



The statistical politics of exceptional territories



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ABSTRACT

The so-called Rotterdam Act enables municipal governments in the Netherlands to bar poor households with no or limited residential history in the metropolitan area from moving into certain neighborhoods. Although evidently at odds with principles of equality enshrined in law, the Act has emerged as a standard part of the policy tool kit. This article seeks to explain how the Rotterdam Act came to pass. Asking this question sets us on the path of reconstructing how *specific* urban areas suffering from *extraordinary* problems were identified and how using *exceptional* measures to exclude *specific* groups were instituted. In a word, we are interested in the construction of exceptionality. We show that the construction of exceptional territories is based on the interplay of discretionary power and statistical calculation. We discuss the wider relevance of our analysis to the emerging field of critical data studies and for understanding the links between sovereignty, territory and statistics in constitutional democracies.

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1. Introduction

The startling rise of the populist politician Pim Fortuyn shook Dutch politicians out of their slumber in 2002. Fortuyn made many provocative statements and proposals—especially regarding immigrants and Muslims—whom he feared were on the verge of taking over the Netherlands' big cities, especially his home town of Rotterdam. He said that attempts to improve deprived neighborhoods were doomed to fail unless they were supported by a dispersal policy to mitigate concentrations of ethnic minorities. In his tract on the “Islamification” of the Netherlands he proposed to bar “socially weak” households from moving into deprived neighborhoods (Fortuyn, 2001, p. 90). Fortuyn's plan was not without precedent. The first such plan was conceived in the 1970s in response to riots in the Afrikaander neighborhood of Rotterdam South. In August 1972, local residents and dock workers, cheered on by crowds, forcefully expelled guest workers from their pensions. As soon as the riot police had re-established control following six days of rioting, the municipal council quickly agreed on a dispersal policy for guest workers; the proportion of foreigners (Mediterranean guest workers and immigrants from the Antilles and Surinam) in the neighborhood population was to be capped at 5%. But parties

in the national parliament condemned Rotterdam's plans and the central government requested the Council of State (*Raad van State*, the judicial advisory council to the Dutch government) to forbid Rotterdam's policy, which it did (Bolt, 2004).

So when Fortuyn's *Leefbaar Rotterdam* (Livable Rotterdam) party won a landslide victory in the 2002 municipal elections, its leaders knew that curtailing the flow of poor immigrants into the city would be a political and legal minefield. In the words of Marco Pastors, the party's leader following Fortuyn's assassination, *Leefbaar's* Christian Democratic coalition partners would “have run away screaming” from any such proposals (cited in Tops, 2007, p. 86, our translation). But this was not the end of the matter. In 2003, the Rotterdam Statistics Office published a report predicting that native Dutch would be a minority in the city by 2017 (COS, 2003). The report was a watershed and led to protracted debate on how to best prevent poor immigrants from settling in Rotterdam. What many had previously seen as unacceptable now became seemingly inescapable, with administrators and politicians from across the political spectrum agreeing that new policy instruments were necessary to control migration. The parliament and senate swiftly passed new legislation—the Act on Extraordinary Measures for Urban Problems (*Wet bijzondere maatregelen grootstedelijke problematiek*), colloquially known as the “Rotterdam Act”—which entered into force in 2005 (Ouweland & Doff, 2013; Uitermark & Duyvendak, 2008; Van Eijk, 2010). While its stipulations have changed over time, the Act has been used to bar people who have

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lived in the Rotterdam region for less than six consecutive years *and* who rely on unemployment benefits or social assistance from moving into rental housing in designated areas.¹ In 2016, parliament accepted amendments to the Act to allow municipalities to ban households suspected of extremism, criminality or causing nuisance. The initially controversial Act has thus become part of the policy tool kit.

From an international perspective, it may seem extraordinary that deprived groups are excluded not from areas of privilege but from areas of deprivation. While the literature refers to a range of instruments used to uphold socio-spatial inequalities—zoning regulations, gated communities, redlining—governments have rarely used laws and regulations to shield deprived areas from the inflow of disadvantaged and stigmatized newcomers. It is this feature of the Rotterdam Act that distinguishes it both substantively and politically from the exclusionary state practices prominent in the literature. For instance, [Wacquant \(2004\)](#) argues that ghettos are characterized by the absence of effective state institutions, while [Agamben \(1998; 2005\)](#) contends that camps where undocumented immigrants are detained serve as the constitutive outside of civic communities and reduce internees to “bare life”—i.e. a life unprotected by the rights of citizenship. While the camp and the ghetto contain and neutralize groups deemed threatening, the Rotterdam Act is qualitatively different in that it seeks to attenuate rather than accentuate socio-spatial inequalities. Another difference concerns the effects for excluded groups. While there are instances of arbitrary violations of basic rights (see below) and the Act worsens the housing market position of excluded groups ([Hochstenbach, Uitermark, & Van Gent, 2015](#)), this is a far cry from the atrocities committed against persons reduced to “bare life.” Although the Rotterdam Act operates through territories of exception, it is more ambiguous than the Agambian literature allows for. We therefore rework the theory on statistics, sovereignty and territoriality to uncover the subtleties of power in the construction of exceptional territories—areas in which certain rights of specific groups of citizens are suspended. By focusing on the statistical politics underlying the Rotterdam Act, our analysis contributes to an emerging body of critical data studies that aims to uncover the inner workings and effects of corporate and state practices including surveillance, profiling and social sorting in seemingly innocuous processes of gathering, analyzing and reporting data ([Kitchin & Lauriault, 2014](#)).

It is with these theoretical goals in mind that this article seeks to explain how the Rotterdam Act came to pass. How did what was previously deemed unacceptable become normal? Asking this question sets us on the path of reconstructing how *specific* urban areas suffering from *extraordinary* problems were identified and how using *exceptional* measures to exclude *specific* groups were instituted. In the case at hand, we show that territories of exception are constructed through the interplay of discretionary power and statistical calculation. On the one hand, statistics were crucial in objectifying exceptionality and providing the Rotterdam Act with a scientific aura. We reconstruct how statistics demonstrated—to judges, sceptics and proponents alike—that areas were diligently selected and that exceptional problems warranted exceptional measures. The apparent rigor and judiciousness of statistics credentialized how areas were selected and how groups were excluded; law-makers and judges agreed that due process could be sacrificed so long as proper procedures were in place. In this sense,

statistics are supposed to protect citizens against the exercise of arbitrary power. On the other hand, we show that statistical procedures were based on questionable methodology and interpretations were often arbitrary. The stakeholders whom we interviewed readily conceded that the metrics informing the selection of neighborhoods and target groups were by definition incomplete and were not to be taken at face value. But although methodologically problematic, the opaque and ambivalent nature of statistics was politically expedient, allowing administrators considerable discretion to decide which areas to select and which groups to exclude. This is the paradoxical power of statistics in the case of the Rotterdam Act: they are both widely accepted as objective instruments *and* widely regarded as incomplete, arbitrary or even flawed. The dual nature of statistics—both objectifying and obfuscating—makes them a source of sovereign power.

To study the Rotterdam Act and bring out its implications, we draw on the work of Michel Foucault as well as theory on the intersections of exception, territory and statistics. The following section locates our study within these literatures. The third section discusses our methods. The subsequent three sections reconstruct the use of statistics in creating exceptional territories where certain rights are suspended. The conclusion reflects on our findings and considers their wider relevance.

2. Statistics, territory, sovereignty

A cornerstone of Foucault’s work is the identification of different modalities of power: sovereign, biopolitical and disciplinary. In some places, Foucault gives the impression that territorially-based sovereign power has been on the retreat since the eighteenth century, giving way to other forms of power that act on bodies and populations rather than territories ([Foucault 2003 \[1976\]](#), p. 254). In this reading, territory loses its significance as a vortex of power as the statistical approaches associated with biopolitics and the corporeal interventions associated with disciplinary power grow increasingly diffuse and entangled. But at other points, Foucault hints at a more symbiotic relation between different types of power. In his discussion of state racism, for instance, he argues that sovereignty can be re-established in a society saturated by disciplinary and biopolitical power.² This implies—or at least allows—sovereign power to be enmeshed with other forms of power. Agamben’s theory on the state of exception illustrates this well by focusing on the intersections of sovereign power and biopolitics ([Agamben, 2005; Minca, 2007](#)). Bargu similarly argues that modern state regimes are an “amalgamation of sovereignty, discipline, and biopower” (2014, p. 69). This is an important line of argument for our purposes as our interest is precisely in the specific articulation of statistics, territory and sovereignty in the case of the Rotterdam Act.

2.1. Statistics and territory

Scientific methods and measuring techniques have been instrumental in producing state knowledge for demarcating territories and enumerating their qualities ([Elden, 2010](#)) as well as for developing spatial technologies of power ([Roy & Crane, 2015](#)). “Territory” is not simply an area but a vortex of state power, “a rendering of the emergent concept of ‘space’ as a political category: ordered, distributed, mapped, calculated, bordered, and controlled”

¹ By “Rotterdam Act” or “the Act” we refer to chapter 3 article 8 of the Act, which requires households to obtain a housing permit when moving to a rent-regulated dwelling in one of the designated neighborhoods. The municipal government refuses the housing permit if prospective residents do not meet the criteria.

² Foucault speaks of a “normalizing society,” which refers to a society saturated with disciplinary power (exercised on individual bodies) and biopolitical or regulatory power (exercised on society as a whole or certain groups within the population) ([Foucault 2003 \[1976\]](#)).

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