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DOI

[10.4337/9781788117234.00020](https://doi.org/10.4337/9781788117234.00020)

Publication date

2021

Document Version

Final published version

Published in

Handbook on the Governance and Politics of Migration

License

Article 25fa Dutch Copyright Act

[Link to publication](#)

Citation for published version (APA):

Bonjour, S., & Cleton, L. (2021). Co-constructions of family and belonging in the politics of family migration. In E. Carmel, K. Lenner, & R. Paul (Eds.), *Handbook on the Governance and Politics of Migration* (pp. 161-172). (Elgar handbooks in migration). Edward Elgar. <https://doi.org/10.4337/9781788117234.00020>

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13. Co-constructions of family and belonging in the politics of family migration

Saskia Bonjour and Laura Cleton

INTRODUCTION

Family migration is the largest migration category by far in the Organisation for Economic Co-operation and Development (OECD), representing 40 per cent of immigration to OECD countries between 2007 and 2015, while the combined share of labour and asylum immigration was never above 30 per cent (Chaloff and Poeschel 2017: 110–11).¹ While comparable numbers are not available for other parts of the world, to the best of our knowledge all nation states across the globe acknowledge family ties as a ground for the admission of foreigners, be it to very different extents and under different conditions. Thus, the question which relationships qualify as ‘family’ in migration policy is key to defining who gets to migrate legally.

Conceptions of who and what counts as ‘family’ and who gets to have ‘family’ vary across the globe and change over time. Families are ‘fictive’ (Lee 2013): they are construed socially and politically in ways that intersect crucially with constructions of ethnicity, race, nation and belonging. What is considered ‘proper’ family may be defined along narrow ethno-national lines or in more pluralistic ways and is subject to change over time – but across time and place, only relationships which are institutionally recognized as constituting ‘family’ provide ground for family migration rights. Understanding the politics of family migration therefore begins with conceptualizing ‘family’ not as a natural given, but as a site of political struggle.

While family migration policies represent a major channel through which transnational families across the world are able to reunite, we should be careful not to confuse state constructions of family migration with the lived realities of transnational families. Families that are unable or unwilling to meet the state’s conditions for family migration are likely to seek and sometimes find other channels to live together (Luibhéid 2008 on the USA; Piper 2009 on Asia; Bonizzoni 2015 and Eremenko and González-Ferrer 2018 on Europe). However, in this chapter, we focus on states’ rather than on families’ constructions of ‘family’ and ‘belonging’.

The chapter presents a survey of how families and belonging are co-constructed in family migration policies across the world, through an inevitably incomplete state of the art of English language scholarship, which reflects the focal points and hiatuses of this literature. In the next section of this chapter, we sketch the development of scholarship on family migration politics. The section after explores ‘who gets to have family’, that is, how the right to be united with foreign family members is stratified across different categories of citizens and resident migrants. The fourth section investigates ‘who counts as family’: which persons are considered ‘family members’ eligible for admission as a family migrant. In the fifth and final section, we seek to understand what counts as a ‘good’ family, i.e. how families are to perform and function in order for their migration claims to be considered legitimate. Throughout the chapter, we will inquire how these co-constructions of family and belonging result in unequal access to

family migration rights, as a result of what Yuval-Davis (2007: 565) has called ‘intersecting vectors of inclusion and exclusion’, notably ethnicity and race, gender, sexuality, and class.

FAMILY MIGRATION IS POLITICAL: THE LATE AND UNEVEN EMERGENCE OF SCHOLARSHIP

Until 15 years ago, research on the politics of migration and citizenship focused on economic and identity rationales, on humanitarian and security perspectives, but never on family (Kofman 2004). Reflecting assumptions in political science more broadly, migration scholars seemed to regard the family as apolitical: a ‘natural’ given. Likewise, the admission of foreign family members was seen as a ‘self-evident’ phenomenon that did not command political scientific analysis. Empirically, this resulted in the virtual non-existence of studies of family migration policy. Theoretically, it contributed to the neglect of gender, family and sexuality in analyses of the politics of belonging, nationhood and migration.

With the exception of some rare pioneers (Bhabha and Shutter 1994; Boyd 1997), scholarship on family migration politics only emerged in the mid-2000s. Inspired by feminist and queer theorizing of family, gender and sexuality as a key site of governance – ‘the personal is political’ (see also Marchetti and di Bartolomeo in this volume, Chapter 25) – this research showed that what counts as family and who gets to have family are crucially contested questions at the very heart of migration politics (de Hart 2006; Luibhéid 2008; van Walsum 2008; Wray 2011). This emerging scholarship was particularly influenced by feminist students of nationalism and empire, who have shown that from colonial times to the present day, defining collective identities and boundaries – be they cultural, racial or national – inevitably involves reference to proper roles of men and women, proper dress, proper parenting, proper loving and proper sex (Fischer and Dahinden 2016; Hajjat 2012; Stoler 2002; Yuval-Davis 2008 [1997]). Thus, the new scholarship on family migration politics put the relationship between the politics of belonging and the politics of intimacy centre stage. It has shown that defining collective identities – who ‘we’ are and who the ‘other’ is – inevitably involves reference to gender and family norms, that is, to ‘conceptions of what the roles of men and women ought to be, what marriage ought to be, what parenting ought to be and what family ought to be’ (Bonjour and de Hart 2013: 62).

Europe in particular has witnessed the emergence of a vibrant new field of scholarship on the politics of family migration since the mid-2000s. This is directly related to the intense political salience of family migration in the 2000s in many North-Western European countries. Scholars have sought to understand how the heightened political focus on family migration was related to the resurgence of assimilationism and ethno-racial nationalism in European politics (see Guia in this volume, Chapter 33), and have critiqued the exclusionary effects of increasingly restrictive family migration policies (for an overview, see Bonjour and Kraler 2015; D’Aoust 2018). In other parts of the world, scholarly attention to the politics of family migration is still not self-evident. In North America and Australia, scholarship on family migration policies is dominated by legal scholars, although some political scientists and political sociologists have also engaged with the topic. In recent years, analyses of family migration policies in Asia have started to emerge, with a particular focus on South Korea, China and Japan. English-language scholarship on the politics of family migration in Africa and Latin America is virtually non-existent.

SPONSORS: WHO GETS TO HAVE FAMILY?

Family migration policies are different from other types of migration policy, in that they not only concern ‘outsiders’ knocking on the door requesting entry to the nation state; they also concern so-called ‘sponsors’, persons living in the nation state, requesting to be united there with their foreign family members. The extent to which such sponsors are considered ‘insiders’ to the nation state determines their family migration rights: the more sponsors are seen to ‘belong’, the lower the policy obstacles to their family unification. This ‘stratification’ of family migration rights has been subject of scholarly scrutiny, especially in Europe (Kraler 2010; D’Aoust 2018; for a critique of this stratification, see Honohan 2009; Kostakopoulou and Ripoll Servent 2016).

The ‘membership’ of sponsors (Block 2015) is first and foremost assessed in terms of formal citizenship and residence status. In many countries, citizens therefore hold the strongest family migration rights, based on the principle that citizens should not be made to choose between living with their family and living in their country of citizenship (Carens 2003). Bonjour and Block (2016), however, observed a deterioration of these rights in Europe in recent years. They argue that this is due to a mismatch between ethno-racial conceptions of the national ‘imagined community’ and the formal citizenry: as more and more citizens of migrant background request family migration, policymakers question both these citizens’ belonging and the legitimacy of their family project, which results in a restriction of their family migration rights. In contrast, citizens’ rights are strengthened by free movement arrangements in the European and South American context, as both the European Union and MERCOSUR ensure strong rights to family reunification for citizens who migrate between signatory countries (Acosta Arcarazo 2015; Kostakopoulou and Ripoll Servent 2016; Strik et al. 2013). Acosta Arcarazo (2016), however, notes that in South America, the unclear definition of the ‘family’ in this non-binding treaty results in discretionary implementation in the various member states.

States that recognize refugees’ right to protection generally also recognize their right to family migration. Since refugees would face persecution or violence if they were to return to their country of origin to be with their family, it is considered the host state’s duty to ensure that ‘the unity of the refugee’s family is maintained’, as the Final Act of the UN Plenary which adopted the 1951 Refugee Convention puts it (United Nations 1951). For instance, EU law on family reunification prohibits the imposition of housing, income, or pre-entry integration requirements on the family reunification of refugees. However, EU member states may limit the application of these strong family migration rights solely to refugees who apply for family reunification within three months (Council Directive 2003). In Europe, the so-called ‘refugee crisis’ in 2015 brought about a new form of restrictions to the right to family migration. Several EU member states, such as Germany and Sweden, allocated temporary protection status to Syrian refugees, rather than stronger refugee status. This effectively prohibited them from reuniting with their families and was clearly meant as a measure to deter further migration to Europe (see also Crawley and Setrana, Chapter 16 and Bakewell, Chapter 10, both in this volume).

Migrants without refugee status but with a permanent residence permit are usually granted family migration rights, though often under less favourable conditions than citizens and refugees (see, for example, Lee 2013 and Enchautegui and Menjívar 2015 on the USA; DeShaw 2006 on Canada; OECD 2012 and Seol 2012 on South Korea). Family reunification is mostly difficult or even impossible for migrants on temporary residence permits, such as seasonal

workers, students or au pairs. However, some temporary labour migrants who are construed as especially 'desirable', such as 'highly-skilled' migrants, are granted relatively strong family migration rights (Cheng 2018; Seol and Skrentny 2009; Staver 2015; Teo and Piper 2009). Seol and Skrentny (2009) and Seol (2012) note that in Singapore, Japan and South Korea, dependent family visas are available only to various classes of professionals and 'desired' occupations. 'Lower-skilled' migrant workers, including domestic workers, are not eligible to reunify with family. In some extreme cases, such as Singapore, they are not even allowed to engage in relationships with citizens and risk being deported if a pregnancy is discovered (Koopmans and Michalowski 2017). South Korea's migration policy excludes low-skilled workers' families, to prevent their integration in what Lee (2010) calls the 'ethnically homogeneous country', in terms of culture, race and class.

These constructions of sponsors' belonging are not only ethno-racialized and classed but also gendered. In patriarchal conceptions of gender and family roles, the husband and father, as head of the family, determines where the family belongs: what the citizenship and country of residence of his wife and children should be. This conception was reflected in family migration policies, laws and treaties worldwide, which facilitated the reunification of men with their foreign wives and children, while women were pushed to follow their husband abroad (Acosta Arcarazo 2018 on South America; Demleitner 2003 on the USA; de Hart 2006, van Walsum 2008, Wray 2011 on Europe). While formal gender equality in migration and citizenship law has been achieved in many countries, policy practices still reflect patriarchal gender norms. In some Asian countries, governments increasingly aim at countering low fertility rates by stimulating the immigration of foreign women who marry Asian men, ignoring citizen women with foreign husbands (Cheng 2018; Kim and Kilkey 2018; Yang 2011). In Europe and the USA, female citizens bringing in foreign husbands meet with much more intensive suspicions of fraud than male citizens with foreign wives: it is considered 'natural' for a woman to migrate for love, but a man who claims to migrate for love is suspected of hiding ulterior motives (Bonjour and de Hart 2013; Eggebø 2013; Longo 2018; Wray 2015).

Beyond formal status, the 'membership' and 'deservingness' of sponsors is measured through several further requirements. In almost all countries covered in this chapter, sponsors are subject to a minimum age requirement of at least 18 years, and up to 24 years in Denmark. Also, in most countries sponsors should not have a criminal record, financial debts to the government, be subject to a removal order and/or must have lived for a certain number of years in the country of residence prior to application (from 18 months in France to two years in Australia) (Demleitner 2003; DeShaw 2006; Strasser et al. 2009). Most other requirements are financial, demanding sustainable income and housing (Cheng 2018 on China; Lee 2013 on the USA; Boucher 2014 on Canada and Australia; Kofman 2018 on Europe), which implies that the sponsor bears financial responsibility for his/her family members (Antognini 2014; Lee 2013; Luibhéid 2005; Strasser et al. 2009).

FAMILY MEMBERS: WHO COUNTS AS FAMILY?

Which persons qualify as 'family members' for migration purposes? In most states, this is restricted to a narrowly defined concept of the nuclear family, which entails spouses and underage children. The exact definition of the nuclear family, however, varies to a certain extent between countries.

In their study on family reunification in Europe, Strasser et al. (2009) note that although a significant number of European countries allow for reunification of non-marital partners in a longstanding relationship – both heterosexual and homosexual – a marital relationship is still the most accepted definition of a relationship. In Singapore, common-law partners are admitted but, unlike marital partners, denied permanent settlement (Teo and Piper 2009). Demleitner (2003) and Holt (2004) note that in the USA and Australia, common-law partners are often confronted with more suspicion and higher standards of proof of the genuineness of their relationship compared with marital partners, especially when same-sex partners are involved. Holt (2004) argues convincingly that although formally the requirements for heterosexual and homosexual relationships in Australia are similar, the definition of a relationship reflects a heteronormative norm (for a similar analysis, see Longo 2018 on the USA; Simmons 2008 on the UK; Fassin and Salcedo 2015 on France). Indeed, Yue (2008) shows that homosexual partners who met through internet chat rooms, gay saunas or lesbian nightclubs in Australia, are encouraged not to mention this during their application for family reunification, since it is not considered favourable to their chances.

Children eligible for entry and stay as members of the nuclear family usually include biological children, adopted children and stepchildren. Holland (2008) argues that in the USA, additional requirements for non-biological children, such as adoption papers and proof of adequate care, reinforce a traditional conception of the marital, heterosexual family paradigm that fails to accommodate non-traditional family structures. A similar critique has been voiced with regard to DNA testing to prove family relationship, as introduced by various countries in Europe, but also Australia, New Zealand, Canada and the USA since the 1990s (Heinemann and Lemke 2013). Some scholars interpret such DNA testing as endorsement of a biological concept of family and kinship, sometimes called the ‘geneticization’ (ibid.) or ‘biologization’ of the family, which devalues other social forms of family (Moreno et al. 2017).

Children eligible for reunification are subject to a maximum age limit, ranging from 15 in Denmark to 22 in Canada. One rationale for these thresholds is the concern that assimilation at older ages may be more difficult (Demleitner 2003), as reflected in the stipulation in EU law that the admission of children older than 12 may be subjected to integration conditions (Bonizzoni 2018; Council Directive 2003). Another rationale for the age limits is that children are eligible for reunification as long as they are dependent on their parents (Strasser et al. 2009). This explains why married minor children are not eligible for family reunification: they are considered to have started their own family and therefore to be ‘independent’ of their parents. Mustasaari (2015) critiques the assumption that children stop being part of their parents’ family when they start a family of their own, which reflects a narrow conception of ‘family’ as a nuclear, isolated unit. She points out that minors who marry and have children – be it voluntarily or under pressure or constraint – may be more dependent on their family’s support than unmarried minors.

Some family reunification systems extend the definition of the nuclear family to family members beyond the spouse and minor children. In Trinidad and Tobago and Barbados, parents and grandparents of citizens and legally permanent residents are admitted without additional requirements. Storchevoy (1997) argues that this reflects the bigger role that parents and grandparents play in daily family life in large parts of the Caribbean. This is not a Caribbean particularity, however: the USA includes US citizens’ parents (aged over 21) in the category of ‘immediate relatives’ who are admitted without annual caps, while Canadian legislation uses the concept of ‘family class’, which also includes parents and grandparents

(DeShaw 2006). In contrast, most European countries do not consider (grand)parents of adult sponsors as core family members and provide few if any possibilities for their admission, because elderly immigrants are seen as an economic burden on the welfare state (Bonizzoni 2018; Horsti and Pellander 2015).

Beyond the various definitions of the 'core family', other family members may be eligible for family reunification if additional requirements are fulfilled. In Europe, these possibilities are extremely limited. 'Extended family', including siblings, uncles and aunts, cousins but also adult children, are not admitted at all or only in cases of extreme financial or emotional dependency (Strasser et al. 2009; see also Hines 2010 on Argentina). Similarly, in Australia the 'Aged Dependent Relative Visa' lets a single older person, who relies on a relative for financial support for at least three years prior to the application, move to Australia. This stands in sharp contrast to the South American understanding of the 'family', where states recognize not only the nuclear family, but also parents, grandchildren, siblings and, depending on the country, other possible categories (Acosta Arcarazo 2018). In the USA, extended family members can be admitted under strict annual and national caps (Department of Homeland Security 2019) while Canada and Australia admit extended family members if the sponsor has no closer relative they might sponsor (Department of Home Affairs 2019; Government of Canada 2018, 2019).

Scholars in the USA and Europe have questioned the reliance on narrow definitions of the core family (Honohan 2009). Hawthorne (2007) argues that US family immigration law relies on an outdated model of the family, which does not resemble the variety of families in the USA and abroad. Others have critiqued the disproportionate impact of 'Western' monogamous marriage norms on the wives of men in polygamous marriages, as most countries only admit one wife and, in countries such as the Netherlands, only her children (Eichenberger 2007; Strasser et al. 2009).

A recent trend in Europe that has received a great deal of scholarly attention is the subjection of family migrants to integration requirements before and after entry (Goodman 2014). While we have seen earlier in this chapter that other conditions, such as income and housing requirements, are mostly to be fulfilled by the sponsor, these integration requirements are imposed on incoming family migrants. They consist of obligatory courses and/or tests which focus on the command of the national language and on knowledge of the core values, institutions and customs of the receiving society. Proponents of such integration requirements argue that they promote integration and prevent forced marriages (Strasser et al. 2009). Pre-departure integration tests in particular have raised discussion, as scholars argue that they aim at restricting access to family migration rather than promoting integration (Bonjour 2014; Goodman 2011). In addition, Goodman (2011) highlights that these tests follow an implicit racial logic, mainly targeting Muslim sending countries, since family migrants from countries such as the United States and Canada are exempted from taking these tests. In most countries outside Europe, states do not compel family members to comply with pre- or post-departure integration requirements. An exception is New Zealand, where a pre-departure language test is in place. In South Korea, voluntary integration programmes were introduced in 2008 for so-called 'multicultural families', which aim at Korean language development and 'social understanding' (Seol 2014).

WHAT CONSTITUTES A ‘GOOD FAMILY’?

Family migration policies are shaped by – often implicit – notions of what a ‘good’ or ‘proper’ family is; ‘what the function and role of a family and its members ought to be: how a family is to perform’ (Strasser et al. 2009: 167). Family migration rights are unequally distributed, depending on how well families fit within such dominant norms.

Notions of what makes a ‘good’ family are heavily classed and gendered. First, a ‘good’ family is financially independent from the state, as reflected in the income and housing requirements discussed above. Kofman (2018) describes how, as part of a broader political development where ‘integration’ and civic virtue are increasingly defined in terms of labour participation and economic independence, income requirements in Europe have increased significantly in the past two decades. In the USA, family migrants tend to be perceived as undermining national economic competitiveness (Duleep and Regets 2014). Similarly, in Europe, fears of transnational families weighing on welfare state budgets have played a significant role in family migration policymaking (Cochran Bech et al. 2017; Kofman 2018).

However, while migrant families are required to be independent from the state, they are expected to be dependent on each other (Eggebo 2010; Pellander 2016). Reflecting patriarchal breadwinner models in which one (female) partner is assumed to be dependent on the other (male) partner, income requirements must often be met by the sponsor alone, as the resources of the foreign partner are disregarded (Kofman 2018; Strasser et al. 2009). Exacerbating such dependencies, some countries issue a separate work visa dependent on the sponsor’s legal status (EMN 2016), or prohibit family members from working for several years after admission (Lee 2008). In Germany in the 1970s and 1980s, for instance, family migrants were not allowed to enter the labour market for the first four years – reflecting not only labour market protectionism but also the assumption that family migrants were wives and that wives would not (want to) work (Boyd 1997). Luibhéid (2008) argues that such enforced financial dependency is part of a ‘neoliberal governmentality’ in which the responsibility for care and support is transferred from the welfare state to heteronormative families.

Notions of the ‘good’ family are also heavily ethno-racialized. This is explicitly visible in most Asian countries, where the admission of migrants is underpinned by a strong desire to maintain a homogeneous ethnic Asian community (Lee 2010; Yang 2011). In Singapore and Israel, countries that Koopmans and Michalowski (2017: 56) have characterized as ‘full exclusionist’, acquiring permanent residence and citizenship for non-co-ethnic family members is not possible, as these countries ‘do not even strive to assimilate’ these family migrants into their societies. In the 1990s, the South Korean government juxtaposed an open door policy for Chinese Josunjok ‘cross-border brides’ and a closed-door policy for unskilled Chinese migrant workers and their families (Lee 2008). In Chinese/Taiwanese marriage migration, the moral stigma of being *dalumei* (from mainland China) combined with identity markers regarding educational background and perceived class backgrounds, results in the perception of certain marriages as fraudulent (Cheng 2018). In the USA, explicit racial provisions were applied to Chinese and Japanese migrants in the first half of the twentieth century (Lee 2013). This resulted in the National Origins Act, which introduced annual quotas for admission of family members. These quotas were drawn along racial lines (exclusion of Asian families) and geopolitical considerations (exclusion of Eastern European migrants during the Cold War), whereas the admission of Western European family members was almost unlimited. Today in the USA, national caps on particular categories of family migration make reunification much more dif-

difficult for some ethnic groups than for others: for instance, Mexican long-term residents may have to wait up to 12 years before they can reunite with their spouse (Hawthorne 2007). In contemporary Europe, while explicit racial selection is prohibited, implicit ethno-racial imaginations of ‘Self’ and ‘Other’ play a key role in defining which family migration claims are deemed legitimate. Families which ‘belong’ in Europe are expected to meet ‘Western’ family norms shaped by gender equality, freedom of choice and individual autonomy. Families which are thought to deviate from these norms, notably Muslim families which are represented as patriarchal and authoritarian, are construed as not belonging in Europe. This has resulted in a series of restrictions of family migration policies, ranging from raising income and age requirements to pre-entry integration requirements (Carver 2016; Eggebø 2010; Wray 2011).

European scholars have emphasized that such family migration policies recall colonial regulations of intimacy, which aimed to secure racial hierarchies by representing Western (‘civilized’) marriage and family forms as superior (Turner 2015; van Walsum 2008). A key feature in contemporary ethno-racialized discourses on family migration is the notion of ‘love’. The ‘love marriage’ – chosen freely by two individuals without interference of parents or family and without ulterior (material) motives – is presented as a key feature of ‘Western’ norms and values and as the only ‘proper’ marriage. Thus, ‘love’ becomes the criterion by which to distinguish fraudulent from genuine marriage migration claims, as well as a justification to impose restrictions on transnational marriages which are represented as arranged or forced (Bonjour and de Hart 2013; D’Aoust 2013; Luibhéid 2008). These discourses are heavily gendered, in that they centre on ‘saving women’. White women are represented as the victims of fraudulent men who marry them for a residence permit rather than for love, while non-white women are represented as the victims of their allegedly patriarchal and oppressive culture and family. In both cases, restrictive policy reforms are justified as a means to ‘save’ women (Carver 2016; Bonjour and de Hart 2013).

CONCLUSION

This chapter has explored how different nation states across the globe construe which families belong – and can therefore legitimately claim family migration rights. In doing so it has provided a bird’s-eye view of a field of scholarship that is only some 15 years old. As this young field of scholarship on the politics of family migration continues to develop, its contribution to our understanding of the politics of migration and citizenship is likely to increase in significance. A first promising avenue for further studies is to move beyond the current Eurocentrism of the field to gain more knowledge of family migration politics elsewhere in the world (on the Eurocentrism permeating scholarship on migration governance more broadly, see Mayblin in this volume, Chapter 2). Comparative case studies, which have so far been few and far between, are likely to yield important new insights into how the co-construction of family and belonging is shaped by social, political and institutional contexts. Second, scholars have only just begun to explore regulations on same-sex partner migration and the political processes which resulted in their introduction. Third, the (dis)continuities between contemporary family migration politics and colonial regulations of family and intimacy present a promising new research agenda.

In its short existence, scholarship on family migration politics has already pushed the study of the politics of migration and citizenship further, both empirically and theoretically.

Empirically, this scholarship has finally begun to explore the political processes which shape the most important existing channel for the admission of migrants – family migration policies. Theoretically, this scholarship has called attention to a question which has been all but ignored in existing migration and citizenship literature, namely the fundamental role of gender, sexuality and family in shaping conceptions of nationhood, citizenship and belonging.

NOTE

1. The remaining 30% is free movement.

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