

Policy Brief
July 2020

Towards realising health rights of undocumented people in the Netherlands

Lessons from participatory research in the time of COVID-19

Page **1** of **7**

Introduction

- Why do so many undocumented¹ people fail to exercise their legal rights to medically necessary healthcare? A 2012 estimate by the Dutch Médecins du Monde found that nearly a third did not receive the “medically necessary” healthcare they were legally entitled to under Dutch law.²
- A recently published article based on two years of participatory research provided some insights into why some undocumented people do not access healthcare, focusing on The Hague and Rotterdam. What we found was that undocumented people face various informal barriers, and often choose to self-exclude by not seeking healthcare at all.
- We share our insights with you below, and then try to pull out some possible lessons in the current context of COVID-19.

Keywords

Undocumented people – migrants – asylum seekers – refugees –
healthcare – health rights – the Netherlands - COVID19

Research at a glance

Objectives

- Develop an overview of basic health needs of undocumented people
- Understand health-seeking behaviour of undocumented people
- Identify main obstacles in obtaining good quality healthcare
- Identify some good practices in health governance

Participatory research method

Around 10 undocumented or formerly undocumented people were trained as PEER³ researchers. They helped elaborate research questions, analyse findings and formulate this brief. Together, they interviewed 60 undocumented women and men in The Hague and Rotterdam.

Findings

Health rights for undocumented people

Undocumented people have the legal right to access 'medically necessary' healthcare in the Netherlands. Through the Dutch Health Insurance Act, healthcare providers can be refunded up to 80 per cent of costs

incurred in treating 'uninsurable' (i.e. undocumented) patients, if these patients have been billed and are unable to pay.⁴

Health rights failure despite high vulnerability to illness

- **Increased vulnerability to illness** | Undocumented migrant women, men and children suffer ill-health disproportionately. Among those whose asylum claims were denied, psychological and psychosomatic problems are particularly common and are rarely treated. This finding is in line with a 2006 Dutch Public Health Status and Forecasts Report.
- **Health rights fall short of being realized** | Undocumented people are sometimes not aware that they have the right to 'medically necessary' treatment. Others avoid seeking healthcare (self-exclusion). Undocumented patients are sometimes wrongly denied access and can face discrimination.

Obstacles to securing healthcare

- **Unawareness of rights or not feeling entitled |**

Undocumented people are sometimes unaware of their legal right to healthcare. Their marginal situation means they may feel they have 'no right to have rights'. This makes undocumented people less likely to exercise their legal entitlements to medical treatment than legal residents, despite having more severe health problems.

- **Fear of the authorities |** Fear accounts for why many undocumented people decide to avoid healthcare providers. A common fear is that due to the Linking Act (see below), their details will be shared with aliens police. They fear they could be arrested, detained and deported because of going to hospital or the doctor. This fear can be worsened by a lack of support networks. Self-exclusion and self-medication are quite common.

- **Inability to pay |** Undocumented people find it almost impossible to meet basic living costs, even without medical costs. Undocumented migrant workers fear being billed for medical operations. They are often unaware that they can refuse to pay the bill. Many work in unsafe conditions. They may not report work-related injuries or illness at all. They fear losing their work, or getting their employer in trouble.

- **Attitudes and knowledge of medical healthcare providers |**

A factor mentioned in explaining reluctance to seek medical attention, was previous experience with healthcare providers, who were seen as lacking care and compassion. One example was insisting on ID or health insurance at reception, when undocumented people could present neither. Language barriers and cultural miscommunication were also factors. Some interviewees felt they encountered prejudice and racist attitudes. These experiences put them off.

More worrying, some healthcare providers reportedly did not know that undocumented people are entitled to medical treatment under the law. This key finding was also noted by a [2013 National Ombudsman report](#). In Rotterdam, an informal scheme provided a 'health passport', that undocumented city residents could present. This seemed to help facilitate access. In each city, a few healthcare providers were known as more 'caring' and 'open' to treating undocumented people. They often ended up with a very heavy patient load.

“ She is still in doubt to go to the doctor because she’s 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 health insurance and the check-up here is also expensive. [...] even if she is really in pain, she just deals with it [...] ”

A PEER researcher describes experience of an undocumented person suffering from a painful Urinary Tract Infection

Implications of findings in the context of the COVID-19 crisis

- **Lost or reduced income** | Due to COVID-19 many undocumented migrants lost their informal jobs and subsequently their income. As a result, these migrants are even less able to pay for medical costs in the current health crisis.
- **No health care** | Already prior to the pandemic, this group was deprived of their basic health rights, in some cases opting to self-medicate. This lack of access to health rights is even more critical in the current context of the COVID-19 pandemic and public health crisis.
- **Reporting illness** | The failure of the Dutch health system to build trust with undocumented patients means that those undocumented people who suspect they have COVID-19 are unlikely to report this to GPs or go to the hospital.
- **Measures** | This raises questions around the effectiveness of public health measures in cities like The Hague or Rotterdam, where rates of infection are highest because of the close proximity of people, especially in workplaces. Public health measures need to include everyone if they are to work effectively.

“ When the Dutch government imposed a lockdown in March, some of my employers told me not to come until the situation would be back to normal. [...] I could not go out because there was no reason to [also there was] news of verbal and physical attacks on ... especially those Chinese-looking...police were very visible on the streets to monitor the practice of social distancing. ”

J., undocumented domestic worker, The Hague, the Netherlands, for almost 30 years

Policy recommendations

Short-term



Create safe meetings for dialogue | We believe municipalities have a special duty to respond to these concerns of undocumented people, especially in the time of COVID-19. This can be realized by talking with them and their organisations, on-line, or in other ‘safe spaces’, where they can voice their real and urgent concerns. In this way, together solutions can be found for the time of COVID-19 and the resulting economic crisis. These safe meetings and dialogue can help improve management of this public health crisis at national level, and must not endanger undocumented people by revealing their identity.



Translate information | Public information about health rights needs to be widely disseminated and translated into many different languages. This helps undocumented people reduce their – and others’ – health risks. The Dutch branch of Médecins du Monde has much relevant material on their website, including [information folders](#) and [short videos](#) in multiple languages. At the very least, information folders – digital and on paper – should be widely available, to reassure people about what to do if they have symptoms of COVID-19 virus. Video clips in different languages, should show that if they contact healthcare providers, they will be safe and will be treated respectfully. This information should be disseminated through social media by the municipalities, and funded by central government.



Invest in health monitoring | Trusted social networks were found to be a vital antidote to fear of the authorities, which prevents some undocumented people from accessing healthcare (see example below). Health mentoring is more important than ever during the COVID-19 crisis. To enable this, support is critical for trusted medical NGOs that help undocumented people (such as *Dokters van de Wereld*, Netherlands Red Cross) as well as trusted self-organized migrant organizations (such as Migrante, PRIME and ROS). **Core funding for smaller support organisations is especially critical** in The Hague and Rotterdam, since this enables these organizations are trusted by a fearful community and can convey their concerns to the public and health authorities. ‘Virtual mentoring’ on-line is needed during the COVID-19 pandemic, as medical appointments are often on-line via internet and smartphones.

“ Actually, J. [from Migrante] said to me that you don’t have to be afraid, you can go to the centre [...]. Even though you are undocumented you are entitled to go to the hospital if you are ill. ”

Long-term



CAK card and other tools | 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. He also proposed to establish a hotline for all questions around effective access to healthcare for undocumented people. This should now be done in all Dutch cities.



Training of healthcare staff | One way to address attitudes and lack of knowledge among healthcare providers and medical practitioners, especially GPs and reception staff, is through training and awareness-raising about undocumented people’s rights. The Johannes Wier Foundation for example created a readily accessible and accredited [e-learning module on healthcare for undocumented people](#).



Remove the Linking Act ('Koppelingswet') - end detention and deportation | We believe undocumented people should not be subject to criminalisation, and deprived of all basic rights to work, to social protection and even to justice (e.g. by being able to report a crime). Many undocumented people cannot leave. They are forced to live in poor housing, and often in permanent 'lockdown'. They live afraid to be caught for a minor offence by police, detained and deported.

Yet as migrant workers, undocumented people keep our cities going. They play a vital role in the care economy as domestic workers, in agriculture and food processing, and in construction. They deserve regularisation, and to be able to work legally. Only when the threats posed by detention and deportation are lifted, will they make use of health facilities, improving their own and public health alike. The recent regularisation of undocumented migrants in Portugal and Italy in the context of the Covid-19 crisis shows that such moves can benefit undocumented people, public health and as well as the economy.

In addition, undocumented people need income to self-isolate. They need to be able to avoid working when they suspect they are affected by the disease. Some have lost all sources of income and are struggling to survive, increasing risks to themselves and others if they feel or are forced back into unsafe working conditions. Regularization addresses these risks, but also acknowledges irregular migrants' potential economic and social contributions.

“ R: [...] It was at my work, we got poisoned three times. First by the gas for heating, smoke came out. And everyone suddenly 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. ”

Endnotes

- 1 The term undocumented people is used to refer to migrants who entered the Netherlands irregularly, were denied asylum or entered legally but overstayed.
- 2 The Netherlands ratified multiple international treaties guaranteeing the basic right of all persons to health and is legally bound by their provisions. This includes the International Covenant on Economic, Social, and Cultural Rights (ICESR) which establishes "the right to the highest attainable standard of physical and mental health". Due to ratification of the ICESR, healthcare services should be accessible to everyone within the state's jurisdiction, without discrimination on any grounds. Special protection applies to undocumented migrant women and children on the basis of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which contain provisions granting all women and children a right to health, without regard to legal status. In terms of regional instruments, the EU Charter of Fundamental Rights recognizes the right to preventive and medical services for "everyone".
- 3 PEER – Participatory Ethnographic Evaluation and Research. The original PEER trainer was Joanne Hemmings of Options (London), an NGO. We are grateful to Joanne for her input. We also thank the PEER researchers, in The Hague and Rotterdam. They conducted all interviews and helped analyze the findings. .
- 4 The fund is administered by the Centraal Administratie Kantoor (CAK) and covers up to 80% of total costs. However, there is no agency responsible for monitoring the implementation of this legal provision. Undocumented migrants are excluded from buying health insurance due to the 1998 'Linking Act' which made the right to social security dependent on the proof of legal residence.

More information

This brief is predominantly based on Hintjens, H.M., Siegmann, K.A, & Staring, R. (2020). [Seeking health below the radar: Undocumented People's access to healthcare in two Dutch cities](#). *Social Science & Medicine*, 248. doi:10.1016/j.socscimed.2020.112822

The International Institute of Social Studies recently initiated a new project. Entitled "Documenting the Undocumented: Coping Creatively with COVID" (DUCCC), the project engages directly with undocumented people's experiences of the COVID-19 lockdown period, the difficulties they have faced and solutions they have found, individually and together with others.

About the authors

Dr. Helen Hintjens is Assistant Professor in Development and Social Justice at the International Institute of Social Studies (hintjens@iss.nl)

Dr. Karin Astrid Siegmann is Senior Lecturer in Labour and Gender Economics at the International Institute of Social Studies (siegmann@iss.nl)

Prof. Richard Staring is Professor in Empirical Criminology at the Erasmus School of Law (staring@law.eur.nl)

Acknowledgement

The research was conducted as part of the project "Count Us In: Towards Realizing Health Rights Among Undocumented People in Two Dutch Global Cities". This pilot project was funded by the Rotterdam Global Health Initiative. We would like to thank them for their support, and their belief in this 'glocal' (global in the local) project.



RGHI Rotterdam Global Health Initiative

International Institute of Social Studies

Kortenaerkade 12
2518 AX The Hague
The Netherlands

www.iss.nl
+31 (0)70 426 0460

