

Minor Antillean immigrants with or without supervision of a guardian

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Summary

The context

In a collaboration between the Dutch and Antillean Ministries of Justice, agreements have been made about the grounds on which entry into the Netherlands is granted to minor Antilleans. The Guardianship Regulations for Antillean Youth and Youngsters resulted from this collaboration, and was launched on 1 August 1999. The regulations see to the fact that Antillean minors cannot settle in the Netherlands independently and unsupervised without the provision of a guardian. In the Netherlands it is legally compulsory for a minor to be under guardianship. The regulations formalise the agreements between the Antillean Court of Guardianship and the Dutch Child Welfare Council.

The Guardianship Regulations Antillean Youth and Youngsters became effective at the end of 1999 and were evaluated in 2000 by research bureau KPMG (2001). This research was mainly a process evaluation of the regulations and fails to give sufficient insight into the living circumstances of young people and their experiences with guardianship (regulations).

The aim of this research was to compare the living situation of young people with and without a guardian in order to gain insight into the factors that either impede or encourage the execution of guardianship regulations.

Research questions

The following questions formed the basis of the research:

- What is the living situation of Antillean young people who have settled in the Netherlands as a minor, both under and not under the supervision of a guardian?
- How do the Guardianship Regulations function in practice for young people who have settled in the Netherlands as minors, both with and without a guardian?
- What factors lead to success and/or failure of guardianship?

Research method

The respondents have been assembled through a large number of informants and institutions, both orally and by correspondence (see Appendix 2 for a detailed description). In order to participate in the research, the following preliminaries were set. The participants' date of arrival in the Netherlands had to be after 1 August 1999 and the participants had to be minor (up to 18 years of age) upon arrival. The minimum age that was set for the interview was 14. Both young people who settled in the Netherlands with a guardian and without a guardian were interviewed. (Ex) guardians of these young people were also addressed.

There were no selection criteria for the guardians, except for the criterion that the young people under their guardianship met the above-mentioned requirements.

The search for young people in particular turned out to be a time-consuming process. The initial target to have 20 young people with and 20 young people without a guardian participate in the research could not be achieved. For the research 20 young people with and 5 young people without a guardian have been interviewed. Due to the disproportionate number of respondents in the two groups a systematic comparison cannot be made.

Nevertheless, the living situation of the two groups of young people can be described, as can their experiences with guardianship regulations. This way a good insight can be gained into what factors either impede or encourage the execution of the regulations. Furthermore, the interviews with the guardians also provided a source of information. 25 guardians have been interviewed. In 14 cases the guardian was responsible for a young person who also participated in the research. The data of the young people who live with a guardian or a potential guardian were therefore gathered in two ways: on the one hand by interviewing the young people themselves (20), on the other hand by interviewing their guardians (25). In total, information on 34 youngsters has been collected.

The research results were presented to a group of experts, who have validated the findings. These expert meetings served the cause of establishing consensus about critical factors regarding the success or failure of guardianship (regulations).

The living situation of the young people

The first part of this research addressed the question of what the living situation of Antillean young people in the

Netherlands looks like. In total the living situation of 34 young people with a guardian has been mapped. The average age on which the participating youngsters travelled to the Netherlands is 14. The main reason for young Antilleans to travel to the Netherlands is the dead-end situation on the Antilles. A significant argument to leave the Antilles is the prospect of better education. Furthermore, problems in the domestic situation can play a crucial role in the decision to come to the Netherlands. These problems can either be problems caused by the young people themselves, such as skipping school and displaying maladjusted behaviour, or problems regarding their upbringing, such as neglect or abuse.

The young people with a guardian live with a family member or a good friend of the family of Antillean origin. In more than half of the cases the young people live with a female: an aunt, sister or grandmother, who is usually a single mother with one or more children. The social and economic situation of half of the families is characterized by deprivation, either in the area of education, income or housing.

The majority of young people with a guardian left the Antilles without finished schooling. Most of the young people follow new schooling in the Netherlands, varying from primary education, secondary education and technical and vocational training to a language course. The guardian has the important task of finding suitable education for the minor. Guardians continue to support the young people in their education by staying in contact with the school and helping them with their homework.

The leisure activities of the young people mainly take place in and around the house and resemble the activities they used to engage themselves in on the Antilles. The social contacts of the young people are primarily centred around their family and their own ethnic group. Younger children tend to establish more contact with their Dutch peer group. Very few young people are a member of a youth or sports club. Since the majority of young people are still at school, participation in the labour market is restricted to part-time jobs beside school.

The majority of the 34 participating youngsters have not been in contact with the law. However, seven of them have, forming a considerable percentage. Committed criminal 18 offences vary from relatively minor offences such as shoplifting and involvement in a fight to heavier delinquencies such as sexual abuse. Two of the young people have been placed in judicial institutions due to their committed offences.

The living situation of young people without a guardian

For this research we have only been able to interview five young people without a guardian. Their situation is less favourable compared to that of young people with a guardian. Two of them are accommodated in judicial institutions due to criminal offences they have committed. Two others live with their fathers who were not acknowledged as guardians by the Antillean Court of Guardianship. They do not follow schooling. They argue this is due to the fact that custody is not yet arranged. The fifth youngster was almost seventeen and a half when he came to the Netherlands. He lives 'anti-squat' and follows education (intermediate technical school).

The Guardianship Regulations in practice: impeding and encouraging factors

The second part of the research examined the question of how guardianship regulations function in practice, and what impeding and encouraging factors influence them. All guardians and youngsters who were interviewed for the research endorse the significance of guardianship regulations. All respondents positively assess a situation in which an adult takes care of a minor and is willing to take the minor into his or her home. It prevents young people from going astray and ending up on the wrong track. Both guardians and young people feel that having a guardian is an essential contribution to the living situation of Antillean minors in the Netherlands. Guardians offer young people a home situation, support them in receiving proper education and fulfil a distinct and guiding role in the integration of the youngsters in Dutch society. Yet it is argued that the guardians would also have taken on this role and would have taken responsibility for the minor if the regulations had not existed. It is culturally self-evident to take care of the children of your family or close friends. In the experience of the guardians the guardianship regulation is nothing more than a mere formality. It is something that must be complied with in order to be able to register the minor and to deal with financial and other official matters.

Usually, parents or other family members from the Antilles have arranged a certificate of no objection, enabling the intended guardian to turn to a court of law with a request for guardianship. However, it still turns out that there are young people that leave for the 19 Netherlands carrying no such certificate. Since guardianship regulations only apply to young people who intend to leave the Dutch Antilles on their own, a disembarkation official on the Dutch Antilles will not always check young people who are escorted by their mother or another adult. Commonly, arrangements for the youngster are often already made with a particular family member living in the Netherlands who is willing to take care of the child. The mother takes her child to the family member concerned and returns to the Antilles on her own. This implies that guardianship has to be arranged in the Netherlands. However, guardianship regulations do not apply to young people who already live in the Netherlands and have no certificate of no objection. The Courts of Law and offices of the Child Welfare Council deal with these young people in various ways. Unambiguous regulations should exist for requests for custody in situations where youngsters already live in the Netherlands.

Communication between Dutch and Antillean institutions has to be improved. Staff members of the Child Welfare Council find that the regulations aim too one-sidedly at the collection of data about the intended guardian. No information is gathered about the minors themselves. The Child Welfare Council highly values the possession of information about the young people. This way the intended guardian can be better informed and take a more balanced decision. This leads to the Council being able to properly screen the intended guardian and to judge whether this person is suitable for and matches with the young person in question.

Guardianship in practice

Both young people and guardians assess a situation in which an adult is responsible for a young person as useful and meaningful. According to the youngsters, the relation with the guardian is of major importance. It is necessary to get on well with the guardian. More than half of the young people positively assess their relationship with their guardian.

All guardians are originally from the Antilles and are often relatives of the immigrating minors. Most guardians are motivated in their care-taking role. It is not only inherent to Antillean culture to take a family member into one's home, but also to give a young person better opportunities and possibly a better future in the Netherlands. Taking off to family in the Netherlands creates a possibility for young people to leave a negative and undesirable situation. It is clear that the success or failure of the guardianship depends considerably on factors relating to the young persons, their relation with their guardian and the guardians themselves.

The majority of guardians handle their care-taking tasks very well. They possess sufficient pedagogical skills to support the youngsters in the transition from the Antilles to the Netherlands. However, personal problems the young people take with them to the Netherlands can call for particular educational skills. It turns out that in a number of guardianship cases the minor no longer lives with his guardian. In such cases there are three possible scenarios. First of all, the young people have moved to another relative who is willing to take care of them. Secondly, they have returned to the Antilles, and finally, they have been placed in a child welfare or judicial institution. Their guardians indicate they would have liked to receive counselling and support in their care-taking role. The threshold to turn to institutions for help is high. This is due to the fact that people are unacquainted with Dutch welfare institutions, but also because people are unwilling to recognize something as a problem. A noticeable recurring issue in the interviews with guardians was their lack of knowledge about Dutch social and welfare institutions and the psychological barrier that exists to turn to these institutions. Against the background of a culture that from times immemorial has relied upon a system of mutual informal support this attitude of resistance can be understood. According to the literature this attitude can also in part be explained by lack of coherence in the support on offer and the limited connection it has with the expectations Antilleans have regarding support. Furthermore, newcomers in the Netherlands often deal with social barriers and language barriers. Better education on both regulations and institutions to which one can turn for help and support would possibly improve the situation. This support must come from various corners. In case the guardians or young people feel this is desirable, they should for instance be able to get a mentor from an Antillean independent support organisation.

After three months the Council checks whether the request for guardianship is submitted to a court of law. At this same point in time, the living situation of the minor could be evaluated. This implies an extension of the tasks of the Child Welfare Council, if this organisation is indeed going to see to the well-being of the minors. Finally, child welfare should be aiming more directly at the target group and should be working in a more outreaching manner in order to reach this group.