. Doc-Direct, 8505.38.1912, Report of volunteer added to the appeal of a Tamil asylum seeker.

89. IND, NA, 5.023.5027 inv. nr. 3137, Three memo's of police Roermond to head of department of Immigration Affairs (4/2/1985), (21/1/1985) and (3/1/1985).

90. Column F. Bolkestein, 'Asielzoekers Problematiek', *de Volkskrant* (31/8/1993).

91. IND, NA, 5.023.5028 inv. nr. 1608, Letter sent by mother of R. (18/1/1986); Report of meeting of civil servants of Ministry of Justice and Council of Churches (30/12/1986).

92. IND, NA, 5.023.5028 inv. nr. 1663, Note of telephone conversation with German police (18/11/1986), Letter sent by Friends of L. (9/2/1987).

tions, because it was unfair for X. to be deported to Germany. The judge ignored ‘the Friends’ and confirmed that it was the responsibility of Germany to deal with X.⁹³ After X. lost his case, a church opened its doors to display solidarity between the church, the Dutch and the Tamils.

‘The Friends’ used many arguments to justify why X. deserved admission. First, they stressed that X. had left his heavenly island for very good reasons.⁹⁴ Second, the friends argued that he was a valued member of the community and enriched the lives of the villagers by telling them about another culture. Third, his stay in the Netherlands was a waste of time if he was deported and that arresting him in a church gave the Netherlands a bad reputation. Fourth, the friends mentioned that his health situation had deteriorated and that he was taking medication because he had become depressed. Finally, the friends referred to the arbitrariness of the decision, because a Tamil who accompanied him during his journey from Colombo to the Netherlands had already received a B status. The Secretary of State faced many personal attacks. She was heartless and inhumane, letter writers emphasised. A well-attended demonstration was organised in the village and a petition handed to the mayor. The mayor announced publicly that he opposed the deportation.

All protests were in vain. Two months after X. was deported to Germany, the Ministry of Justice learned he intended to marry a Dutch volunteer he had met while hiding in the church.⁹⁵ The authorities doubted the genuineness of their relationship. According to the police, the volunteers had discussed who should marry X. and that only one woman was available. A bunch of letters confirmed that this relationship was genuine. One friend described how she witnessed the relationship blossom. Despite the Ministry of Justice’s doubts, X. received permission to join his wife-to-be. After a heavily contested procedure, X. was given a residence permit on different grounds.

This discussion about the safe third country principle also appeared in many case files of Iranians. In 1979, the Iranian K. went to India to study. There he joined the opposition, which attracted the attention of the Iranian

93. IND, NA, 5.023.5028 inv. nr. 1663, Decision in the first instance (28/4/1986); Reconsideration request (10/6/1986); Plea notes of lawyer during summary proceedings (10/9/1986); Report of summary proceedings (29/9/1986); including reaction of the friends of L.; Telephone note with police Lochem (14/10/1986); Letter sent by Tamils Dutch Association (12/11/1986); ‘Lochemse kerkvluchteling. Zonder deze mensen had ik in het ziekenhuis gelegen’, *De Stentor*, (31/1/1987); Memo of major (5/9/1986); ‘Uitwijzing Tamil leidt tot demonstratie in Lochem’, *de Volkskrant* (26/8/1986).

94. IND, NA, 5.023.5028 inv. nr. 1663, Letters of L. (27/8/1986), M. (27/8/1986), Van der M. (30/8/1986), F. (2/9/1986), Van der M. (25/8/91986), J. (to Queen Beatrix) (12/3/1987).

95. IND, NA, 5.023.5028 inv. nr. 1663, Telephone note with police of Lochem (25/9/1987); Several testimonies by individuals concerning the relationship between M. and L. Report police Apeldoorn (14/8/1987).

HELP DE TAMILS

Het is alsof er iemand aan de deur klopt die wordt achtervolgd door een bende moordenaars en er wordt gezegd, nee blijf maar buiten want we hebben hier binnen ook wat problemen.



ZEEFDruk - DING - LOCHEM

MANIFESTATIE VRIJDAG 27 SEPT. KLEINE MARKT LOCHEM

voor info 05730-2516

17.00 uur – Opening
18.00 uur – Podium programma
19.00 uur – Sit-down

20.00 uur – Overhandigen petitie
20.15 uur – Cultureel programma

*This poster shows a demonstration in the Dutch village of Lochem in support of the Tamils.
Collection: IISG, BG D22/558.*

ambassador to India.⁹⁶ An Indian parliamentarian – a ‘close friend of Gandhi’ – informed the Dutch authorities that deporting K. to India or to Iran would endanger his life. The Ministry of Justice and UNHCR were not convinced, but deportation was impossible since the Indian authorities refused to readmit K. Reluctantly, the Dutch authorities awarded B status to K. The issue became serious when the Ministry of Justice returned 37 Iranians from Schiphol Airport to Turkey.⁹⁷ A Dutch refugee organisation filed a complaint, because the 37 Iranians had not been able to lodge asylum requests. The Dutch authorities therefore violated international law. Legal Aid referred to a report by Amnesty International that provided evidence that Turkey forcefully repatriated Iranians. Refugee groups expressed their anger and were upset that the Netherlands violated international human rights standards.⁹⁸ A group of 35 Iranian refugees went on a hunger strike, and a group of Dutch people organised a postcard campaign. The lawyer of 23 of the 37 Iranians requested a *laissez passer* for his clients because repatriation awaited them. A judge advised issuing the 37 Iranians with a *laissez passer*, because they should have been given the opportunity to lodge asylum requests.

Exploration of the arguments in this frame shows that many actors criticised the Dutch asylum procedure. The safe third country principle and the internal flight alternative were considered by the authorities in most cases, but only resulted in a few deportations to Germany.

Humanitarian frame

The *humanitarian frame* clusters arguments reflecting humanitarian ideals. First, a crucial consideration of the Dutch authorities was that repatriating Tamils was inhumane if the authorities or militants had murdered a relative.⁹⁹ In July 1983 the father and two brothers of a Tamil died during riots in

96. IND, NA, 5.023.5028 inv. nr. 1219, Letter sent by Parliamentarian Van den Bergh (PvdA) (4/4/1984); Reply of Secretary of State (7/5/1984); Decision after reconsideration request (6/11/1985).

97. IND, NA, 5.023.5027 inv. nr. 2679, Report of police about what happened with the 37 Iranians at Schiphol (24/7/1985); IND, NA, 5.023.5027 inv. nr. 2701, Memo of head of Asylum Cases unit about the questions asked in Parliament (10/5/1985).

98. IND, NA, 5.023.5027 inv. nr. 2679, Fax sent by Committee of Iranian Refugees (24/4/1985); Fax sent by Legal Aid Leiden and Breda (22/4/1985) and (25/4/1985); Letter sent by Committee Watchfulness Oud-West (Amsterdam) (29/4/1985); Letter sent by Petition of Third World Aid Shop (28/4/1985); Letter sent by the lawyer of 23 of the 37 Iranians (15/5/1985); verdict of Council of State (21/7/1985).

99. Bem, *Defining the refugee*, 139.

Colombo. His statements were regarded as insufficient and unreliable, but he was given a C status because of the death of his relatives.¹⁰⁰

The medical and psychological condition of applicants played a decisive role. A doctor described one particular Iranian as an intelligent young man, who happened to find himself in a poor medical condition.¹⁰¹ He had suffered trauma because of years of hardship in Iran *and* in the Netherlands. The doctor argued that his statements made an authentic impression. This report tipped the scale, and he was given a B status.

The Dutch authorities, refugee lawyers and others argued that applicants who were fully integrated or those who experienced endless procedures deserved admission on humanitarian grounds. In the case of a Tamil couple, the ACV, UNHCR and the Council of State advised upholding the negative decision.¹⁰² However, they did not leave, but stayed in the Netherlands without a residence permit. In a second asylum application their new lawyer stressed that the length of their stay in the Netherlands justified the issuing of a residence permit. Furthermore, the man became a valued member of a local cricket club, and many cricket players regarded him as a close friend. The lawyer argued that with so many positive recommendations, it was immoral to deport this couple, who *even* expected a baby. The Ministry of Justice yielded, mainly because there was no viable contrary argument, and the C status was issued.

In January 1985, the Tamil U. arrived in the Netherlands.¹⁰³ Four years later his lawyer tried to avoid U.'s deportation by stressing his lengthy procedure. His lawyer stated that the threat to deport him was idle, because the Dutch authorities never put such threats into action. By telling his client to leave, the authorities were falling back on an old trick: 'the more insecure an alien was about his legal status, the sooner he left'. The judge however reconfirmed this rejection. In 1991, U. received the C status, on the grounds that he had been tolerated for many years and deporting him was 'undesirable'. The asylum request of the Iranian T. was regarded as manifestly unfounded, because he

100. IND, NA, 5.023.5028 inv. nr. 1177, Decision in first instance (2/3/1986).

101. IND, NA, 5023.5028 inv. nr. 1447, Evaluation of medical situation in medical report (18/11/1986); Evaluation form from Iranians Project (November 1987).

102. IND, NA, 5.023.5028 inv. nr. 1253, Report of ACV (2/2/1987); Plea note of lawyer at Council of State (12/8/1987); Verdict of Council of State (24/2/1988); Letter sent by lawyer (18/4/1988); Letter sent by Iranian B. (6/10/1988); Reply of Secretary of State (17/11/1988); Second asylum request, submitted by lawyer on (9/5/1990); Internal memo of civil servant from Asylum Cases unit (6/8/1990).

103. IND, NA, 5.023.5028 inv. nr. 1669, Plea note of lawyer during summary proceedings (16/3/1989); Verdict of Council of State (9/3/1990); Letter sent by Secretary of State of Ministry of Justice (7/2/1991).

only claimed to be a deserter.¹⁰⁴ Later, T. added that he supported the Shah and continued to do so after the Revolution. His lawyer added that T. had behaved as a model Dutch citizen for many years and had therefore earned the right to stay. Exactly five years after his arrival, a civil servant declared that the combination of draft evasion and association with the Shah was sufficient to grant him the benefit of the doubt. He found the issuing of a residence permit 'reasonable', due to the successful integration of T. into Dutch society. The cases of U., the Tamil couple and T. proved that perseverance paid.

Showing willingness to integrate was an asset in the procedure. A civil servant noted that it was undesirable for asylum seekers to integrate, because it was almost impossible to deport them once they had become integrated.¹⁰⁵ The case of the Tamil S. proved his point. S. arrived in 1985, attended university and converted to Christianity.¹⁰⁶ His co-religionists stood up for him and sent dozens of letters to plea for this member of their religious community. His Christian friends argued that through 'divine providence' S. learned about the True Faith and repatriation of S. would isolate him from spiritual guidance. Nonetheless, the judge confirmed the rejection. After that, S. disappeared for two years. In 1991 he reapplied for asylum. Reluctantly, the Ministry of Justice yielded: deportation was impossible, because of his long stay and strong ties with the Netherlands.

A small number of single Iranian women applied for asylum.¹⁰⁷ One of them, with Armenian roots, showed how gender could influence the outcome of asylum requests.¹⁰⁸ Because of her ethnic background, it was impos-

104. IND, NA, 5023.5028 inv. nr. 1561, Decision in first instance (25/8/1986); Reconsideration request (13/10/1986); Report meeting acv (28/11/1988); Decision made after Iranians Project (16/1/1990).

105. "Tamil zijn is kennelijk een misdrijf: ze stoppen ons in kampen", *de Volkskrant* (7/12/1985).

106. IND, NA, 5.023.5028 inv. nr. 1710, Letter sent by anonymous (26/6/11989); Letter sent by Reformed Church (12/1/1989); Letter sent by a family L. (7/1/1989); Report of summary proceedings (3/4/1989); Letter sent by pastor to a Parliamentarian (SGP) (13/4/1989); Letter sent by Parliamentarian van der Vlies (SGP) (1989), Letter sent by pastor to Queen (12/4/1989); Letter sent by Secretary of State to Parliamentarian (12/4/1989); (17/4/1989); Second asylum request of lawyer (27/5/1991).

Conversion can be regarded as a strategic coping mechanism in a country of asylum: Akcapar, S.K., 'Conversion as a migration strategy in a transit country Iranian Shiites becoming Christians in Turkey', *IMR* 40: 4 (2006) 817-853.

107. Authors already noticed that they experienced a different kind of persecution: T. Spijkerboer, 'Sheherazade en haar zusters', *Nemesis* 14 (1994) 95-106; H. Ghorashi, 'Agents of change or passive victims: The impact of welfare states (the Case of the Netherlands) on refugees', *JRS* 18: 2 (2005) 181-198.

108. IND, NA, 5023.5028 inv. nr. 3769, Intake by lawyer (25/2/1960); Decision in the first instance (7/10/1986); Letter sent by a study centre called Duindorp (3/11/1986); Reconsideration request (11/11/1986).

sible to attend university and find employment. Discrimination caused her to flee. Her Dutch teacher insisted she was a bright student who adjusted easily to Dutch society due to her Christian roots. In the reconsideration request, her lawyer stressed not only her Christian Armenian roots, but also the fact that she was a woman. Raised in the Armenian culture, she had learned that men and women were equal, while in Islamic culture women were second-class citizens. When her case was re-evaluated, a civil servant argued that she deserved a B status, because she was 'a woman, Armenian and westernised'.

The *humanitarian frame* makes clear that arguments not relating to persecution justified admission. This frame offered a way out acceptable to all actors, which was especially needed in cases relating to Tamils, because many of these cases resulted in a stalemate. The lengthy asylum procedures and integration were used by the authorities and by other actors alike to counterbalance the negative aspects of the New Refugee Regime.

Cultural and behaviour frame

Government officials and journalists used an ethnic racial argument to exclude Tamils.¹⁰⁹ They argued that the Tamils were poorly educated and lazy and that they lived on the streets. One volunteer said that the word 'Tamil' had become a word of abuse.¹¹⁰ A civil servant declared that the Tamils did not belong 'here' because they were part of a different culture.¹¹¹ Another civil servant argued that the Tamils did not look pitiful enough. The Vietnamese boat refugees had drifted around at sea for weeks, while the Tamils came by plane and carried lots of luggage. They were not dressed in rags and therefore did not look like refugees.¹¹² The culture of the Iranians was also unknown, but their strangeness was not problematised. A possible explanation is that they were well-educated, spoke English, belonged to the higher echelons of Iranian society and therefore would not become a burden to Dutch society.

One remarkable feature was the frequent references applicants made to old ties between Sri Lanka and the Netherlands. Ceylon – present-day Sri Lanka – had been a Dutch colony from 1655 until 1796. In the 1970s there still were some 45,000 people in Sri Lanka who claimed and cherished Dutch ancestry, and several ancient buildings paid testimony to the Dutch pres-

109. 'Justitie was 20 jaar geleden menselijker tegen asielzoekers', *Trouw* (12/12/1995).

110. Remarks of the volunteer Lensink, see: Smolders. 'Tamils was een scheldwoord in die tijd': http://www.mariskasmolders.nl/article/ms_tamils.pdf (last consulted 25/2/2010).

'Tamil zijn is kennelijk een misdrijf: ze stoppen ons in kampen', *de Volkskrant* (7/12/1985).

111. Heintze (a.o.), *Tamils in Nederland?*, 34.

112. Dubbelman, 'De filosofie is indammen', 176; Alink, *Crisis als kans*, 86.

ence.¹¹³ A pastor explained that on Sri Lanka, oral traditions existed that dated back to the time of the Dutch colonisation.¹¹⁴ According to this pastor, Tamils spoke about the brave Dutch missionaries of the seventeenth century. One Tamil assumed that the Dutch were going to help, because their ancestors once stayed on Sri Lanka.¹¹⁵ Another Tamil counted on admission, because the Dutch knew all about the issues of the Tamils.¹¹⁶ After arrival, he realised that hardly anyone knew anything about Dutch Ceylon. When the police asked a couple why they chose the Netherlands, they answered that the pastor of their village recommended this destination because he expected the former coloniser to protect Tamils.¹¹⁷ The Tamils hoped to touch a nerve when they referred to these old ties, but were disappointed.

Another issue involved the bloody assaults of Tamil insurgents on the Sinhalese that were described by the Dutch media.¹¹⁸ These articles made it easy to associate the Tamils with violence. To one police officer, all Tamils were terrorists.¹¹⁹ The association with violence changed them from innocent victims – a useful label in asylum procedures¹²⁰ – to aggressors. Misbehaviour in 1986 in asylum boarding houses confirmed their violent nature. Tamils complained about the lengthy asylum procedure and how they were treated differently from other asylum seekers.¹²¹ Their vandalism widened the gap between the Dutch and the Tamils. It annoyed a judge that they were not thankful. To him, genuine refugees did not complain.¹²²

Not only were the Tamils violent, they were also associated with crime, mainly with smuggling heroin. Legal Aid suspected that Tamils paid for their journey by working as drug runners.¹²³ The Tamil V. was arrested not long after his arrival because he possessed some grams of heroin.¹²⁴ After he served his time in prison, the authorities argued that V. was a danger

113. H. Obdeijn and M. Schrover, *Komen en gaan. Immigratie en emigratie in Nederland vanaf 1550* (Amsterdam 2008) 74.

114. M. Fillet, *Nederland kent zijn grenzen. Over vluchtelingen en asielzoekers* (Den Bosch 1989) 7.

115. J. Gortworst, *Tamils op je stoep. Noodsprong der geliefden* (Amstelveen 1986) 15-21.

116. Doc-Direct, 8503.18.0186, Intake Tamil M. (4/3/1985).

117. IND, NA, 5.023.5028.1662, Interview notes of Sri Lankan couple S. (24/12/1985).

118. Gortworst, *Tamils op je stoep*, 35.

119. IND, NA, 5.023.5027 inv. nr. 3137, Report of police Roermond (4/2/1985).

120. P. Mascini and M. van Bochove, 'Gender Stereotyping in the Dutch asylum procedure: "Independent" men versus "dependent" women', *IMR* 43: 1 (2009) 112-133.

121. Verre Verwanten – Weerzin tegen Tamils: <http://www.2000ewennederland.nl/themas/vreemdelingen/de%2000euw%20ovan%20de%20immigratie/822.html> [viewed 28/9/2010].

122. Remarks of a judge, see: *Trouw* (5/2/1986).

123. Dubbelman, 'De filosofie is indammen', 183; 'Tamils in taxiladingen naar Nederlands asieloord', *NRC Handelsblad* (8/12/1984).

124. IND, NA, 5.023.5028 inv. nr. 1667, Decision in first instance (7/11/1985); Reconsideration request (7/1/1986); Report of summary proceedings (15/4/1986); Plea note of the Min-

to the Dutch public. Moreover, he had been arrested in Sri Lanka because he belonged to the 'terrorist Tamil Tigers'. Later, he still received a B status because repatriation of a politically active Tamil was undesirable. Even this 'terrorist' and convicted Tamil was allowed to stay.

Arguments that fall within the *cultural and behaviour frame* worked out negatively in the case of the Tamils. The cultural background of Tamils gave them a false start in the Netherlands (although some of them hoped otherwise). After arrival, they were accused of supporting a terrorist movement and were associated with criminality. However, this ethnic racial argument seldom proved decisive.

Conclusions

There was a world of difference in how Iranian and Tamil asylum seekers were received in the Netherlands. This article makes it clear that the position of Iranians was more favourable, because actors accepted more readily that it was not possible to repatriate a rejected Iranian asylum seeker. However, most Iranians and Tamils were ultimately admitted by the Dutch authorities. This was something we would not expect when looking at the characteristics of the New Refugee Regime. It is clear that the desired effects of Dutch asylum policies did not match the reality. Those who remained in the Netherlands and continued litigating were allowed to stay, albeit mostly not as refugees. The strategy demoralised New Refugees by issuing rejections or by making no progress at all, but those who waited and tried enough, lodged new applications and ignored deportation orders, were successful in the end. The strategy of deterrence proved to be successful in dealing with the Tamils, but not in dealing with Iranians.

Investigation of the arguments used by both the authorities and those who favoured the admission of asylum seekers displayed how the New Refugee Regime worked out in reality. The *persecution frame* told us that all asylum seekers and those who favoured their admission claimed they had a well-founded fear of persecution. The civil servants opposed this and issued rejections to almost all applicants because they were not persecuted or 'singled out'. This was clearly a 'tis-'tisn't argument, with no winner. Surprisingly, the *persecution frame* seldom decided asylum cases.

The study of the arguments used in the *numbers frame* illustrated that the Dutch authorities feared the arrival of ever-increasing numbers of asylum seekers. Numbers were constantly stressed in public debates to emphasise the seriousness of the influx. Numbers were used to legitimise the introduc-

istry of Justice at the court (10/6/1986); Letter sent by UNHCR (5/2/1986); Internal memo (10/2/1989).

tion of a stricter regime. Arguments from the *humanitarian frame* were used by all actors to show leniency. Case files showed that asylum seekers should be patient, convert to Christianity, obtain a scholarship, find work, be grateful, make friends, and integrate. The *credibility frame* made it clear that the Tamils and Iranians were regarded as unreliable, bogus or economic refugees, but they were not deported. The only asylum seekers the Dutch authorities managed to deport were those who passed through Germany. All others stayed or left voluntarily.

The *cultural and behaviour frame* envisaged that Tamils had to fight a negative stereotype, but if they managed to hold on, they succeeded in staying. Tamils were portrayed not as heroes or victims, but as fortune-hunters, terrorists and profiteers. These labels did not prove to be impassable obstacles. Although the starting points of the Tamils and the Iranians was different, the results of their lengthy procedures were the same. Patience and perseverance resulted in residence permits.

This article proved that in the 1980s it was not true that fewer asylum seekers navigated successfully through the asylum procedure, as most authors have argued. In the Netherlands, fewer asylum seekers were recognised as refugees, but they were allowed to stay on other grounds. The New Refugee Regime was neither as new nor as restrictive as was intended or believed. The *humanitarian frame* offered a way out to those who had to implement the asylum policy of the New Regime and to those who favoured the admission of asylum seekers. Attempts to implement a more restrictive regime failed, but many Dutch people felt that the asylum policies had become more restrictive. As such it was useful, or it was believed to be useful, because potential asylum seekers were deterred. The image of the restrictive regime served a political purpose, just as the previous liberal Cold War regime, which was in reality not so lenient, had served a political purpose. The gap hypothesis was confirmed, there was a gap between policy and the intended outcomes of asylum application. This gap existed because this hiatus served a purpose. Most authors looked at changes of asylum policy only and hardly at the results of asylum applications. The study of arguments that were used by both sides displayed how an escape route was found out of the difficulty of implementing the new restrictive regime, which was acceptable to authorities and others alike.

About the author

Tycho Walaardt (1975) is a PhD student at the History Department of Leiden University. His research is part of a larger research project entitled 'Differences that makes all the difference: Gender, migration and vulnerability'. After graduating in 2000, he worked for the Dutch Immigration and Naturalisation Service and the United Nations High Commissioner for Refugees.

Recent publications include Tycho Walaardt, 'Het paard van Troje. Het verlenen van asiel door Nederland in de periode 1945-1955', *Tijdschrift voor Sociale en Economische Geschiedenis* 6: 2 (2009) 63-93 and Tycho Walaardt, 'The good old days of the Cold War. Arguments used to admit or reject asylum seekers in the Netherlands, 1957-1967', *Continuity and Change* 26: 2 (2011) 1-29.

E-mail: t.walaardt@hum.leidenuniv.nl.