



## Submission to the UPR, 4<sup>th</sup> cycle Netherlands

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### **Reception conditions and emergency reception for asylum seekers**

The Netherlands is facing a reception crisis. People have been forced to sleep on the floor outside the reception center in Ter Apel, awaiting their turn to register their application and to be transferred to one of the many emergency reception centers that have opened (and closed) around the country from September 2021 onwards. Sleepless nights, boredom and a total lack of privacy and perspective make residents of these emergency centers desperate. The living conditions in most emergency shelters have further deteriorated since December 2021.

The Dutch Council for Refugees investigated the living conditions in 22 of the 37 emergency reception locations.<sup>1</sup> A total of 7,000 asylum seekers, including 1,500 children, now live in these tent camps, halls, boats, barracks and hotels. The large-scale reception in halls and tents is of most concern; there are no closed rooms and therefore it is never quiet in these reception centers. Residents suffer from serious sleep deprivation and mostly women and children do not feel safe there. Furthermore, they cannot prepare their own food in most emergency locations and they usually don't get any money to buy their own food. About a third of the residents already have a residence permit and most asylum seekers come from countries where there is a high probability that their asylum application will be granted.

→ We highly encourage the expansion of regular reception capacity, so that emergency reception centers can be closed as soon as possible. Reception should preferably take place in the form of small-scale reception locations. The starting point should be that every asylum seeker will stay in or near the municipality where they will be accommodated if a permit is granted.

→ We urge the government to create more space in the existing, regular reception facilities. By housing refugees, municipalities can relieve the pressure on the reception centers. Also, more can be done to allow refugees and asylum seekers to (temporarily) stay with family members or friends who live in the Netherlands.

→ We urge the government to close the large-scale emergency shelter in tents and halls as soon as possible, especially for children. While there still are emergency locations, we highly recommend improving the living conditions in these facilities.

### **Rigid interpretation of legislation/regulations**

From the moment they arrive in the Netherlands, asylum seekers and migrants face strict legislation, rigid procedures and mistrust from government organizations. As a result, refugees are unfairly rejected and deported. Or they end up in deep debt because of policies that should help them with their integration but have the opposite effect. Families are torn apart for years or even forever. And asylum seekers wait for years in asylum seekers' centers until their procedure finally begins. The Dutch childcare benefit scandal has highlighted that discrimination and institutional bias can ruin lives.<sup>2</sup> The lessons that can be learned from the childcare benefit scandal also apply to asylum and integration policy.<sup>3</sup>

→ We encourage the government to ensure structural and independent monitoring of the quality of decisions in the asylum procedure. There is currently insufficient insight into the quality of the decisions of the IND. Preferably, periodic reports should be made public so that the House of Representatives is better able to fulfill its supervisory task.

→ We urge the government to take into account the perspectives of refugees and asylum seekers when implementing new legislation/regulations. Also, we recommend taking the advice of, for example, the Council

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<sup>1</sup> The full report can be found in Dutch [here](#).

<sup>2</sup> Also see: [Parlementaire Ondervragingscommissie Kinderopvangtoeslag, Ongekend Onrecht \(Unprecedented Injustice\)](#); [Amnesty International, Dutch childcare benefit scandal an urgent wake-up call to ban racist algorithms](#).

<sup>3</sup> Dutch Council for Refugees, [Web van wantrouwen](#).

of State, the National Ombudsman, UNHCR and the Advisory Committee for Immigration Affairs (ACVZ) to heart.

→ We urge the government to recognize that a humanitarian safety net is always needed in laws and regulations in the form of a hardship clause, the use of discretion, or the 'benefit of the doubt' criterion.

### **Discretionary Power**

Since the '90ies, the possibilities for undocumented migrants to regularize their stay have been limited step by step. Even the option 'discretionary power', with which the Minister could regularize an undocumented migrants in an exceptional situation has been transferred to the Immigration Service, only to be used in the first immigration procedure. The numbers of undocumented migrants who are regularized in this way have fallen from hundreds every year in the beginning of the century, to zero last year (2021).<sup>4</sup>

Besides, we see undocumented migrants who contributed during years to our society as irregular workers, getting elder without having been able to regularize their stay during these years. Some of them spent all their working life in the Netherlands, but are not entitled to elderly allowances or pension.<sup>5</sup>

→ we advise the authorities to re-install a form of discretionary power to regularize undocumented migrants in exceptional cases. A possibility could be to install an independent Committee to advise the Minister.

→ we urge the authorities to create elderly homes for undocumented elderly who spent most of their active lives in the Netherlands, to allow them rest in their final years.

### **Shelter and Basic Services for Undocumented Migrants**

Many undocumented migrants cannot return to their country of origin due to fear, lacking identity papers, bad health or mental illness, or a non-functioning government. These undocumented migrants have no (legal) status or work in the Netherlands and no insurance to cover for health care expenses. Many of them have psychological problems and are in distress.

Since the 1990s, undocumented migrants are offered basic services in a Return Centre in Ter Apel, on condition of cooperation with their expulsion. Often, undocumented migrants are not allowed to enter this Return Centre because they cannot convince the authorities of their sincere willingness to return.

In 2014, the European Committee of Social Rights (ECSR) concluded that the government of the Netherlands denied undocumented migrants their basic social rights. According to the Committee, adult irregular migrants at risk of destitution should have unconditional access to emergency shelter and food to protect their human dignity. In a response to the Committee, the Dutch government has created new accommodation centers (LVV) throughout the Netherlands in 2019. However, in its Government Declaration, the new Dutch Government announced that these LVV shelters will only be accessible for undocumented migrants cooperating with their expulsion.<sup>6</sup> Municipalities and civil society however stress that shelter and food cannot be made conditional on cooperation with expulsion.<sup>7</sup>

Many undocumented migrants have no hope of improving their situation. Their lives are constantly under stress. Starting an education is not permitted after the undocumented migrant turns eighteen. Moreover, as undocumented migrants are not allowed to do internships or even volunteer, they cannot make themselves useful to Dutch society.<sup>8</sup> Many undocumented migrants have difficulties in accessing medical and psychological

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<sup>4</sup> [Een humanitair vangnet in Schrijnende Situaties](#), januari 2021

<sup>5</sup> Staring ea, Ongedocumenteerde Ouderen, april 2022

<sup>6</sup> [Coalitieakkoord 2021 – 2025](#), 15 december 2021

<sup>7</sup> [Expertmeeting LVV, 13 september 2021](#)

<sup>8</sup> <http://iedereen-aandeslag.nl/>

support.<sup>9</sup>

→ We recommend the government to ensure that undocumented migrants at risk of destitution have unconditional access to basic needs (shelter, food and clothing);

→ We urge the government to allow adult undocumented migrants access to education and meaningful activities, without the risk of fines for their employers. Healthy people are more active to shape their own life and have a better chance to find ways out of illegality themselves.

→ We invite the government to increase awareness of existing regulations on access to healthcare via a campaign, and to guarantee that the special needs of undocumented migrants with mental and physical disabilities are protected in collaboration with civil society.

## Immigration Detention

The Netherlands has one of the strictest immigration policies in Europe. Every day refugees and undocumented migrants awaiting their deportation are placed in deportation centres. European monitoring bodies have even criticised these centres for their prison-like character. This is remarkable as a large number of individuals in these facilities have no criminal records. For vulnerable groups, such as those in need of health care or psychiatric services, the elderly and the disabled, detention is disproportionate by definition.<sup>10</sup> Despite promises, refugees and undocumented migrants are still locked up in solitary confinement and isolation. While in solitary confinement, these people have limited access to health care, and legal aid.<sup>11</sup> The Return and Immigration Detention Act, that was designed to change the prison-like Immigration Detention Regime regime into an administrative regime, is still pending since its first publication in 2013. In the process, its content changed gradually, and more strict prison-like options were introduced. The last amendment ('nouvelle') introduced the option of collective punishments.<sup>12</sup>

→ We highly recommend the government to limit the use of isolation cells in Immigration Detention, and to forbid the use of solitary confinement in cases of a hunger strike. We urge the government to prevent the detention of refugees and undocumented migrants belonging to vulnerable groups;

→ We encourage the government to refrain from the introduction of the Nouvelle in the new Act, and significantly improve the prison-like regime by allowing for more outside and visiting time, and the use of mobile phones and computers inside the cell.

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<sup>9</sup> Dokters van de Wereld: Onderzoek Huisartsentoeegang Amsterdam, augustus 2021, <https://doktersvandewereld.org/wp-content/uploads/2021/08/Onderzoek-huisartsentoeegang-Nannet-Moons.pdf>

<sup>10</sup> Amnesty International, Dokters van de Wereld & Stichting LOS – Meldpunt Vreemdelingendetentie, 'Opsluiten of beschermen? Kwetsbare personen in vreemdelingendetentie', april 2016, [https://meldpuntvreemdelingendetentie.nl/wpcontent/uploads/kwetsbaarheid-in-vreemdelingendetentie\\_WEB-11.pdf](https://meldpuntvreemdelingendetentie.nl/wpcontent/uploads/kwetsbaarheid-in-vreemdelingendetentie_WEB-11.pdf)

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Eline van Asch, Meldpunt Vreemdelingendetentie: 'Gebroken' in vreemdelingendetentie, november 2021 <https://meldpuntvreemdelingendetentie.nl/wp-content/uploads/Gebroken-in-vreemdelingendetentie-publieksversie-opgemaakte-voorkant.pdf>

<sup>11</sup> Amnesty International, Dokters van de Wereld & Stichting LOS – Meldpunt Vreemdelingendetentie, Isolatie in vreemdelingendetentie, maart 2015, <https://meldpuntvreemdelingendetentie.nl/isolatie-in-vreemdelingendetentie/>.

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<sup>12</sup> Kamerstuk 35501, nr. 2, 23.6.20, <https://zoek.officielebekendmakingen.nl/kst-35501-2.html>