

Caught In Between Borders: Citizens, Migrants and Humans

Liber Amicorum in honour of
prof. dr. Elspeth Guild

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Activation versus Forced Inactivity

Government, Civil Society and the Promotion of Self-sufficiency of Asylum Seekers and Irregular Immigrants

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Introduction

In 2015, the Netherlands, like many other European countries, was faced with the influx of larger numbers of refugees. 3,000 of these refugees were accommodated at Heumensoord, a temporary (October 2015-May 2016) reception centre consisting of tents in the woods near the campus of the Radboud University (RU) situated in Nijmegen, where they waited for their asylum procedures to commence. Almost immediately, more than 1,000 Nijmegen citizens volunteered to act as buddies for the asylum seekers. They received a letter from the Central Agency for the Reception of Asylum Seekers (COA), the government agency responsible for the reception of asylum seekers thanking them for their readiness and asking them to be patient. The ‘working group for refugees’, consisting of several University staff members, provided training for the volunteers to give language lessons to the people of Heumensoord and started a crowd funding campaign to buy books which could be used by the refugees to learn the Dutch language. The COA however did not allow the books to be distributed at Heumensoord. In doing so, the agency apparently followed the direction set out by the secretary of state for Security and Justice in a letter of 27 October 2015. In the letter, the secretary stated that it would be undesirable to offer language lessons to asylum seekers directly after arrival in the Netherlands, as this might ‘create expectations’ and the government should prevent the sending of contradictory signals.¹

The activities of Radboud University’s working group triggered Elspeth Guild to ask Ricky van Oers, the working group’s secretary, to write an article about the group’s experience of civil society engagement with asylum seekers for the *European Journal of Migration and Law*. The present contribution is a late acceptance of Guild’s request.

As is demonstrated by the example given above, different actors involved in the integration of immigrants into the host society have different ideas on who is allowed to integrate and when the integration process should start. This contribution asks how different actors in the Netherlands approach the issue of immigrant integration, which is to be understood here as the promotion of self-sufficiency of immigrants in the host

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1 *Kamerstukken II* 2015-2016, 19637, nr. 2073. After the publication by members of the working group of an op-ed in a national newspaper (Fernhout et al. 2015), the COA allowed the lessons to be given and the books to be distributed.

society.² More specifically, the article analyses to what extent the different actors aim at activating immigrants. We look at actors operating at three different levels: 1) central government, 2) the municipalities and 3) civil society, and two different groups of immigrants: 1) asylum seekers (either waiting for their procedure to start (the refugees of Heumensoord) as well as those who are ‘in procedure’) and 2) irregular immigrants (focusing on rejected asylum seekers).³ We focus in particular on possibilities for employment, volunteer work and learning the Dutch language. By comparing the approaches taken by the different actors, we hope to provide insight into the question of how these actors interact when it comes to the integration of (rejected) asylum seekers, and to draw lessons from these insights.

Relation between Activation and Integration and Self-sufficiency

Research shows that activation and reception of immigrants is desirable, as it has a positive influence on their well-being (ACVZ 2013, Boersema et al. 2015, Ten Holder & De Boer 2012, Lintner & Elsen 2018, Winter et al. 2018). Additionally, for immigrants awaiting a decision on their asylum applications, activation will contribute to their self-sufficiency during the procedure and afterwards (ACVZ 2013, Ten Holder & De Boer 2012, De Lange et al. 2017, WRR 1989).

A common argument against activating asylum seekers is that offering language lessons and allowing or encouraging participation in volunteer work, training or employment, might give rise to unjustified expectations among asylum seekers and prevent the return of rejected asylum seekers.⁴ Furthermore, activation is thought to obstruct the restrictive immigration policy applied by the Netherlands (De Lange et al. 2017:11). At the same time, however, forced idleness due to a lack of activities in governmental reception centres and a prohibition on working produces many negative effects which will stand in the way of a successful integration and participation in the host society after asylum has been granted. It contributes to stress, institutionalisation and passivity of asylum seekers (ACVZ 2013, Ten Holder & De Boer 2012, Kloosterboer 2009, Kramer et al. 2003, Kramer 2010). Institutionalisation refers to the harmful effects such as apathy and loss of independence arising from spending a long time in a so-called ‘total institution’.⁵ That is why a number of authoritative research institutes

2 This definition corresponds with Preamble 23 to Directive 2013/33/EU (Reception Conditions directive) which calls for clear rules regarding access to the labour market of applicants for international protection in order to promote self-sufficiency. The definition also corresponds to the explanatory memorandum to the Dutch Newcomers Integration Act of 1998, the first Dutch Act containing a legal obligation for immigrants to integrate, which stated that the goal of integration (*inburgering*) was to achieve educational, professional and social self-sufficiency (*Kamerstukken II* 1996-1997, 25114, nr. 3, p. 6).

3 The first group concerns immigrants whose asylum procedure has not yet finished or who are waiting for their procedure to start. The second group concerns those whose application for a residence permit has failed or whose permit has been withdrawn and who for that reason are undocumented immigrants who have no legal entitlement to reside in the Netherlands.

4 *Kamerstukken II* 2015-2016, 19637, nr. 2073.

5 Based on <https://en.oxforddictionaries.com/definition/institutionalization>. Some authors use the concept of hospitalisation to describe these processes.

and advisory bodies advised activating asylum seekers early in the asylum procedure (ACVZ 2013, Engbersen et al. 2015).

Furthermore, many staff members of civil society shelter organisations and municipal officials are of the opinion that activation is a necessary condition for rejected asylum seekers to reflect on possible return to their home country (ACVZ 2013, Winter et al. 2018).⁶ Moreover, it is not the policy applied regarding the (prevention of) activation of rejected asylum seekers, but the conditions in the country of origin that are most decisive for return migration. Return is unlikely when people do not have confidence in security in their country of origin and when they are afraid that they cannot build a life there (housing, work, medical care) (Black et al. 2004, Leerkes et al. 2010, 2014; Winter et al. 2018). UK research ‘does not support the notion that restricting employment of asylum seekers in the UK increases the likelihood of return’ (Black et al. 2004). Lastly, activation will contribute to the well-being of immigrants living in shelters (Viergever et al. 2018: 40). It is likely to contribute to increased independence and self-esteem, and will thereby decrease the risk of exploitation of irregular immigrants who often find themselves in disadvantaged positions. We first discuss options to participate in society for asylum seekers in the Netherlands. Subsequently, the situation of rejected asylum seekers in the Netherlands is analysed.

Asylum Seekers

Central Government

With the entry into force of the revised Aliens Act on 1 April 2001, the asylum procedure was altered with the aim of shortening its length.⁷ On 1 July 2010, the abbreviated procedure was introduced.⁸ This procedure lasts eight days and can be extended to fourteen days in cases where the minister so decides.⁹ The shorter the procedure, the sooner the asylum seekers can participate in Dutch society, according to the explanatory memorandum to the bill amending the Aliens Act.¹⁰ From this explanation the Dutch policy of discouraging asylum seekers from integrating into Dutch society as long as their procedure is in process becomes apparent. This policy was adopted in the early 1990s with the aim of controlling immigration and preventing the Netherlands

6 On the basis of available data, however, it cannot be concluded that activation and support increase return migration. This is shown both by an evaluation of a pilot project on activating residents at family locations in order to promote the voluntary return of residents of family locations to their countries of origin (Boersema et al. 2015) and from an investigation into state and municipal facilities for aliens who are obliged to leave the country (Winter et al. 2018).

7 In the 1990s, asylum seekers would spend years in reception locations (Ghorashi 2005; Weiler & Wijnkoop 2011).

8 Programme for the introduction of the Improved Asylum Procedure.

9 Article 3.110 Aliens decree. Should fourteen days not suffice for the Immigration and Naturalisation Service (IND) to decide on the asylum application, the asylum seeker will end up in the ‘lengthened procedure’, which will last six months at most, but which can be extended with another nine months in cases where research is required by third parties in order for the minister to decide on the request. Article 42 paragraphs 1 and 4 Aliens Act 2000.

10 *Kamerstukken II* 1998-1999, 26732, nr. 3.

from becoming too attractive (Ten Holder & De Boer 2012: 18). The policy of discouraging immigrants from integrating was supposed to support the restrictive immigration policy (De Lange et al. 2017: 2). It is *inter alia* reflected in the location of the reception centres, which are often situated in rural areas (Bakker et al. 2013: 435).¹¹ Furthermore, asylum seekers have only limited access to the labour market. Lastly, all aspects of life are conducted in the same place, and all activities are tightly scheduled and controlled, which means that privacy and autonomy are limited (Bakker et al. 2013: 435, De Haan & Althoff 2002). In this respect, Dutch reception centres can be regarded as ‘total institutions’.

- *Language lessons*

The Dutch government’s stance on the integration of asylum seekers also entailed that the government should not provide language lessons for them.¹² As mentioned above, the government re-emphasised this point of view in 2015, by stating that the provision of language lessons by the government could create false expectations and that the government should prevent sending mixed signals.¹³

At the end of 2016, the government however appeared to have changed its mind. In a letter of 17 November 2016, the minister for Social Affairs and Employment stated that ‘a fast integration starts with learning the Dutch language. The government finds it important that those asylum seekers whose application will probably be granted should be able to start learning Dutch as quickly as possible’.¹⁴ Since then, asylum seekers who have a high chance that their applications for asylum will be granted have been allowed to join the language lessons in the framework of the ‘pre-integration’ education (*voorinburgering*) taught by trained Dutch language teachers (not volunteers) provided by the government to refugees who have already been awarded a status but who are still living in a reception centre while waiting to be housed in a municipality.¹⁵ The policy change has been triggered by the increased duration of the procedure which was caused partially by the increase in the number of asylum applications. This rise prompted a series of resolutions by several parliamentarians claiming – *inter alia* – that the long duration of the procedure offered justification for asylum seekers who were in procedure to start learning the language.¹⁶ Furthermore, also following a series of

11 The reception centre of Heumensoord was an exception.

12 Asylum seekers would however be allowed to follow language lessons provided by volunteers.

13 *Kamerstukken II* 2015-2016, 32824, nr. 2073.

14 *Kamerstukken II* 2016-2017, 34334, nr. 23, p. 1.

15 Notably Eritreans and Syrians are considered as asylum seekers who have a high chance that their application for asylum will be granted. *Kamerstukken II* 2016-2017, 34334, nr. 23, p. 1. Since 1 January 2013, accepted asylum seekers living in reception centres have been able to participate in the programme ‘*Voorbereiding op inburgering*’ (pre-integration education). This programme consists of language lessons, individual support, a training Knowledge of Dutch Society, and, since 1 January 2016, Orientation on the Dutch Employment Market.

16 According to the resolution of Sjoerdsma (D66 Liberal Democrats), the period asylum seekers in October 2015 had to wait for their procedure to start had risen to 4 months (*Kamerstukken II* 2015-2016, 19 637, nr. 2055). For other resolutions, see *Kamerstukken II* 2015-2016, 19 637, nr. 2057, *Kamerstukken II* 2015-2016, 32 824, nr. 119, *Kamerstukken II* 2016-2017, 34 550, nr. 12. In March of 2019, on average the asylum procedure took 23 weeks (<https://ind.nl/Paginas/Doorlooptijden-asielprocedure.aspx>, site accessed 1 May 2019).

resolutions by parliamentarians, in June 2016 the government had started training volunteers who would assist asylum seekers in learning the Dutch language.¹⁷ Following these decisions, the COA had to take on a different role. Whereas it used to be an organisation focused solely on the reception of refugees, as of 2016 it was supposed to focus on their integration as well.

- *Employment*

Once a residence permit has been granted, refugees have free access to the labour market. Before that time, asylum seekers are only allowed to work if their application procedure lasts at least six months and the employer has been awarded a work permit.¹⁸ Employers employing asylum seekers without having obtained the required permit are fined.¹⁹ The work permit for asylum seekers is granted for a maximum period of 24 weeks.²⁰ The reason for the 24-week maximum is to prevent entitlement to unemployment benefits. Also, the government feared that allowing a longer period of ‘unregulated’ work would inspire other refugees to apply for asylum in the Netherlands (De Lange et al. 2017: 21).²¹

This fear of becoming too attractive to potential refugees is also the reason the government has not followed the advice of several advisory bodies to allow refugees to start working as early as two months after filing their application for a residence permit. Already in 1989, the Netherlands Scientific Council for Government Policy (WRR) stated that the policies aiming at the integration of immigrants pursued so far, failed to provide immigrants possibilities to become self-supporting by treating them too much as ‘care categories’ (WRR 1989). It advised allowing asylum seekers conditional access to the labour market after a period of two months. One of the arguments put forward by the government against this advice was the fear that asylum seekers whose future in the Netherlands was unsure would integrate into Dutch society and the increased difficulty of returning asylum seekers whose application would be denied.²²

In their 2015 policy brief ‘no time to lose; from reception to integration of asylum migrants’ the WRR, the Netherlands Institute for Social Research (SCP) and the Research and Documentation Centre of the Ministry of Justice (WODC) concluded that

17 *Kamerstukken II* 2015-2016, 32824, 130, *Kamerstukken II* 2016-2017, 19637-2243. The resolutions concern *Kamerstukken II* 2015-2016, 19 637, nr. 2055; *Kamerstukken II* 2015-2016, 19 637, nr. 2057; *Kamerstukken II* 2013-2014, 32 824, nr. 109.

18 A work permit can be granted, if the employer can prove that there are no (suitable) candidates originating from the Netherlands, or an EU or EEA Member State, the so-called priority work force, available (Article 8(1)(a) Labour Act for Aliens). At the end of 2016, the average asylum procedure lasted less than six months. By the end of 2015, 605 asylum seekers were in a procedure for six months or longer. Therefore, most asylum seekers will not be awarded the right to work while in procedure (De Lange et al. 2017: 13).

19 Article 18 et seq. of the Labour Act for Aliens.

20 Article 8 paragraph 2 and Article 11 paragraphs 2 and 3 Labour Act for Aliens. Until 2008, the permit would be granted for a maximum period 12 weeks.

21 Some academics claim that by setting the 24 week maximum, the Netherlands infringes the obligation set out in Article 15 paragraph 3 of the Reception Conditions Directive which provides that ‘access to the labour market shall not be withdrawn during appeals procedures’. T. de Lange & C. Rijken, ‘Asielzoeker kan eerder aan de slag’, *Opinie De Volkskrant* 12 januari 2016.

22 *Kamerstukken II* 1990-1991, 19637, nr. 76, De Lange et al. 2017: 23.

the position of asylum seekers in the Dutch labour market was poor. Factors such as the length of the procedure, the fact that asylum seekers were allowed to start working only after six months and the fact they would need a working permit which was valid for a maximum period of 24 weeks all contributed to a period of inactivity, according to the authors (Engbersen et al. 2015: 14). The Advisory Committee on Migration Affairs (ACVZ) for that reason referred to 'lost time' (ACVZ 2013). In the policy brief, WRR, SCP and WODC advised the government to consider changing the conditions under which asylum seekers 'in procedure' were allowed to work and to give municipalities more possibilities to experiment (Engbersen et al. 2015: 39). More recently, in October 2015, the municipality of Amsterdam called for a shortening of the six-month period and an extension of the maximum period of 24 weeks of validity of the work permit.²³ The Dutch government has until now not been willing to accept these recommendations for activating asylum seekers through work by changing the rules.

- *Volunteering*

Whereas the rules regarding access to the labour market for asylum seekers remained unaltered, the government lowered the barrier for asylum seekers to work on a voluntary basis.²⁴ According to the minister, engaging in volunteer work would allow asylum seekers the possibility to participate, be active, meet people and combat boredom and tensions.²⁵ As of mid-October 2016, organisations would be able to allow asylum seekers to work on a voluntary basis if they had filed for the required permit.²⁶ Previously, asylum seekers were only allowed to volunteer for organisations that had already disposed of the required permit.²⁷ Furthermore, in the spring of 2016, the central government and the municipalities agreed to stimulate volunteering by asylum seekers by improving the provision of information, by bringing together supply and demand and by stimulating associations and organisations to offer opportunities to volunteer.²⁸ In August of that year, the minister awarded one million euro to Pharos to carry out the project 'Let's get to work! Volunteering for asylum seekers and refugees with residence

23 Action plan entrepreneurship and work: opportunities for refugees, Letter of alderman Ollongren (Economy) to the municipal council of Amsterdam 2 October 2015, <https://praktijkvoorbeelden.vng.nl/databank/asiel-en-integratie/integratie-en-participatie/vluchtelingenbeleid-2015-2018.aspx>, site accessed 27 March 2019

24 SZW, *Vrijwilligerswerk door asielzoekers en statushouders in de opvang. Tips en aandachtspunten voor maatschappelijke organisaties*, Den Haag: SZW, June 2016. An updated version of the brochure is downloadable from <https://www.rijksoverheid.nl/documenten/brochures/2016/06/20/handreiking-vluchtelingen>, site accessed 9 April 2019.

25 *Stcr.* 2016, Nr. 57116.

26 *Stcr.* 2016, Nr. 57116.

27 A volunteer permit is only required if the volunteers do not have free access to the labour market. Organisations offering volunteering opportunities to refugees who have been awarded a residence status hence do not require a volunteering permit, as refugees with a permit have unlimited access to the Dutch labour market.

28 *Kamerstukken II* 2016-2017, 19637 nr. 2243.

permits in reception centres'.²⁹ The ministry assigned the COA the new task of promoting volunteer work among the asylum seekers in the reception centres.³⁰ Before 2016, the COA was not allowed to stimulate activation and activities which were directed at the integration of asylum seekers into Dutch society, as this would diminish the likelihood of return (De Lange et al. 2017: 31). In 2018, the focus on volunteer work for asylum seekers in reception centres was evaluated. The researchers concluded that volunteering appeared to stimulate participation and integration (Bakker et al. 2018: 77).

- *The role of the COA*

For the volunteers to be able to provide language lessons and other types of activities to asylum seekers, cooperation from the COA is required. As we have seen in the introduction, the COA was not always inclined to allow language lessons by volunteers to be organised, even though asylum seekers have always been allowed to receive language training from volunteers. As the role of the COA has changed, starting in 2016, from being an organisation focused solely on the reception of asylum seekers to an organisation focusing on both reception and integration, local COA departments have adopted a more welcoming attitude towards volunteers organising activities for asylum seekers. The local COA department in Nijmegen has in any case made a switch. In 2016, the COA teamed up with the welfare foundation Interlokaal.³¹ In that year, more than 130 activities were organised at Heumensoord each week in the area of sports, language and culture.³² Volunteers were also welcomed at the reception centre in the city centre (Stieltjesstraat) which opened in February 2017. Also, the working group for refugees of the Radboud University was allowed to start a 'buddy project' aimed at matching asylum seekers living in the Stieltjesstraat with RU students and staff members with comparable interests. To name another example, in April of 2016, the COA department in the city of Alkmaar, in cooperation with the municipality and volunteer organisations developed a plan to provide a meaningful way for asylum seekers to spend the day. The plan claimed that this would benefit the well-being of the asylum seekers and would open up their minds to think about the future, including considering return to their home countries.³³

29 'Aan de slag! Vrijwilligerswerk voor asielzoekers en vergunninghouders in opvang.' The project would last for 2.5 years and aimed at realising 14,000 matches from 25 COA reception centres. Pharos is the Dutch Centre of expertise on Health Disparities (www.pharos.nl).

30 In March 2019, around 23,500 asylum seekers stayed in reception centres, 4,500 of whom had already been granted a residence permit and were waiting to be relocated to a municipality (<https://www.coa.nl/nl/over-coa/bezetting>, site accessed 19 March 2019).

31 Municipality of Nijmegen and municipality of Heumen report 'Noodopvang Heumensoord. Een terugblik', Nijmegen: Gemeente Nijmegen & Gemeente Heumen 2016 (Emergency reception Heumensoord. Looking back), p. 21, <https://www.ifv.nl/kennisplein/Documents/201605-Gemeente-Nijmegen-Rapport-Heumensoord.pdf>.

32 Interlokaal, *Jaarverslag 2016* (Interlokaal, Annual report 2016), Nijmegen: Het Inter-lokaal 2016, p. 14, <http://www.inter-lokaal.nl/wp-content/uploads/2016/06/Het-Inter-lokaal-jaarverslag-2016-vs-def-17-07-03.pdf>. Site accessed 27 March 2019.

33 Plan van aanpak activering, April 2016, <https://www.alkmaar.nl/gemeente/webcms/site/gemeente/product/Plan%20van%20aanpak%20Activering%20mei%202016.pdf>, site accessed 20 March 2019.

Municipalities

As we have seen above, until November 2016, the government would not provide language lessons for asylum seekers ‘in procedure’, who would depend on volunteers for their language lessons, and on the willingness of municipalities to take charge. Different municipalities adopted different strategies. The municipality of The Hague for instance invested 250,000 Euro to provide language lessons to asylum seekers in an ‘emergency’ reception centre which was open from October 2015 until 1 January 2016 (Vasterman 2015). In October 2015, the municipality of Amsterdam adopted an ‘action plan entrepreneurship and work: opportunities for refugees’.³⁴ Starting language education as quickly as possible was one of the central elements of this plan. The municipality of Nijmegen did not invest in language lessons or other programmes aimed at activation for the people of Heumensoord. Kees Groenendijk concluded: ‘whether a language project for asylum seekers succeeds or not depends on the local politicians and local COA-managers. And this should not be the case’ (Vasterman 2015). The reluctant attitude of several municipalities can be explained by the fact that asylum seekers are the responsibility of the COA. The central government will not allocate money to the municipalities to organise language lessons or other activities for asylum seekers who happen to live there, but who are not registered as inhabitants.

Civil Society

As far as civil society is concerned, asylum seekers in reception centres will be dependent on what is offered in the vicinity of the reception centre, and this will differ from centre to centre (Ten Holder & De Boer 2012: 16). Furthermore, the fact that many reception centres are located in remote locations will possibly form a barrier for asylum seekers to engage in activities provided outside of the centre (Kloosterboer 2009).

In the case of Nijmegen, civil society organisations organised activities aimed at the activation of asylum seekers following the opening of new reception centres at Heumensoord and the Stieltjesstraat. On a more structural, and national, basis, the Dutch Council for Refugees lobbies for asylum seekers to start integrating as quickly as possible into Dutch society, at the latest six months after arrival.³⁵ According to the Council, while awaiting the decision on their asylum application, asylum seekers should be able to participate in society, for instance via volunteering, in order to prepare for the labour market in the Netherlands or the country of origin.³⁶ The Council does not engage in activities aimed at the employment of asylum seekers who are still awaiting the outcome of their procedures.

34 Letter of alderman Ollongren (Economy) to the municipal council of Amsterdam 2 October 2015, <https://praktijkvoorbeelden.vng.nl/databank/asiel-en-integratie/integratie-en-participatie/vluchtelingenbeleid-2015-2018.aspx>, site accessed 27 March 2019.

35 Visie vluchtelingenwerk op inburgering (https://www.vluchtelingenwerk.nl/sites/default/files/Vluchtelingenwerk/Webartikel/images/visie_in_het_kort_inburgering_def.pdf), site accessed 27 May 2019).

36 Visie vluchtelingenwerk op arbeidsparticipatie (https://www.vluchtelingenwerk.nl/sites/default/files/u895/visie_op_arbeidsparticipatie_in_het_kort_2016.pdf), site accessed 27 May 2019).

We did not find examples of civil society initiatives focused on making matches between asylum seekers and employment. The reason for this might be that the group of asylum seekers who are allowed to work is simply too small and the (administrative) conditions too unattractive for employers.³⁷ Employers might furthermore be deterred from hiring asylum seekers as the municipality where they will be housed when they leave the reception centre might be in a different part of the Netherlands than where the reception centre is located. Moreover, asylum seekers will often not sufficiently master the Dutch language to be able to take up employment. Lastly, asylum seekers themselves might be deterred from taking up paid employment as they are obliged to pay the COA a personal contribution of 75% of their wages to a maximum of € 185.

Rejected Asylum Seekers

Rejected asylum seekers and other irregular immigrants must leave the Netherlands. They are expected to organise their own departure and have 28 days to do this. During that period, the asylum seeker still receives money and accommodation from the government (COA). The Return and Departure Service (DT&V) can mediate to get a travel document. In 2018 14,882 aliens who were not allowed to stay in the Netherlands left the country (Onderzoekscommissie 2019: 51).³⁸ These are official statistics; only 42% of them have left demonstrably. Some persons who should leave in fact remain in the Netherlands for various reasons, such as inability to obtain the necessary travel documents, fear of imprisonment, honour killings, forced marriage or insufficient means of support after return. From that moment they become part of the group of foreign nationals who do not have a residence status in the Netherlands. Reliable statistics are not available.³⁹ This paragraph is about this category.

Central Government

The central government policy for this group is primarily focused on their departure from the Netherlands.⁴⁰ To be eligible for some form of housing and assistance provided by the government, illegal residents need to work actively on their departure.⁴¹ Asylum seekers must leave the 'ordinary' reception location (AZC) within 28 days after a court has upheld the rejection of their asylum application. If they have not left the Netherlands by this time, they may be transferred to restrictive accommodation to prepare their departure. They are required to cooperate fully with the investigation into

37 See above footnote 18.

38 This concerns not only rejected asylum seekers but also, for example, people who are staying in the Netherlands illegally and people whose permits are no longer valid.

39 It is estimated that in 2012-2013 between 22,881 and 48,179 people were living in the Netherlands without a residence permit (Snippe & Mennes 2018). Most of them manage somehow without help from the government and organisations (Koppes 2017: 7).

40 This is also the case in Austria and Sweden (Ataç 2019).

41 <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/afgewezen-asielzoekers>.

their nationality and identity.⁴² Families with minor children receive shelter at a ‘family location’ until their departure or until the youngest child is 18 years old. The support and guidance at these locations is focused on return, including forced departure. It is strongly emphasized that the activities and services offered must not in any way give the impression that the foreign national may remain in the Netherlands.

Foreigners who are not lawfully residing in the Netherlands do not have legal opportunities to participate in society. They are not allowed to work, to register with an educational institution, to open a bank account or take out health insurance.⁴³ For years, the central government and the municipalities have disagreed about the reception of irregular immigrants. Municipalities advocate a bed-bath-bread arrangement (BBB) because they are confronted with homeless and often traumatized people as a result of a failing expulsion policy. The central government emphasizes that the safety net provided by municipalities undermines the deadlines and the obligation to cooperate on departure and therefore the return policy.⁴⁴ At the end of 2018, the government and the municipalities agreed on a pilot project of national reception facilities for foreigners without residence rights in five municipalities (LVV, see below).⁴⁵

Municipalities

Municipalities have no specific legally defined tasks related to the reception of illegal immigrants.⁴⁶ Nevertheless, particular case law from the highest court in social security issues of 17 December 2014 induced several municipalities to provide some form of shelter.⁴⁷ In May 2017, 39 municipalities were offering some form of emergency shelter (Winter et al. 2018: 33). Municipalities refer to the need to offer shelter from the perspective of maintaining public order and for humanitarian reasons (Van der Leun & Bouter 2015: 145-146, Winter et al. 2018: 34). There are huge differences between municipalities in terms of the organisational structure and the facilities offered (Koppes 2017, Winter et al. 2018). Some offer exclusively shelter during the night, while others offer 24-hour shelter, whether or not in combination with support and guidance. Differences also exist in categories of irregular immigrants for whom shelter is provided. In some municipalities, only immigrants with some perspective on acquiring a legal residence status will be able to benefit from the municipal arrangements that are provided.

Many municipalities have not set up facilities themselves. Quite often existing initiatives from churches and local NGOs provide shelter or living allowance, fully or

42 <https://english.dienstterugkeerenvertrek.nl/RepatriationandDeparture/Predepartureaccommodation/index.aspx>. A person can be placed in a detention location in case disappearing in illegal life is suspected.

43 However, illegal aliens are entitled to medically necessary treatment and minors are entitled to education.

44 Letter of 21 November 2017 of the Secretary of State Dijkhoff to Parliament, ‘Stand van zaken bestuursakkoord tussen rijk en gemeenten over uitgeprocedeerde vreemdelingen’.

45 Samenwerkingsafspraken Landelijke Vreemdelingen Voorziening (LVV) d.d. 29 november 2018, ministerie van Justitie en Veiligheid en Vereniging Nederlandse Gemeenten.

46 Terlouw & Böcker (in this volume) discuss how mayors in the Netherlands perceive and use their discretion in situations involving rejected asylum seekers or other migrants whom the national government considers to be ‘unlawfully present aliens’.

47 ECLI:NL:CRVB:2014:4178. The state lodged an appeal and the final verdict did not confirm this decision. See ECLI:NL:CRVB:2015:3803 and ECLI:NL:CRVB:2015:3834.

partially funded by the municipality. Municipalities were financially compensated by the central government from 2014-2017. Several municipalities use the so-called INLIA eligibility criteria, indicating three target groups for municipal shelter places: foreign nationals who are lawfully residing and who have no accommodation, no income and no insurance; foreign nationals who actively and controllably cooperate with their departure but cannot realise this within 28 days, and foreign nationals for whom it is unacceptable on humanitarian grounds for the municipality to have no reception (Winter et al 2018, 37-38).

Because of the high level of diversity of reception facilities commissioned by the municipalities, it is impossible to answer the question about activation in general. Instead we will just offer some examples. The municipality of Groningen is to be regarded as a frontrunner. Groningen has delegated the organisation and management of the shelter facilities to civil society organisation INLIA (Koppes 2017: 22, Winter et al. 2018: xxxiii-xxxvi). INLIA was founded in 1988 as a service desk for local church communities in all matters concerning refugees and provides assistance and shelter to asylum seekers in need.⁴⁸ The organisation runs two 'Bed-Bath-Bread+'-shelters in Groningen with 270 beds.⁴⁹ Residents receive shelter, money, and legal and social guidance to work on a safe return or a residence permit. Residents are responsible for cleaning and cooking and can participate in classes (including the Dutch language) and activities (Winter et al. 2018: xxxiv-xxxv). The municipality of Groningen pays the bill but is not involved in the content of reception and guidance.

The municipality of Eindhoven offers support and allowance for rejected asylum seekers who live within their own network (80-95 persons). Rejected asylum seekers without a social network who are working on a future perspective (return migration, legal residence or transit migration) may receive 24/7 shelter (20-30 persons). The reception and support of rejected asylum seekers are organised and managed by civil society organisation *Vluchtelingen in de knel*. This NGO provides legal guidance, training and coaching. It runs into legal restrictions when mediating for paid or voluntary work. The organisation receives an annual financial contribution from the municipality (Winter et al. 2018: xxvi-xxviii).

In 2019 the government started the pilot project LVV (National aliens' facility) in five municipalities.⁵⁰ This includes the existing BBB facilities in Groningen and Eindhoven. The facilities are meant to make all other municipal reception facilities for unlawfully residing immigrants redundant. The LVV's are supposed to offer guidance on self-employed return, further migration or if applicable, legalisation of residence. The LVV's operate under the joint responsibility of the municipal and central government and will be funded by state and municipal funds. At the time of writing (April 2019) it is unclear how this pilot will operate and how it will change the approach of for instance INLIA and *Vluchtelingen in de knel*. The City of Amsterdam is planning to organise

48 <https://www.inlia.nl/en>, site accessed on 8 April 2019. INLIA stands for 'International Network of Local Initiatives with Asylumseekers'.

49 <https://gemeente.groningen.nl/actueel/nieuws/groningse-bed-bad-brood-wordt-vanaf-1-april-landelijke-voorziening-voor-vreemdelingen>, site accessed on 8 April 2019.

50 Samenwerkingsafspraken Landelijke Vreemdelingen Voorziening (LVV) d.d. 29 november 2018, ministerie van Justitie en Veiligheid en Vereniging Nederlandse Gemeenten, https://vng.nl/files/vng/brieven/2018/attachments/20181130_getekende-samenwerkingsafpraak-lvv.pdf site accessed on 27 May 2019 en *Kamerstukken II* 2018-2019, 19637, nr. 2445.

small-scale housing for 500 undocumented foreign citizens to implement the LVV agreement. Amsterdam did not provide 24/7 shelter before and the plans have met with resistance from neighbourhood citizens (Niemantsverdriet 2019). The future will show what consequences the implementation of LVVs has for reception and support facilities for irregular residents that do not fit into the eligibility criteria of the LVVs. In particular, the mandatory active cooperation to organise their return migration, is expected to deter many irregular immigrants from applying for a place to stay in a LVV. The Amsterdam City Council decided that Amsterdam will also offer shelter to so-called Dublin claimants (asylum seekers whose proceedings must be settled in another EU member state) and other irregular migrants who do not meet the LVV's eligibility criteria.⁵¹

Civil Society

On its website the foundation LOS lists 62 shelter organisations for irregular immigrants.⁵² This list includes civil society initiatives funded by the municipality and/or by donations from churches, citizens or charity funds. As has been pointed out in the foregoing section, most municipal activities for rejected asylum seekers (and other irregular immigrants) are in fact organised and carried out by civil society organisations such as INLIA and Vluchtelingen in de knel. However, there are also organisations that provide support for rejected asylum seekers not on behalf of or funded by the municipality. We will list some examples below:

- *Wereldvrouwenhuis* in Nijmegen offers shelter for women for six months in combination with a training and guidance programme aimed at strengthening their self-reliance. This includes Dutch language lessons.⁵³
- *De Vluchtmaat* is a former office building in Amsterdam, housing 40 irregular refugees from Eritrea and Ethiopia from the 'We are here' group. Foundation *Noodzaak* provides free shelter for irregular immigrants and rents part of the building to small companies to cover the costs.⁵⁴ *Noodzaak* does not organise training or activities.
- *STIL Utrecht* offers individual guidance to people without a residence permit and helps them to find a place to live. Occasionally, they find individuals and families who are willing to offer temporary shelter, for example for an asylum seeker with

51 <https://www.binnenlandsbestuur.nl/sociaal/nieuws/akkoord-over-opvang-uitgeprocedeerden-groningen.9611390.lynkx>.

52 Stichting LOS is the national knowledge center for people and organisations that provide assistance to irregular immigrants. =, <http://www.stichtinglos.nl/noodopvang>, site accessed 8-4-2019. The information provided for each organisation indicates that some offer accommodation, others mediate for accommodation or medical treatment, and/or provide legal assistance.

53 www.wereldvrouwenhuis.nl, site accessed 8 April 2019. Both authors are members of the Board of the Wereldvrouwenhuis Foundation. Wereldvrouwenhuis is supported by the municipality and it receives subsidy from the municipality, but it is an independent foundation not working on behalf of the municipality.

54 <https://vluchtmaat.nl/>, site accessed 10 May 2019.

a clear perspective on a new successful procedure after the waiting period of 18 months (Dublin claim) (Keulen 2019).⁵⁵

Next to organisations providing or helping to find shelter, there are many other civil society organisations offering assistance to rejected asylum seekers and other irregular immigrants:

- Foundation *Solid Road* helps people without residence permits and (former) asylum seekers to prepare for voluntary return to their country of origin by providing vocational training and guidance in the country of origin.⁵⁶
- The *Wereldhuis* (Worldhouse) Amsterdam is a centre for and run by irregular immigrants initiated by the *Diaconie* of Amsterdam and *Luthers* Amsterdam. The Worldhouse facilitates educational and recreational activities and offers counselling, referrals to medical and judicial instances and a daily warm meal.⁵⁷
- The Dutch Council for Refugees offers support to rejected asylum seekers in examining the available options. Practical assistance is only available for rejected asylum seekers who opt for return or transmigration.⁵⁸
- Foundation *Gast* offers social activation and sports for undocumented refugees in Nijmegen, including Dutch language lessons (Stam 2017).

Civil society networks may assist irregular immigrants in getting paid or volunteer work through training and job placement. A civil society campaign to extend the opportunities to develop and participate in society for irregular refugees and migrants stresses the importance of meaningful activities such as education, paid and voluntary work.⁵⁹

Although the central government policy towards rejected asylum seekers is focused on return migration only, the experiences in the reception facilities of the central government, municipalities and civil society organisations all show that only a small percentage of rejected asylum seekers actually return to their country of origin. It also shows that after some time quite a few manage to get a residence status or a new application (Boersema et al. 2015, Winter et al. 2018: 65-67).⁶⁰ Winter (2018: 67) concludes that about half of all rejected asylum seekers in municipal shelters get a permanent or temporary residence status or they have a right to reception in an asylum seekers' center. The responsible Utrecht alderman claims that Utrecht has succeeded in finding a solution for 9 out of 10 people over the past 15 years (Kuiper 2019).⁶¹

55 <http://www.stil-utrecht.nl/>, site accessed 8 April 2019. The Dublin Regulation implies that an asylum request will be dealt with by the state of first entrance. Asylum seekers who travel through Italy or Greece are not permitted an asylum procedure in the Netherlands, they are sent back to Italy or Greece. Filing a new asylum application is however possible after 18 months. Many people are searching for temporary shelter to bridge those 18 months.

56 <http://www.solidroad.nl/>, site accessed 30 April 2019.

57 <http://wereldhuis.org/en/>, site accessed 10 May 2019.

58 <https://www.vluchtelingenwerk.nl/forrefugees/geen-verblijfsvergunning-wat-nu?language=en>.

59 <http://iedereen-aandeslag.nl/wp-content/uploads/2016/05/manifest-GB.pdf> (1 May 2019).

60 See also LOS, <http://www.stichtinglos.nl/content/resultaten-opvang-ongedocumenteerden>.

61 Half of them get residence papers and 20% return to the country of origin. Such figures reflect the eligibility criteria of the shelter organisation. Some organisations only accept immigrants that have a high chance of getting a residence permit

Conclusions

In the above we investigated the perspectives of the central and municipal government, local COA departments and civil society organisations on integration through activation of (rejected) asylum seekers in Dutch society. What can we learn from this comparison?

As regards asylum seekers, we have seen that the Dutch government until recently applied a policy of discouraging asylum seekers from integrating into Dutch society as long as their procedure was in process. As a consequence, the asylum seeker was effectively placed outside society- due to the location of the reception centres not only figuratively but also literally speaking. In 2016, however, we noticed a remarkable change in the government's perspective on integration and activation of asylum seekers. The government started offering language lessons to asylum seekers whose applications had a high chance of being granted, invested in the promotion of volunteering by asylum seekers and assigned the COA a new role facilitating the integration of asylum seekers. However, steps towards facilitating the access of asylum seekers to the labour market have not been taken so far.

The change in perspective of the Dutch government can partially be explained by the role played by civil society. Following the large number of asylum applications in the Netherlands in 2015 and following years, these organisations exerted pressure from below by offering their services to the benefit of the asylum seekers. Furthermore, the Dutch parliament insisted on a policy change.

The policy towards rejected asylum seekers is still one of preventing integration and promoting departure. In course of time, the central government was pressed to accept that reception facilities for rejected asylum seekers were needed. However, the objective of the facilities run by the government is to promote rejected asylum seekers' departure from the Netherlands. Civil society organisations and some municipalities acknowledge that not all irregular migrants will leave and- unlike the central government- they are in favour of activation. It is hard to get a clear picture of what civil society organisations and municipalities actually do to activate the target group. Most seem to focus on arranging accommodation and legal assistance as these are the most pressing needs. Only after someone has a place to live can they release energy to reflect on the future, to learn a language or a profession or to consider how return could be safely possible.

The need for shelter by civil society varies greatly over time depending on the admission policy of the government (Koppes 2017: 8-10, Van der Leun & Bouter 2015: 144, 149). The above shows that, as a consequence, the state and civil society act as communicating vessels providing shelter for and activation of asylum seekers and irregular immigrants: in times where the state offers more shelter, guidance and perspectives for integration, civil society withdraws; when the state draws back, civil society organisations take over. The history of refugees in the Netherlands shows that this is not a new phenomenon. The reception of Belgian war refugees during the First World War, of Jewish refugees of the Nazi regime in the 1930s and of displaced persons after the Second World War was primarily the responsibility of private organisations, as the Dutch government did not take responsibility for this (Böcker et al. 1998; Böcker & Havinga 2011). For the past 50 years, it has been primarily the government that has

taken responsibility for the reception of asylum seekers, leaving civil society organisations to organise additional support. Since the end of the 1980s, some rejected asylum seekers have sought help from churches and individuals and have been offered shelter and assistance by churches and individuals in an attempt to become recognized refugees (Koppes 2017).

As we have seen, the interaction between central government and civil society in the Netherlands in relation to the reception and activation of asylum seekers, has entered a new phase: the government has accepted more responsibility for rejected asylum seekers, but ties the right to shelter and guidance to the condition of the refugees' active cooperation towards return migration. The new policy is in no way focused on the activation of the rejected asylum seekers. As activation will have a positive effect on the physical and mental well-being of rejected asylum seekers and will decrease the risk of exploitation of irregular immigrants who often find themselves in a vulnerable position, from a humanitarian perspective the Dutch government would be wise to change perspective also for this group of immigrants.

References

- Ataç, I. (2019) 'Deserving Shelter: Conditional Access to Accommodation for Rejected Asylum Seekers in Austria, the Netherlands, and Sweden', *Journal of Immigrant & Refugee Studies* 17, 1: 44-60.
- ACVZ (2013) *Verloren tijd. Advies over dagbesteding in de opvang voor vreemdelingen*. Den Haag: Adviescommissie voor Vreemdelingenzaken.
- Bakker, L., J. Dagevos & G. Engbersen (2013) 'The Importance of Resources and Security in Socio-Economic Integration of Refugees', *Journal of International Migration and Integration* 15, 3: 431-448.
- Bakker, L., R. Bekkers, J. Reitsma, C. Sederel, P. Smets & Y. Younes (2018) *Vrijwilligerswerk: Stimulus voor tijdige participatie en integratie: Monitor- en evaluatie onderzoek vrijwilligerswerk door asielzoekers en statushouders die in de opvang verblijven*, Den Haag : Ministerie van Sociale Zaken en Werkgelegenheid.
- Black, R., K. Koser, K. Munk, G. Atfield, L. D'Onofrio & R. Tiemoko (2004) *Understanding voluntary return*. Home Office Online Report 50/04
- Böcker, A., C.A. Groenendijk & T. Havinga (1998) 'Oorlogsvluchtelingen in Nederland', in: Y. Buruma et al (eds.), *Recht door de eeuw, Opstellen ter gelegenheid van het 75-jarig bestaan van de Faculteit der Rechtsgeleerdheid van de Katholieke Universiteit Nijmegen*, Deventer: Kluwer, p. 51-68.
- Böcker, A. & T. Havinga (2011) 'Een eeuw opvang van Europese oorlogsvluchtelingen in Nederland', in: A. Terlouw & K. Zwaan (red.), *Tijd en asiel. 60 jaar Vluchtelingenverdrag*, Deventer: Kluwer, p. 7-25.
- Boersema, E., I.D.A. Sportel, M. Smit & A.S. Leerkes (2015) 'Als ik bezig ben, denk ik niet zo veel'. *Evaluatie van de pilot Activeren bewoners gezinslocaties*, Cahier 2015-6, Den Haag: Wetenschappelijk Onderzoek- en Documentatiecentrum.
- Engbersen, G., J. Dagevos, R. Jennissen, L. Bakker en A. Leerkes m.m.v. J. Klaver en A. Odé (2015) 'Geen tijd verliezen: van opvang naar integratie van asielmigranten', WRR-Policy Brief 4, Den Haag: WRR.

- Fernhout, R., C. Groenendijk, C. Kortmann & S. Kortmann (2015) 'Hoezo, geef geen les aan vluchtelingen?', NRC 3 December 2015.
- Ghorashi, H. (2005), 'Agents of Change or Passive Victims: the Impact of Welfare States (the case of the Netherlands) on Refugees', *Journal of Refugee Studies*, 8(2): 181-198.
- Haan, W. de & M. Althoff (2002). *Vreemd en verdacht. Een verkennend onderzoek naar criminaliteit in en om asielzoekerscentra*. Groningen: Rijksuniversiteit Groningen.
- Holder, F. ten & M. de Boer (2012) *Kleine stappen van grote betekenis: een nieuw perspectief op humane opvang van asielzoekers*, Amsterdam: de Werkelijkheid.
- INLIA (2018) *Inlia Works*, Groningen: INLIA.
- Keulen, B. (2019) Moderne onderduikers. 'Het is beter om niet te veel te weten', *De Groene Amsterdammer* 18 maart 2019.
- Kloosterboer, K. (2009) *Kind in het centrum: kinderrechten in asielzoekerscentra*, Den Haag: Unicef.
- Koppes, S. (2017) *Valse hoop of bittere noodzaak. Opvang van mensen zonder verblijfsrecht*, Amsterdam: Amnesty International Nederland/Stichting LOS.
- Kramer, S., J. Bala, R. van Dijk & F. Öry (2003) *Making sense of Experience*, Utrecht: USBO.
- Kramer, S. (2010) *Zorg voor Asielzoekers met Psychische Problemen. Het Perspectief van de Asielzoeker (ZAPP)*, Amsterdam: ASKV/Steunpunt Vluchtelingen.
- Kuiper, M. (2019) 'Reportage Noodopvang Utrecht. Een flatje en voor elke twee weken 110 Euro leefgeld', NRC 4 april 2019, p. 10-11.
- Lange, T. de, E. Besselsen, S. Rahouti & C. Rijken (2017) *Van AZC naar een baan. De Nederlandse regelgeving over en praktijk van arbeidsmarktintegratie van vluchtelingen*, Amsterdam: Universiteit van Amsterdam.
- Leerkes, A., M. Galloway & M. Kromhout (2010) *Kiezen tussen twee kwaden: Determinanten van terugkeerintenties onder (bijna) uitgeprocedeerde asielmigranten*, Cahier 2010-5, Den Haag: WODC.
- Leerkes, A.S., E. Boersema, R.M.V. van Os, A.M. Galloway & M. van Londen (2014) *Afgevoerd en uit Nederland vertrokken? Een onderzoek naar de achtergronden van variatie in zelfstandige terugkeer onder uitgeprocedeerde asielzoekers*, Cahier 2014-3, Den Haag: Wetenschappelijk Onderzoek- en Documentatiecentrum.
- Leun, J. van der & H. Bouter (2015) 'Gimme Shelter: Inclusion and Exclusion of Irregular Immigrants in Dutch Civil Society', *Journal of Immigrant & Refugee Studies*, 13/2: 135-155, DOI: 10.1080/15562948.2015.1033507.
- Lintner, C. & S. Elsen (2018) 'Getting out of the seclusion trap? Work as meaningful occupation for the subjective well-being of asylum seekers in South Tyrol, Italy', *Journal of Occupational Science*, 25/1: 76-86.
- Niemantsverdriet, T. (2019) 'Uitgeprocedeerde asielzoekers. In de linkse hoofdstad zijn ze niet welkom', NRC 4 april 2019, p. 10.
- Onderzoekscommissie Langdurig verblijvende vreemdelingen zonder bestendig verblijfsrecht (2019) *Rapport*, Den Haag: Rijksoverheid.
- Snippe, J. & R. Mennes (2018) *Vooronderzoek data en methoden illegalschatting*, Groningen: Breuer en Intraval Onderzoek & Advies.
- Stam, K. (2017) *Sociale activering als participatie bevorderend proces binnen het bureaucratisch veld van de maatschappij met betrekking tot ongedocumenteerde vluchtelingen*, Deventer, Bachelor scriptie Saxion.

- Vasterman, J. (2015) *Pe-per-no-ten' leren, maar noem het geen inburgering*, NRC 3 oktober 2015.
- Viergever, R., N. Thorogood, T. van Driel, J. Wolf & M. Durand (2018) *Facing forward. Nine stories about being a Survivor of Human Trafficking in a post-trafficking shelter in the Netherlands*, Amersfoort: CoMensha.
- Weiler, R. & M. Wijnkoop (2011) 'Jullie hebben de klok, wij hebben de tijd. 60 jaar vluchtelingenbescherming en de Nederlandse praktijk', in: A. Terlouw & K. Zwaan (eds), *Tijd en asiel, 60 jaar Vluchtelingenverdrag*, Deventer: Kluwer, p. 81-109.
- WRR (1989) *Allochtonenbeleid (Immigrants' Policy)*, Den Haag: Sdu, <https://english.wrr.nl/publications/reports/1989/05/09/immigrant-policy>.
- Winter, H., V.M. Bex-Reimert, B. Geertsema & E. Krol (2018) *Onderdak en opvang door Rijk en gemeenten van vertrekplichtige vreemdelingen en de invloed daarvan op terugkeer*. Groningen: Pro Facto.

Caught In Between Borders: Citizens, Migrants and Humans

Liber Amicorum in honour of
prof. dr. Elspeth Guild

Paul Minderhoud, Sandra Mantu & Karin Zwaan (eds)



Activation versus Forced Inactivity

Government, Civil Society and the Promotion of Self-sufficiency of Asylum Seekers and Irregular Immigrants

Ricky van Oers & Tetty Havinga*

Introduction

In 2015, the Netherlands, like many other European countries, was faced with the influx of larger numbers of refugees. 3,000 of these refugees were accommodated at Heumensoord, a temporary (October 2015-May 2016) reception centre consisting of tents in the woods near the campus of the Radboud University (RU) situated in Nijmegen, where they waited for their asylum procedures to commence. Almost immediately, more than 1,000 Nijmegen citizens volunteered to act as buddies for the asylum seekers. They received a letter from the Central Agency for the Reception of Asylum Seekers (COA), the government agency responsible for the reception of asylum seekers thanking them for their readiness and asking them to be patient. The ‘working group for refugees’, consisting of several University staff members, provided training for the volunteers to give language lessons to the people of Heumensoord and started a crowd funding campaign to buy books which could be used by the refugees to learn the Dutch language. The COA however did not allow the books to be distributed at Heumensoord. In doing so, the agency apparently followed the direction set out by the secretary of state for Security and Justice in a letter of 27 October 2015. In the letter, the secretary stated that it would be undesirable to offer language lessons to asylum seekers directly after arrival in the Netherlands, as this might ‘create expectations’ and the government should prevent the sending of contradictory signals.¹

The activities of Radboud University’s working group triggered Elspeth Guild to ask Ricky van Oers, the working group’s secretary, to write an article about the group’s experience of civil society engagement with asylum seekers for the *European Journal of Migration and Law*. The present contribution is a late acceptance of Guild’s request.

As is demonstrated by the example given above, different actors involved in the integration of immigrants into the host society have different ideas on who is allowed to integrate and when the integration process should start. This contribution asks how different actors in the Netherlands approach the issue of immigrant integration, which is to be understood here as the promotion of self-sufficiency of immigrants in the host

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1 *Kamerstukken II* 2015-2016, 19637, nr. 2073. After the publication by members of the working group of an op-ed in a national newspaper (Fernhout et al. 2015), the COA allowed the lessons to be given and the books to be distributed.

society.² More specifically, the article analyses to what extent the different actors aim at activating immigrants. We look at actors operating at three different levels: 1) central government, 2) the municipalities and 3) civil society, and two different groups of immigrants: 1) asylum seekers (either waiting for their procedure to start (the refugees of Heumensoord) as well as those who are ‘in procedure’) and 2) irregular immigrants (focusing on rejected asylum seekers).³ We focus in particular on possibilities for employment, volunteer work and learning the Dutch language. By comparing the approaches taken by the different actors, we hope to provide insight into the question of how these actors interact when it comes to the integration of (rejected) asylum seekers, and to draw lessons from these insights.

Relation between Activation and Integration and Self-sufficiency

Research shows that activation and reception of immigrants is desirable, as it has a positive influence on their well-being (ACVZ 2013, Boersema et al. 2015, Ten Holder & De Boer 2012, Lintner & Elsen 2018, Winter et al. 2018). Additionally, for immigrants awaiting a decision on their asylum applications, activation will contribute to their self-sufficiency during the procedure and afterwards (ACVZ 2013, Ten Holder & De Boer 2012, De Lange et al. 2017, WRR 1989).

A common argument against activating asylum seekers is that offering language lessons and allowing or encouraging participation in volunteer work, training or employment, might give rise to unjustified expectations among asylum seekers and prevent the return of rejected asylum seekers.⁴ Furthermore, activation is thought to obstruct the restrictive immigration policy applied by the Netherlands (De Lange et al. 2017:11). At the same time, however, forced idleness due to a lack of activities in governmental reception centres and a prohibition on working produces many negative effects which will stand in the way of a successful integration and participation in the host society after asylum has been granted. It contributes to stress, institutionalisation and passivity of asylum seekers (ACVZ 2013, Ten Holder & De Boer 2012, Kloosterboer 2009, Kramer et al. 2003, Kramer 2010). Institutionalisation refers to the harmful effects such as apathy and loss of independence arising from spending a long time in a so-called ‘total institution’.⁵ That is why a number of authoritative research institutes

2 This definition corresponds with Preamble 23 to Directive 2013/33/EU (Reception Conditions directive) which calls for clear rules regarding access to the labour market of applicants for international protection in order to promote self-sufficiency. The definition also corresponds to the explanatory memorandum to the Dutch Newcomers Integration Act of 1998, the first Dutch Act containing a legal obligation for immigrants to integrate, which stated that the goal of integration (*inburgering*) was to achieve educational, professional and social self-sufficiency (*Kamerstukken II* 1996-1997, 25114, nr. 3, p. 6).

3 The first group concerns immigrants whose asylum procedure has not yet finished or who are waiting for their procedure to start. The second group concerns those whose application for a residence permit has failed or whose permit has been withdrawn and who for that reason are undocumented immigrants who have no legal entitlement to reside in the Netherlands.

4 *Kamerstukken II* 2015-2016, 19637, nr. 2073.

5 Based on <https://en.oxforddictionaries.com/definition/institutionalization>. Some authors use the concept of hospitalisation to describe these processes.

and advisory bodies advised activating asylum seekers early in the asylum procedure (ACVZ 2013, Engbersen et al. 2015).

Furthermore, many staff members of civil society shelter organisations and municipal officials are of the opinion that activation is a necessary condition for rejected asylum seekers to reflect on possible return to their home country (ACVZ 2013, Winter et al. 2018).⁶ Moreover, it is not the policy applied regarding the (prevention of) activation of rejected asylum seekers, but the conditions in the country of origin that are most decisive for return migration. Return is unlikely when people do not have confidence in security in their country of origin and when they are afraid that they cannot build a life there (housing, work, medical care) (Black et al. 2004, Leerkes et al. 2010, 2014; Winter et al. 2018). UK research ‘does not support the notion that restricting employment of asylum seekers in the UK increases the likelihood of return’ (Black et al. 2004). Lastly, activation will contribute to the well-being of immigrants living in shelters (Viergever et al. 2018: 40). It is likely to contribute to increased independence and self-esteem, and will thereby decrease the risk of exploitation of irregular immigrants who often find themselves in disadvantaged positions. We first discuss options to participate in society for asylum seekers in the Netherlands. Subsequently, the situation of rejected asylum seekers in the Netherlands is analysed.

Asylum Seekers

Central Government

With the entry into force of the revised Aliens Act on 1 April 2001, the asylum procedure was altered with the aim of shortening its length.⁷ On 1 July 2010, the abbreviated procedure was introduced.⁸ This procedure lasts eight days and can be extended to fourteen days in cases where the minister so decides.⁹ The shorter the procedure, the sooner the asylum seekers can participate in Dutch society, according to the explanatory memorandum to the bill amending the Aliens Act.¹⁰ From this explanation the Dutch policy of discouraging asylum seekers from integrating into Dutch society as long as their procedure is in process becomes apparent. This policy was adopted in the early 1990s with the aim of controlling immigration and preventing the Netherlands

6 On the basis of available data, however, it cannot be concluded that activation and support increase return migration. This is shown both by an evaluation of a pilot project on activating residents at family locations in order to promote the voluntary return of residents of family locations to their countries of origin (Boersema et al. 2015) and from an investigation into state and municipal facilities for aliens who are obliged to leave the country (Winter et al. 2018).

7 In the 1990s, asylum seekers would spend years in reception locations (Ghorashi 2005; Weiler & Wijnkoop 2011).

8 Programme for the introduction of the Improved Asylum Procedure.

9 Article 3.110 Aliens decree. Should fourteen days not suffice for the Immigration and Naturalisation Service (IND) to decide on the asylum application, the asylum seeker will end up in the ‘lengthened procedure’, which will last six months at most, but which can be extended with another nine months in cases where research is required by third parties in order for the minister to decide on the request. Article 42 paragraphs 1 and 4 Aliens Act 2000.

10 *Kamerstukken II* 1998-1999, 26732, nr. 3.

from becoming too attractive (Ten Holder & De Boer 2012: 18). The policy of discouraging immigrants from integrating was supposed to support the restrictive immigration policy (De Lange et al. 2017: 2). It is *inter alia* reflected in the location of the reception centres, which are often situated in rural areas (Bakker et al. 2013: 435).¹¹ Furthermore, asylum seekers have only limited access to the labour market. Lastly, all aspects of life are conducted in the same place, and all activities are tightly scheduled and controlled, which means that privacy and autonomy are limited (Bakker et al. 2013: 435, De Haan & Althoff 2002). In this respect, Dutch reception centres can be regarded as ‘total institutions’.

- *Language lessons*

The Dutch government’s stance on the integration of asylum seekers also entailed that the government should not provide language lessons for them.¹² As mentioned above, the government re-emphasised this point of view in 2015, by stating that the provision of language lessons by the government could create false expectations and that the government should prevent sending mixed signals.¹³

At the end of 2016, the government however appeared to have changed its mind. In a letter of 17 November 2016, the minister for Social Affairs and Employment stated that ‘a fast integration starts with learning the Dutch language. The government finds it important that those asylum seekers whose application will probably be granted should be able to start learning Dutch as quickly as possible’.¹⁴ Since then, asylum seekers who have a high chance that their applications for asylum will be granted have been allowed to join the language lessons in the framework of the ‘pre-integration’ education (*voorbereiding*) taught by trained Dutch language teachers (not volunteers) provided by the government to refugees who have already been awarded a status but who are still living in a reception centre while waiting to be housed in a municipality.¹⁵ The policy change has been triggered by the increased duration of the procedure which was caused partially by the increase in the number of asylum applications. This rise prompted a series of resolutions by several parliamentarians claiming – *inter alia* – that the long duration of the procedure offered justification for asylum seekers who were in procedure to start learning the language.¹⁶ Furthermore, also following a series of

11 The reception centre of Heumensoord was an exception.

12 Asylum seekers would however be allowed to follow language lessons provided by volunteers.

13 *Kamerstukken II* 2015-2016, 32824, nr. 2073.

14 *Kamerstukken II* 2016-2017, 34334, nr. 23, p. 1.

15 Notably Eritreans and Syrians are considered as asylum seekers who have a high chance that their application for asylum will be granted. *Kamerstukken II* 2016-2017, 34334, nr. 23, p. 1. Since 1 January 2013, accepted asylum seekers living in reception centres have been able to participate in the programme ‘*Voorbereiding op inburgering*’ (pre-integration education). This programme consists of language lessons, individual support, a training Knowledge of Dutch Society, and, since 1 January 2016, Orientation on the Dutch Employment Market.

16 According to the resolution of Sjoerdsma (D66 Liberal Democrats), the period asylum seekers in October 2015 had to wait for their procedure to start had risen to 4 months (*Kamerstukken II* 2015-2016, 19 637, nr. 2055). For other resolutions, see *Kamerstukken II* 2015-2016, 19 637, nr. 2057, *Kamerstukken II* 2015-2016, 32 824, nr. 119, *Kamerstukken II* 2016-2017, 34 550, nr. 12. In March of 2019, on average the asylum procedure took 23 weeks (<https://ind.nl/Paginas/Doorlooptijden-asielprocedure.aspx>, site accessed 1 May 2019).

resolutions by parliamentarians, in June 2016 the government had started training volunteers who would assist asylum seekers in learning the Dutch language.¹⁷ Following these decisions, the COA had to take on a different role. Whereas it used to be an organisation focused solely on the reception of refugees, as of 2016 it was supposed to focus on their integration as well.

- *Employment*

Once a residence permit has been granted, refugees have free access to the labour market. Before that time, asylum seekers are only allowed to work if their application procedure lasts at least six months and the employer has been awarded a work permit.¹⁸ Employers employing asylum seekers without having obtained the required permit are fined.¹⁹ The work permit for asylum seekers is granted for a maximum period of 24 weeks.²⁰ The reason for the 24-week maximum is to prevent entitlement to unemployment benefits. Also, the government feared that allowing a longer period of ‘unregulated’ work would inspire other refugees to apply for asylum in the Netherlands (De Lange et al. 2017: 21).²¹

This fear of becoming too attractive to potential refugees is also the reason the government has not followed the advice of several advisory bodies to allow refugees to start working as early as two months after filing their application for a residence permit. Already in 1989, the Netherlands Scientific Council for Government Policy (WRR) stated that the policies aiming at the integration of immigrants pursued so far, failed to provide immigrants possibilities to become self-supporting by treating them too much as ‘care categories’ (WRR 1989). It advised allowing asylum seekers conditional access to the labour market after a period of two months. One of the arguments put forward by the government against this advice was the fear that asylum seekers whose future in the Netherlands was unsure would integrate into Dutch society and the increased difficulty of returning asylum seekers whose application would be denied.²²

In their 2015 policy brief ‘no time to lose; from reception to integration of asylum migrants’ the WRR, the Netherlands Institute for Social Research (SCP) and the Research and Documentation Centre of the Ministry of Justice (WODC) concluded that

17 *Kamerstukken II* 2015-2016, 32824, 130, *Kamerstukken II* 2016-2017, 19637-2243. The resolutions concern *Kamerstukken II* 2015-2016, 19 637, nr. 2055; *Kamerstukken II* 2015-2016, 19 637, nr. 2057; *Kamerstukken II* 2013-2014, 32 824, nr. 109.

18 A work permit can be granted, if the employer can prove that there are no (suitable) candidates originating from the Netherlands, or an EU or EEA Member State, the so-called priority work force, available (Article 8(1)(a) Labour Act for Aliens). At the end of 2016, the average asylum procedure lasted less than six months. By the end of 2015, 605 asylum seekers were in a procedure for six months or longer. Therefore, most asylum seekers will not be awarded the right to work while in procedure (De Lange et al. 2017: 13).

19 Article 18 et seq. of the Labour Act for Aliens.

20 Article 8 paragraph 2 and Article 11 paragraphs 2 and 3 Labour Act for Aliens. Until 2008, the permit would be granted for a maximum period 12 weeks.

21 Some academics claim that by setting the 24 week maximum, the Netherlands infringes the obligation set out in Article 15 paragraph 3 of the Reception Conditions Directive which provides that ‘access to the labour market shall not be withdrawn during appeals procedures’. T. de Lange & C. Rijken, ‘Asielzoeker kan eerder aan de slag’, *Opinie De Volkskrant* 12 januari 2016.

22 *Kamerstukken II* 1990-1991, 19637, nr. 76, De Lange et al. 2017: 23.

the position of asylum seekers in the Dutch labour market was poor. Factors such as the length of the procedure, the fact that asylum seekers were allowed to start working only after six months and the fact they would need a working permit which was valid for a maximum period of 24 weeks all contributed to a period of inactivity, according to the authors (Engbersen et al. 2015: 14). The Advisory Committee on Migration Affairs (ACVZ) for that reason referred to 'lost time' (ACVZ 2013). In the policy brief, WRR, SCP and WODC advised the government to consider changing the conditions under which asylum seekers 'in procedure' were allowed to work and to give municipalities more possibilities to experiment (Engbersen et al. 2015: 39). More recently, in October 2015, the municipality of Amsterdam called for a shortening of the six-month period and an extension of the maximum period of 24 weeks of validity of the work permit.²³ The Dutch government has until now not been willing to accept these recommendations for activating asylum seekers through work by changing the rules.

- *Volunteering*

Whereas the rules regarding access to the labour market for asylum seekers remained unaltered, the government lowered the barrier for asylum seekers to work on a voluntary basis.²⁴ According to the minister, engaging in volunteer work would allow asylum seekers the possibility to participate, be active, meet people and combat boredom and tensions.²⁵ As of mid-October 2016, organisations would be able to allow asylum seekers to work on a voluntary basis if they had filed for the required permit.²⁶ Previously, asylum seekers were only allowed to volunteer for organisations that had already disposed of the required permit.²⁷ Furthermore, in the spring of 2016, the central government and the municipalities agreed to stimulate volunteering by asylum seekers by improving the provision of information, by bringing together supply and demand and by stimulating associations and organisations to offer opportunities to volunteer.²⁸ In August of that year, the minister awarded one million euro to Pharos to carry out the project 'Let's get to work! Volunteering for asylum seekers and refugees with residence

23 Action plan entrepreneurship and work: opportunities for refugees, Letter of alderman Ollongren (Economy) to the municipal council of Amsterdam 2 October 2015, <https://praktijkvoorbeelden.vng.nl/databank/asiel-en-integratie/integratie-en-participatie/vluchtelingenbeleid-2015-2018.aspx>, site accessed 27 March 2019

24 SZW, *Vrijwilligerswerk door asielzoekers en statushouders in de opvang. Tips en aandachtspunten voor maatschappelijke organisaties*, Den Haag: SZW, June 2016. An updated version of the brochure is downloadable from <https://www.rijksoverheid.nl/documenten/brochures/2016/06/20/handreiking-vluchtelingen>, site accessed 9 April 2019.

25 *Stcr.* 2016, Nr. 57116.

26 *Stcr.* 2016, Nr. 57116.

27 A volunteer permit is only required if the volunteers do not have free access to the labour market. Organisations offering volunteering opportunities to refugees who have been awarded a residence status hence do not require a volunteering permit, as refugees with a permit have unlimited access to the Dutch labour market.

28 *Kamerstukken II* 2016-2017, 19637 nr. 2243.

permits in reception centres'.²⁹ The ministry assigned the COA the new task of promoting volunteer work among the asylum seekers in the reception centres.³⁰ Before 2016, the COA was not allowed to stimulate activation and activities which were directed at the integration of asylum seekers into Dutch society, as this would diminish the likelihood of return (De Lange et al. 2017: 31). In 2018, the focus on volunteer work for asylum seekers in reception centres was evaluated. The researchers concluded that volunteering appeared to stimulate participation and integration (Bakker et al. 2018: 77).

- *The role of the COA*

For the volunteers to be able to provide language lessons and other types of activities to asylum seekers, cooperation from the COA is required. As we have seen in the introduction, the COA was not always inclined to allow language lessons by volunteers to be organised, even though asylum seekers have always been allowed to receive language training from volunteers. As the role of the COA has changed, starting in 2016, from being an organisation focused solely on the reception of asylum seekers to an organisation focusing on both reception and integration, local COA departments have adopted a more welcoming attitude towards volunteers organising activities for asylum seekers. The local COA department in Nijmegen has in any case made a switch. In 2016, the COA teamed up with the welfare foundation Interlokaal.³¹ In that year, more than 130 activities were organised at Heumensoord each week in the area of sports, language and culture.³² Volunteers were also welcomed at the reception centre in the city centre (Stieltjesstraat) which opened in February 2017. Also, the working group for refugees of the Radboud University was allowed to start a 'buddy project' aimed at matching asylum seekers living in the Stieltjesstraat with RU students and staff members with comparable interests. To name another example, in April of 2016, the COA department in the city of Alkmaar, in cooperation with the municipality and volunteer organisations developed a plan to provide a meaningful way for asylum seekers to spend the day. The plan claimed that this would benefit the well-being of the asylum seekers and would open up their minds to think about the future, including considering return to their home countries.³³

29 'Aan de slag! Vrijwilligerswerk voor asielzoekers en vergunninghouders in opvang.' The project would last for 2.5 years and aimed at realising 14,000 matches from 25 COA reception centres. Pharos is the Dutch Centre of expertise on Health Disparities (www.pharos.nl).

30 In March 2019, around 23,500 asylum seekers stayed in reception centres, 4,500 of whom had already been granted a residence permit and were waiting to be relocated to a municipality (<https://www.coa.nl/nl/over-coa/bezetting>, site accessed 19 March 2019).

31 Municipality of Nijmegen and municipality of Heumen report 'Noodopvang Heumensoord. Een terugblik', Nijmegen: Gemeente Nijmegen & Gemeente Heumen 2016 (Emergency reception Heumensoord. Looking back), p. 21, <https://www.ifv.nl/kennisplein/Documents/201605-Gemeente-Nijmegen-Rapport-Heumensoord.pdf>.

32 Interlokaal, *Jaarverslag 2016* (Interlokaal, Annual report 2016), Nijmegen: Het Inter-lokaal 2016, p. 14, <http://www.inter-lokaal.nl/wp-content/uploads/2016/06/Het-Inter-lokaal-jaarverslag-2016-vs-def-17-07-03.pdf>. Site accessed 27 March 2019.

33 Plan van aanpak activering, April 2016, <https://www.alkmaar.nl/gemeente/webcms/site/gemeente/product/Plan%20van%20aanpak%20Activering%20mei%202016.pdf>, site accessed 20 March 2019.

Municipalities

As we have seen above, until November 2016, the government would not provide language lessons for asylum seekers ‘in procedure’, who would depend on volunteers for their language lessons, and on the willingness of municipalities to take charge. Different municipalities adopted different strategies. The municipality of The Hague for instance invested 250,000 Euro to provide language lessons to asylum seekers in an ‘emergency’ reception centre which was open from October 2015 until 1 January 2016 (Vasterman 2015). In October 2015, the municipality of Amsterdam adopted an ‘action plan entrepreneurship and work: opportunities for refugees’.³⁴ Starting language education as quickly as possible was one of the central elements of this plan. The municipality of Nijmegen did not invest in language lessons or other programmes aimed at activation for the people of Heumensoord. Kees Groenendijk concluded: ‘whether a language project for asylum seekers succeeds or not depends on the local politicians and local COA-managers. And this should not be the case’ (Vasterman 2015). The reluctant attitude of several municipalities can be explained by the fact that asylum seekers are the responsibility of the COA. The central government will not allocate money to the municipalities to organise language lessons or other activities for asylum seekers who happen to live there, but who are not registered as inhabitants.

Civil Society

As far as civil society is concerned, asylum seekers in reception centres will be dependent on what is offered in the vicinity of the reception centre, and this will differ from centre to centre (Ten Holder & De Boer 2012: 16). Furthermore, the fact that many reception centres are located in remote locations will possibly form a barrier for asylum seekers to engage in activities provided outside of the centre (Kloosterboer 2009).

In the case of Nijmegen, civil society organisations organised activities aimed at the activation of asylum seekers following the opening of new reception centres at Heumensoord and the Stieltjesstraat. On a more structural, and national, basis, the Dutch Council for Refugees lobbies for asylum seekers to start integrating as quickly as possible into Dutch society, at the latest six months after arrival.³⁵ According to the Council, while awaiting the decision on their asylum application, asylum seekers should be able to participate in society, for instance via volunteering, in order to prepare for the labour market in the Netherlands or the country of origin.³⁶ The Council does not engage in activities aimed at the employment of asylum seekers who are still awaiting the outcome of their procedures.

34 Letter of alderman Ollongren (Economy) to the municipal council of Amsterdam 2 October 2015, <https://praktijkvoorbeelden.vng.nl/databank/asiel-en-integratie/integratie-en-participatie/vluchtelingenbeleid-2015-2018.aspx>, site accessed 27 March 2019.

35 Visie vluchtelingenwerk op inburgering (https://www.vluchtelingenwerk.nl/sites/default/files/Vluchtelingenwerk/Webartikel/images/visie_in_het_kort_inburgering_def.pdf), site accessed 27 May 2019).

36 Visie vluchtelingenwerk op arbeidsparticipatie (https://www.vluchtelingenwerk.nl/sites/default/files/u895/visie_op_arbeidsparticipatie_in_het_kort_2016.pdf), site accessed 27 May 2019).

We did not find examples of civil society initiatives focused on making matches between asylum seekers and employment. The reason for this might be that the group of asylum seekers who are allowed to work is simply too small and the (administrative) conditions too unattractive for employers.³⁷ Employers might furthermore be deterred from hiring asylum seekers as the municipality where they will be housed when they leave the reception centre might be in a different part of the Netherlands than where the reception centre is located. Moreover, asylum seekers will often not sufficiently master the Dutch language to be able to take up employment. Lastly, asylum seekers themselves might be deterred from taking up paid employment as they are obliged to pay the COA a personal contribution of 75% of their wages to a maximum of € 185.

Rejected Asylum Seekers

Rejected asylum seekers and other irregular immigrants must leave the Netherlands. They are expected to organise their own departure and have 28 days to do this. During that period, the asylum seeker still receives money and accommodation from the government (COA). The Return and Departure Service (DT&V) can mediate to get a travel document. In 2018 14,882 aliens who were not allowed to stay in the Netherlands left the country (Onderzoekscommissie 2019: 51).³⁸ These are official statistics; only 42% of them have left demonstrably. Some persons who should leave in fact remain in the Netherlands for various reasons, such as inability to obtain the necessary travel documents, fear of imprisonment, honour killings, forced marriage or insufficient means of support after return. From that moment they become part of the group of foreign nationals who do not have a residence status in the Netherlands. Reliable statistics are not available.³⁹ This paragraph is about this category.

Central Government

The central government policy for this group is primarily focused on their departure from the Netherlands.⁴⁰ To be eligible for some form of housing and assistance provided by the government, illegal residents need to work actively on their departure.⁴¹ Asylum seekers must leave the 'ordinary' reception location (AZC) within 28 days after a court has upheld the rejection of their asylum application. If they have not left the Netherlands by this time, they may be transferred to restrictive accommodation to prepare their departure. They are required to cooperate fully with the investigation into

37 See above footnote 18.

38 This concerns not only rejected asylum seekers but also, for example, people who are staying in the Netherlands illegally and people whose permits are no longer valid.

39 It is estimated that in 2012-2013 between 22,881 and 48,179 people were living in the Netherlands without a residence permit (Snippe & Mennes 2018). Most of them manage somehow without help from the government and organisations (Koppes 2017: 7).

40 This is also the case in Austria and Sweden (Ataç 2019).

41 <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/afgewezen-asielzoekers>.

their nationality and identity.⁴² Families with minor children receive shelter at a ‘family location’ until their departure or until the youngest child is 18 years old. The support and guidance at these locations is focused on return, including forced departure. It is strongly emphasized that the activities and services offered must not in any way give the impression that the foreign national may remain in the Netherlands.

Foreigners who are not lawfully residing in the Netherlands do not have legal opportunities to participate in society. They are not allowed to work, to register with an educational institution, to open a bank account or take out health insurance.⁴³ For years, the central government and the municipalities have disagreed about the reception of irregular immigrants. Municipalities advocate a bed-bath-bread arrangement (BBB) because they are confronted with homeless and often traumatized people as a result of a failing expulsion policy. The central government emphasizes that the safety net provided by municipalities undermines the deadlines and the obligation to cooperate on departure and therefore the return policy.⁴⁴ At the end of 2018, the government and the municipalities agreed on a pilot project of national reception facilities for foreigners without residence rights in five municipalities (LVV, see below).⁴⁵

Municipalities

Municipalities have no specific legally defined tasks related to the reception of illegal immigrants.⁴⁶ Nevertheless, particular case law from the highest court in social security issues of 17 December 2014 induced several municipalities to provide some form of shelter.⁴⁷ In May 2017, 39 municipalities were offering some form of emergency shelter (Winter et al. 2018: 33). Municipalities refer to the need to offer shelter from the perspective of maintaining public order and for humanitarian reasons (Van der Leun & Bouter 2015: 145-146, Winter et al. 2018: 34). There are huge differences between municipalities in terms of the organisational structure and the facilities offered (Koppes 2017, Winter et al. 2018). Some offer exclusively shelter during the night, while others offer 24-hour shelter, whether or not in combination with support and guidance. Differences also exist in categories of irregular immigrants for whom shelter is provided. In some municipalities, only immigrants with some perspective on acquiring a legal residence status will be able to benefit from the municipal arrangements that are provided.

Many municipalities have not set up facilities themselves. Quite often existing initiatives from churches and local NGOs provide shelter or living allowance, fully or

42 <https://english.dienstterugkeerenvertrek.nl/RepatriationandDeparture/Predepartureaccommodation/index.aspx>. A person can be placed in a detention location in case disappearing in illegal life is suspected.

43 However, illegal aliens are entitled to medically necessary treatment and minors are entitled to education.

44 Letter of 21 November 2017 of the Secretary of State Dijkhoff to Parliament, ‘Stand van zaken bestuursakkoord tussen rijk en gemeenten over uitgeprocedeerde vreemdelingen’.

45 Samenwerkingsafspraken Landelijke Vreemdelingen Voorziening (LVV) d.d. 29 november 2018, ministerie van Justitie en Veiligheid en Vereniging Nederlandse Gemeenten.

46 Terlouw & Böcker (in this volume) discuss how mayors in the Netherlands perceive and use their discretion in situations involving rejected asylum seekers or other migrants whom the national government considers to be ‘unlawfully present aliens’.

47 ECLI:NL:CRVB:2014:4178. The state lodged an appeal and the final verdict did not confirm this decision. See ECLI:NL:CRVB:2015:3803 and ECLI:NL:CRVB:2015:3834.

partially funded by the municipality. Municipalities were financially compensated by the central government from 2014-2017. Several municipalities use the so-called INLIA eligibility criteria, indicating three target groups for municipal shelter places: foreign nationals who are lawfully residing and who have no accommodation, no income and no insurance; foreign nationals who actively and controllably cooperate with their departure but cannot realise this within 28 days, and foreign nationals for whom it is unacceptable on humanitarian grounds for the municipality to have no reception (Winter et al 2018, 37-38).

Because of the high level of diversity of reception facilities commissioned by the municipalities, it is impossible to answer the question about activation in general. Instead we will just offer some examples. The municipality of Groningen is to be regarded as a frontrunner. Groningen has delegated the organisation and management of the shelter facilities to civil society organisation INLIA (Koppes 2017: 22, Winter et al. 2018: xxxiii-xxxvi). INLIA was founded in 1988 as a service desk for local church communities in all matters concerning refugees and provides assistance and shelter to asylum seekers in need.⁴⁸ The organisation runs two 'Bed-Bath-Bread+'-shelters in Groningen with 270 beds.⁴⁹ Residents receive shelter, money, and legal and social guidance to work on a safe return or a residence permit. Residents are responsible for cleaning and cooking and can participate in classes (including the Dutch language) and activities (Winter et al. 2018: xxxiv-xxxv). The municipality of Groningen pays the bill but is not involved in the content of reception and guidance.

The municipality of Eindhoven offers support and allowance for rejected asylum seekers who live within their own network (80-95 persons). Rejected asylum seekers without a social network who are working on a future perspective (return migration, legal residence or transit migration) may receive 24/7 shelter (20-30 persons). The reception and support of rejected asylum seekers are organised and managed by civil society organisation *Vluchtelingen in de knel*. This NGO provides legal guidance, training and coaching. It runs into legal restrictions when mediating for paid or voluntary work. The organisation receives an annual financial contribution from the municipality (Winter et al. 2018: xxvi-xxviii).

In 2019 the government started the pilot project LVV (National aliens' facility) in five municipalities.⁵⁰ This includes the existing BBB facilities in Groningen and Eindhoven. The facilities are meant to make all other municipal reception facilities for unlawfully residing immigrants redundant. The LVV's are supposed to offer guidance on self-employed return, further migration or if applicable, legalisation of residence. The LVV's operate under the joint responsibility of the municipal and central government and will be funded by state and municipal funds. At the time of writing (April 2019) it is unclear how this pilot will operate and how it will change the approach of for instance INLIA and *Vluchtelingen in de knel*. The City of Amsterdam is planning to organise

48 <https://www.inlia.nl/en>, site accessed on 8 April 2019. INLIA stands for 'International Network of Local Initiatives with Asylumseekers'.

49 <https://gemeente.groningen.nl/actueel/nieuws/groningse-bed-bad-brood-wordt-vanaf-1-april-landelijke-voorziening-voor-vreemdelingen>, site accessed on 8 April 2019.

50 Samenwerkingsafspraken Landelijke Vreemdelingen Voorziening (LVV) d.d. 29 november 2018, ministerie van Justitie en Veiligheid en Vereniging Nederlandse Gemeenten, https://vng.nl/files/vng/brieven/2018/attachments/20181130_getekende-samenwerkingsafpraak-lvv.pdf site accessed on 27 May 2019 en *Kamerstukken II* 2018-2019, 19637, nr. 2445.

small-scale housing for 500 undocumented foreign citizens to implement the LVV agreement. Amsterdam did not provide 24/7 shelter before and the plans have met with resistance from neighbourhood citizens (Niemantsverdriet 2019). The future will show what consequences the implementation of LVVs has for reception and support facilities for irregular residents that do not fit into the eligibility criteria of the LVVs. In particular, the mandatory active cooperation to organise their return migration, is expected to deter many irregular immigrants from applying for a place to stay in a LVV. The Amsterdam City Council decided that Amsterdam will also offer shelter to so-called Dublin claimants (asylum seekers whose proceedings must be settled in another EU member state) and other irregular migrants who do not meet the LVV's eligibility criteria.⁵¹

Civil Society

On its website the foundation LOS lists 62 shelter organisations for irregular immigrants.⁵² This list includes civil society initiatives funded by the municipality and/or by donations from churches, citizens or charity funds. As has been pointed out in the foregoing section, most municipal activities for rejected asylum seekers (and other irregular immigrants) are in fact organised and carried out by civil society organisations such as INLIA and Vluchtelingen in de knel. However, there are also organisations that provide support for rejected asylum seekers not on behalf of or funded by the municipality. We will list some examples below:

- *Wereldvrouwenhuis* in Nijmegen offers shelter for women for six months in combination with a training and guidance programme aimed at strengthening their self-reliance. This includes Dutch language lessons.⁵³
- *De Vluchtmaat* is a former office building in Amsterdam, housing 40 irregular refugees from Eritrea and Ethiopia from the 'We are here' group. Foundation *Noodzaak* provides free shelter for irregular immigrants and rents part of the building to small companies to cover the costs.⁵⁴ *Noodzaak* does not organise training or activities.
- *STIL Utrecht* offers individual guidance to people without a residence permit and helps them to find a place to live. Occasionally, they find individuals and families who are willing to offer temporary shelter, for example for an asylum seeker with

51 <https://www.binnenlandsbestuur.nl/sociaal/nieuws/akkoord-over-opvang-uitgeprocedeerden-groningen.9611390.lynkx>.

52 Stichting LOS is the national knowledge center for people and organisations that provide assistance to irregular immigrants. =, <http://www.stichtinglos.nl/noodopvang>, site accessed 8-4-2019. The information provided for each organisation indicates that some offer accommodation, others mediate for accommodation or medical treatment, and/or provide legal assistance.

53 www.wereldvrouwenhuis.nl, site accessed 8 April 2019. Both authors are members of the Board of the Wereldvrouwenhuis Foundation. Wereldvrouwenhuis is supported by the municipality and it receives subsidy from the municipality, but it is an independent foundation not working on behalf of the municipality.

54 <https://vluchtmaat.nl/>, site accessed 10 May 2019.

a clear perspective on a new successful procedure after the waiting period of 18 months (Dublin claim) (Keulen 2019).⁵⁵

Next to organisations providing or helping to find shelter, there are many other civil society organisations offering assistance to rejected asylum seekers and other irregular immigrants:

- Foundation *Solid Road* helps people without residence permits and (former) asylum seekers to prepare for voluntary return to their country of origin by providing vocational training and guidance in the country of origin.⁵⁶
- The *Wereldhuis* (Worldhouse) Amsterdam is a centre for and run by irregular immigrants initiated by the *Diaconie* of Amsterdam and *Luthers* Amsterdam. The Worldhouse facilitates educational and recreational activities and offers counselling, referrals to medical and judicial instances and a daily warm meal.⁵⁷
- The Dutch Council for Refugees offers support to rejected asylum seekers in examining the available options. Practical assistance is only available for rejected asylum seekers who opt for return or transmigration.⁵⁸
- Foundation *Gast* offers social activation and sports for undocumented refugees in Nijmegen, including Dutch language lessons (Stam 2017).

Civil society networks may assist irregular immigrants in getting paid or volunteer work through training and job placement. A civil society campaign to extend the opportunities to develop and participate in society for irregular refugees and migrants stresses the importance of meaningful activities such as education, paid and voluntary work.⁵⁹

Although the central government policy towards rejected asylum seekers is focused on return migration only, the experiences in the reception facilities of the central government, municipalities and civil society organisations all show that only a small percentage of rejected asylum seekers actually return to their country of origin. It also shows that after some time quite a few manage to get a residence status or a new application (Boersema et al. 2015, Winter et al. 2018: 65-67).⁶⁰ Winter (2018: 67) concludes that about half of all rejected asylum seekers in municipal shelters get a permanent or temporary residence status or they have a right to reception in an asylum seekers' center. The responsible Utrecht alderman claims that Utrecht has succeeded in finding a solution for 9 out of 10 people over the past 15 years (Kuiper 2019).⁶¹

55 <http://www.stil-utrecht.nl/>, site accessed 8 April 2019. The Dublin Regulation implies that an asylum request will be dealt with by the state of first entrance. Asylum seekers who travel through Italy or Greece are not permitted an asylum procedure in the Netherlands, they are sent back to Italy or Greece. Filing a new asylum application is however possible after 18 months. Many people are searching for temporary shelter to bridge those 18 months.

56 <http://www.solidroad.nl/>, site accessed 30 April 2019.

57 <http://wereldhuis.org/en/>, site accessed 10 May 2019.

58 <https://www.vluchtelingenwerk.nl/forrefugees/geen-verblijfsvergunning-wat-nu?language=en>.

59 <http://iedereen-aandeslag.nl/wp-content/uploads/2016/05/manifest-GB.pdf> (1 May 2019).

60 See also LOS, <http://www.stichtinglos.nl/content/resultaten-opvang-ongedocumenteerden>.

61 Half of them get residence papers and 20% return to the country of origin. Such figures reflect the eligibility criteria of the shelter organisation. Some organisations only accept immigrants that have a high chance of getting a residence permit

Conclusions

In the above we investigated the perspectives of the central and municipal government, local COA departments and civil society organisations on integration through activation of (rejected) asylum seekers in Dutch society. What can we learn from this comparison?

As regards asylum seekers, we have seen that the Dutch government until recently applied a policy of discouraging asylum seekers from integrating into Dutch society as long as their procedure was in process. As a consequence, the asylum seeker was effectively placed outside society- due to the location of the reception centres not only figuratively but also literally speaking. In 2016, however, we noticed a remarkable change in the government's perspective on integration and activation of asylum seekers. The government started offering language lessons to asylum seekers whose applications had a high chance of being granted, invested in the promotion of volunteering by asylum seekers and assigned the COA a new role facilitating the integration of asylum seekers. However, steps towards facilitating the access of asylum seekers to the labour market have not been taken so far.

The change in perspective of the Dutch government can partially be explained by the role played by civil society. Following the large number of asylum applications in the Netherlands in 2015 and following years, these organisations exerted pressure from below by offering their services to the benefit of the asylum seekers. Furthermore, the Dutch parliament insisted on a policy change.

The policy towards rejected asylum seekers is still one of preventing integration and promoting departure. In course of time, the central government was pressed to accept that reception facilities for rejected asylum seekers were needed. However, the objective of the facilities run by the government is to promote rejected asylum seekers' departure from the Netherlands. Civil society organisations and some municipalities acknowledge that not all irregular migrants will leave and- unlike the central government- they are in favour of activation. It is hard to get a clear picture of what civil society organisations and municipalities actually do to activate the target group. Most seem to focus on arranging accommodation and legal assistance as these are the most pressing needs. Only after someone has a place to live can they release energy to reflect on the future, to learn a language or a profession or to consider how return could be safely possible.

The need for shelter by civil society varies greatly over time depending on the admission policy of the government (Koppes 2017: 8-10, Van der Leun & Bouter 2015: 144, 149). The above shows that, as a consequence, the state and civil society act as communicating vessels providing shelter for and activation of asylum seekers and irregular immigrants: in times where the state offers more shelter, guidance and perspectives for integration, civil society withdraws; when the state draws back, civil society organisations take over. The history of refugees in the Netherlands shows that this is not a new phenomenon. The reception of Belgian war refugees during the First World War, of Jewish refugees of the Nazi regime in the 1930s and of displaced persons after the Second World War was primarily the responsibility of private organisations, as the Dutch government did not take responsibility for this (Böcker et al. 1998; Böcker & Havinga 2011). For the past 50 years, it has been primarily the government that has

taken responsibility for the reception of asylum seekers, leaving civil society organisations to organise additional support. Since the end of the 1980s, some rejected asylum seekers have sought help from churches and individuals and have been offered shelter and assistance by churches and individuals in an attempt to become recognized refugees (Koppes 2017).

As we have seen, the interaction between central government and civil society in the Netherlands in relation to the reception and activation of asylum seekers, has entered a new phase: the government has accepted more responsibility for rejected asylum seekers, but ties the right to shelter and guidance to the condition of the refugees' active cooperation towards return migration. The new policy is in no way focused on the activation of the rejected asylum seekers. As activation will have a positive effect on the physical and mental well-being of rejected asylum seekers and will decrease the risk of exploitation of irregular immigrants who often find themselves in a vulnerable position, from a humanitarian perspective the Dutch government would be wise to change perspective also for this group of immigrants.

References

- Ataç, I. (2019) 'Deserving Shelter: Conditional Access to Accommodation for Rejected Asylum Seekers in Austria, the Netherlands, and Sweden', *Journal of Immigrant & Refugee Studies* 17, 1: 44-60.
- ACVZ (2013) *Verloren tijd. Advies over dagbesteding in de opvang voor vreemdelingen*. Den Haag: Adviescommissie voor Vreemdelingenzaken.
- Bakker, L., J. Dagevos & G. Engbersen (2013) 'The Importance of Resources and Security in Socio-Economic Integration of Refugees', *Journal of International Migration and Integration* 15, 3: 431-448.
- Bakker, L., R. Bekkers, J. Reitsma, C. Sederel, P. Smets & Y. Younes (2018) *Vrijwilligerswerk: Stimulans voor tijdige participatie en integratie: Monitor- en evaluatie onderzoek vrijwilligerswerk door asielaanvragers en statushouders die in de opvang verblijven*, Den Haag : Ministerie van Sociale Zaken en Werkgelegenheid.
- Black, R., K. Koser, K. Munk, G. Atfield, L. D'Onofrio & R. Tiemoko (2004) *Understanding voluntary return*. Home Office Online Report 50/04
- Böcker, A., C.A. Groenendijk & T. Havinga (1998) 'Oorlogsvluchtelingen in Nederland', in: Y. Buruma et al (eds.), *Recht door de eeuw, Opstellen ter gelegenheid van het 75-jarig bestaan van de Faculteit der Rechtsgeleerdheid van de Katholieke Universiteit Nijmegen*, Deventer: Kluwer, p. 51-68.
- Böcker, A. & T. Havinga (2011) 'Een eeuw opvang van Europese oorlogsvluchtelingen in Nederland', in: A. Terlouw & K. Zwaan (red.), *Tijd en asiel. 60 jaar Vluchtelingenverdrag*, Deventer: Kluwer, p. 7-25.
- Boersema, E., I.D.A. Sportel, M. Smit & A.S. Leerkes (2015) 'Als ik bezig ben, denk ik niet zo veel'. *Evaluatie van de pilot Activeren bewoners gezinslocaties*, Cahier 2015-6, Den Haag: Wetenschappelijk Onderzoek- en Documentatiecentrum.
- Engbersen, G., J. Dagevos, R. Jennissen, L. Bakker en A. Leerkes m.m.v. J. Klaver en A. Odé (2015) 'Geen tijd verliezen: van opvang naar integratie van asielmigranten', WRR-Policy Brief 4, Den Haag: WRR.

- Fernhout, R., C. Groenendijk, C. Kortmann & S. Kortmann (2015) 'Hoezo, geef geen les aan vluchtelingen?', NRC 3 December 2015.
- Ghorashi, H. (2005), 'Agents of Change or Passive Victims: the Impact of Welfare States (the case of the Netherlands) on Refugees', *Journal of Refugee Studies*, 8(2): 181-198.
- Haan, W. de & M. Althoff (2002). *Vreemd en verdacht. Een verkennend onderzoek naar criminaliteit in en om asielzoekerscentra*. Groningen: Rijksuniversiteit Groningen.
- Holder, F. ten & M. de Boer (2012) *Kleine stappen van grote betekenis: een nieuw perspectief op humane opvang van asielzoekers*, Amsterdam: de Werkelijkheid.
- INLIA (2018) *Inlia Works*, Groningen: INLIA.
- Keulen, B. (2019) Moderne onderduikers. 'Het is beter om niet te veel te weten', *De Groene Amsterdammer* 18 maart 2019.
- Kloosterboer, K. (2009) *Kind in het centrum: kinderrechten in asielzoekerscentra*, Den Haag: Unicef.
- Koppes, S. (2017) *Valse hoop of bittere noodzaak. Opvang van mensen zonder verblijfsrecht*, Amsterdam: Amnesty International Nederland/Stichting LOS.
- Kramer, S., J. Bala, R. van Dijk & F. Öry (2003) *Making sense of Experience*, Utrecht: USBO.
- Kramer, S. (2010) *Zorg voor Asielzoekers met Psychische Problemen. Het Perspectief van de Asielzoeker (ZAPP)*, Amsterdam: ASKV/Steunpunt Vluchtelingen.
- Kuiper, M. (2019) 'Reportage Noodopvang Utrecht. Een flatje en voor elke twee weken 110 Euro leefgeld', NRC 4 april 2019, p. 10-11.
- Lange, T. de, E. Besselsen, S. Rahouti & C. Rijken (2017) *Van AZC naar een baan. De Nederlandse regelgeving over en praktijk van arbeidsmarktintegratie van vluchtelingen*, Amsterdam: Universiteit van Amsterdam.
- Leerkes, A., M. Galloway & M. Kromhout (2010) *Kiezen tussen twee kwaden: Determinanten van terugkeerintenties onder (bijna) uitgeprocedeerde asielmigranten*, Cahier 2010-5, Den Haag: WODC.
- Leerkes, A.S., E. Boersema, R.M.V. van Os, A.M. Galloway & M. van Londen (2014) *Afgevoerd en uit Nederland vertrokken? Een onderzoek naar de achtergronden van variatie in zelfstandige terugkeer onder uitgeprocedeerde asielzoekers*, Cahier 2014-3, Den Haag: Wetenschappelijk Onderzoek- en Documentatiecentrum.
- Leun, J. van der & H. Bouter (2015) 'Gimme Shelter: Inclusion and Exclusion of Irregular Immigrants in Dutch Civil Society', *Journal of Immigrant & Refugee Studies*, 13/2: 135-155, DOI: 10.1080/15562948.2015.1033507.
- Lintner, C. & S. Elsen (2018) 'Getting out of the seclusion trap? Work as meaningful occupation for the subjective well-being of asylum seekers in South Tyrol, Italy', *Journal of Occupational Science*, 25/1: 76-86.
- Niemantsverdriet, T. (2019) 'Uitgeprocedeerde asielzoekers. In de linkse hoofdstad zijn ze niet welkom', NRC 4 april 2019, p. 10.
- Onderzoekscommissie Langdurig verblijvende vreemdelingen zonder bestendig verblijfsrecht (2019) *Rapport*, Den Haag: Rijksoverheid.
- Snippe, J. & R. Mennes (2018) *Vooronderzoek data en methoden illegalschatting*, Groningen: Breuer en Intraval Onderzoek & Advies.
- Stam, K. (2017) *Sociale activering als participatie bevorderend proces binnen het bureaucratisch veld van de maatschappij met betrekking tot ongedocumenteerde vluchtelingen*, Deventer, Bachelor scriptie Saxion.

- Vasterman, J. (2015) *Pe-per-no-ten' leren, maar noem het geen inburgering*, NRC 3 oktober 2015.
- Viergever, R., N. Thorogood, T. van Driel, J. Wolf & M. Durand (2018) *Facing forward. Nine stories about being a Survivor of Human Trafficking in a post-trafficking shelter in the Netherlands*, Amersfoort: CoMensha.
- Weiler, R. & M. Wijnkoop (2011) 'Jullie hebben de klok, wij hebben de tijd. 60 jaar vluchtelingenbescherming en de Nederlandse praktijk', in: A. Terlouw & K. Zwaan (eds), *Tijd en asiel, 60 jaar Vluchtelingenverdrag*, Deventer: Kluwer, p. 81-109.
- WRR (1989) *Allochtonenbeleid (Immigrants' Policy)*, Den Haag: Sdu, <https://english.wrr.nl/publications/reports/1989/05/09/immigrant-policy>.
- Winter, H., V.M. Bex-Reimert, B. Geertsema & E. Krol (2018) *Onderdak en opvang door Rijk en gemeenten van vertrekplichtige vreemdelingen en de invloed daarvan op terugkeer*. Groningen: Pro Facto.