

Sheltering the undocumented in Amsterdam: inclusive housing rights or policing urban informality

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# HOMInG: THE HOME-MIGRATION NEXUS

## Home as a Window on Migrant Belonging, Integration and Circulation



## M. Belloni, S. Aru: 'Sheltering the undocumented in Amsterdam: Inclusive housing rights or policing urban informality'?

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The Netherlands has recently launched a project to provide shelters for undocumented migrants. How can state authorities provide housing for the invisible population of those who are simply not supposed to be there? Belloni and Aru answered this question by interviewing local authorities, government officials and civil society and by spending time with undocumented migrants who are included and excluded by the programme. In spite of the clear positive implications of this programme, the post sheds light on its less progressive aspects. In particular, the criteria used to screen eligible migrants introduce new distinctions between “deserving” and “undeserving” irregular migrants. If this distinction enables some to access assistance, it also justifies a no tolerance policy towards squatting, the practice through which undocumented migrants have usually gained a home, even if a temporary and precarious one.

PHOTO CAPTION: “Everyone is welcome”: the writing on the wall of a shelter for undocumented migrants in Amsterdam.

## Sheltering the undocumented in Amsterdam: inclusive housing rights or policing urban informality?

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### Shelters for the undocumented: an innovation?

On November 29<sup>th</sup> 2018<sup>1</sup>, the *Secretary of State for Security and Justice* of the Netherlands launched a new policy pilot project, called LVVs (*Landelijke Vreemdelingen Voorziening* literally “National Aliens Services”) in order to develop a national network of guidance and reception facilities for migrants without the right of residence.

By providing shelters to undocumented migrants this programme is often presented by national and local authorities as a “sustainable” and inclusive action<sup>2</sup>. Through this pilot the state provides a basic service for the invisible population of those who are simply not supposed to be there, while searching for an individually designed durable solution to their irregular condition. In spite of the clear positive implications of this programme, interviews with local authorities, government officials, undocumented migrants and civil society – conducted between May 2019 and January 2020 by the authors – shed light on other less progressive aspects of this programme.

First, the programme is aimed at some specific categories of undocumented. As we argue, the criteria used to screen those who have right to the programme introduce new distinctions between *deserving* and *undeserving* (Sales, 2002; Lafleur and Mescoli, 2018) irregular migrants. While the *deserving* migrants are considered worth of investment as they may regularise their condition, the *undeserving* are seen as “hopeless cases”; the state is not ready to invest any resources on them, except the ones necessary for their removal from the country. If this distinction enables some migrants to access shelters, it also justifies a no-tolerance policy towards the bottom-up attempts to secure some kind of *home* by the *undeserving* migrant population. This is how the current war against squatting, a historically rooted political form of inhabitation in Amsterdam, has gained momentum. Second, the balance between the two durable solutions – legalisation or return – envisaged by the programme seems to be dangerously skewed towards the second option.

### The Programme

According to the latest official estimate (2012/2013)<sup>3</sup>, there are about 40,000 irregular migrants currently living in the Netherlands. However, other commentators speak of over 100,000 undocumented<sup>4</sup>. Irregular migrants have been protagonists of important social movements, such as WE ARE HERE (Hager, 2015)<sup>5</sup>. This movement was spontaneously created in 2012 by groups of undocumented – and unreturnable (see later) – people who were claiming the right of being acknowledged by the state, as well as the right to access basic social rights such as housing, health and education. This struggle and its large political resonance led to the emergence of a shelter system for undocumented people in 2013 (known as BBB) and more recently the establishment of the LVV pilot.

Based on a cooperation agreement between the National Government and the Association of Netherlands Municipalities (VNG)<sup>6</sup>, the pilot is implemented in Amsterdam, Rotterdam, Utrecht, Eindhoven and Groningen for two years (2019-2021). Although the pilot takes different forms in the five cities, depending on their previous experience and on the organisations involved, collaboration between local authorities and migration institutions at the national level (in particular with the IND<sup>7</sup> and DT&V<sup>8</sup>) is a crucial ingredient of the programme.

In Amsterdam, the pilot was launched on March 1st 2019. Through the help of a network of six different organizations, which provides migrants with legal, social, residential and return assistance, the pilot provides 500 places, of which 100 are reserved to vulnerable people. Currently, there are open three LVV structures, located where previously were the BBB shelters<sup>9</sup> for a total of 345 people hosted. Two centres are open from 4 pm to 9 am, while the third one offers a 24-hour reception service and it mostly hosts people with Dublin claims (150 places)<sup>10</sup>.

NGOs involved in the programme welcomed LVV-Pilot as a necessary, even if provisional, answer to the current vulnerability of irregular people, to their “terrible” living conditions<sup>11</sup> and to their exposure to possible deportations. Although the pilot represents a great opportunity in some aspects, for some, it has several limits. Most important, it cannot meet the needs of all undocumented people living in precarious conditions in Amsterdam, as they are much more than 500, as confirmed by a waiting list of 100/150 people at the end of the pilot’s first year<sup>12</sup>. However, limited available places is not the only reason behind exclusion. As we explain in detail later, undocumented people need to fulfil certain criteria to access its facilities. Before describing these criteria, let us first clarify who irregular migrants are.

### Who are the irregulars?

The category of “ongedocumenteerd” or undocumented people is far from being a clear-cut one. It is estimated that 15 thousand undocumented migrants live in Amsterdam<sup>13</sup>. This is a very diverse population with very different migration patterns and administrative histories in the Netherlands.

- The most part of these undocumented people are invisible and often happy to remain unnoticed. Well-integrated within their own ethnic networks, many Chinese, Filipinos, Brazilians, Ghanaians and Moroccans (just to mention some of the most numerous nationalities) have been living in the Netherlands for years working on a regular base in the informal economy, remitting to their families and constructing a future for themselves back home. These migrants have often never applied for a visa, knowing that labour permits have not been issued since the nineties and asylum protection is rarely granted to those coming from countries considered “safe”.
- Another category of undocumented is the one named “out of procedure”. Those migrants have usually applied for asylum and have been denied protection also upon appeal. In other terms, they have run out of legal possibilities to pursue their asylum cases. Among them, many come from countries where it is impossible to return them for two reasons: either because the country is not signatory of a bilateral agreement on forced returns or because the region is so unsafe that Dutch authorities cannot carry out the deportation. Somalis, Sudanese, Iraqis and many more nationalities join the ranks of those that the state consciously decides to ignore, by “non recording their presence” (Kalir, 2017). Denied all legal, civil and social rights, some of these undocumented people – “the unreturnable” – have started the already mentioned “We are here” movement as a reaction to the State denial of their existence. This movement claimed the right to protection, to housing and working. Protagonists of impressive squatting actions which have raised support across the Dutch population, the actors of this movements have slowly disappeared as they finally managed to get papers or because they left to other countries. Small groups are still active in Amsterdam, but the composition of their members has changed.
- If the unreturnable made the core of WE ARE HERE in its early phase, today most of those who squat buildings under this name have different characteristics. Often undocumented in the Netherlands as the previous actors in WE ARE HERE, they have often been *registered* in some ways in other European countries. Dutch authorities tend to return these migrants to their first reception country, with little success, as most of them in a month or so make it back. By “registered”, we mean different things:

- Their fingerprints have been taken in another country where they should have applied for asylum according to the Dublin Regulation. As they often do not want to seek asylum there, they move forward to their preferred country. In the Netherlands, this category of unregistered has to wait for 18 months before being able to lodge an application in the Dutch asylum system.
- Some of these migrants have sought asylum, have appealed and have been denied in another European country. Since they do not see any possibilities to find a legal way to stay there, they move to Netherlands to apply again for asylum or just to find work in the black labour market.
- Other migrants have sought asylum in EU first arrival countries (in particular in Italy) and got some kind of protection. However, given the residual reception system and the hardships to find a decent job and living, many decide to move to the North to profit from a more generous – black – labour market.

Within this wide population of undocumented people, only a few, those who are considered to have some potential to find a durable solution, have the right to access the LVV programme

### **The search for durable solutions: governing irregularity through housing**

The programme is built around three possible “solutions” for migrants living in the LVV system: 1. regularisation of their status; 2. return to the country of origin; 3. removal to a third European country. This “durable solution scheme”<sup>14</sup> determines a rigid frame of rights and duties for people hosted in the shelters as well as a series of exclusionary processes.

The guest “selection” takes place through a two-phase intake process which identifies migrants' urgent needs in terms of mental and physical vulnerabilities, as well as their nationality and legal status. In order to be included in the pilot, people have to be homeless and without residence rights, but with a documented pre-existing presence in the city of Amsterdam; furthermore, they are not admitted if they come from a visa-free and a “safe country”. Families are also excluded from the LVV, because they can enter specific national family care locations. Only in the left-wing municipality of Amsterdam, having a Dublin claim is not an exclusion criterion. Residents, accepted in the LVV shelters, are provided with an ID pass which prevents them from being arrested by the police because of their illegal status. This form of protection against deportation is offset by the agreement they have to sign declaring their will in collaborating with authorities in finding a durable solution for their situation. If the guests do not work sufficiently on perspective, the reception and guidance can be ended. The “durable solution scheme” has a crucial role in giving shape and a schedule to the migrants' lives inside the LVV facilities. Every undocumented being hosted there receives a case manager. Together they establish a personal “perspective plan” and legal support, both aimed at valuing his/her real chances to stay legally in the Netherlands or not. Only a minority of people have new elements helping them to change their legal situation; the majority should move from the Netherlands to their origin countries or to another one. In all the five pilots, our interviewees working in the programme highlighted that the most common “durable solution” identified was the voluntary departure. From the perspective of people who do not agree to move away from the Netherlands effectively, the pilot appears a short-term solution. In this context, after a year and a half (or 6 months for Dublin cases in Amsterdam), people could be on the road again.

### **The dark side of the programme (I): facilitating regularisations or returns?**

The “durable-solution” scheme identifies two main categories of people without status while creating a new distinction in access to basic housing rights. The first group are people whom we can call “undeserving migrants” because they are not deemed worth of accessing Dutch social welfare (Sales

2002) – they cannot enter into the LVV-Pilot. They are “safe-country nationals”, according to the Dutch asylum procedure which identifies nationals under no risk of persecution, torture or inhuman or degrading treatment. “Undeserving people” remain in the shadow. The second group consists of the “deserving migrants”, people from unsafe-country nationals who could potentially be regularized. However, as seen before, also for this second group of people, included in the Pilot, the most common outcome identified during their permanence in the shelters is their “voluntary departures” from the country. This means that, well beyond the initial request to provide housing rights for undocumented people, the Pilot is potentially becoming a mechanism in the *state-deportation continuum* (Kalir, Wissink, 2016)<sup>15</sup>, as it aims to ensure the cooperation of migrants towards their own deportation. As Kalir and Wissink (2017) highlighted in their study on deportation in the Netherlands, the logic, practices and categories of state agents and of civil-society actors working in the field of voluntary returns are characterised by convergence. Likewise, the logic of the LVV pilot seems built on this convergence about “categories of non-belongingness” and “notions of deservedness” which are used not only to provide shelters, but also to govern irregularity by directing it towards regularisation or deportation.

### **The dark side of the programme (II): less tolerance for the *undeserving***

Besides providing shelters for the deserving irregular migrants, the programme has had practical consequences also for the lives of those who cannot access the programme nor its waiting list. The *undeserving* migrants – those who have no prospect to find a durable solution in the country – are not only excluded from the pilot, but also from winter shelters, unless the temperature decreases beyond zero. These shelters are usually opened in different Dutch cities in the coldest months of the year and are run by different charities, such as Salvation Army and HVO Querido.

As highlighted by the interview with representatives of GGD (local health services), only people coming from unsafe countries, with a proved connection to the city of Amsterdam or in a vulnerable state have access to winter shelters. The other undocumented migrants, and many EU migrants are excluded. Paradoxically, the emergence of the LVV has strengthened a filtering logic, as one of our interviewees working in social sector told us: “Now that the LVV exists, they are screening everyone. So they take a look at if you’re sick or not. Where are you from? Are you from a safe country? If you are not, then you have to leave.”

So what happens to all the others? For decades squatting has been the most widespread tactic to secure a place to stay for those in need. Squatting, defined as the typically urban activity of finding places which are unused and turn them into housing for those in need has characterised the history of Amsterdam since the 60s (Pruijt, 2013). Although squatting has become increasingly criminalised in the Netherlands, Amsterdam retained a more liberal approach towards this housing strategies and political initiatives until recently, as exemplified by the movement of WE ARE HERE. The movement was mainly conceived as a series of squatting actions taking place in different parts of Amsterdam (Der Spek, 2017; Hager, 2015). Each place was given a name joining the word “Vlucht”- which means “escape” in Dutch – and old usage of the building. The activists of WE ARE HERE resided in the VluchtKerk (Church), the Vluchtgarage, the Vluchtgemeente (municipality) etc. Each place of the over hundred buildings squatted since 2012 by the movement symbolically represented the ongoing escape of these unrecognised refugees across the world and across the city. These squatting actions received a wide support by the local population, political and social actors in the initial period, but the movement has lost momentum in the last two years due to internal divisions, difficulties in finding abandoned buildings and increasingly hostile political atmosphere. While the left-wing municipality was working towards the implementation of the LVV programme, the mayor of Amsterdam announced (January, 2020) that she would use a no tolerance approach towards new squatting actions<sup>16</sup>. The new attitude towards squatting attempts was mostly targeting those migrants, mostly coming from safe countries and Dubliners, who were excluded from the pilot and

kept trying to occupy – at times with unorthodox methods – different buildings in the city. This group of migrant squatters was composed by a fluid population of about 80 men aged in between 18 and 40 mostly coming from Nigeria and the Gambia. Since we started following them, they have occupied an ex-supermarket storage and an abandoned garage. In spite of the extreme living conditions, the garage represented the best refuge for this group throughout the winter 2019-2020, given that all other squatting attempts failed due to sudden police interventions and little tolerance by political, juridical actors and landlords. These migrants are increasingly seen by local authorities as well as by previous activists of WE ARE HERE as illegitimate interlocutors, since their asylum claim does not stand due to their “safe origin” or because their cases fall under the responsibility of another European country.

This increasingly hostile environment is directly connected with the logic of the government of irregularity that inspires the LVV programme. While “deserving” undocumented migrants are given a chance to build a durable solution for themselves – even if “voluntary return” seems the most likely option for them – the space of existence and political struggle for the “undeserving” undocumented migrants is systematically reduced and silenced. Squatting, the practice that, most of all, has insured migrants’ rights to the city (Dadusc, 2019) is restricted. Undocumented migrants, unless the compliant and “deserving” ones, deal with increasingly precarious housing conditions.

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<sup>1</sup> Coalition Agreement 2017–2021, Confidence in the future, p. 54; Appendix to Parliamentary Paper 34 700, no. 34 and appendices to Parliamentary Documents 28 345, 31 015 and 31 839, no. 187.

<sup>2</sup> Cfr.  
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<sup>3</sup> <https://www.wodc.nl/onderzoeksdatabase/2402-illegalenschatting.aspx>  
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<sup>4</sup> <https://www.migrationpolicy.org/article/migration-netherlands-rhetoric-and-perceived-reality-challenge-dutch-tolerance> (https://www.migrationpolicy.org/article/migration-netherlands-rhetoric-and-perceived-reality-challenge-dutch-tolerance)

<sup>5</sup> <http://wijzijnhier.org/who-we-are/> (http://wijzijnhier.org/who-we-are/). For an overview about the beginning of the movement see also Van Der Spek (2017) We are here: look with us, not at us.  
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<sup>7</sup> *The Immigration and Naturalisation Service.*

<sup>8</sup> *The Repatriation and Departure Service.*

<sup>9</sup> <https://www.amsterdam.nl/zorg-ondersteuning/ondersteuning/vluchtelingen/24-uursopvang/>  
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<sup>10</sup> This last group can stay in the LVV facilities only for six months, compared to the maximum of one year and a half granted to the other guests.

<sup>11</sup> Cfr. <https://m.facebook.com/amsterdamcityrights/posts/2199214743668784>  
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<sup>15</sup> As Kalir and Wissink highlighted in their study on deportation in the Netherlands, the logic, practices and categories of state agents and of civil-society actors working in the field of voluntary returns are characterised by convergence. LVV pilot seems also built on this convergence as NGOs and state actors cooperate not only to provide shelters, but also to govern irregularity by directing it towards regularisation or deportation.

<sup>16</sup> <https://www.msn.com/nl-nl/nieuws/binnenland/femke-halsema-opent-jacht-op-krakers-na-problemen-met-we-are-here/ar-BBY5Bzs> (https://www.msn.com/nl-nl/nieuws/binnenland/femke-halsema-opent-jacht-op-krakers-na-problemen-met-we-are-here/ar-BBY5Bzs)



See also the agenda of the municipality gathering

<https://amsterdam.raadsinformatie.nl/vergadering/673654/Raadscommissie%20Algemene%20Zaken%2030-01-2020>  
(<https://amsterdam.raadsinformatie.nl/vergadering/673654/Raadscommissie%20Algemene%20Zaken%2030-01-2020>).

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