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# No More Bed, Bath and Bread? The Netherlands' Discontinuation of Unconditional Support for Asylum Seekers

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# No More Bed, Bath and Bread?

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## The Netherlands' Discontinuation of Unconditional Support for Asylum Seekers

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April 4, 2016

Capstone: Policy Analysis

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## Table of Contents

I.	Executive Summary.....	Page 1
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### **PART 1: The Netherlands' New Refugee Policy**

I.	The Problem.....	Page 1-2
II.	Causes of the Problem.....	Page 3-5
	a. Refugee Crisis.....	Page 3
	b. Anti-Immigration Political Stronghold.....	Page 3
	c. Parliamentary Crisis.....	Page 4
	d. Schengen Agreement.....	Page 4-5
III.	Asylum Process.....	Page 5-8
IV.	Scope and Magnitude of the Problem.....	Page 8-13
	a. Municipalities.....	Page 9
	b. Protests and Noncompliance.....	Page 9-10
	c. Humanitarian Law.....	Page 10-11
	d. Homelessness.....	Page 11-13

### **PART 2: Evaluation Criteria**

I.	Goals of the Policy.....	Page 13-14
II.	Outcomes.....	Page 14-15
III.	Quantifying Illegal Stay.....	Page 15-17
IV.	Assessing Alternatives.....	Page 17-18

### **PART 3: Alternative Policies and Their Assessment**

I.	Return Expansion.....	Page 18-19
II.	Cost Contribution.....	Page 19-20
III.	Criminalization of Assistance.....	Page 20-21
IV.	Transfer to Detention Centers.....	Page 22-23
V.	Do Nothing Scenario.....	Page 23

**PART 4: Display and Distinguishing of Alternatives**

I. Alternatives Table.....Page 24

**PART 5: Policy Evaluation**

I. The Alternative.....Page 25  
II. References.....Page 26-29

## Executive Summary

The refugee crisis in the European Union has acted as a test for the domestic policies of its member states. This is especially true for the Netherlands. Expecting a large influx of refugees, the Netherlands reevaluated its refugee policies. Consequently, the government decided to close down regional asylum shelters, and discontinue what was informally recognized as the bed-bath-bread regulation. The new refugee policy taking its place would create reception centers for asylum applicants and failed asylum seekers working on a process for voluntary return. The new policy would force any failed asylum seeker thought to be in noncompliance with voluntary return measures and any unregistered migrants, to the streets. This protocol makes these individuals homeless, and creates a variety of negative effects and costs for the state. Also, it fails to implement any mechanism that actually ensures return. This paper analyzes the new refugee policy, and highlights both desirable and undesirable outcomes. It then provides alternatives, and discusses the costs and benefits of each. A recommendation is then provided. The reopening of the shelters along with a failed asylum seeker contribution plan is recommended as it provides the least amount of costs for the state, and allows for monitoring of these individuals along with accessibility to government support.

## **1) The Netherlands' New Refugee Policy**

### The Problem

On April 22, 2015, the Prime Minister Mark Rutte and the Deputy Prime Minister Asscher announced the plan to close all bed, bath, and bread shelters, ending what was known as the “bed-bath-bread regulation” (NOS 2015). Under the premise of the new refugee policy, the government would replace the thirty regional shelters with six reception centers, and would require asylum seekers who are denied refugee status to comply with voluntary return measures. The previous policy allowed individuals to stay indefinitely at the shelters irrespective of their application status (Bahceli 2015). The new policy places these individuals who are not going through the application or a voluntary return policy, on the street. Specifically, the new policy gives failed asylum seekers twenty-eight days to prepare for return to country of origin after receiving notification that their application has been denied. If an asylum seeker fails to leave within this time, then he must prove to the Immigration and Naturalisation Service (IND) that

failure to leave was at no fault of his own, in which case, his stay in the asylum center can be extended. If the asylum seeker does attempt to go through this secondary process after twenty-eight days or cannot prove that failure to return was of no fault of his own, then he is evicted from the asylum center (Government of the Netherlands 2016). The new policy also requires asylum seekers to have proper documentation, with inadequate proof of origin resulting in a denied application, and the cut off of support and shelter (Bahceli 2015).

The problem with this new refugee policy is in its failure to implement a mechanism that actually ensures voluntary return. Instead, it ensures an increase in issues associated with homelessness and individuals living on the street. Failed asylum seekers who are unable to leave but can prove they are attempting to comply with voluntary return procedures, are able to stay indefinitely in the centers as they work the system, while those who refuse to return or are unable to do so due to lack of appropriate documentation and issues with their country of origin, are simply forced out of the centers to live on the street. Undocumented migrants are also left out of this new policy and will be forced to live on the street as they are denied access to the centers, whereas the previous policy and its bed-bath-bread shelters were open to anyone claiming to be an asylum seeker or refugee (Bahceli 2015).

### Causes of the Problem

This section addresses the context and situations that led to the creation of the problem, and provides the background information needed to understand the extent to which the problem actually exists.

### ***Refugee Crisis***

The enduring conflict in Syria and the refugee crisis that has emerged from its chaos and destruction has acted as a catalyst for the reevaluation of the international community's humanitarian policies. This is largely due to the fact that a mass influx of asylum seekers has poured into the European Union for protection. Consequently, each member state has met collectively with other members in order to discuss a way of dealing with the amount of fleeing individuals. A concrete plan has yet to be developed. Instead, each state has reviewed their own domestic policies to evaluate their efficiency in maintaining the international norms and their system of governance capacity to enforce them. During these evaluations, policies have been

adapted or changed to meet the current global environment. In this light, the refugee crisis in itself, can be considered less of a problem relating to a large influx of individuals flooding European borders, but rather a “crisis of policy” as depicted by Don Flynn, director of Migrant’s Rights Network, in which joint and domestic policy is tested and purified by the strains put on them during this period of vast migration (Flynn 2016).

The announcement of the new refugee policy in the Netherlands was made after a review of its own domestic policies, in order to meet the challenges of the ongoing refugee crisis. The government knew that the capacity of the state to accommodate incoming asylum seekers would be strained, and therefore, sought to remove failed asylum seekers’ access to resources to free up costs and accommodation for future applicants (NOS 2015). The IND had received a total of 24,535 asylum applications in 2014. This number was expected to double, and the government received 34,958 by September 2015. The rejection rate of asylum seeker applications for this first half of 2015 was at 30 percent (Dutch Council for Refugees 2015). Further information on asylum applications per year can be found in the IND’s monthly Asylum Trends reports.

### ***Anti-Immigration Political Stronghold***

The majority of newspapers covering the policy change affecting failed asylum seekers, describes the political deliberation as a strong arming of lesser parties by a powerful anti-immigration coalition party. Anti-immigration parties are described as increasing in popularity, and thus, forcing its motives and ideals on the smaller member parties. Geert Wilders, head of the Freedom Party (PVV) is a far-right politician whose popularity has increased due to his anti-immigration policies (Expatica 2015). Wilders party became the Netherlands’ second largest party during elections in 2009 (Entzinger 2010, 231). After winning the majority of votes in 2012, the Liberal Party (VVD) has expressed that the refugee crisis and anti-immigration discourse would make the Freedom Party (PVV) more popular in the coming elections (Hauwermeiren 2015). The increase in political power of this anti-immigration party explains where the new policy for refugees is coming from as it is an effect of anti-immigration ideas.

### ***Parliamentary Crisis***

While the refugee crisis has increased the popularity of some political parties in the Netherlands, it has also increased political conflict. Prior to proposing to parliament the policy

to close down the bed-bath-bread shelters and replacing them with asylum centers, members within several of the parties and the heads of leading parties were in complete disagreement as to what responsibility the state had in providing for failed asylum seekers and the effectiveness of the proposed policy to motivate voluntary return. There were doubts that the policy would be accepted by the parliament, let alone by asylum seekers and municipalities. The Deputy Prime Minister Asscher stated that the policy was “above all a political deal primarily intended to avert a government crisis”, referring to the possibility of a breakup of coalition parties if they remained unable to come to an agreement (Wiegel 2015).

Prime Minister Mark Rutte, who competes against Geert Wilders for votes, and his Liberal party, the People’s Party for Freedom and Democracy (VVD) struggled to persuade their coalition Labour Party (PvdA) to support the policy. Rutte was a strong supporter of the policy change, stating that providing resources to failed asylum seekers who could return to their country of origin would be “crazy” (Bahceli 2015). However, the solution supported by Rutte is again, similar to previous policies that were criticized due to a lack of provision of basic needs for both applicants and failed asylum seekers. These past policies were also deemed inefficient for improving voluntary return. This along with the fact that the proposed policy almost created a government crisis provides no reassurance that the new refugee policy will actually work. Furthermore, the new policy seems to have been created as a solution to a parliamentary conflict versus a well thought out plan for dealing with the influx of refugees (Wiegel 2015).

***The Schengen Agreement: Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 Establishing a Community Code on the Rules Governing the Movement of Persons Across Borders***

Regulation No. 562/2006 establishes the protocols that open the borders of member states, otherwise recognized as the Schengen Borders Code. While it provides measures for checkpoints and security along the exterior border of the Schengen area, the regulation “provides for the absence of border control of persons crossing the internal borders between the Member States of the European Union” (2006/562/EC, 3). It is important to note though, that neither the United Kingdom nor Ireland take part in this agreement, although both are members of the EU.

What is significant about this international law is the challenge it poses member states during the present refugee crisis. It allows refugees to flood certain member states once they

have entered the Schengen border. Member states have threatened to close their own borders or form a smaller Schengen agreement radius that bonds states more capable of keeping all migrants outside its borders, and not allowing them entrance without going through the appropriate immigration channels. The Netherlands has been one of these states proposing a temporary reduced Schengen border which would exclude southern states such as Greece in order to bolster its own security and better control the number of incoming asylum seekers. It would also allow more capable states to protect citizens from threats such as Daesh who have claimed to be infiltrating states with asylum seekers (Ottens 2015).

Despite some states' own increase of border security and security checkpoints, the Schengen agreement has continued to hold, allowing some asylum seekers to relocate to a member state of preference after they have already registered in another state, a process which complicates measures established by the Dublin Regulation. According to the Dublin Regulation, it is the state of registration that holds and maintains the obligation to process an individual's asylum application and thereby grant residency. As a result, member states have complained that the current Schengen agreement does not ensure asylum applicants stay in one state, and again, allows them to flock and encumber preferred EU states (Bond 2016). Because of the open borders, the same can be said in regards to failed asylum seekers. Once an application has been denied and the conditions in a state are found to be undesirable for a failed asylum seeker, there are no internal border security protocols that prevent an individual from traveling to a state where failed asylum seekers are better accommodated. This can cause flooding in a state similar to the refugee crisis, but this time because of more lenient asylum policies which result in an uneven distribution of asylum seekers in the European Union. The understanding of the complications of the Schengen Agreement as it is related to the refugee crisis, continually contributes to the production of tough immigration policies produced by the Netherlands (Ottens 2015).

### Asylum Process

Now that the causes of the problem have been addressed, it is important to understand the asylum application process and the extent to which the asylum procedure has changed. This will allow for a better understanding of the effects and extent of the problem. The asylum seeking process begins with individual's registration with the Aliens Police at the Central Reception

Facility in Ter Apel or at the Schiphol airport with the Royal Netherlands Marechaussee. Registration at Ter Apel can take up to two days, but after this a “rest and preparation period” is granted in which the Dutch Council for Refugees (VWN) will provide information and legal/medical assistance over a period of no less than six days (IND 2016). The applicant is instructed to stay in a “reception location” near one of the Immigration and Naturalisation Service offices where the application will be submitted (IND 2016). Individuals at the Schiphol reception center do not receive accommodation at a reception location for the duration of the rest and preparation timeframe. Instead, they remain at the Schiphol reception center where they will have access to legal/medical assistance within a few days of their stay. The application process at the Schiphol center is slightly expedited for the many asylum seekers who arrive by plane, and the application for asylum is submitted there (IND 2016).

All applicants then go through an interviewing process. If the application requires an extended amount of time for review, the applicant is moved to a different reception center, and the final decision will be made within a six month period. This process may also be extended for an additional six months. Once an applicant is determined to be a refugee and granted asylum, they are given a “temporary residence permit” that lasts for five years; after the five years, the applicant can apply for a “permanent residence permit” if he qualifies (IND 2016).

The permanent residence permit may be denied if it is determined that the applicant no longer fulfills the characteristics of a refugee which can occur when a conflict subsides. The government produces a “safe list” in which applicants from regions that have been determined safe are required to return upon the denying of their application. However, there is a chance that countries on this list will revert back to an unsafe condition, in which time they may be taken off the list (Government of the Netherlands 2016). An example of this process is seen in the extension of asylum for Iraqis; denied applications were recently suspended due to the threat of Daesh in the region (Dutch Council for Refugees 2016).

Individual asylum seekers can gain the initial temporary residence permit by meeting one of the Immigration and Naturalisation Service’s qualifications. These qualifications are in place to determine the applicant as a refugee and therefore, eligibility for asylum. When he meets the qualifications he is considered to have a refugee status and given asylum along with the temporary residence permit. An applicant may qualify for asylum if he fits the characteristics of a refugee as determined by Article 1A of the Geneva Convention: “fear of being persecuted for

reasons of race, religion, nationality, membership of a particular social group or political opinion...” (Dutch Council for Refugees 2016). If the applicant does not meet these characteristics, he may qualify under the conditions of subsidiary protection as described in Article 3 of the European Convention on Human Rights and Article 15 (c) of the Qualification Directive (2011/95/EU) which further defines situations, such as the threat of serious harm, in which a member state should not return an applicant to his country of origin (Dutch Council for Refugees 2016).

A third condition in which asylum seekers can gain a temporary residence permit is extended to family members of those who have already been granted asylum in the Netherlands. A temporary residence permit can be granted if the individual had arrived with a said family member or within three months of a family member’s granted asylum application date. This is part of a family reunification process, and the Immigration and Naturalisation Service does not indicate what family bond is required when submitting an application (IND 2016).

Altogether, requests for asylum and refugee residency permits can be denied if the applicant had resided in or previously applied in another European Union state, if an application for asylum in the Netherlands had been previously denied and no “new relevant facts” for acceptance are available, if the applicant poses a “risk to public order and national security, or if the applicant submits information that is incorrect (IND 2016).

When an asylum application is rejected, the Immigration and Naturalisation Service provides a given date that is twenty- eight days from the day it was denied. An asylum seeker must leave the Netherlands before this date. The denied applicant continues to receive financial support from the Central Agency for the Reception of Asylum Seekers (COA) during this period of twenty-eight days (Government of the Netherlands 2016). If the applicant is in a situation where he cannot leave of his own accord due to lack of funds or improper travel documents, he is told to contact the International Organisation for Migration (IOM) for assistance and financial aid. Otherwise, the denied applicant can face deportation (IND 2016). The denied applicant may also be forced to pay a deposit or be placed in a detention center if he is found to be somehow evading the process of return. If return travel cannot be secured due to a missing document, the Repatriation and Departure Service can “mediate” for the individual at their respective embassy or consulate (Government of the Netherlands 2016). Any denied applicant can submit an appeal to the Aliens Chamber within a week of the decision; stay in the Netherlands is only permitted if

a preliminary ruling by the court is requested. Denied extended stay applicants have four weeks to submit an appeal and are permitted to stay in the Netherlands. A denied applicant may again apply for a residence permit if he can prove that he has exhausted all available resources and is unable to leave the Netherlands “through no fault or action of your own” (IND 2016).

If the applicant has not submitted an appeal after his application has been denied during any of the previously mentioned processes, he is completely cut off from government support at the end of the designated date of departure. It is also at this point that he loses access to the reception centers. This cut off of support and access to shelter is the change found in the new refugee policy (Withnall 2015). Previously, the government allowed asylum seekers, despite the condition of their status, to have access to the regional bed-bath-bread shelters. Under the new policy, these shelters are closed and failed asylum seekers who cannot or will not return to their country of origin are forced to live illegally without government accommodation (Waldron and Ali 2015). A supplementary condition of the policy ensures that migrants in general do not have access to shelters and basic provisions that was found in the bed-bath-bread regulation. The new policy requires all migrants to register, be documented, and go through the residency application process if they want to gain access to government support and accommodation. If an undocumented migrant avoids registration and the proper application process, he can be detained and eventually deported along with failed asylum seekers who do not cooperate with voluntary return (Withnall 2015).

### Scope and Magnitude of the Problem

This section identifies and addresses the effects of the new policy, and the extent to which it creates a problem for the state. In all, the new refugee policy poses serious ramifications for the state. Municipalities are in disagreement with the policy, and some have refused to enforce it. The resistance of the policy could incite protests and national disorder. The European Commission and the United Nations have criticized the new policy, claiming that it goes against humanitarian law. The policy essentially places both failed asylum seekers and undocumented migrants on the street after the government asylum process fails to return them to their country of origin. Placing these individuals on the street does not meet the goal of voluntary return. Instead, it makes individuals homeless, and an increase of homelessness incurs several differing costs upon the state.

### ***Municipalities***

Complications with the new refugee policy change are evident in its rejection by the Netherlands' own municipalities. Not wanting failed asylum seekers "living" on their streets, they continue to provide them with food and shelter (The Economist 2015). While cities relied on national funding for the regional shelters and asylum seeker provisions, some mayors have refused to comply with the closing of the facilities, stating that they will look for alternative funds in order to keep facilities open (Bahceli 2015). In refusing to enforce the policy, cities undermine the effectiveness of the policy in its goal of incentivizing self-return. This situation is similar to the undermining of asylum policy that occurred in 2001, when Utrecht first proposed its own "'bread, bed, and bath' plan" to provide for denied asylum seekers despite the Netherlands initiative to drive them out of the country within twenty-eight days of their application's rejection (Lovett and Schimmer 2001). Municipal undermining of state policy threatens government legitimacy, and the process as a whole is a repetition of past events which had resulted in the state's increased responsibility in caring for failed asylum seekers found in the bed-bath-bread regulation. Therefore, the current policy change is part of a cycle in which the state is most likely going to have to reestablish means for caring for failed asylum seekers in the future.

### ***Protests and Noncompliance***

Because the current refugee policy changes reflect the conditions set by previous ineffective asylum policies, enforcement of this policy may result in a reoccurrence of problems that require government and international organization intervention. Furthermore, the evicting of failed asylum seekers and the decrease of available shelter may result in protests, and consequently increased police confrontations, mirroring events that occurred in the Netherlands in 2012. During that time, the Dutch government had created temporary structures of accommodation for Iraqi asylum seekers. Residence was not granted to several of these asylum seekers because of the changing conditions in Iraq. It was determined that the state was safe enough for individuals' to return. Again, failed asylum seekers were expected to leave either voluntarily or forcibly after receiving notice of their applications. Despite Iraq being declared a safe state, the Iraqi government refused to accept asylum seekers who had left during the war and

now were being forced to return. This made it impossible for some of the asylum seekers to return, making them reliant on Dutch services and accommodations (Kamphuis 2014).

When the asylum seekers were notified of their denied residency permits and that they would have to leave their accommodations, the failed asylum seekers held a series of protests throughout the Netherlands. The failed asylum seekers refused to comply with the Immigration Services. As a result, the Dutch police had to forcibly evict asylum seekers, and close down shelters. Non-government organizations, such as Vluchtkerk, then began to care for these populations and complain about the conditions that state policy placed on failed asylum seekers which lead to the European Committee of Social Rights' 2013 ruling, the Netherlands must provide for the basic needs of all individuals within its borders (Kamphuis 2014). Once again, the new policy change is not necessarily a new policy, making it likely for a reoccurrence of past events. While the possibility of protests and costs associated with increased use of the police force remain, issues relating to humanitarian law have already been identified.

### ***Humanitarian Law***

The new refugee policy would seem a reasonable solution for motivating denied asylum seekers to voluntarily return, but instead, it has been received with heavy criticism, and implicates Netherlands' parliament of non-compliance to humanitarian law. Prior to the new policy's announcement, the Netherlands had been struggling against allegations of inhumane practices relating to undocumented migrants and asylum seekers within its borders. As previously mentioned, the European Committee of Social Rights ruled that the Netherlands needed to care for all individuals within its borders in 2013. In the fall of 2014, the Netherlands was told by the Council of Europe that there is a legal responsibility to "ensure failed asylum seekers" and other individuals living in the state, have the necessities for living such as food, shelter, and clothing; following this, the United Nations sent the government an Urgent Appeal Letter reminding the state of this responsibility in the coming winter months (Dutch News.nl 2014).

On the 16<sup>th</sup> of April 2015, the Committee of Ministers of the Council of Europe made follow up resolutions concerning complaints lodged by the European Federation of National Organisations working with the Homeless and the Conference of European Churches. These complaints were regarding the government of the Netherlands' responsibility towards asylum

seekers in providing food and shelter to “undocumented and homeless migrants” in accordance to the European Social Charter. In the resolutions CM/ResChS(2015)4 and CM/ResChS(2015)5, the Committee unanimously found the Netherlands in violation of Article 31 p.2 (right to housing), Article 13 p.1 and 4 (right to social and medical assistance, Article 19 p.4(c) (right of migrant workers and their families to protection and assistance), and Article 30 (right to protection against poverty and social exclusion) (Glakoumopoulos 2015).

Since the announcement of the change of the new policy, negative critiques continue to question the suitability of the reception center protocols. In August of 2015, a UN report from the Committee on the Elimination of Racial Discrimination negatively reviewed the changes, stating that provisions must be made for maintaining minimal living standards (Deutsch 2015). These considerations alone make it necessary for the Netherlands’ government to carefully consider further initiatives in promoting self-expulsion, knowing that international pressures are liable to make further accusations against the state. However, the Committee’s resolutions are not “legally binding”, and therefore, do not maintain as much authority over domestic practices as international and regional treaties such as those in the European Convention on Human Rights (Sierra, Guettache, and Kovtun 2014, 5). During a case regarding an Iranian migrant’s right to housing, The Netherlands’ State Council ruled that the “European Convention on Human Rights does not oblige the government to unconditionally provide a roof to unsuccessful asylum seekers”, legitimizing the government’s new refugee policy, and allowing for its implementation while ignoring international criticism of its stance towards failed refugees (Expatica 2015). Despite the domestic ruling, the Netherlands must be prepared for continued criticism of the new policy and the plausibility of future rulings and declarations made by the international and regional bodies which may implicate the Netherlands of non-compliance to humanitarian law. In the occurrence of such circumstances, the Netherlands may be required to again change its domestic refugee policy or pay compensation to those made homeless by the policy.

### *Homelessness*

The closing down of the bed-bath-bread shelters and the eviction of failed asylum seekers to the street will have various social and economic ramifications as the process makes these individuals homeless. Homelessness impacts every state and society differently. This and a

general underreporting of failed asylum seekers by homeless services makes it difficult to examine the extent to which failed asylum seekers living on the street would impact the Dutch kingdom. Also, some organizations are reluctant because of their service mandate, to report immigrants residing in the country illegally to Dutch authorities (Pleace 2010, 149-150). Yet, analysis has been conducted outlining the general impact of homelessness in the European Union, which allows one to recognize that there is an increase in costs associated with the increase of individuals living on the street.

The European Federation of National Organisations working with the Homeless (FEANTSA), a non-government organization, outlined possible financial costs of an increase in homelessness in their 2013 report on “The Costs of Homelessness in Europe”. In the report the European Observatory on Homelessness (EOH) highlighted a cost increase in several services that are directly related to supporting homeless individuals. The first cost increase associated with homelessness is found in the provision of services for the homeless, as money would have to be allocated to an increase in “specialist, specific services that are targeted on preventing, reducing or mitigating the effects of homelessness” (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 11). Various organizations that work towards poverty reduction and issues relating to homelessness would find themselves increasingly taxed for resources as failed asylum seekers would flock to these services. The organizations would then have to petition for an increase in financial support from government and other funding institutions to ensure they can continue to provide for these homeless individuals.

The second noticeable increase in costs would include an increase in financial strain within the health and social sector. Homeless individuals, especially failed asylum seekers unaccustomed to the weather conditions of the Netherlands, may be more susceptible to illnesses while living on the street. There is a possibility that the harsh conditions that homeless individuals endure may prompt them to use “emergency medical and psychiatric services” more than the general public (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 11). This increase in use of medical facilities would require more state investment as medical resources are spent treating the homeless.

The third cost increase involves the judicial system. There would be an increase in costs for the criminal justice system as homeless individuals have more contact with enforcement officers due to legality issues of squatting and other street living practices. Some common issues

that cause homeless individuals to fall into the criminal justice system involve the public use of alcohol and unconventional drugs which can make them violent and aggressive towards others (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 11).

Homeless individuals also influence economic productivity, which is especially true for failed migrants. Because these individuals often lack access to legitimate work, the government and society loses the opportunity to capitalize on these individuals. When asylum seekers are granted a work permit, the government is able to tax these individuals' income, allowing the state economy to fully profit from their labor and work contributions. Failed asylum seekers have no access to legitimate work because they are not granted a working permit that is associated with their residency application. Therefore, these individuals have to resort to illegitimate work for money which may involve criminality, negating any profit for the state, and possibly creating further criminal judiciary costs (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 12). An increase of homeless individuals on the street may also affect tourism, as tourists' preference of destinations may change do to appearances of people living in harsh conditions or crowding streets. Furthermore, homelessness may affect "trade" and "societal cohesion" as their presence on streets and in various neighborhoods reduces the value and perception of wealth of the location (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 12).

Lastly, as determined by the FEANTSA report, homelessness may also have a direct negative impact on the failed asylum seeker as he is forced to live an un-opportunistic life style. Living as a homeless individual can result in "negative long term social, economic and health consequences" for failed asylum seekers, as the conditions to which they are daily exposed to, and the lack of legal working opportunities, increasingly jeopardizes their social and physical health, and prevents them from accumulating wealth (Pleace, Baptista, Benjaminsen, and Busch-Geertsema 2013, 12).

## **2) Evaluation Criteria**

### Goals of the Policy

In its essence, the new refugee policy was created to meet the following three goals: incentivize voluntary return for denied asylum seekers, free-up provisions for incoming asylum

seekers, and avert a government crisis caused by parliamentary party disagreement on how to deal with refugees. As such, these goals were also the desired outcomes, but as seen through the discussion on the effects of the problem, the policy has created immediate and the possibility of several undesirable outcomes. These outcomes are discussed in the following section.

### Outcomes

While the ultimate goals of the refugee policy included the free-up of provisions for incoming asylum seekers, the aversion of a government crisis, and incentivizing voluntary return, the only viewable desirable outcomes noticed in the literature could be the fact that the state reduced costs associated with providing failed asylum seekers indefinite provisions and shelter when they closed down the regional shelters. Another desirable outcome would be the fact that the refugee policy did avert a government crisis when the parties agreed on its measures. The last desirable outcome is that the new policy actually requires all statuses of asylum seekers to comply with state regulations prior to receiving government assistance. What is missing from these desirable outcomes is the incentivizing of voluntary return as there is no information that would demonstrate that the policy is actually efficient in this aspect. Instead, the International Organization for Migration in the Netherlands says that “involuntary and voluntary returns are interlinked and have a mutually reinforcing effect. A number of European states have found that voluntary return has been most successful where involuntary return is also resorted to” (IOM 2004, 7).

Statistics of those who have used the Netherlands’ assisted voluntary return program show that in 2015, 2,941 failed asylum seekers returned which is an increase from 2,269 in 2014 and 2,489 in 2013, but these statistics are significantly lower than those from 2011 when 3,473 used the assisted program (IOM 2015). The asylum requests for 2015 and 2014 were higher than that of 2011 with a total of 45,035 and 24,535 applications. In 2013, there were 13,095 asylum applications and 14,630 in 2011 (StatLine 2016). These statistics indicate that either there is no correlation between asylum applications and voluntary return, or that voluntary return is decreasing despite new initiatives to incentivize the process. These statistics though, are not indicative of how many failed asylum seekers returned without government assistance as there is no monitoring system in place that would allow for such evaluation. So it is possible that there has been an increase of failed asylum seekers leaving of their own accord.

As previously stated, the undesirable outcomes are the negative effects of the new refugee policy. A list of the desirable and undesirable outcomes is easily visible in the following table.

Desirable Outcomes	Undesirable Outcomes
<p><b>Reduction of Government Funded Asylum Shelters</b></p>	<p><b>Municipality Resistance</b></p> <ul style="list-style-type: none"> <li>-undermining of government legitimacy</li> <li>-reduction of the policy's efficiency</li> <li>-future change or reversal of the refugee policy</li> </ul> <p><b>Protests and Noncompliance</b></p> <ul style="list-style-type: none"> <li>-confrontation of failed asylum seekers with government authorities</li> <li>-NGOs step in to care for failed asylum seekers, undermining policy efficiency</li> </ul>
<p><b>Conflict Regarding Refugee Policies within Parliament Subsidized</b></p>	<p><b>Increased Allegations of Humanitarian Law Non-Compliance</b></p> <ul style="list-style-type: none"> <li>-submission of complaints by individuals and organizations to regional and international human rights bodies</li> <li>-International and regional organizations' ruling against the Netherlands' refugee policy</li> <li>-compensation having to be paid by the state</li> <li>-future change or reversal of the refugee policy</li> </ul>
<p><b>Asylum Seekers Have to Register and Comply with Protocols to Receive Government Assistance</b></p>	<p><b>Increased Costs associated with Homelessness</b></p> <ul style="list-style-type: none"> <li>-homelessness services</li> <li>-health and service sector</li> <li>-criminal judicial system</li> <li>-economic productivity</li> </ul>

### Quantifying Illegal Stay

Once again, determining the impact of homelessness is difficult due to under reporting. This is also true of failed asylum seekers and illegal stay migrants in general. Estimations of the total amount of failed asylum seekers remaining in the Netherlands illegally would help indicate to what extent the new refugee policy is needed in incentivizing voluntary return, and also whether it is failing in its initiative of increasing return to countries of origin. Determining the total amount of individuals residing in the Netherlands illegally is a difficult task due to the fact that many remain undocumented, especially failed asylum seekers who do not register to use

available resources for voluntary return or refuse to comply with the return process altogether. Eurostat collected statistics on migrants illegally residing in the Netherlands from 2008 to 2012. The statistics indicate the numbers of illegally residing migrants falling prior to 2012. The highest recorded presence of these migrants being from third world countries was at a high in 2010 at 7,580 and fell to 6,145 in 2011 (Eurostat 2015). These figures can be compared to the total asylum applications that occurred within this period; there was an overall decrease of applications in 2010 from 12,700 to 11,300 in 2011 (IND 2012, 16). The correlation of the statistics of both the number of illegal residencies and total applications may be indicative of a relationship in which the increase of one means an increase of the other. Despite this observation, these figures are hardly indicative of the current amount of undocumented migrants residing in the state now since the asylum seekers have surpassed a record of application submissions, totaling over 53,000. This application record was set during the 1994 conflicts in Yugoslavia (Pieters 2015). Altogether, the IND reported a total of 58,880 applications for the year 2015, and stated that this figure nearly doubled the total of applications from 2014 (IND 2016).

Ultimately, only estimations can be made in regards to the total amount of undocumented or illegal stay migrants within the Netherlands. Humanity in Action estimated that around 5,000 individuals became undocumented post the government's denial of 9,810 asylum applications in 2012. Amnesty International said this denial rate was 56% of all asylum applications (Sierra, Guettache, and Kovtun 2014, 6). A report produced by Vluchtelingenwerk, a Dutch organization that works directly with refugees, estimated that around 5,000 of rejected asylum seekers remained in the Netherlands in 2014 while total applications for asylum were over 24,000 (The Economist 2015). Wereldhuis or Worldhouse, a resource center for migrants, estimates that around 15,000 undocumented reside solely in Amsterdam, having come to the Netherlands by various means such as human trafficking, and for various reasons (wereldhuis 2016). However, upon questioning the organization in regards to this statistic, it appears that its estimation is rather outdated, and also non-indicative of today's totals. Despite this, the statistic was calculated through a process of cross-referencing numbers of illegally residing migrants that were arrested by the police, a process which provides a calculation based off of actual government documentation (Heijden, Gils Cruijff, and Hessen 2006). Other media sources estimate a total of 100,000 undocumented individuals living in the entire state (Expatica 2015).

Another way to try and determine the extent of undocumented or illegal stay migrants in the Netherlands would be to consider rates of return. According to statistics gathered on migrants who entered the Netherlands in 1995, one in three immigrants returned home after six years, and it was noted that asylum seekers were less prone to leave (CBS 2003). Aside from this information, there appears to be no data collected by the Central Bureau of Statistics (CBS) in the Netherlands, regarding the return of asylum seekers or migrants to their country of origin within more recent years.

The United Nations High Commissioner for Refugees (UNHCR) maintains statistical reports on the Netherlands. The agency reported a total of 82,494 refugees living in the Netherlands in June of 2015. The UNHCR determined who qualified as a refugee for the statistics with the descriptions indicated by international law, by the total of individuals who gained some degree of protection, and by determining if an individual was in a refugee like condition within the Netherlands. At the same time, the UNHCR reported a total of 8,097 pending applications, and determined a total of 1,951 stateless people residing within the border. However, as far as the total of returned for the first half of 2015, the UNHCR had no statistical data on how many failed refugees were returned to their country of origin, neither was there any accessible data from previous years for further estimations (UNHCR 2016). Furthermore, the only real viable indication to determine the extent of illegal stay or failed asylum seekers and whether they pose a serious threat to the state of Netherlands would be visible in an increase of crime or public squatting. These indicators were proposed by those in opposition of the policy change, believing the closure of the shelters would force individuals to a life of crime and violence while living on the streets (Darroch 2014). Therefore, future evaluation of the efficiency of failed asylum seeker policies should rely on failed asylum seeker crime reports if they are accessible.

### Assessing Alternatives

In assessing alternatives, it is important to evaluate options while keeping the goals of the current or new policy in mind. By doing this, it will be possible to establish whether an alternative satisfies the goals or objectives established by the government, and increase the likelihood of it being accepted by parliament. The alternatives must also be considered in relation to their costs and benefits, knowing that a policy in which the costs outweigh the total

number of benefits is not likely to be accepted, and that if certain costs are too high, it may prove difficult for the state to implement. A thorough comparison of costs and benefits will be laid out in the fourth section for an easy comparison.

### **3) Alternative Policies and Their Assessment**

This section includes an examination of various ideas and policies concerning failed asylum seekers, and provides suggestions for improvements in consideration to their implementation. A cost benefit analysis is provided for each suggestion, highlighting the difficulties and expenditures associated with each respectively, and how adjustment of ideas to the circumstances in the Netherlands can either improve the current asylum policy or be replaced as a substitutive solution.

#### Return Expansion

The Netherlands can expand the initiative to assist countries in receiving returned refugees. This alternative is part of an initiative that is already being considered in the Netherlands, and its expansion would increase the efficiency of the voluntary return policy as it makes provisions for failed asylum seekers in their country of origin so that they can and will want to return. In April of 2015, the Dutch government put forward a plan to provide funds from the Development and Cooperation budget to assist African nations in building shelter and accommodations for returning refugees. This initiative was proposed to correspond with the closing down of the several asylum centers, and was meant to increase the overall incentives for voluntary return. However, the proposed plan is limited in efficiency as it does not consider failed asylum seekers from other regions. This initiative is limited to a specific region. For a more beneficial application, it should be extended to other countries which have a high rate of asylum seeker applicants in the Netherlands. Such an agreement should be considered for states located in the Middle East that have been declared safe, knowing that the conflicts in this region has likely destroyed homes and displaced millions of individuals (Bilak et al. 2015, 9).

As far as costs, the funds should continue to be exchanged with states for cooperation in accepting failed asylum seekers. It is possible that the funds will actually help initiate cooperation with states where returns were previously not accepted. The cost of the initial project was expected to start at 30 million euros with an increase over time. Part of this budget

was meant for the North African Search and Rescue missions, while the rest was to be allocated to African countries that cooperate in the return of refugees (Pieters 2015). This cost would have to rise significantly as funds would be allocated to other regions, and the Dutch government would have to locate other local or regional organizations to oversee the construction of shelter for returning asylum seekers in these other regions.

In critical examination of this initiative, it is practical in cases where individuals decide to return voluntarily, but it does nothing to address the cases where failed asylum seekers cannot return to country of origin or refuse to return. It is these two groups of asylum seekers that make shutting down several of the asylum centers extremely problematic. Forced returns are often costly as it requires a government to charter a plane and personnel that will assist with the return of an individual. For example, in 2009, it cost Norway between 8,700-9,500 euros per individual for their forcible return while assisted voluntary programs only cost the state 1,300 euros per individual. Sweden's forced return cost an average of 6,500 euros per individual while voluntary return assistance programs cost the state an average 600 euros. The United Kingdom's estimated average of forced return per individual, nearly doubles both countries' statistics as its costs were around 14,500 euros in 2009 to 2010 (Black, Collyer, and Somerville 2011, 5). It is because of these associated high costs, that the Netherlands' government emphasizes voluntary return (Economist 2015). In failing to motivate or provide the conditions in which failed asylum seekers can and will return, forced returns would be the only remaining option outside of granting temporary residency. This contribution in costs would question the efficiency of the voluntary return, and whether the money could be better invested. Altogether, this alternative does not propose any real solution that ensures return. Instead, its benefits are found in its increase of cooperation and relationships with countries of origin, and making it more likely for the country of origin to accept forced returns.

### Cost Contribution

The Dutch government could expand its current policy that requires some asylum seekers to contribute towards the cost of provisions, to include failed asylum seekers in exchange for continued accommodation. This process has already been in practice since 2008 for asylum seekers with high earnings, and it has been enforced by the refugee settlement agency (COA). It

has been reported by the *Dutch News* that the government collected 700,000 Euros from asylum seekers within the past four years (2016).

The initiative to require payment for use of shelters and provisions could take the place of the current policy in which several of the asylum centers have been shut down and failed asylum seekers are given a certain amount of time to comply with voluntary return measures before being evicted to the streets. The policy would allow shelters to stay open as all asylum seekers would continue to reside in them; the only change would be in the requirement that individuals continue to have to pay for the use of facilities and provisions after their application has been denied. Under this policy, the government would still be providing shelter for failed asylum seekers, and eliminate the criticisms that the state is not abiding by humanitarian law. This would also legally mitigate state costs associated with an increase in homelessness that evicting failed asylum seekers would induce. The costs could also create a small incentive for asylum seekers to return as they would realize they would have to pay for temporary lodging until they leave the Netherlands, and allow the government to collect payments from failed asylum seekers.

The current policy relating to the contribution of accommodation costs requires asylum seekers to pay money to the COA if their earnings are over 5,895 Euros. There is a deduction from 11,790 Euros in earnings for an entire family. Also, an asylum seeker must pay 196 Euros a month if he or she earns more than 185 Euros a week (Dutch News.nl 2016). This cost can either be lowered or remain the same for failed asylum seekers, but in order to ensure that failed asylum seekers are able to pay such costs, it may be necessary to provide them with a conditional work visa in which they are allowed to legally work and earn an income. Otherwise, failed asylum seekers may be prompted to work illegally within their own social networks (Siegel 2011). Yet, this alternative again fails to provide a mechanism for return, and as such, fails to ensure voluntary return actually occurs.

### Criminalization of Assistance

One alternative that can be implemented in order to increase the efficiency of the new policy meant to increase voluntary return by the discontinuation of support for non-compliant failed asylum seekers, could be the criminalizing of support for undocumented migrants. The Dutch government could make it illegal to provide shelter and assistance to failed asylum

seekers. According to an interview with Merijn Oudenampsen, a sociologist who worked directly with failed asylum seekers who were evicted from shelters in 2012, a policy regarding the criminalization of support for failed asylum seekers was already proposed by members of Dutch parliament, but it never received enough support. This criminalization policy was supported by the Deputy Justice Minister Red Teevan, the Freedom Party (PVV), and the People's Party for Freedom and Democracy (VVD). Its purpose was to criminalize various organizations that provide aid to failed asylum seekers after they had been evicted from temporary shelters, a process that undermined voluntary return to countries of origin (RNW 2012).

Before the criminalization of support could take effect, the policy would have to be more widely supported by the other parliamentary parties. Chances of this occurrence may be small since there remains a large amount of opposition towards the current asylum policy and laws regulating immigration (Devaney 2015). If the criminalization policy does receive support and is implemented, it could result in a systematic claim of ignorance in which various organizations claim they do not know the status of individuals' residency, undermining the efficiency of such a policy. It is already understood that a number of organizations do not require individuals to provide documentation regarding their residency status prior to providing assistance, nor do all organizations report undocumented migrants to government authorities (Pleace 2010, 150). An enforcement mechanism would have to be put in place. A mechanism that would ensure organizations are held liable for their knowledge of aiding the undocumented. The government could require organizations to collect documents regarding migrants' residency prior to providing assistance. This however, may not be enforceable in situations where organizations do not collect government funding, or work in municipalities that have refused to comply with the conditions set by the state. Aside from this defect, there could be other negative outcomes that result from the criminalization process. This could include an increase in black market forgery and use of unofficial channels to secure documentation. Individuals may resort to forgery and fraudulent manipulation of documents so that they can access various state provisions and aid provided by non-government organizations, a practice that can put them at risk of being manipulated or in harm's way as they are reliant on individuals working outside the legality of the state (Siegel 2011). This alternative may increase the efficiency of the new refugee policy as

it illegalizes outside assistance of failed asylum seekers, but this process also further contributes to the homelessness effects as it does not ensure voluntary return.

### Transfer to Detention Centers

Another possible alternative is to transfer failed asylum seekers who refuse to comply with return preparations immediately to detention shelters after the twenty-eight day period. This would ensure that government authorities could keep track of failed asylum seekers, and ensure they do not attempt to reside within the state without legal residency. It is in compliance with Directive 2008/115/EC, Chapter IV, Article 15, relating to detention for the purpose of removal. This directive allows for a state to place a failed asylum seeker in detention if he “avoids or hampers the preparation of return or the removal process” (2008/115/EC, 105). Also, according to Council Directive 2003/9/EC of 27 January 2003 and the recast Directive 2013/33/EU, the Netherlands maintains the right to establish the location of asylum seekers’ residence in accordance with its own domestic law, and can reduce asylum seekers freedom of movement to a designated area as long as it does not interfere with an individual’s right to private life and rights guaranteed by the protocol. Asylum seekers can even be confined to a specific location when there are legality concerns. These directives justify the use of detention for noncomplying failed asylum seekers

Transferring uncooperative failed asylum seekers would mitigate the need for the provision of shelter at asylum centers and other organizations, and meet the demands of international organizations in attending to individuals’ needs of provisions and shelter. However, the conditions of detention centers would have to be reevaluated as the Dutch government currently receives criticism for its use of detention centers and treatment of asylum seekers along with the protocols practiced within them. Critiques of the detention centers involve concerns of humanitarian law, in which case, failure to address these concerns could have the potential to cause more issues than that seen in the removal of the bed-bath-bread policy for failed asylum seekers.

An example of an improved and rights based asylum detention system is seen in Sweden. In Sweden’s detention centers, asylum seekers have the freedom to walk around outside in a garden, they have a key to their own room, they have internet access and are allowed to keep their cellphones, and they can order food and groceries from nearby markets. Sweden’s centers

are setup quite unlike that of a prison. They are also allowed to have daily visitors, and are not subjugated to searches, a critique Dutch detention centers are known for (Kamphuis 2014). This alternative replaces a mechanism that ensures return, but it does not negate the high costs associated with forced returns. Altogether, the costs associated with changing the detention centers, continued provisional support, and forced returns may make this alternative the most costly of those suggested.

### Do Nothing Scenario

The last alternative is the do nothing scenario in which the Netherlands leaves the new policy in place as it is. The effects of this scenario include those as previously discussed in association with the problem, and it allows for the aversion of conflict regarding the issue within the parties of parliament until the political stronghold changes. In the future, the parties may either take a more collective stance on anti-immigration policies, or an accepting point of view on the matter. However, it must be noted that anti-immigration policies have increased in the Netherlands since 2001, and the government's responsibility for caring for all asylum seeker despite their application status has been a conflicting issue since that time as well (Muus 2004, 264). Ultimately, the debate of whether or not the Netherlands is responsible for providing food and shelter for failed asylum seekers can be seen as being stuck in a repetitive cycle. The government removes provisions, and individuals, municipalities, and various organizations complain (Lovett and Schimmer 2001). The government then reinstates some sort of provision for care for failed asylum seekers (Kamphuis 2014). It is in this practice that gives evidence of the government's failure to concretely answer the question of state responsibility since the beginning of the last decade.

#### 4) Display and Distinguishing of Alternatives

<b>Alternatives</b>	<b>Costs</b>	<b>Benefits</b>	<b>Conclusion</b>
Return Expansion	-significant increase from proposed 30 million euros  -forced returns	-possible incentivizing of return  -possible increase in state of origin's cooperation	<b>No mechanism that ensures return</b>  <b>Increases receiving state's cooperation</b>
Cost Contribution	-reopening of shelters and provision of government assistance	-failed asylum seekers contribute in paying costs  -possible incentivizing of return -reduce costs associated with homelessness  -avoid further criticisms of HL noncompliance	<b>No mechanism that ensures return</b>  <b>Conditional work visas may be necessary</b>
Criminalization	-possible noncompliance which undermines efficiency  -need for an enforcement mechanism  -increase in use of unofficial channels	-increases efficiency of the new refugee policy  -punishes those that undermine the policy	<b>No mechanism that ensures return</b>  <b>Parliamentary parties may not support it</b>  <b>Possible increase in criminal activities</b>
Detention	-HL allegations if conditions are not improved  -government provisions  -forced returns	-Mechanism ensures return  -may incentivize compliance and voluntary return  -provides failed asylum seekers with food and shelter	<b>Ensures return through one means or the other</b>  <b>Conditions and protocols of detention centers would have to be improved</b>
Do Nothing	-noncompliance diminishes efficiency  -possible resistance  -homelessness and its effects on state services  -possible HL allegations	-government reduce costs associated with providing unconditional food and shelter  -parliament subverts further refugee disagreement	<b>No mechanism that ensures return</b>  <b>Policy fails to be different from previous policies</b>

## 5) Policy Evaluation

As the previous two sections indicate, the new refugee policy has resulted in several undesirable outcomes and has the propensity to increase state costs. There is no indication that it will incentivize return, and the absence of a monitoring mechanism outside the use of the voluntary return assistance program makes further evaluation of its efficiency difficult. The new policy's protocol of evicting noncompliant failed asylum seekers and undocumented migrants to the streets excludes them from a monitoring process and a mechanism for return. As discussed in the section on quantifying illegal stay, information on these individuals would have to be gathered from organizations who work directly with them and from criminal arrest records. With an estimation of these statistics, then it may be possible for the government to assess the effectiveness of the policy in the coming years.

### The Alternative

Moving forward, it is suggested that the state reopen the shelters, and start a cost contribution program for failed asylum seekers. This alternative presents the least amount of costs for the government, and it would mitigate further criticisms that try to implicate the Netherlands of noncompliance to humanitarian law. It also allows for better monitoring of these individuals, and can prevent them from criminal activity and the negative effects associated with homelessness. The easiest course of action for implementing this alternative would be the reopening of several regional shelters that were closed. The total number of shelters needed to be reopened is dependent upon how full the current asylum centers are and the number of failed refugees requiring shelter. Because an accurate estimation of how many failed asylum seekers requiring shelter cannot be determined due to the fact that the state loses monitoring capabilities when they are released to the street, more shelters can be opened as the number of failed asylum seekers requiring shelter increase. So capacity of asylum reception centers should be evaluated, and based on that information, a few shelters can be opened until it is deemed necessary to open some more. Once again, this alternative requires failed asylum seekers to have a source of income. To ensure asylum seekers in general do not resort to unconventional or illegal means for acquiring wealth, it is necessary that the Immigration and Naturalisation Service provide these individuals with conditional work permits. This process will allow them access to the legal labor market which will benefit state economy.

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