

Policy Brief

TOWARDS REALISING HEALTH RIGHTS AMONG UNDOCUMENTED PEOPLE IN DUTCH CITIES

Lessons from participatory research

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The Netherlands' commitment to human right to good health

- The Netherlands have ratified a number of international treaties guaranteeing the basic right of all persons to health. They are legally bound by these treaties' provisions:
- The International Covenant on Economic, Social, and Cultural Rights (ICESCR) establishes the "right to the highest attainable standard of physical and mental health". This is commonly interpreted as implying that healthcare services should be accessible to everyone within the jurisdiction of a state, without discrimination on any basis whatsoever. Undocumented migrant women and children enjoy special protection on the basis of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Article 24 of the Convention on the Rights of the Child (CRC). They grant all women and children a right to health, without regard to legal status. At the level of the European Union, the Charter of Fundamental Rights of the European Union recognizes a right to preventive and medical services for "everyone".
- In Dutch legislation, the human right to health has been translated into a fund to cover the costs of healthcare services for undocumented migrants. Undocumented migrants are excluded from buying health insurance due to the 1998 'linkage law', which makes entitlement to social security dependent on proof of legal residence. Medically necessary care and care to protect public health are considered two exceptions. What this means is that, formally speaking at least, undocumented migrants have access to most types of basic healthcare. If they are unable to cover expenses for medical treatment themselves, after a bill is issued, then the care providers can apply to be reimbursed through a special fund administered by the Centraal Administratie Kantoor (CAK).

Health rights not realized for undocumented migrants

- Despite this relatively favourable legal situation, undocumented migrant women and men in Dutch cities have been shown to suffer ill-health disproportionately:
- According to the 2006 Dutch Public Health Status and Forecasts Report, undocumented migrants are even more vulnerable than migrants with regular immigration status. This is due to specific problems associated with their status such as mental problems, and (psycho) somatic problems, such as high blood pressure, gastric diseases, headaches and back problems. Undocumented migrants to the Netherlands have also been shown to suffer more than proportionally from infectious diseases in comparison with ethnically indigenous people.
- In a 2013 report on (undocumented) asylum seekers' access to healthcare, the National Ombudsman found that undocumented asylum seekers' vulnerable situation and healthcare providers' lack of openness to provide services represent serious obstacles to effective access to healthcare provision for undocumented asylum seekers.
- The European Committee of Social Rights found in 2014 that the Netherlands is violating the rights of irregular migrants under the European Social Charter by ending all reception facilities for irregular migrants. While the political debate

about how to respond this ruling focuses on the provision of night shelter, the Committee's statement also related to the denial of medical assistance.

Participatory study reveals root causes of violation of irregular migrants' health rights

- Our study that involved undocumented women and men as researchers shows that the lack of effective access to healthcare for undocumented people is rooted both on the demand and supply sides of healthcare:

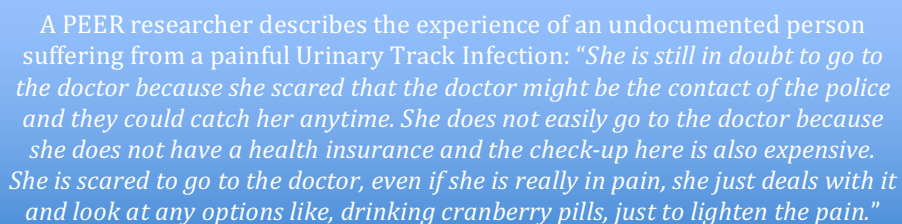
Box: Objectives and approach of the study

The objectives of our study that took place between 2013-5 included:

- To get an overview of undocumented women and men's basic health needs, their health-seeking behaviour and obstacles to realising healthcare in The Hague and Rotterdam;
- To identify good practices in health governance in Dutch cities;
- To provide useful information to improve health and contribute to improved health governance.

We used the Participatory Ethnographic Evaluation and Research (PEER) approach for our study. Its key tenet is that members of the community of study – often a marginalised and difficult to access group - become trained to act as key informants and researchers for the core team. The PEER researchers spoke to about 60 undocumented men and women, living in Rotterdam and The Hague. Besides interviewing, PEER interviewer teams not only helped elaborate our research questions, but also participated in the analysis of the findings and the formulation of this policy brief.

- Undocumented people in The Hague and Rotterdam fear identification, fines and discriminatory treatment by medical practitioners. Due to the lack of or irregularity of income, they cannot cover healthcare expenses. They are not aware of their rights that include the possibility of reimbursement of healthcare expenses.



A PEER researcher describes the experience of an undocumented person suffering from a painful Urinary Tract Infection: *"She is still in doubt to go to the doctor because she scared that the doctor might be the contact of the police and they could catch her anytime. She does not easily go to the doctor because she does not have a health insurance and the check-up here is also expensive. She is scared to go to the doctor, even if she is really in pain, she just deals with it and look at any options like, drinking cranberry pills, just to lighten the pain."*

- Research among providers and our own interview results reveal that healthcare providers, too, are not sufficiently aware of undocumented people's entitlements. Often, different treatment is offered to people with and without insurance/regular status.

Towards realising health rights of undocumented migrants in Dutch cities

- How to address this situation that not only effectively deprives a significant group in the Dutch society of their health rights, but also involves grave public health-related risks?

- In the following, we highlight steps towards realising health rights of undocumented migrants that can feasibly be implemented in Dutch large cities.
- However, as the current situation at the local level is closely embedded in national policies, we also present and discuss policy options that municipalities could raise and support at the national level.

Step 1: Investment in health mentoring pays out

- The combination of information about health rights and support by trusted social networks has been shown to be the most effective antidote to undocumented people's fear to access healthcare:

"Actually, J. said to me that you don't have to be afraid, you can go to the centre and just tell everything about... just tell everything that you need something for medication and don't be afraid anyway [...]. Even though you are undocumented you are entitled to go to the hospital if you are ill."

- An effective first step towards realising health rights of undocumented migrants can therefore be the provision of health mentoring provided by migrant organisations. Many of them have expertise in taking care of undocumented people's needs. Equally important, they are trusted, an invaluable quality in the context of undocumented migrants' omnipresent fears. Yet, their scarce financial and personnel resources limit the scope of their support. Municipalities can strengthen their collaboration with migrants' organisations to help them provide wide-spread awareness-raising, capacity building and other support to undocumented people enabling them to realise their health rights.
- This could include the provision of e.g. folders in different languages that describe undocumented people's health rights and steps towards their realisation, or video clips covering examples of effective access to healthcare 'XYZ has done it - you can do it, too!'. The Médecins du Monde the Netherlands have published relevant material on their website, such as [information folders and short videos](#) in a range of languages.
- The National Ombudsman proposed to provide undocumented people with a CAK card to inform healthcare providers that the cardholders are entitled to medically necessary healthcare as well as to establish a hotline for all questions around effective access to healthcare.
- Migrant organisations' health mentoring teams should also address medical practitioners' - especially GPs' - lack of knowledge about undocumented people's entitlement to healthcare. This could take the form of awareness-raising at medical faculties (GP training), or the development of a board game for waiting rooms 'Life of undocumented in a day', among others. The Johannes Wier Foundation has created an readily accessible and accredited [e-learning module on healthcare for undocumented people](#) which can be a very useful resource.

Step 2: Help ending crimes against undocumented people

- Many of the undocumented people who live in the Netherlands work here - often under poor and unhealthy conditions. Typical sectors that employ irregular migrants are domestic services, agriculture, and construction. Our research findings highlight that many health problems/risks that undocumented people encounter are related to their job.
- These women and men provide significant contributions to the Dutch society and the economy. Yet, they have little means to report poor and unsafe working

conditions, e.g. to the labour inspection, due to their fear of losing their job or being reported to the police.

- This situation could be changed if a successful intervention for the protection of

R: [...] *at our work, we can be sick anytime. It was at my work, we got poisoned three times. First by the gas for heating, smoke came out. And everyone suddenly fainted. My brother behind me got dizzy, he passed out first before we went upstairs. I felt so too, however, I could go upstairs and look for blankets because it was cold. Before I found a blanket, I fainted [...].* - Q: *You could call 112 to get an ambulance?* - R.: *Well, it is not necessary if you do not really need it, we have fear of the risk at the work place, surely the police will come. I am undocumented and the factory could be closed up.*

undocumented people against crimes was extended to violations of undocumented people's labour rights: Since 2016, undocumented people can report crimes safely without fear of detention at any police station in the Netherlands. If municipalities – and/or the national government - extend this guarantee of risk-free reporting to violations of labour regulation, then important health risks encountered by undocumented people at their workplace can be reduced.

Learning from our neighbours: bolder steps towards irregular labour migrants' social security

- Besides the steps proposed above, Dutch municipalities and the national government can draw inspiration from the experience of neighbouring countries of how to combine the better protection of human rights of irregular migrants with their more immediate policy concerns:
- For instance, the voucher systems for domestic services in Geneva, Switzerland also provides social security for also undocumented workers. For municipalities, such systems simultaneously address the gaps in care provision that have emerged in the context of aging populations and shrinking funds for social security. Health insurances would benefit from higher contributions. In 2014, the Dutch Central Planning Bureau argued that if a similar measure were introduced in the Netherlands, it would increase regular employment and proposed the introduction of a pilot.
- A range of studies, including our own, have highlighted that irregular immigration status itself is the greatest health risk for undocumented people leading to, e.g., mental and (psycho) somatic problems, such as high blood pressure, gastric diseases, headaches and back problems. Regularization addresses these risks, but also acknowledges irregular migrants' potential economic and social contributions.
- Besides, it has significant benefits for public health: While fear of identification prevents undocumented migrants from approaching medical practitioners, infectious diseases are not barred by illegal status. Therefore, overall, more effective access to healthcare would therefore also provide public health benefits for all residents of the Netherlands.