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Anticipating Friction

The role of human rights in urban debates on migration and diversity: The case of Amsterdam, Hong Kong and Buenos Aires

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Chapter Two - Amsterdam

2.1 Introduction

'You say you care about human rights, but you do not care enough to ensure that people can avail of them. This entails access to healthcare, going to the doctor and going to the dentist if necessary. Very simple things that you and I take for granted and that every person on this earth is entitled to, including people in Amsterdam who are undocumented.'

- A city council member (BIJ1) in response to her fellow council member (VVD), city council meeting, 13 January 2019.

In early 2019, Amsterdam's council members did not agree as to what kind of assistance the local government should provide to undocumented migrants. The quote shows that the two council members in question both claimed to care about human right, yet, caring for human rights implied different outcomes.

It is remarkable that Amsterdam concerns itself with assisting undocumented migrants in the first place. The local government of Amsterdam has been sheltering undocumented migrants during the night since 2013, even though the national government did not require this from the local government, nor did they always approve of the municipal assistance. The local government explained and legitimised that they were assisting undocumented migrants because of humanitarian reasons. Hence, this chapter portrays *how* the local government availed of human rights to legitimise their deviating policy.¹ This chapter moreover depicts the strategising and (unforeseen) constraints that unfold in the city, when a local government is more progressive, and perhaps more pragmatic, than its national counterparts.²

I explore two moments in which urban actors in Amsterdam invoked human rights in response to dilemmas related to migration and diversity. The first moment revolves around the aforementioned municipal assistance to undocumented migrants. More specifically, it revolves around a major change in the assistance. In 2018, the local government decided that Amsterdam's night shelter should become a 24-hour shelter. The 24-hour shelter would, supposedly, be more humane than the night shelter could ever be. Through this supposition, the local government reinterpreted what the notions 'humane' and 'the humanitarian minimum' entail for undocumented migrants in Amsterdam.

The second moment is about a new human rights project of the local government. In 2016, the 'Amsterdam Human Rights Agenda' was launched. The Human Rights Agenda was initiated because the local government considered that the city needed an urban translation and

¹ As was described by Aust, 'Shining Cities on the Hill?'; Nijman, 'Renaissance of the City'.

² See Oomen and Baumgärtel, 'Frontier Cities'; Barber, *If mayors ruled the world*.

concretisation of human rights, because a diverse city such as Amsterdam requires a common frame of reference. The concretisation and translation exercise was undertaken by the local government in cooperation with the inhabitants of the city. In doing so, the local government collected insights from the inhabitants to determine what an Amsterdam-specific approach to human rights should be.

The Human Rights Agenda was not simply created by ‘the local government’. It was a process that involved an alderman with political affiliations, civil servants with specific expertise, and inhabitants of Amsterdam with certain experiences. Human rights norms did not simply prescribe that Amsterdam should have a 24-hour shelter rather than a night shelter. The plan for the 24-hour shelter came from the newly elected city officials with fresh ideas, regardless of their sceptic civil servants. Amidst both moments, human rights functioned as rather flexible and open-ended norms. ‘Humane treatment’ was reinterpreted according to politically driven aims, and the Amsterdam-specific approach to human rights was developed with limited guidance by (international) human rights instruments. Both moments depict that the functioning of human rights was subject to the people that made up the local government: the civil servants and the local politicians. Simultaneously, the functioning of human rights was subject to the practical limitations posed by the built environment, budgets and organisational structures of the local government.

To unpack how human rights functioned in these two moments, and to move beyond superficial descriptions of the urban engagement with human rights, I assess the network circumstances surrounding the 24-hour shelter for undocumented migrants and the Human Rights Agenda. To do this, this chapter explores the two moments following a consistent structure as set out in the introductory chapter. First, I start with a description of the instance, the moment, in which human rights were invoked. This, for example, involves a description of how human rights were approached in the Human Rights Agenda, by identifying whether this involved a legal, moral and/or good governance approach. Second, I unpack which actors were involved in the moment, to move beyond broad terms such as ‘the local government’ or ‘civil society’. Yet, actor network theory does not only provide the tools to identify and describe the actors in the network, it is in particular useful for describing the activity these actors engage in. This ‘translation activity’ helps me grasp how actors make sense of their surroundings, as opposed to determining this as the researcher. I focus on two of these translation processes: problematisation and enrolment. During the process of problematisation, actors try to grasp what the problems in the city are, and in correspondence, propose solutions vis-à-vis the problems on the basis of their interests. This means that I assess if and how the urban actors perceived that the 24-hour shelter and the Human Rights Agenda were solutions to a problem. One could imagine that actors, for example, draw on their perception of their responsibilities and/or their vision of the ideal city in this process. The second process of translation is enrolment: the activities in which actors assign roles to themselves and others. The actors that become enrolled define how human rights function. If the local government collaborates with, for instance, Amnesty International, one would expect a particular perception of human rights. At the same time, it matters what role the local government assigns these actors. Maybe Amnesty International was enrolled to make the process (more) inclusive, while the report produced by Amnesty International was put on a shelf. Lastly, for each moment, I bring together

the outcome: the functioning of human rights. In this section, I draw out how human rights functioned amidst the particular network circumstances of each moment. In the concluding section of this chapter, I draw parallels between the roles of human rights in the two moments to discern what is particular about the functioning of human rights in Amsterdam's debate on migration and diversity.

This case study chapter on Amsterdam is based on the following sources: in-depth interviews, observation at the municipal 'Human Rights Training', policy documents written by the local government, reports written by NGOs, proceedings of the city council and documents prepared for the city council, and information published on the websites of relevant actors. In addition, I underwrite my descriptions with existing literature. The interviews were undertaken between December 2017 and May 2019, a period in which local elections took place. I have interviewed both local government officials as well as NGO staff from organisations that work with undocumented migrants or on a broader range of migration topics. I also interviewed two external organisations that were employed by the local government, of which an agency that was responsible for the research behind the Human Rights Agenda, and an organisation that was responsible for executing a segment of the assistance to undocumented migrants. The full list of organisations and local government offices I have interviewed can be found in Appendix A. Generally, people were willing to be interviewed. I did not experience major difficulties in approaching interviewees. The topic of this research, human rights, was not considered as sensitive to most. Though, there are sensitivities connected to the assistance to undocumented migrants. The interviewees were aware that the assistance is the centre of political and societal debate. For instance, I interviewed an NGO that assists undocumented migrants but is not outspoken about it because this type of work is not fully supported by the NGO's main funders. Even though, local government officials spoke surprisingly bluntly. They did not refrain from criticising their own policies or flaws in the functioning of the local government. Nor did I get the impression that they were trying to be 'politically correct' with regard to human rights. Several interviewees did not refrain from stating that they do not understand the relevance of human rights for their work. Therefore, I believe that the interviews provide valuable and valid information.

2.2 From a night shelter to a 24-hour shelter

2.2.1 The moment

The case of Amsterdam's assistance to undocumented migrants, who stay in the Netherlands without the necessary residency permits³, depicts a moment in which the local government took the lead, and while doing so, at times clashed with the national government. The local government used to only provide what was called: Bed, Bath and Bread. Undocumented migrants received two meals, a place to stay overnight and a daily bath. The shelter opened daily from 18.00 p.m. to 09.00 a.m.⁴ As of 2018, 456 undocumented migrants received a living

³ A person is considered an undocumented migrant, when the person has no (temporary) residency permit, is not awaiting an asylum procedure or is not awaiting transfer to another European country in application of the Dublin Regulation.

⁴ Gemeente Amsterdam (2016) Uitvoeringsplan Programma Vreemdelingen 2.0.

allowance or stayed at a municipal shelter.⁵ In the Spring of 2018, the local government announced a major change.⁶ The new city government quickly promised to turn the night shelter into a 24-hour shelter for 500 people, who could stay for 1,5 years in small-sized shelter locations. Each of them would receive social and legal assistance to help them plan for the future (namely legal residency or another solution). Moreover, the undocumented migrants would receive a special identification card and the local government would make an agreement with the police, for them to not arrest this group.

This initiative was received with criticism by national government officials. The State Secretary for Justice and Security stated: ‘They [Amsterdam] seem to act outside of our intended scope’.⁷ The national government’s ‘intended scope’ was different indeed. The national government was not in favour of long-term shelters for undocumented migrants. The national coalition agreement from 2017 states: ‘Individual emergency shelter for several days on the basis of public order is acceptable, bed bath bread shelters are not’.⁸ Hence, from the perspective of the State Secretary, the 24-hour shelter went a step too far.

Surprisingly, later that year, the national government and the Association of Dutch municipalities decided on an agreement (*VNG akkoord*).⁹ The Association of Dutch Municipalities and the national government by then had already debated for three years, and for the first time, the national and local levels of government cooperated consensually regarding the assistance to undocumented migrants.¹⁰ The agreement proposed to realise five central pilot shelters (*LVV's*) throughout the Netherlands to test how the assistance to undocumented

⁵ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, online at: <https://www.amsterdam.nl/zorgondersteuning/ondersteuning/vluchtelingen/24uursopvangongedocumenteerden/> (Last visited 20 August 2020).

⁶ The state of the municipal assistance before the start of the 24-hour shelter has also been discussed in my publication: Roodenburg, ‘Urban approaches to human rights’.

⁷ State Secretary for Justice and Security Mark Harbers in a Dutch newspaper, 2018. Parool (2018) News Article, ‘Den Haag bezorgd over plannen 24-uurs opvang Amsterdam’, online at: <https://www.parool.nl/amsterdam/den-haag-bezorgd-over-plannen-24-uursopvang-amsterdam~a4599880/> (Last visited 20 August 2020).

⁸ VVD, CDA, D66 & ChristenUnie (2017) National Coalition Agreement ‘Vertrouwen in de toekomst’, online at: <https://www.rijksoverheid.nl/documenten/publicaties/2017/10/10/regeerakkoord-2017-vertrouwen-in-de-toekomst> (Last visited 20 August 2020).

⁹ Ministerie van Justitie en Veiligheid and VNG (2018) Samenwerkingsafspraken Landelijke Vreemdelingen Voorziening (LVV), online at: https://vng.nl/files/vng/brieven/2018/attachments/20181130_getekendesamenwerkingsafpraak-lvv.pdf (Last visited 20 August 2020); Ministerie van Veiligheid en Justitie (2018) Brief van de Staatssecretaris van Veiligheid en Justitie, Kamerstukken 19637, nr. 2445, online at: <https://zoek.officielebekendmakingen.nl/kst-196372445.html> (Last visited 20 August 2020).

¹⁰ The municipal assistance to undocumented migrants was the topic of a heated debate in the Netherlands in the early 2010s. The stance of the national government was conflicted. The two coalition partners, the Labour Party and liberal right-wing VVD, could not come to an agreement about whether or not to provide assistance to undocumented migrants. The Labour Party was quite lenient about providing assistance, while the VVD was afraid of a migrant ‘pull-effect’. Eventually, the national government determined that five municipal, 1.5 month stay, shelters had to be organised across the country. The condition for entering those shelters would be that the migrants would cooperate with return to their countries of origin. The State Secretary of Security and Justice stated that local governments would be sanctioned if they offered shelter to those who did not cooperate with their return. The Association of Municipalities did not agree with this. A collective solution was not found until 2018, because the local governments refused to settle for those ‘inhumane and unachievable’ conditions. S. Koppes, ‘Valse hoop of bittere noodzaak. Opvang van mensen zonder verblijfsrecht’ (2017) Report Amnesty International Nederland and Stichting LOS; Oomen and Baumgärtel, ‘Frontier cities’.

migrants could best be organised.¹¹ It was eventually decided that Amsterdam would host one of the pilot shelters, despite the initial criticism of the State Secretary on Amsterdam's approach. The local government of Amsterdam, to some degree, was able to define how they wanted to organise their pilot shelter and could continue their plans for a 24-hour shelter.

Yet, where were human rights in this sequence of new plans? The local government of Amsterdam called on human rights as both legal standards and moral values to explain its choice for a 24-hour shelter. The local government, on the one hand, referred to the European Convention on Human Rights to explain its position. The policy plan that outlines the framework of the 24-hour shelter presents this reasoning under the heading 'the legal context'.¹² One may expect a reference to an obligation arising from human rights standards as embedded in an international or regional human rights instrument, a national law, a municipal law or the Constitution, but this is not the case. Nor does the section 'legal context' refer to a legal obligation the local government voluntary took on. In this case, the legal human rights system was used to explain that there is no legal obligation. The local government made explicit that the assistance to undocumented migrants should be understood as 'non-legal favourable policy' [*buitenwettelijk begunstigend beleid*]. It lacks a legal responsibility or obligation.¹³

The local government reasoned that it lacks responsibility because the national Immigration Law functions as the legal framework and 'the only one responsible is the State Secretary of Justice and Security'.¹⁴ But, the local government also underlined the lack of an obligation with a ruling by the European Court of Human Rights.¹⁵ In 2016, the European Court of Human Rights ruled that the Dutch immigration system complies with the obligations under the ECHR (European Convention on Human Rights). The court reasoned that the refusal of shelter and social assistance does not violate article 2 (right to life) and article 3 (prohibition from torture) of the ECHR, and that 'aliens who are subject to expulsion cannot, in principle, claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance and services provided by the expelling State'.¹⁶ Following this, the local government reasoned that undocumented migrants have no legal claim to the assistance provided by the local government: 'There is no statutory or treaty provision that gives the local government the authority, or the obligation, to provide shelter or assistance'.¹⁷ Hence, the local government can decide to whom they give assistance.¹⁸

¹¹ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden.

¹² Ibid.

¹³ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 14

¹⁴ Ibid.

¹⁵ European Court of Human Rights, 17931/16, *Gadaa Ibrahim HUNDE v. the Netherlands* [2016], online at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-165569%22%5D%7D> (Last visited 20 August 2020).

¹⁶ Furthermore, 'Article 3 does not place an obligation on the Contracting State to alleviate such disparities through the provision of free and unlimited health care to all aliens without a right to stay within its jurisdiction'. European Court of Human Rights, 17931/16, *Gadaa Ibrahim HUNDE v. the Netherlands* [2016].

¹⁷ 'Er is, zoals uit bovenstaande volgt, geen enkele wettelijke of verdragsrechtelijke bepaling die de gemeente de bevoegdheid geeft, of verplicht, enige opvang of voorziening te bieden'. Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 14.

¹⁸ 'Nu er sprake is van buitenwettelijk begunstigend beleid kan er door een ongedocumenteerde zonder recht op verblijf of rijksopvang geen juridische aanspraak op de voorzieningen in dit programma worden gemaakt. Het is aan de gemeente, in overleg en samen met de diverse partijen, te besluiten een ongedocumenteerde die zich meldt,

Non-legal favourable policy, however, also includes the word favourable. The local government perceived of their policy as beneficial, they are doing undocumented migrants a favour with the 24-hour shelter. This perception was based on a moral approach to human rights. The local government referred to the notions humanitarian reasons, the humanitarian minimum, human dignity and humane treatment to explain the necessity of assistance. The policy plan states: ‘Amsterdam offers, because of *humanitarian reasons*, 24-hour shelter to undocumented migrants who want to work on a solution for their situation’.¹⁹ 24-hour shelter, it was reasoned, is more humane than night shelter because migrants would not have to spend the daytime hours on Amsterdam’s streets anymore. An alderman explained this: ‘I think the essence of what we want to do here is to ensure that humanity is safeguarded, and to also strengthen their human dignity. Human dignity is crucial for finding a lasting solution, whatever that solution may be’.²⁰

The local government did not transition to a 24-hour shelter because of a new legal responsibility it had to adhere to, but at the same time, the local government did refer to ‘the humanitarian minimum’. The policy plan describes that the night shelter provided the humanitarian minimum ‘for those who cannot go elsewhere for a bed, a bath and food’.²¹ Four years earlier, there had already been extensive discussions on the humanitarian minimum, which included decisions of the European Committee of Social Rights (ECSR) and the Committee of Ministers of the Council of Europe. In 2013, the Dutch Protestant Church filed a complaint through the Conference of European Churches at the ECSR about the lack of housing, food and clothing provided to undocumented migrants. In 2014, the ECSR ruled that the refusal of emergency assistance to undocumented migrants (and homeless people) is not in line with the obligations under the European Social Charter.²² The national government argued that the decisions were non-binding and that the Netherlands did not have to apply the European Social Charter to non-nationals.²³ Before taking structural measures, the then State Secretary of Security and Justice wanted to await how the Council of Europe Committee of Ministers interpreted the decision of the ECSR.²⁴ However, in the meantime, the Central Board of Appeal decided on a preliminary injunction with implications for Amsterdam. The Central Board of Appeal concluded that the municipality of Amsterdam had to offer, at least, temporary night shelter.²⁵ In 2015, the Council of Europe Committee of Ministers endorsed the decision by the

onderdak en individuele begeleiding te bieden conform dit uitvoeringsplan’. Gemeente Amsterdam (2018) *Uitvoeringsplan 24-uursopvang ongedocumenteerden*, 14

¹⁹ Gemeente Amsterdam (2018) *Uitvoeringsplan 24-uursopvang ongedocumenteerden*, 36.

²⁰ Alderman Groot-Wassink in city council meeting 13 January 2019, online at:

https://amsterdam.raadsinformatie.nl/vergadering/557141#ai_4473085 (Last visited 20 August 2020).

²¹ Gemeente Amsterdam (2018) *Uitvoeringsplan 24-uursopvang ongedocumenteerden*, 8.

²² Oomen and Baumgärtel, ‘Frontier Cities’; European Social Charter, Complaint No. 90/2013 *Conference of European Churches (CEC) v. The Netherlands* [2013], online at: https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-90-2013-conference-of-european-churches-cec-v-the-netherlands?inheritRedirect=false (Last visited 20 August 2020).

²³ The decisions of the ECSR did not land well with the national government. The prohibition of shelter to undocumented migrants and the criminalisation of illegality had been a central part of one of the political parties (VVD) in office. Oomen and Baumgärtel, ‘Frontier Cities’.

²⁴ Koppes, ‘Valse hoop of bittere noodzaak’.

²⁵ Centrale Raad van Beroep, ECLI:NL:CRVB:2014:4178 [2014], online at:

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:CRVB:2014:4178>; (Last visited 20 August 2020).

The State Secretary of Security and Justice responded: ‘Although the national government was not a party to this

ECSR: ‘Shelter must be provided also to adult migrants in an irregular situation, even when they are requested to leave the country and even though they may not require that long-term accommodation in a more permanent housing be offered to them. The right to shelter is closely connected to the human dignity of every person regardless of their residence status’.²⁶

The latter decisions, however, are not cited in the plans for the 24-hour shelter, as the policy plan only refers to the 2016 decision of the European Court of Human Rights. The 24-hour shelter provides a different spin on the humanitarian minimum. But this spin is not based on a new legal interpretation of the humanitarian minimum. This moment shows that the new interpretation is the result of other network circumstances, of which political projects, lobbying civil society, compromises with the national government, budgets and the (lack of) urban space.

To grasp how the humanitarian minimum was reimagined, I must describe the wider network circumstances. I must describe how these budgets, politics and compromises became part of the actor network surrounding the 24-hour shelter. First, I explain the internal organisation of the actors involved. The local government was not a coherently operating actor. It was a city council consisting of members with different ideas and political projects. It consisted of the mayor and aldermen, the municipal executive, who assumed office in 2018 after the election of the local council. But it also contained the civil servants who work for ‘Program Undocumented Migration’, and NGOs that were hired by the local government to assist. Moreover, there were NGOs that closely monitored the policy of the local government from the side-lines. In a second step, I describe what these actors ‘do’. This section is about the two processes of translation: problematisation and enrolment. The actors were providing accounts of a problem, they reasoned why the 24-hour shelter was a necessary measure (or not). Alongside, the local government was making other actors part of the network. They assigned responsibilities to external bureaus and NGOs to keep the assistance to undocumented migrants running. Some NGOs, however, deliberately did not want to be involved with the local government. In the last step, I assemble the network circumstances and describe how they interacted with the functioning of human rights during this moment.

2.2.2 The actors

This section describes the actors that were involved in the actor network surrounding the transition to the 24-hour shelter. First, I explain who the undocumented migrants are: how do people end up without documents, in Amsterdam, despite the immigration system of the Netherlands? Secondly, I describe the internal dynamics of the local government. I explore which local government officials and departments were involved in providing assistance to

ruling and this ruling is aimed at the municipality of Amsterdam, this ruling does have significance for the national government because the policy with regard to the reception and return of undocumented migrants is a responsibility of the central government. I therefore promised the Association of Municipalities [VNG] that I am willing, where appropriate, to offer a financial contribution to the municipalities involved’. Ministerie van Veiligheid en Justitie (2015) Brief van de staatssecretaris van Veiligheid en Justitie, Nr. 1944, online at: <https://zoek.officielebekendmakingen.nl/kst-19637-1944.html> (Last visited 20 August 2020).

²⁶ Council of Europe, Committee of Ministers, Resolution CM/ResChS(2015)5 regarding Complaint No. 90/2013, *Conference of European Churches (CEC) v. the Netherlands* [2015], online at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c40be (Last visited 20 August 2020).

undocumented migrants, and which local political parties were the driving force behind the initiative. Lastly, I present the variety of civil society actors that were involved with undocumented migrants in Amsterdam, and I describe how these NGOs were connected to the local government.

Undocumented migrants

Who are these migrants and why are they undocumented? By late 2018, 454 undocumented migrants were receiving assistance from the local government. The biggest group was from Eritrea. This was followed by people from Iran, Ghana, Nigeria, Afghanistan, Sierra Leone, Uganda, Egypt, Somalia and Guinea.²⁷ The majority (82%) was male, compared to a small group of females (18%).

Undocumented migrants go by different names. There are many other terms used to describe this group, while some are incorrect: migrants with a departure obligation, refugees, asylum seekers, people without papers, asylum seekers who have exhausted all legal remedies [*uitgeprocedeerden*], irregular migrants and illegal aliens [*illegalen*]. From now on I use the term undocumented migrant because this is the term the local government and most NGOs use.

The 2000 Aliens Act [*Vreemdelingenwet, 2000*] is the most important national instrument for regulating documented migration, and the consequences of unlawful residence. Article 8 describes the requirements for legal residence.²⁸ A person is considered an undocumented migrant, when the person has no (temporary) residency permit, is not awaiting an asylum procedure or is not awaiting transfer to another European country in application of the Dublin Regulation²⁹. The responsibility for handling asylum cases and sheltering those awaiting their asylum procedure lies with the national government. The Immigration and Naturalisation Service (IND) verifies applications for legal residence.³⁰ The Central Agency for the Reception of Asylum Seekers (COA) is responsible for accommodating asylum seekers who are awaiting their procedure.³¹ The Repatriation and Departure Service (DTenV) is responsible for the voluntary and forced departure of rejected asylum seekers.³² Local governments are ‘chain partners’ in the asylum system. They provide space for the asylum centres, family centres, detention centres and return centres that are run by the national government. Local governments are expected to cooperate and follow the state’s line as they have no formal competences or responsibility.³³

On paper, the system is ‘closed’. Those who await their procedure will do so in a national reception centre, those who are denied asylum will return to their countries of origin and those

²⁷ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 13.

²⁸ Vreemdelingenwet, article 8, see: <https://maxius.nl/vreemdelingenwet-2000/artikel8/>

²⁹ The Dublin Regulation describes how to define which European country is responsible for handling the asylum request. See: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:NL:PDF>

³⁰ See: <https://ind.nl/en>

³¹ See: <https://www.coa.nl/>

³² See: <https://english.dienstterugkeerenvertrek.nl/>

³³ S. Kos, M. Maussen and J. Doornik, ‘Policies of Exclusion and Practices of Inclusion: How Municipal Governments Negotiate Asylum Policies in the Netherlands’ (2015) 4 *Territory, Politics, Governance*, 3, 354-374.

who fail to do so will be repatriated by the Repatriation and Departure Service.³⁴ In theory, there would be no need for municipal shelters. In practice, a vast number of undocumented migrants have been rejected in an earlier asylum procedure but have not left the country, some have never applied for asylum and others wait to apply for 18 months until their Dublin claim expires.³⁵ A considerable number of migrants do not wish to stay in their ‘Dublin country’. When they apply for asylum in another country, it will be denied because of the Dublin claim. However, the claim expires if the migrant is not transferred to the country of the Dublin claim within 18 months. Many live without documents for 18 months, until the Dublin claim expires, and apply for asylum in their country of choice.

The number of undocumented migrants in the Netherlands peaked after the Millennium, because of the introduction of two new national laws.³⁶ In 1998, the Linking Act [*Koppelingswet*] was introduced.³⁷ This law establishes a link between ‘right of residence’ and access to governmental facilities, social benefits and the permission to work.³⁸ From 1998 onwards, undocumented migrants were no longer able to have a social security number, access housing and shelters (such as homeless shelters). Because undocumented migrants could no longer access the housing market, more people were in search of shelter. In 2000, the new Aliens Act [*Vreemdelingenwet, 2000*]³⁹ stipulated that rejected asylum seekers had access to national shelter for 28 days in order to arrange their return or await their return in a return centre. People who do not cooperate end up on the streets. Undocumented migrants do, however, still have the right to ‘necessary’ medical care, schooling for minors and legal aid.⁴⁰

The number of undocumented migrants has fluctuated over the years, in terms of numbers and origin. For example, the numbers diminished after the 2007 General Pardon⁴¹ and grew again in 2011 because of a new migration flow from Iraq.⁴² In the years that followed, undocumented migrants started to protest nationwide and created camps all over the Netherlands, including Amsterdam.⁴³ In April 2013, the then mayor of Amsterdam presented a solution to a group of

³⁴ Repatriation only takes place when this is possible. There is a possibility of obtaining a residence permit for those who cannot return, e.g. Parliamentary Documents 29344, nr.109. See: <https://www.parlementairemonitor.nl/9353000/1/j9vvi5epmjl5y0/vj5mlsc7yjs>

³⁵ Kos et al. ‘Policies of exclusion’; Koppes, ‘Valse hoop of bittere noodzaak’.

³⁶ Koppes, ‘Valse hoop of bittere noodzaak’; Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen.

³⁷ For the *Koppelingswet*, see: <https://wetten.overheid.nl/BWBR0009511/1998-08-01>

³⁸ With the exception of medical emergencies, legal counselling and schooling for minors.

³⁹ For the 2000 *Vreemdelingenwet*, see: <https://wetten.overheid.nl/BWBR0011824/2001-04-01>

⁴⁰ Art 10.2 Aliens Act: *Van het eerste lid kan worden afgeweken indien de aanspraak betrekking heeft op het onderwijs, de verlening van medisch noodzakelijke zorg, de voorkoming van inbreuken op de volksgezondheid, of de rechtsbijstand aan de vreemdeling.*

⁴¹ Koppes, ‘Valse hoop of bittere noodzaak’. In 2007, after organised and lengthy civil society pressure, the Association of Municipalities and the State Secretary for Justice came to an agreement. A considerable number of the undocumented migrants (28.000) were granted General Pardon. 5000 of this group were granted asylum by *burgermeestersverklaring* [mayor’s declaration]. Until 2007 mayors were able to list potential candidates for a ‘General Pardon’. Herein the mayor would state that the migrant concerned had stayed in their municipality for a period of one year, which could enhance the chance of asylum. See: https://www.wodc.nl/binaries/cahier-2011-10-volledige-tekst-nw_tcm28-70037.pdf; <https://zoek.officielebekendmakingen.nl/kst-31018-52.pdf>

⁴² Koppes, ‘Valse hoop of bittere noodzaak’.

⁴³ Kos et al. ‘Policies of exclusion’. In 2012, a group of undocumented migrants from Iraq camped in front of the central reception centre in Ter Apel. After the camp was removed by the police, the migrants. The camp in Amsterdam was removed on November 2012 and a group of more than 130 people found refuge in a church coined ‘*de Vluchtkerk*’.

migrants, despite initial criticism from the State Secretary of Security and Justice. The pilot ‘*Vluchthaven*’ was born and this was the start of official municipal assistance.⁴⁴ The undocumented migrants were offered six months of shelter, under the condition that they would cooperate towards repatriation, a condition that was pushed by the national government.⁴⁵ During this time, a prominent undocumented migrant-network was established: WeAreHere.⁴⁶ Not all migrants were satisfied with the conditions the *Vluchthaven* pilot offered and several WeAreHere groups found refuge in squatted buildings. WeAreHere continued to advocate for better treatment of undocumented migrants and the movement is still active as of today.

The local government

The assistance to undocumented migrants is provided by the local government of Amsterdam (referred to as ‘the local government’ from now on). More specifically, the night shelter was initiated by the then mayor Van der Laan, the 24-hour shelter was initiated by alderman Groot Wassink and both have been executed by the local department ‘Program Undocumented Migration’. I describe the organisation of the local government, to explain how the mayor, the alderman and Program Undocumented Migration relate to one another.

The Netherlands has three levels of government: the national government, provinces and municipalities or local governments. The Netherlands is still a centralised country, although substantial decentralisation has taken place since the 1980s. Responsibilities are mainly transferred to local governments, rather than to provinces.⁴⁷ Local governments have authority over services such as sports and recreation, waste and recycling, public housing, social and cultural work, monuments and social security. Providing assistance to undocumented migrants is not a formal responsibility of the local government. It is a responsibility that the local government has taken on voluntarily.

Despite differences in size, all municipalities in the Netherlands have a uniform structure.⁴⁸ The local government is formed by an executive and a city council. The city council elects 2 to 9 aldermen, who are not part of the city council, but of the executive. The executive part of the local government is formed by aldermen and the mayor. They are generally referred to as the ‘College of Mayor and Aldermen’ (from now on referred to as the College of M&A). Each alderman becomes responsible for a number of policy domains such as diversity policies, undocumented migration, or health care. The mayor is the head of the executive and the legislative. Mayors are always members of political parties and are appointed by the national government for 6-year terms. More recently, mayors have become elected by city councils, though formally, they are still appointed by the national government.⁴⁹ Mayors have a number

⁴⁴ The *Vluchthaven* project ended with a forced eviction from the shelter, because the WeAreHere group did not want to leave voluntarily and stayed to protest the national asylum procedures.

⁴⁵ Gemeenteraad (2016) Raadsbrief Uitvoering programma vreemdelingen.

⁴⁶ See: <http://wijzijnhier.org/2018/>

⁴⁷ R.B. Andeweg and G.A. Irwin, *Governance and Politics of the Netherlands* (Palgrave Macmillan Ltd, 2014).

⁴⁸ Grondwet, Hoofdstuk 7: Provincies, gemeenten, Caribische openbare lichamen, waterschappen en andere openbare lichamen.

⁴⁹ R.B. Andeweg and G.A. Irwin, *Governance and Politics of the Netherlands* (Palgrave Macmillan Ltd, 2014). Grondwet, Hoofdstuk 7: Provincies, gemeenten, Caribische openbare lichamen, waterschappen en andere openbare lichamen, artikel 129, 131.

of direct responsibilities. Crucial is their responsibility for the public order in their cities, which has played a role in relation to undocumented migration.⁵⁰

The city council functions as the legislative power. Council members are elected by the inhabitants of the city for four-year terms.⁵¹ Some council members are affiliated with local political parties, but many national political parties also run during local elections. As a result, the elections in the bigger cities of the Netherlands such as Amsterdam, are almost as ‘politicised’ as national elections.⁵² The Labour Party has been dominant in Amsterdam’s city council since 1945.⁵³ The mayor who initiated the assistance to undocumented migrants in 2013 was affiliated with the Labour Party as well. Alderman Groot Wassink, the initiator of the 24-hour shelter, is affiliated with another party, *GroenLinks*. *GroenLinks* is a progressive left-wing party that won the local elections in 2018 for the first time. The current mayor, Femke Halsema, is also affiliated with *GroenLinks*. After the local elections in 2018, the differences between the national government and Amsterdam’s local government have become even starker. The national government situates on the right-wing of the political spectrum with the VVD being the biggest party, while Amsterdam’s new local government was described as ‘extremely left’ in local and national media.⁵⁴ Moreover, several media platforms were immediately reporting on potential clashes between the two levels of government, thereby also pointing to the policy domain undocumented migration.⁵⁵ The prohibition of shelter to undocumented migrants and the criminalisation of illegality had been a central part of the national political program of the VVD⁵⁶, while the new city government incorporated their ambitions regarding 24-hour shelter for undocumented migrants in the local Coalition Agreement ‘A new spring, a new sound’⁵⁷.

Alderman Groot Wassink sympathised with undocumented migrants before. In 2016, as a city council member, Groot Wassink already submitted a motion about opening a 24-hour shelter, following the model implemented by the northern city of Groningen.⁵⁸ This motion was refuted on the argument that Groningen, as a small city, had ‘a very different context’, and that Amsterdam’s night shelter was sufficient. Hence, it is not surprising that Groot Wassink introduced this idea again, as an alderman. After the plan for the 24-hour shelter was presented,

⁵⁰ Gemeentewet, artikel 172.

⁵¹ Grondwet, Hoofdstuk 7: Provincies, gemeenten, Caribische openbare lichamen, waterschappen en andere openbare lichamen, artikel 129

⁵² Andeweg and Irwin, *Governance and Politics of the Netherlands*.

⁵³ E. de Graauw and F. Vermeulen, ‘Cities and the politics of immigrant integration: a comparison of Berlin, Amsterdam, New York City and San Francisco’ (2016) 42 *Journal of Ethnic and Migration Studies*, 6, 989-1012.

⁵⁴ NRC (2018) News Article, ‘Wrikken voor een knetterlinks Amsterdam’, online at: <https://www.nrc.nl/nieuws/2018/05/22/wrikken-voor-een-knetterlinks-amsterdam-a1603858> (Last visited 20 August 2020); NRC (2018) News Article, ‘Ons stadsbestuur knetterlinks? Knetterdom zul je bedoelen’, online at: <https://www.nrc.nl/nieuws/2018/10/17/ons-stadsbestuur-knetterlinks-knetterdom-zal-je-bedoelen-a2624817> (Last visited 20 August 2020).

⁵⁵ Volkskrant (2018) News Article, ‘Amsterdam’s gemeentebestuur zet zich af tegen kabinet’, online at: <https://www.volkskrant.nl/nieuws-achtergrond/amsterdams-gemeentebestuur-zet-zich-af-tegen-kabinet~b66fe20c/>. (Last visited 20 August 2020).

⁵⁶ Oomen and Baumgärtel, ‘Frontier Cities’.

⁵⁷ Groenlinks, D66, PVDA and SP (2018) Coalitieakkoord ‘Een Nieuwe Lente een Nieuw Geluid’, online at: https://assets.amsterdam.nl/publish/pages/887342/coalitieakkoord_amsterdam_2018.pdf (Last visited 20 August 2020).

⁵⁸ Gemeenteraad (2019) Motie 1040.16 CH inzake uitbreiding bed, bad, broodvoorzieningen naar 24-uurs opvang conform het Gronings Model.

a national newspaper wrote: ‘Groot Wassink gets his 24-hour shelter for undocumented migrants’.⁵⁹

The assistance to undocumented migrants is organised in a ‘program’: Program Undocumented Migration. Program Undocumented Migration used to be directly placed under the responsibilities of the mayor, under the wing of ‘Public Order and Safety’. The then mayor Van der Laan wanted to exercise direct influence over this policy, as he was very involved.⁶⁰ After the local elections in 2018, Program Undocumented Migration was placed under the responsibility of alderman Groot Wassink, who is responsible for ‘Antidiscrimination and Diversity’. Program Undocumented Migration is headed by a ‘Program Manager’. The program manager has been in this position since 2015, shortly after the beginning of the night shelter. Furthermore, the program is executed by a small group of civil servants. Hence, the civil servants of Program Undocumented Migration have been a relatively consistent factor.

Program Undocumented Migration has opened a counter [*loket ongedocumenteerden*]. Undocumented migrants have to register at the counter to access the Program and with that the shelter.⁶¹ The counter arranges a medical screening and ‘legal perspective’ assessment to determine if the person is eligible for assistance, keeps track of the waiting list⁶² and provides information. The counter is not carried out by the local government. During the first years of the assistance, it was done by NGOs. The system changed in Mid-2016, after the local government hired an external agency to continue the job.⁶³

NGOs

There are quite a lot of NGOs that concern themselves with undocumented migrants in Amsterdam. Some NGOs provide specialised (medical) assistance, such as ‘Medics of the World’ [*Dokters van de Wereld*] or the Red Cross. These NGOs do not engage in lobbying or advocacy that prominently. Several NGOs do concern themselves with lobbying and the public debate. I will provide some examples. The Refugee Organisation provides information and legal assistance for the asylum procedure, and a wide range of activities related to the integration of ‘(residency) status holders’.⁶⁴ The Worldhouse is a protestant church organisation in charge of a day centre for undocumented migrants. In the shared living room of the Worldhouse, undocumented migrants have a place to sit down and can receive a free lunch between 09.00 a.m. and 17.00 p.m., the hours the night shelter used to be closed. Today, the

⁵⁹ Volkskrant (2019) Interview alderman Groot Wassink, ‘Amsterdamse wethouder Groot Wassink krijgt zijn 24-uurs opvang voor vreemdelingen. De humane kant staat voorop’, online at: <https://www.volkskrant.nl/nieuws-achtergrond/amsterdamse-wethouder-groot-wassink-krijgt-zijn-24-uursopvang-voor-vreemdelingen-de-humane-kant-staat-voorop~b3d7fbf2/> (Last visited 20 August 2020).

⁶⁰ Interview Program Undocumented Migration.

⁶¹ For the website of the counter, see:

<https://www.amsterdam.nl/zorg-ondersteuning/ondersteuning/vluchtelingen/deelname-programma-ongedocumenteerden/>

⁶² There are, usually, waiting lists. On June 2020, the website of the counter stated: ‘For a place in the shelter you need to wait until a spot opens up. This can take several weeks or months because of the high demand’. See: <https://www.amsterdam.nl/zorg-ondersteuning/ondersteuning/vluchtelingen/loket-ongedocumenteerden-amsterdam/>

⁶³ Interview loket ongedocumenteerden.

⁶⁴ See: <https://www.vluchtelingenwerk.nl/westenmiddennederland/vluchtelingenwerk-amsterdam>

Worldhouse provides this option to migrants who do not stay in the 24-hour shelter.⁶⁵ AKSV Refugee Support [*Amsterdam's Solidariteits Komitee Vluchtelingen*] provides 'legal assistance and social support to undocumented refugees'.⁶⁶ Generally, most NGOs provide a combination of lobbying and different kinds of practical support, such as skills-training, emergency aid and legal assistance. The majority of the NGOs have lawyers working or volunteering for their organisation and help migrants in starting legal procedures for a residency permit. This can be for a first attempt, but also a second, third or even fourth try. The interviewee of the Refugee Organisation explicated this assistance: 'We check the argument of the immigration service [IND] and see what the problem is [...] maybe it can be solved and someone can get a status. That of course is worth the effort!'.⁶⁷ In addition, a group of lawyers, Pim Fischer is the most prominent, continue to file cases on behalf of undocumented migrants. Furthermore, Pim Fischer and others provide information on the legal implications of the municipal policies. For instance, after the agreement between the national government and the Association of Dutch Municipalities was published, Pim Fischer organised a meeting to explain the implications of this agreement.⁶⁸

Over the years, NGOs have become embedded in the municipal assistance to undocumented migrants. The local government relies on NGOs for the implementation of Program Undocumented Migration. NGOs, for instance, help with the intake of migrants to the shelter and provide legal or social counselling to migrants in the shelter. This is why NGOs and the local government are in close cooperation. NGOs are more in touch with what is happening on the streets and are better able to monitor vulnerable people.⁶⁹ They can update the local government on the situation at Amsterdam's streets. This is why civil servants from Program Undocumented Migration and a number of NGOs meet each other on a two-weekly basis to discuss individual cases of migrants.⁷⁰ Because of this tight cooperation, NGOs can exercise some influence. They try to make sure that civil servants are aware of their concerns.⁷¹ Outreach to the local political level is also used to lobby for certain demands, and NGOs maintain relations with some members of the city council.⁷²

NGOs have been involved in the 24-shelter from the beginning. They were invited to brainstorm about the initial plans to help define the framework for the new policy plan.⁷³ Secondly, NGOs were requested to participate in the execution of the 24-hour shelter. The interviewee of

⁶⁵ See: <https://wereldhuis.org/>

⁶⁶ NGO Amsterdams Solidariteits Komitee Vluchtelingen, see: <https://www.askv.nl/>

⁶⁷ Interview NGO Refugee Organisation.

⁶⁸ Lecture by Pim Fischer, January 2019.

⁶⁹ Interview NGO Worldhouse; NGO Refugee Organisation.

⁷⁰ Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen; NGO Refugee Organisation; NGO Worldhouse.

⁷¹ Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen; NGO Worldhouse.

⁷² Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen, NGO Worldhouse, NGO Refugee Organisation.

⁷³ The following organisations were involved: Organisaties Amsterdam City Rights ASKV / Steunpunt Vluchtelingen ASKV MOO / Medisch Opvangproject Ongedocumenteerden Boost Bridge to Better Dienst Terugkeer & Vertrek (DT&V) Dokters van de Wereld Equator Gemeente Amsterdam GGD Goedwerk Foundation HVO Querido Immigratie en Naturalisatie Dienst Internationale Organisatie voor Migratie (IOM) Leger des Heils Vluchtelingenwerk Vreemdelingenloket AVIM (Afdeling Vreemdelingenpolitie, Identificatie en Mensenhandel) We Are Here supportersgroep Wereldhuis/Diaconie. Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 5.

Program Undocumented Migration explained that the local government needs a lot of help: ‘We need to check what capacity they [NGOs] can deliver. If you want to assist [provide counselling] 500 people, for at least an hour every two weeks [...] that is a lot’. The local government sent a call to the NGOs. The NGOs could sign up for certain tasks (such as legal counselling) and would be paid for executing those tasks.⁷⁴

The initiative of the 24-hour shelter led to new collaborations among NGOs. After the plans for the 24-hour shelter were published, suspicion among civil society actors grew. While the ambitions of the new College of M&A were initially seen as promising for undocumented migrants, it became clear that access to the 24-hour shelter could not be provided unconditionally. NGOs quickly reasoned that the 500 beds would be filled in no time, and waiting lists would quickly grow too.⁷⁵ In April 2019, a year after the new local government took office, a group of 50 people ended up with no shelter. These people ended up on the streets after the winter shelter, a shelter open to everyone between the months November and April, was closed. It was exceptionally cold during these April nights, and NGOs condemned the situation as inhumane. Mid-2019 they launched the ‘Code Red Network’.⁷⁶ This network brings together a (still expanding) group of NGOs and church organisations that offer emergency support to undocumented migrants that are denied access to the 24-hour shelter. With help of the network, the group of migrants searched for a new place of refuge every few days. One year later, another group of migrants was excluded from the 24-hour shelter. A group of close to 100 men spent the winter of 2019/2020 in tents in an abandoned garage, without running water and protection from the cold. Several organisations and Facebook groups started to collect funding for food, bottles of gas for heating and cooking, clothing, and building material.⁷⁷

In sum, NGOs are rather coordinated. Many NGOs work solely on the topic of undocumented migration, and they specifically work in the city of Amsterdam. The connections between these NGOs are tight and informal, everyone knows one another and they often collaborate in response to changes in the municipal assistance.

2.2.3 Translation activities

The assistance to undocumented migrants was contested. There were tensions between the national and local government, within the city council, between the local government and NGOs, and sometimes even between the NGOs that work with the local government and those that do not. The actors made sense of the problems on Amsterdam’s streets in different ways, and employed human rights for different arguments. Some officials of the national government believed that the local government was doing too much, while some NGOs stressed that the local government was doing too little and therefore violated human rights. The case of the 24-hour shelter portrays how human rights functioned amidst these different views and demands, as well as practical constraints and limitations.

⁷⁴ Interview NGO Worldhouse; Program Undocumented Migration.

⁷⁵ Interview NGO Worldhouse; lecture Pim Fischer, January 2019.

⁷⁶ See: <https://www.facebook.com/coderoodnetwerk/>

⁷⁷ For the Facebook groups, see: <https://www.facebook.com/groups/familyonamission/>; <https://www.mandelakids.nl/>; <https://www.facebook.com/stichtinggelukszoekers>

In this section, I describe the ordering and the negotiation that took place in the actor network surrounding the transition to the 24-hour shelter. I explore this through two translation processes: problematisation and enrolment. First, I trace how the local government explained what the 24-hour shelter would be a solution to. What problems would the change address? Secondly, I assess the process of enrolment. Who the local government involved in the 24-hour shelter, defined what it entailed. At the same time, the local government itself was enrolled in the agreement between the national government and the VNG, which had implications as well.

Problematisation

After several years of twisting and turning, the local government established a night shelter. In 2018, the new College of M&A decided to go a step further and open a 24-hour shelter. The plan for the 24-hour shelter was initiated by the new College of M&A, after which a policy plan was written by the civil servants of Program Undocumented Migration, in coordination with the responsible alderman. NGOs were invited to think along. Lastly, the policy plan was presented to the city council. During these steps, the different actors provided their account of the problems, or in other words: the actors sketched their perception of their surroundings, the context.

The 24-hour shelter was initiated by the new College of M&A, in particular by the responsible alderman Groot Wassink. The College of M&A put forward two problems that the 24-hour shelter would address. I have identified these problems on the basis of my interview with Program Undocumented Migration, city council meetings, and on the basis of the policy plan that was written to introduce the 24-hour shelter. The interviewees of Program Undocumented Migration were able to identify which ideas came from the civil servants, and which from the alderman.

The first problem relates to the terms ‘humanitarian minimum’ and ‘humane’. The local government recurrently referred to these terms in (almost) every document on undocumented migrants, and in every written or spoken statement. The terms have been used throughout the years. From the start of the night shelter, the local government argued that they offered assistance because they wanted to respect the humanitarian minimum. For example, the then mayor Van der Laan had to persuade the city council of the night shelter’s necessity by arguing: ‘We are striving to provide for minimum humanitarian standards and to get rid of the problems on our streets. I therefore believe that this [Bed Bath Bread] is the best option. No letter from any government will change my mind’.⁷⁸ This reasoning was also applied to the 24-hour shelter: ‘Amsterdam offers, for humanitarian reasons, 24-hour shelter to undocumented migrants who want to work on a solution to their situation’.⁷⁹ The new alderman, correspondingly, argued that Amsterdam had a long tradition of humane policies: ‘Why we do this? We of course have a long tradition. The 24-hour shelter did not happen overnight’.⁸⁰ But, this implies that the new College of M&A had a different interpretation as to what the humanitarian minimum should entail. In other words, the problem was that the night shelter was not humane *enough*. A

⁷⁸ City council Meeting 01 April 2015.

⁷⁹ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 36.

⁸⁰ Alderman Groot Wassink in the city council 23 February 2019.

GroenLinks council member explained this reasoning: ‘Because many undocumented migrants lobbied for their rights and lived on the streets the municipality of Amsterdam offered night shelter. The so-called humanitarian minimum. However, is it humane when someone has to survive on the streets every day?’⁸¹ The alderman too underlined the humane benefits of 24-hour shelter: ‘For me, the humane side is principal’⁸²; ‘I am convinced that we will develop a good practice in which the undocumented migrants work on their future in a safe and humane situation and reach a sustainable solution’.⁸³

A second perceived problem is connected to the buzzword ‘sustainable solution’. The previous quote by alderman Groot Wassink is illustrative. This statement connects two key concepts: humane and a sustainable solution. It was reasoned that a safe and humane situation will help reach a sustainable solution for the undocumented migrants. The 24-hour shelter was thought to lead to ‘sustainable solutions’ because it allows people to work on their future plans. This was problematic in the night shelter. People would leave the shelter at 09.00 a.m. to spend their day on the streets of Amsterdam. Because of this arrangement, the migrants had little opportunity to think about their future prospects.⁸⁴ The College of M&A reasoned that migrants need rest and a safe environment, for them to be able to focus on the future. To be allowed to the 24-hour shelter, migrants are required to participate in ‘working towards a sustainable solution’. Each migrant is assigned a case manager who will help them work towards a sustainable solution. This is a condition. This means that the migrants need to be willing to consider three ‘sustainable solutions’: the possibility of legal residency, return to their country of origin, or relocation to another country.⁸⁵

The College of M&A wanted migrants to find a sustainable solution to maintain Program Undocumented Migration. If there is no outflow, there cannot be new inflow. If there is no inflow, more people will be on the streets. More people on the streets lead to issues concerning public order, which is a formal responsibility of the mayor.⁸⁶ This was problematic concerning the night shelter. The beds filled up quickly, but not everyone worked towards a solution. Some migrants stayed in the shelter for years, while others could not enter because the shelter was full. There were waiting lists.⁸⁷ Earlier, the local government attempted to curb these waiting lists, which is why they hired the external agency to manage the counter.⁸⁸ The incentive was ‘movement in the Bed Bath Bread’ as the external agency had to ‘improve the processes of the

⁸¹ *GroenLinks* council member, City council Meeting 01 April 2015.

⁸² *Volkskrant* (2019) Interview alderman Groot Wassink, ‘Amsterdamse wethouder Groot Wassink krijgt zijn 24-uurs opvang voor vreemdelingen. De humane kant staat voorop’, online at: <https://www.volkskrant.nl/nieuws-achtergrond/amsterdamse-wethouder-groot-wassink-krijgt-zijn-24-uursopvang-voor-vreemdelingen-de-humane-kant-staat-voorop~b3d7fbf2/> (Last visited 20 August 2020).

⁸³ *Ibid.*

⁸⁴ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden.

⁸⁵ These options were practically the same in the previous policy plan. Gemeente Amsterdam (2016) Uitvoeringsplan Programma Vreemdelingen 2.0.

⁸⁶ There have been several tense situations related to public order. To illustrate: WeAreHere groups regularly sought refuge in empty buildings, which led to forced evictions. Also, the WeAreHere groups received much negative attention after a series of ‘mistaken’ squat attempts in houses and buildings that were actually not empty, see for example: <https://www.parool.nl/nieuws/vluchtelingen-we-are-here-verlaten-kantoorpand~ba5b7a2d/>; <https://nos.nl/artikel/2227080-rechter-buigt-zich-over-kraakactie-we-are-here-in-amsterdam.html>

⁸⁷ Interview NGO Worldhouse; NGO Amsterdams Solidariteits Komitee Vluchtelingen; NGO Refugee Organisation.

⁸⁸ The counter is the place where undocumented migrants need to register to enter the shelter.

facility'.⁸⁹ This improvement involved stimulating the outflow of migrants. This was done by running the facility in a more 'corporate style'.⁹⁰ The interviewee of the external agency explained this corporate style as less decision-making based on 'feelings', and more on the basis of 'facts'.⁹¹ The external agency explained that: 'It was often said, oh it is such a lovely lady and they are so nice [...] that does not matter. It is not a criterion to stay [in the shelter]'.⁹² The 24-hour shelter would supposedly address these problems because (a) only migrants who are willing to cooperate on a sustainable solution can enter; (b) the migrants will receive more professional help; (c) they are required to leave in 1,5 years. As the policy plan states: 'The 24-hour shelter is not a permanent residence, but a temporary safe haven for guidance on perspective'.⁹³ Thus, with the 24-hour shelter, the local government strived to make the assistance to undocumented migrants operational and efficient, by making sure that people do actually leave.

Subsequently, the civil servants of Program Undocumented Migration prepared the policy plan for the 24-hour shelter, in coordination with the alderman. The interviewee of Program Undocumented Migration was outspoken and critical about the plan. Evidently, the idea for a 24-hour shelter did not come from the civil servants. On the contrary, they thought it was a bad idea. The civil servants' assessment of the nature of the problems was different. In their view, the problems of Program Undocumented Migration related to two things: (a) the conditions for entering the shelter; (b) a sustainable solution, similar to the problem identified by the College of M&A. Though, the civil servants believed that the latter would not be addressed by the 24-hour shelter. The interviewee reasoned on the basis of her experiences, she had been working at Program Undocumented Migration long before the new College of M&A commenced. While executing the previous night shelter policy, the civil servants faced two main dilemma's: many of the people who stayed in the shelter did not want to leave, and, much of the civil servants' time was consumed on lawsuits because of 'categories'. I will explain both.

The previous policy plan distinguished two categories: 'vulnerable' migrants and 'regular' migrants. Those who were assessed as vulnerable could go to a small 24-hour shelter, the others went to the night shelter.⁹⁴ These categories were at the basis of many legal cases against the local government, because determining those categories can be arbitrary and therefore problematic easily. Most cases were filed by one lawyer: Pim Fischer. The civil servants knew this lawyer well: 'Mr. Fischer has filed thousands of objections, appeals and summary proceedings. In the past year, one municipal lawyer was working on those cases fulltime'.⁹⁵ The municipal lawyers have repeatedly warned the civil servants to come up with a policy plan that does not distinguish categories. The 24-hour shelter addressed this concern.

Secondly, the civil servants also identified the absence of 'a sustainable solution' as a problem. Though, they did not believe that the 24-hour shelter would address it. The interviewee of Program Undocumented Migration was sceptic about the effect of 24-hour shelter (rather than

⁸⁹ Interview NGO Refugee Organisation; Loket Ongedocumenteerden.

⁹⁰ Interview Loket Ongedocumenteerden.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 24.

⁹⁴ Gemeente Amsterdam (2016) Uitvoeringsplan Programma Vreemdelingen 2.0

⁹⁵ Interview Program Undocumented Migration.

night shelter): ‘I understand it [24-hour shelter] is humane, it sounds logical [...] but the influence on the end result, a solution, that I do not know’.⁹⁶ This is because the interviewee believed that more time to think about a solution, will not necessarily lead to a solution. The 24-hour shelter made sure that migrants do not have to spend their days on the streets, they will have a safe space and can stay for 1,5 years. The civil servants, contrastingly, did not only see this as a benefit: ‘I always get the chills when people say they need to have time to rest’.⁹⁷ The civil servants believed that this works only for a limited group: ‘About 25% of the people in the night shelter could easily return to their country of origin, they were not at risk. There is a big group of people who are totally fine with staying in the night shelter. They do not mind sharing a room. They have food, drinks, a shower, everything is taken care of’ argued the interviewee.⁹⁸ Her point was that if the same people would stay in the 24-hour shelter, they would likely not find a sustainable solution. The interviewee continued: ‘For those people, 1,5 years is way too long. When I read about the 1,5 years in the coalition agreement, I was like oh god no, I must convince them otherwise!’.⁹⁹ The civil servants have not been able to convince the alderman. The 1,5 years stayed in the policy plan.

The plan for the 24-hour shelter was thereafter discussed in the city council. The council members prepared 16 motions in response to the plan, which were discussed and voted for during a 2,5-hour long debate.¹⁰⁰ During this debate, the different council members problematised: they reasoned what was problematic about the plan, as well as why the plan was necessary. The majority of the motions did not involve questions about the necessity of the shelter. On the contrary, most council members initiated suggestions on how to best run the 24-hour shelter. But these suggestions referred to ‘complicating factors’ as well as suggestions on how to improve the rights of undocumented migrants. I will discuss both.

On the one hand, several council members of right-wing parties flagged pragmatic concerns. And in most cases, these concerns related to financial consequences, and urban space and its inhabitants. It was reasoned that the shelter locations could be better used for other inhabitants, because of Amsterdam’s housing scarcity.¹⁰¹ It was argued that the shelter locations would be extremely expensive.¹⁰² Another council member was aggravated because inhabitants were not consulted about the shelter locations: ‘It is bizarre that this plan indicates no consultation with the neighbours of shelters [...] what are you afraid of, alderman?’¹⁰³ Moreover, a motion was introduced about the nuisance for neighbours of the 24-hour shelters.¹⁰⁴

On the other hand, several council members of left-wing parties did not echo such concerns. One council member tried to counter the pragmatic arguments by referring to human rights: ‘You talk about costs and priorities. 10 million euros a year is nothing compared to the 2 billion

⁹⁶ Interview Program Undocumented Migration.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ City Council meeting 23 January 2019.

¹⁰¹ VVD in City Council, 23 January 2019.

¹⁰² VVD and Forum voor Democratie in City Council, 23 January 2019.

¹⁰³ Forum voor Democratie in City Council, 23 January 2019.

¹⁰⁴ Gemeenteraad (2019) Motie 2019/77. Motie van het lid Nanninga inzake het uitvoeringsplan 24-uursopvang voor ongedocumenteerden (nulmeting overlast en andere meldingen per locatie 24-uursopvang), online at: <https://amsterdam.raadsinformatie.nl/document/7297256/> (Last visited 20 August 2020).

euros that your party [VVD] wanted to give to multinationals. Do you value the interests of multinationals more than human rights? We are talking about people who are systematically deprived of their basic rights'.¹⁰⁵ The left-wing council members aimed to improve the plans with suggestions about the privacy of the migrants¹⁰⁶, to involve migrants in defining the plans, to provide support for the councillors of the shelter and to help stateless people in obtaining nationality.

This actor network also included NGOs. NGOs have been involved in the execution of the Program Undocumented Migration from its start. For the new plans, the 24-hour shelter, they became involved during brainstorm sessions. The NGOs were asked to think along with the local government. While NGOs (generally) supported the idea of a 24-hour shelter, most were very concerned about the implementation.¹⁰⁷ For the NGOs, the problem is not whether people will leave the shelter, it is who would be let in. This had been a problem from the start of the night shelter. The number of beds was never unlimited. Consequently, some people got a bed and others did not. The NGOs tried to accommodate for those who did not, and they stayed in touch with the people who survived on the streets. The conditions for access to the night shelter have fluctuated, because the local government would try to stimulate the outflow. The 24-hour shelter would not change this. The 500 beds would be filled quickly, reasoned an interviewee, and this was indeed the case.¹⁰⁸ During the time of my interview, before the opening of the 24-hour shelter, the NGO Worldhouse already noticed that migrants became nervous. People were told that they could not get a spot in the 24-hour shelter. Entrance conditions stayed. For most NGOs, entrance conditions were intrinsically connected to human rights violations. Conditions implied that some people could not enter the shelter. This meant that those people did not have access to the right to adequate housing, or the right to respect for private and family life.¹⁰⁹ Hence, for the NGOs, human rights violations were considered the main problem.

The process of problematisation depicts that the actors had deviating views on the problems. NGOs' problematisation was that the local government violates human rights the moment it does not provide shelter to everyone. From the perspective of the College of M&A, the 24-hour shelter did not only make the municipal policies more humane, it was also connected to a more pragmatic, 'managerial' problem: the shelter had to run more efficiently, so that people eventually leave. Even within the local government, the assessment of the problems was different. For the civil servants of Program Undocumented Migration, the pragmatic and logistical considerations about running the shelter overruled the view that the night shelter was not humane enough. At the same time, most actors aligned on the belief that the local government must respond in some way to the undocumented migrants present in urban space, except for a number of council members. Overall, the question was not whether some form assistance should be given, but what kind of form. The council members had very different

¹⁰⁵ BIJ1 in City Council, 23 January 2019.

¹⁰⁶ Gemeenteraad (2019) Motie 2019/69. Motie van de leden Simons en Kiliç inzake het uitvoeringsplan 24-uursopvang voor ongedocumenteerden (delen van informatie met IND en DT&V), online at: <https://amsterdam.raadsinformatie.nl/document/7297110/> (Last visited 20 August 2020).

¹⁰⁷ Interview NGO Worldhouse.

¹⁰⁸ Interview NGO Worldhouse; Program Undocumented Migration.

¹⁰⁹ Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen; NGO Refugee Organisation; NGO Worldhouse; NGO Migrant2Migrant.

views on the latter. Some city council members flagged pragmatic constraints about the housing shortage, budgets and the nuisance for neighbours. Others reasoned that the 24-hour shelter plan could be improved by improving access to rights in several domains. Consequently, the actor network portrays an evolving deliberation as to what the ‘humanitarian minimum’ or ‘humane treatment’ should entail. In this case, NGOs found their answer in human rights as legal standards, while the legal human rights system did not provide a concrete answer for the local government. The local government’s interpretation of humane was subject to the pragmatic challenges related to creating an operational municipal program, and a political agenda.

Enrolment

This section elaborates on the division of roles to further unpack the network circumstances surrounding the transition to the 24-hour shelter. I discuss which roles were assigned to which actors, and how these actors utilised their roles. The process of enrolment provides insight into the choices that have been made concerning the 24-hour shelter. A chain of actors was involved to provide accounts of the problem. The alderman asked the civil servants of Program Undocumented Migration to write a policy plan. The civil servants consulted with NGOs. The plan was discussed in the city council. Simultaneously, the local government became enrolled in the agreement between the national government and the Association of Dutch Municipalities (VNG). The type of actors that became enrolled, defined what kind of ideas, resources and expertise were part of the actor network. Because of differences in roles, some actors had more influence than others, and were better able to push through their ideas as to what humane treatment entails.

Shortly before the policy plan for the 24-hour shelter was launched, the agreement between the VNG and the national government was signed. Consequently, it was decided that Amsterdam would host one of the five pilot shelters. The local government became enrolled in the agreement between the national government and the VNG. This agreement, to some degree, defined how the local government could act. Amsterdam had quite some freedom in developing the pilot. But, to be the host of a pilot shelter, they had to stay within the margins of the agreement. The agreement between the VNG and the national level, consequently, was the end of a 24-hour shelter without entrance conditions. The VNG agreement states that conditions must be applied. This entails that Dublin claimants cannot enter the shelter, if they do not want to cooperate with returning to their ‘Dublin country’. However, the alderman did not want to cooperate with forced evictions of this group, and wanted to better their situation. In this case, Amsterdam did not stick to its role. The alderman lobbied for a special program for Dublin claimants and this was accepted by the State Secretary.¹¹⁰ Regarding other conditions, the local government gave in. Initially, the alderman had the idea that the migrants could do unpaid labour. This was not accepted by the State Secretary.¹¹¹

¹¹⁰ Gemeenteraad (2019) Brief Deelname aan LVV, online at: https://geenillegalen.nl/getekende_brief_deelname_aan_lv_v.pdf (Last visited 20 August 2020), 3.

¹¹¹ Interview alderman Groot-Wassink in Dutch newspaper: ‘*Harbers heeft u daarbij blijkbaar ook iets laten inzien. Want u wilde eigenlijk dat mensen in de opvang betaald werk zouden kunnen doen. Dat is uit het experiment*

But then, why did the local government want to run a pilot shelter? This was a matter of budget and responsibilities. On the one hand, the College of M&A already reasoned that the responsibility was with the national level, which is why the College of M&A supported the idea of national shelters: ‘Solutions need to be found at the national level eventually’.¹¹² On the other hand, Amsterdam enrolled as a pilot shelter because of financial reasons. The alderman explained this to the city council: ‘Yes, it is expensive [24-hour shelter] which is why it would be great if the national government can contribute. That would reduce the costs for Amsterdam’.¹¹³ This was underscored in a letter from the alderman: ‘This [the pilot shelter] gives us the chance to make the Amsterdam approach successful, because of better cooperation and financial means’.¹¹⁴ Because Amsterdam enrolled, a budget was allocated. The local government received 5,3 million in 2019, and will receive 4,7 million in 2020 and 4,9 million in 2021.¹¹⁵ The total costs for 2019 were estimated at 13 million, but this still means that the local government will receive a substantial contribution. To compare, in 2017 the budget for the night shelter was 1,3 million.¹¹⁶

The College of M&A asked the civil servants of Program Undocumented Migration to develop the new policy plan. The civil servants had a different perception of the problems, they were not even in favour of 24-hour shelter. Furthermore, they had more experience on the matter than the alderman. However, the alderman wanted to have ‘his’ 24-hour shelter, it had been his objective for quite some time. The civil servants of Program Diversity have not been able to change this. Their role was to execute the orders of the alderman. And so they did.

The civil servants of Program Undocumented Migration enrolled NGOs. NGOs were asked to participate as brainstorm partners, and as partners in the execution of the 24-hour shelter. Their role was crucial. Without the help of NGOs, the local government would not be able to execute Program Undocumented Migration. The policy plan underscores this: ‘During the implementation and execution processes, the commitment of partners, volunteers and undocumented migrants is crucial. The local government continues to discuss the development of the policies with these groups’.¹¹⁷ To be enrolled had advantages for NGOs. When an NGO cooperated with the local government, they were able to exert influence, particularly regarding individual cases. For instance, they could convince the civil servants to give an individual access to the shelter.

Not all NGOs operated in the same way. They had different approaches to collaboration with the local government, and to the assistance to undocumented migrants. The interviewee of the Worldhouse explained that some NGOs ‘see more perspective’ in undocumented migrants than others. For example, the Worldhouse provides (legal) assistance to everyone, even if they have

geschrapd. Met een glimlach: ‘Daar had ik natuurlijk al wel een beetje rekening mee gehouden. De wet verbiedt dat nou eenmaal. Soms moet je in een onderhandeling hoog inzetten.’ Volkskrant (2019) Interview alderman Groot Wassink, ‘Amsterdamse wethouder Groot Wassink krijgt zijn 24-uurs opvang voor vreemdelingen. De humane kant staat voorop’.

¹¹² Gemeenteraad (2019) Brief Deelname aan LVV, 2.

¹¹³ Alderman Groot Wassink in the city council, 23 January 2019.

¹¹⁴ Gemeenteraad (2019) Brief Deelname aan LVV, 1.

¹¹⁵ Gemeenteraad (2019) Brief Deelname aan LVV, 4.

¹¹⁶ Gemeente Amsterdam (2016) Uitvoeringsplan Programma Vreemdelingen 2.0, 21.

¹¹⁷ Gemeente Amsterdam (2018) Uitvoeringsplan 24-uursopvang ongedocumenteerden, 5.

no real chance to receive legal residency. Other NGOs would not do so. They would not extensively assist people if they do not want to return to their safe country of origin. The NGOs that did enrol in the 24-hour shelter project, are more likely to belong to the second group.¹¹⁸ Several NGOs (like the Worldhouse) did not want to enrol in the municipal assistance and did not respond to the municipality's call for partners to run the shelter. The interviewee from Worldhouse explained this: 'We deliberately did not. We want to continue to do things that are not allowed. [For instance, to provide trainings to undocumented migrants on how to find an informal job]. If we join, I am not sure whether we would be able to continue with that'.¹¹⁹

Another reason, for some NGOs, not to enrol was to maintain a distance to be able to be critical. And, many NGOs were critical. All NGOs I interviewed perceived that the local government employs a different approach to human rights: 'You can notice that some things are approached from a different perspective [...] our organisation works with a human rights perspective, but the municipality focuses on a return-perspective [to the country of origin]'.¹²⁰ Most NGOs reasoned that there should be no compromise when it comes to the right to shelter, medical care and education. For them, enrolling in the 24-hour shelter would mean that they abandoned their principles. Movements such as the 'Code Red Network' continued to vocalise that the local government was not respecting human rights standards. For instance, in April 2019 a manifestation was held surrounding the question: 'Article 8 of the European Convention of Human Rights, does it still apply in Amsterdam?'. Like the local government, NGOs referred to humanitarian standards although NGOs upheld a rigour legal interpretation of those standards.

Lastly, the debates in the council meeting clearly show which side the council members were on: whether they supported the idea for a 24-hour shelter, whether they would like to maintain the night shelter, or have no shelter at all. While the debates show major disagreements, even the most critical council members were fairly collaborative. They reasoned that there was not much they could change, rather than the details, because the 24-hour shelter formed a central part of the local coalition agreement. A very critical council member of a right-wing party reasoned that the local government was acting from a basis of democratic legitimacy, there was not much she could do: 'I think the plans are horrible, but we live in a democracy. The majority of this council decided that this is the way to go. We have to accept that. It would be undemocratic not to do so'.¹²¹ Eventually, only one of the 16 motions was accepted. This motion proposes to foster more dialogue between the local NGOs, the local government and the national level. Hence, while the council members flagged many concerns and introduced many ideas, they have not substantially changed the content of the policy plan.

But, one concern that some council members flagged posed considerable difficulties: urban space. It turned out to be extremely challenging to find small-sized shelter locations to provide for a total of 500 beds. This delayed and constrained the plans. The alderman explained this challenge in a letter to the city council: 'The realisation of shelter locations is extremely difficult in the current real estate market. There is very little real estate available that is suited for an

¹¹⁸ 'Vluchtelingenwerk zit meer in dat stramien', Interview NGO Worldhouse.

¹¹⁹ Interview NGO Worldhouse.

¹²⁰ Interview NGO Refugee Organisation.

¹²¹ Council member from Forum voor Democratie, city council meeting 23 January 2019.

acceptable price. We now (July 2019) have found 302 places of the required 450 [...] It is expected that the 500 places in the new shelter locations will not be realised until the end of 2020'.¹²²

To conclude, the process of enrolment shows that the assistance to undocumented migrants was a negotiation, but not all negotiators exerted the same level of influence. The council members, even though not everyone was in favour, accepted that the 24-hour shelter was a fundamental project of the biggest, and democratically elected, party *GroenLinks*. Although, one of their pragmatic concerns, about the housing shortage, turned out to become a constraining factor. The civil servants of Program Undocumented Migration were enrolled as 'executors', they were not able to stop the 24-hour shelter transition from happening. The VNG agreement, on the other hand, had a more influential role. Because Amsterdam was a designated pilot shelter of the national government, which was the result of budgetary reasoning, it could not fully follow its own course. The alderman had more ambitious ideas than could be realised within this format. As a result of this compromise, the local government collaborated with the less critical NGOs. The more critical NGOs did not enrol, because they did not want to be part of the implementation of policies they did not support. This was precisely why the local government, a few years earlier, hired the external bureau to run the counter. The local government wanted to focus more on return to the country of origin. The previous executors of the counter, NGO's ASKV and the Refugee Organisation, would not accept this. The interviewee of the external bureau explained that he was not hindered by such normative principles: 'But for me it is different, I have my own company'.¹²³ Consequently, the NGOs' strict interpretation of human rights as unnegotiable legal standards was not dominant in the actor network. Though through legal cases and lobbying with civil servants and council members, these NGOs continued to exert some influence on the local government.

2.2.4 Network circumstances and function

The network circumstances surrounding the transition to the 24-hour shelter were rather unstable. The actors had different ideas as to how to act in the policy domain of undocumented migration, and connected to this, they had very different ideas as to what the humanitarian minimum, or human rights, entail. Though, this is nothing new. Human rights have already meant many things because the actor networks were constantly changing, and consequently, the assistance to undocumented migrants underwent a lot of changes since its start. The local government would introduce conditions for entering the shelter and would later alter or withdraw these conditions. For instance, in December 2017, the conditions of the night shelter were tightened. People from countries that were on the Ministry of Justice and Security's list of 'safe countries' could not receive assistance.¹²⁴ Or, in December 2018, people with a Dublin

¹²² Gemeenteraad (2019) Brief Voortgang uitvoeringsplan 24 uren opvang ongedocumenteerden, online at: <https://amsterdam.raadsinformatie.nl/document/7877424/1/09012f9782a818ba> (Last visited 20 August 2020).

¹²³ Interview Loket Ongedocumenteerden.

¹²⁴ Parool (2017) News Article, '50 asielzoekers uit bed-bad-brood gezet, 16 rond kerst', online at: <https://www.parool.nl/nieuws/50-asielzoekers-uit-bed-bad-brood-gezet-16-rond-kerst~b67b913c/> (Last visited 20 August 2020).

claim could not enter.¹²⁵ Because of the last condition, a group of 50 people had to leave the shelter. Another change was that a counselling program was introduced to assist the migrants in other aspects of their life, to help them to think about their future plans.¹²⁶ The assistance fluctuated, deliberated an interviewee: ‘Some people get shelter, others do not. Some groups receive a residency permit. A judge will make a decision. New policies and legislation are implemented after a new left-wing party gets a seat’.¹²⁷

Amidst the transition to the 24-hour shelter, there were particular network circumstances at play. What minimum humanitarian standards entailed, in this case, was not solidified by the local government on the basis of a legal human rights standard. European human rights law, in this case, did not provide direction as the European Court of Human Rights judgement implied that there was no obligation to provide shelter to undocumented migrants (in contrast to the earlier decision of the ECSR). The decision of the European Court of Human Rights was used strategically to reason that the local government had no obligation. Consequently, in Amsterdam, human rights have been interpreted on the basis of political agendas as well as pragmatic considerations. They were reinterpreted by a new alderman with progressive views, even for Amsterdam. He wanted to try out a new approach to the shelter, based on his ideals. His civil servants of Program Undocumented Migration were sceptic, since they already tried out many entrance conditions and ‘sustainable solution’ schemes and were aware of the implications of such trial and error (e.g. lawsuits against the local government). However, the network circumstances show that the voice of the civil servants was not decisive during this moment. They could not stop the 24-hour shelter from happening.

However, ‘humane assistance’ was not only interpreted on the basis of a political agenda. There were several pragmatic considerations and constraints as well. Urban space was a complicating factor, it was difficult to find locations for the shelters and council members were worried that other inhabitants would not appreciate it. Also, the budget was determining. Amsterdam’s shelter became a pilot shelter of the national government, also because this involved substantial funding. The local government had to slightly adapt to the rules of the agreement, which resulted in an entrance condition: people needed to be willing to work on their future. Another pragmatic consideration related to what the civil servants considered as most important: the rules surrounding entering and departing the shelter. In order to keep the shelter running, there needed to be compulsory outflow. And, to determine who could avail of one of the 500 beds, there needed to be entrance conditions. The consequence of both measures was that not all undocumented migrants in Amsterdam could avail of, what was put forward as, humane treatment.

The latter was precisely what some NGOs condemned. It was the reason why some did not want to cooperate with the local government. However, in the margins, these NGOs still exerted some influence on the actor network surrounding the 24-hour shelter. They were able to occasionally influence who got access to the shelter through individual relations with civil

¹²⁵ The national government keeps track of a list of ‘safe countries’, with no ‘persecution for reasons such as race or religion; torture; inhumane treatment’, see: <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/lijt-van-veilige-landen-van-herkomst>

¹²⁶ Gemeente Amsterdam (2016) Uitvoeringsplan Programma Vreemdelingen 2.0, 14.

¹²⁷ Interview NGO Amsterdams Solidariteits Komitee Vluchtelingen.

servants and council members, and legal cases. However, NGOs had limited influence on the structural policy choices of the local government.

Amidst this moment, human rights did not truly function as norms or standards in the literal sense of the word. They were not employed as strict and clear criteria, which the local government referred to and stood by. On the contrary, the terms humane and the humanitarian minimum were constantly reimagined in this unstable urban network.

2.3 The launch of the Amsterdam Human Rights Agenda

2.3.1 The moment

In 2014, the year after the night shelter opened its doors, the local government of Amsterdam commenced a project in which human rights were put centre stage. The local government deliberated that Amsterdam, as a diverse and multicultural city, needed an explicit and Amsterdam-specific human rights project. This Amsterdam-specific approach was designed on the basis of lengthy research. Civil servants worked for two years, to investigate and determine Amsterdam's approach, which resulted in the 'Amsterdam Human Rights Agenda'.¹²⁸ In 2016, the final product, which consists of a six-page letter, was presented to the city council.¹²⁹ The letter centres around the question: 'How do we, as a city, go about human rights?'.¹³⁰ The answer is provided in the letter itself. The letter gives insight into the incentives behind the initiative and it presents an outline of the activities of the Human Rights Agenda.

The Human Rights Agenda is ambitious, it proposes to do quite a lot: to teach a 'human rights perspective' to civil servants and Amsterdam's inhabitants, to have human rights as the 'common language' for the city, for human rights to inform all local policies, and to give special attention to four focal points: privacy, human rights education, accessibility and children's rights. In the Human Rights Agenda, human rights are referred to as both legal standards, moral values and principles of good governance. But, while the letter refers to all three approaches, they do not exert the same weight.

The incentive behind the Human Rights Agenda is explained with a reference to Amsterdam's international and European legal human rights commitments. The letter states: 'A human rights city is a city that explicitly refers to the Universal Declaration of Human Rights and/or the European Charter. The provisions of international treaties provide legal guidance for formulating the basis of local social policy'.¹³¹ In this sense, the local government called on an international and a regional human rights instrument to give *legal* guidance to local policies,

¹²⁸ The case of the Amsterdam Human Rights Agenda was also elaborated on in my article: Roodenburg, 'Urban approaches to human rights'; As well as in the forthcoming chapter: L. Roodenburg and S. Stolk, 'The desire to be an international law city: a self-portrait of The Hague and Amsterdam', in S. Stolk and R. Vos (eds.), *International Law's Selected Stories* (Palgrave Macmillan, forthcoming).

¹²⁹ In fact, the letter is the only written product. Gemeente Amsterdam (2016) Brief Mensenrechten in Amsterdam, online at: https://assets.amsterdam.nl/publish/pages/799393/brief_mensenrechten_in_amsterdam.pdf (Last visited 20 August 2020).

¹³⁰ Gemeente Amsterdam (2016) Brief mensenrechten in Amsterdam, 1.

¹³¹ 'De bepalingen van internationale verdragen bieden een juridische leidraad voor het formuleren van uitgangspunten voor lokaal sociaal beleid'. Gemeente Amsterdam (2016) Brief mensenrechten in Amsterdam, 2.

which corresponds with a legal approach to human rights. The letter further specifies what this legal guidance entails. The idea was that human rights should inform all local policies. The local government tried to achieve the latter by offering a voluntary human rights training to its civil servants. Through the human rights training, civil servants ought to internalise a ‘human rights perspective’ that can guide their daily decision-making and by this means inform local policies. The human rights training is given by legal scholars and provides substantial attention to the legal human rights system via a concise lecture on the sources of law, the organisation of the (international) human rights system and the scope and application of human rights law. Hence, the training provides civil servants with a basic legal understanding of human rights.¹³² Furthermore, civil servants are encouraged to discuss dilemma’s they face in their own work and connect these issues to human rights, to fully incorporate the ‘human rights perspective’.¹³³

At the same time, the legal approach to human rights remains slightly ambiguous. On the basis of the letter, I cannot tell how the Universal Declaration or the European Charter influenced the Human Rights Agenda. I do not know whether other human rights instruments the Netherlands is a party to or the Constitution were relevant as well, or why not.¹³⁴ The legal approach is not elaborated on in detail and it remains obscure what ‘legal guidance’ entails for civil servants. Moreover, the Human Rights Agenda does not initiate new *legal* commitments or instruments. For example, the Human Rights Agenda does not entail the incorporation of specific human rights norms in local legislation or a local office for individual claims on the basis of human rights.¹³⁵

The moral and good governance approaches to human rights are more prominent in the activities of the Human Rights Agenda. After the reference to the Universal Declaration, the letter explicitly brings forward a moral and good governance approach to human rights by referring to moral values, and the democratic principle of participatory decision-making: ‘Besides this legal power, human rights also provide moral direction, with common values such as human dignity, self-determination and equal treatment. We have attention for the most vulnerable, and that stakeholders are involved early on, to participate in the preparation and evaluation of policies relevant to them’.¹³⁶ The good governance approach to human rights is embedded in the bottom-up tactic of the Human Rights Agenda. Inhabitants participated in the decision-making on the Human Rights Agenda, because it was reasoned that only they can determine what the Amsterdam-specific approach should entail. Therefore, the four focal points

¹³² On the basis of my observation at the Human Rights Training in December 2017.

¹³³ Observation Human Rights Training, December 2017.

¹³⁴ The Netherlands has ratified all UN human rights instruments, except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. See: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=123&Lang=EN; Human rights principles are integrated in the Dutch Constitution as fundamental rights [*grondrechten*]. For instance, article 1 of the Dutch Constitution states: ‘All persons in the Netherlands are treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, or sex or on any other grounds whatsoever is not permitted’.

¹³⁵ For example, the city of Barcelona has an Office for Non-Discrimination. This office is based on international, EU and national human rights norms and processes individual complaints. Grigolo, ‘Human rights and cities’.

¹³⁶ ‘Naast deze juridische kracht bieden mensenrechten ook morele zeggingskracht van centrale achterliggende waarden van mensenrechten, zoals menselijke waardigheid, zelfbeschikking en gelijke behandeling en dat betrokkenen in een vroeg stadium een rol hebben bij de voorbereiding en evaluatie van beleidsmaatregelen die van hen op toepassing zijn’. Gemeente Amsterdam (2016) Brief mensenrechten in Amsterdam, 2.

of the Human Rights Agenda were determined on the basis of ‘human rights talks’ with 300 inhabitants.

The moral approach to human rights is present in most of the language of the letter. In this regard, human rights are presented a ‘perspective’ for inhabitants (and civil servants).¹³⁷ More specifically, human rights are used as a perspective or common language that can connect the diverse inhabitants of Amsterdam between themselves. The inhabitants of Amsterdam were invited to absorb this human rights perspective through the human rights talks. During these sessions, inhabitants were asked to debate about personal urban issues through a human rights lens and connect their urban experiences to human rights.¹³⁸ The inhabitants did not receive a lecture on the legal human rights system, the legal approach to human rights was not placed central but was briefly introduced to explain the incentive behind the initiative. The human rights talks, therefore, started by reading all 30 articles of the Universal Declaration out loud.¹³⁹

When looking closer, one sees the choices that have been made in the Human Rights Agenda. But then, out of all the possibilities, why was the Human Rights Agenda developed in this particular format? Why an agenda rather than a legal instrument? Why these particular four focal points? The network circumstances provide insight into these questions. To grasp the network circumstances, I first dissect the actors that were involved. It was not just ‘the local government’ that acted. An alderman came up with an idea, it was supported by the city council, a group of civil servants was given a task, they hired an external consultancy and the consultancy ‘consulted’ the inhabitants of Amsterdam. In the sections that follow, I first describe which actors were involved in this network. Subsequently, I will describe how these actors were interacting. I do this by describing the processes of problematisation and enrolment. In the process of problematisation, the involved actors tried to make sense of their environment and interests as they reasoned why the Human Rights Agenda is, or is not, essential. The process of enrolment represents which actors were involved, and how this determined what kind of views, expertise and resources were part of the actor network.

2.3.2 The actors

This section describes the main actors that acted in relation to the Human Rights Agenda. I start with the local government, the initiator of the Human Rights Agenda. I unpack who initiated the project and who became involved in its implementation. The local government chose to involve the inhabitants of Amsterdam as well. Consequently, I describe which people came to represent the inhabitants of the city.

¹³⁷ Interview Program Diversity.

¹³⁸ Interview Tertium; Program Diversity

¹³⁹ Tertium, Pakhuis de Zwijger en Gemeente Amsterdam (2015) *Amsterdammers over mensenrechten. Mensenrechtengesprekken in de stad*, online at: <https://www.tertium.nl/wp-content/uploads/2016/12/Amsterdammers-over-Mensenrechten-web.pdf> (Last visited 20 August 2020), 81.

The local government

The idea for the Human Rights Agenda originated in 2015, during a meeting of the College of M&A.¹⁴⁰ These meetings take place behind closed doors, I therefore do not have the transcripts of what was said. An alderman pleaded to ‘do something with human rights’.¹⁴¹ The alderman, Simone Kukenheim, was responsible for the domains Education, Youth and Diversity until 2018. This position is currently performed by alderman Groot Wassink (who initiated the 24-hour shelter). Alderman Kukenheim is affiliated with centre-left political party D66. D66 was the biggest party in the city council at the time, they were the winners of Amsterdam’s 2014 elections. D66 is a progressive liberalist party that manifests itself as pro-EU, pro-democracy and in favour of individual self-determination.¹⁴² The alderman’s own background is in Political Science. Her career has been devoted to politics and public administration.¹⁴³ That this particular alderman initiated a participatory human rights project, therefore, is not an odd or surprising move. It is in line with the standpoints of her political party D66, and makes sense in light of her personal background.

The initiative of the alderman was buttressed by the then mayor Van der Laan. Van der Laan was a lawyer himself. The local government started to more frequently and more explicitly engage with human rights under his direction. During his terms, the local government has integrated human rights into several policy domains. Human rights were, for example, mobilised in the domain of children and youth¹⁴⁴, in the policy for refugee integration and in Program Undocumented Migration. Additionally, human rights informed the policy for LGBTQ as incorporated in the ‘Pink Agenda’.¹⁴⁵ Moreover, under the direction of mayor Van der Laan, the local government started to formally embed human rights in its foreign policy. During international visits, the mayor would (at times) address human rights concerns.¹⁴⁶ This was done under the wing of ‘Amsterdam responsible capital’: the idea that Amsterdam, as a relatively wealthy and successful city, wants to help other cities in return.¹⁴⁷ Part of the

¹⁴⁰ Interview Program Diversity.

¹⁴¹ Ibid.

¹⁴² See: <https://d66.nl/>

¹⁴³ See: <https://www.amsterdam.nl/bestuur-organisatie/college/wethouder/simone-kukenheim/cv-simone-kukenheim/>

¹⁴⁴ ‘In the policy domain ‘Youth’ human rights are already integrated, especially because of new youth law that is pillared on the International Convention on the Rights of the Child’. City Council meeting on the Human Rights Agenda, 14 September 2016.

¹⁴⁵ More information on the municipality of Amsterdam’s policies on LGBTQ rights and the Pink Agenda can be found here: <https://www.amsterdam.nl/bestuur-organisatie/volg-beleid/diversiteit/lhbt-roze-agenda/>

¹⁴⁶ See for example the following instances. Mayor Van der Laan addressed the human rights situation in Israel: Parool (2015) News Article, ‘Van der Laan bespreekt mensenrechten in Israël’, online at: <https://www.parool.nl/nieuws/van-der-laan-bespreekt-mensenrechten-in-israel-be5bff9c/> (Last visited 20 August 2020); ‘Van der Laan calls for state complaint because of human rights abuses Russia’, Volkskrant (2013) News Article, ‘Van der Laan roept op tot staatsklacht tegen Rusland’, online at: <https://www.volkskrant.nl/nieuws-achtergrond/van-der-laan-roept-op-tot-staatsklacht-tegen-rusland-b39c85cd/> (Last visited 20 August 2020); In an interview with Amnesty Netherlands: ‘I am proud of the way Amsterdam is defending human rights’, Amnesty Nederland (no date) Interview with mayor Van der Laan, ‘Ik ben getergd’, online at: <https://www.amnesty.nl/wordt-vervolgd/ik-ben-getergd> (Last visited 20 August 2020).

¹⁴⁷ Gemeente Amsterdam (2014) Herijking Internationaal beleid 2014-2018. Amsterdam Internationaal Verantwoordelijke Hoofdstad, online at: https://assets.amsterdam.nl/publish/pages/739435/herijking_internationaal_beleid_2014-2018.pdf (Last visited 20 August 2020), 4.

Responsible Capital policy is, for example, the Shelter City initiative. Shelter City is a network of cities that allow foreign human rights defenders to spend a few months of refuge in their cities.¹⁴⁸ Hence, that mayor Van der Laan agreed to develop a Human Rights Agenda was not out of character either.

Alderman Kukenheim assigned the task of developing the Amsterdam-specific human rights project to ‘Program Diversity’, which falls under her responsibility. The manager of Program Diversity was tasked with the development of the Human Rights Agenda, because he had done similar projects before, in which he had to define and develop a new policy domain.¹⁴⁹ Program Diversity is a relatively small program, about 15 civil servants execute it, and four of them are (part-time) involved with the Human Rights Agenda.¹⁵⁰ The civil servants are, generally, not jurists, but have backgrounds in social studies. Besides the Human Rights Agenda, Program Diversity is responsible for projects on women emancipation, inclusivity, polarisation and radicalisation, the history of Amsterdam, anti-discrimination, and dialogue between different groups of inhabitants.¹⁵¹ Their main objective is to create an inclusive city, notwithstanding Amsterdam’s diverse character: ‘Diversity is our strength. We do not focus on our differences, but on what brings us together [...] this is why the municipality’s policy is not about diversity, it is about inclusivity’.¹⁵²

Program Diversity involved two external actors in the execution of the Human Rights Agenda. The first one was the University of Amsterdam. Two academics were asked to provide the Human Rights Training for civil servants. The academics are human rights experts from the Faculty of Law of the University of Amsterdam. Both are specialised in human rights law, although their personal research does not focus on the relation between cities and human rights law.¹⁵³ The second actor was an external consultancy. The consultancy bureau was hired to involve inhabitants of Amsterdam in the Human Rights Agenda.¹⁵⁴

Amsterdammers

The inhabitants of Amsterdam, ‘Amsterdammers’, played a central role in the Human Rights Agenda. This is because Program Diversity wanted them to play a crucial role. They hired an external actor, ‘Tertium’, to find out how Amsterdammers think about human rights. Tertium is a ‘consultancy and management agency’ specialised in ‘involving citizens in complex themes’.¹⁵⁵ They provide assistance to government agencies, corporations and knowledge institutions, and in this case to the local government of Amsterdam. On an earlier occasion, Tertium organised an event about human rights in one of Amsterdam’s event centres. This event was partly funded by the local government. On the basis of this experience, Program Diversity

¹⁴⁸ For shelter city see: <https://sheltercity.nl/city/amsterdam/>

¹⁴⁹ Interview Program Diversity.

¹⁵⁰ Ibid.

¹⁵¹ Gemeente Amsterdam (no date) Webpage, ‘Volg het beleid: diversiteit’, online at:

<https://www.amsterdam.nl/bestuur-organisatie/volg-beleid/diversiteit/> (Last visited 20 August 2020).

¹⁵² Ibid.

¹⁵³ Interview Program Diversity; Observation Human Rights Training.

¹⁵⁴ Interview Tertium; Program Diversity.

¹⁵⁵ See the website of Tertium, see: www.tertium.nl; their Facebook account, see:

<https://www.facebook.com/TertiumNL/>

approached Tertium to assist them with the development of the Human Rights Agenda.¹⁵⁶ Tertium was hired to explore what Amsterdammers find important in terms of human rights.¹⁵⁷ Program Diversity gave Tertium the following assignments: to investigate what Amsterdam's core values are, and to explore how Amsterdammers experience human rights in their city.¹⁵⁸ To investigate this, Tertium organised 30 human rights talks with about 300 Amsterdammers, between April and December 2015. Afterwards, they presented their findings in the report 'Amsterdammers on Human Rights'.¹⁵⁹

Tertium hosted open sessions in all city districts, for everyone to attend. Though, the majority of the Amsterdammers were selected by Tertium. Tertium underwent much efforts to move beyond the 'usual suspects'. They strived to create an inclusive sample that reflects the Amsterdammer, which is why they organised human rights talks at locations where people 'assemble naturally'.¹⁶⁰ One could think of, for example, community centres, schools and retirement homes. The sessions were attended by Amsterdammers of different ages, religions, education levels, cultural backgrounds and occupations. Tertium's report provides a list of these different groups. The groups range from sociology students and migrants who recently acquired a residency permit, to Muslim women and a high school class.¹⁶¹ Undocumented migrants are not among those groups. Another absent group are local NGOs. Program Diversity reasoned that NGOs would dominate the human rights talks with their personal agendas and priorities, which would overshadow the ideas of the Amsterdammers.¹⁶²

2.3.3 Translation activities

In the paragraphs that follow, I describe the network circumstances surrounding the Human Rights Agenda. The Human Rights Agenda approaches human rights as legal norms, a common language and as principles of participatory governance. This format was the product of the civil servants of Program Diversity, who tried to make sense of their broad task: to develop an Amsterdam Human Rights Agenda. And, they interacted with others. Program Diversity reached out to consultancy Tertium, the University of Amsterdam and Amsterdammers to assist them. These other actors, too, were involved in the problematisation. They provided accounts of the problems Amsterdam was facing in the realm of human rights. This activity is described under the section problematisation. Subsequently, the section on enrolment elaborates on the process in which certain actors were involved in the Human Rights Agenda. This process was not coincidental, some actors have not been consulted, or enrolled, while others have.

¹⁵⁶ Interview Tertium.

¹⁵⁷ Interview Tertium; Program Diversity.

¹⁵⁸ Tertium, Pakhuis de Zwijger en Gemeente Amsterdam (2015) Amsterdammers over mensenrechten. Mensenrechtengesprekken in de stad, 79

¹⁵⁹ Tertium, Pakhuis de Zwijger en Gemeente Amsterdam (2015) Amsterdammers over mensenrechten. Mensenrechtengesprekken in de stad.

¹⁶⁰ Interview Tertium.

¹⁶¹ Tertium, Pakhuis de Zwijger en Gemeente Amsterdam (2015) Amsterdammers over mensenrechten. Mensenrechtengesprekken in de stad, 90.

¹⁶² Interview Tertium; Program Diversity.

Problematization

The different actors put forward various accounts of a problem. They provided explanations as to why the Human Rights Agenda was needed, in this particular format. The alderman came up with a plan, the civil servants of Program Diversity were tasked to advance the initial idea, Amsterdammers were asked to provide their opinion and the city council had to approve the final product. In this section, I trace the accounts of the problem that were produced by the different actors during these steps. These accounts tell me something about the network circumstances. It shows how actors made sense of their surroundings.

The Human Rights Agenda started with the new College of M&A in 2014. In one of their closed-off meetings, they decided to develop a local human rights agenda.¹⁶³ The initiative became included in the budget proposal for 2015. A new initiative is inherently connected to a problematisation. The College of M&A needed to explain what the human rights project would be a solution to, to be able to include it in the budget proposal. My interview with the civil servants of Program Diversity, a statement of the alderman in the city council, the 2015 budget proposal and a letter, written to inform the city council about the initiative, give insight into the problematisation of the College of M&A. These sources display three elements that were believed to be missing or lacking in Amsterdam. Hence, the College of M&A identified three problems.

The first problem was that Amsterdammers were not sufficiently aware of the human rights of their fellow city dwellers, particularly those of vulnerable minorities. The budget proposal of 2015 justifies the expenses for the Human Rights Agenda as such: ‘This College wants to start a dialogue on topics that affect minorities, so the mainstream Amsterdammer becomes aware of the vulnerable position of minorities. The College represents minority rights and actively monitors these rights’.¹⁶⁴

The alderman identified a second problem. She reasoned that Amsterdam needed, and was *required*, to provide an urban concretisation to human rights, which was still lacking. The alderman explained this in the city council: ‘We live in cities. And we have made international human rights agreements. This means that you need to provide an urban translation. We cannot remain to perceive them [human rights] as abstract, like we often do. We as governors need to work on that. But when you start to work on this, you need to make sure that you give ownership to the inhabitants’.¹⁶⁵ She continued to build this argument by stating that Amsterdam needs a concrete approach to human rights, because of decentralisation and the challenges the city faces. Many responsibilities have been transported to local levels of government, she reasoned. Besides the legal obligations, the alderman referred to these concrete urban challenges: ‘It is also about refugee flows. We have made European agreements, but it is also about ensuring, on the spot, that people have a safe home and a perspective for the future. This is why we need to work with human rights’.¹⁶⁶

¹⁶³ Interview Program Diversity; Gemeente Amsterdam (2015) Begroting 2015.

¹⁶⁴ Gemeente Amsterdam (2015) Begroting 2015, 37.

¹⁶⁵ Alderman Kukenheim in the City Council meeting of the Committee on Youth and Culture, 01 September 2016.

¹⁶⁶ *Ibid.*

Although this is not included in written documents, interviewees added that the Human Rights Agenda was also a matter of developing ‘something explicit’.¹⁶⁷ Although the local government had been engaging with human rights in a number of policy terrains. And, the local government’s legal department already verified if policy documents and local legislation did not contradict the international and European human rights instruments the Netherlands is a party to.¹⁶⁸ However, there was no tangible and explicit human rights project or policy domain. An interviewee stated: ‘The alderman made human rights a focal point. A bit like human rights city Utrecht, this played a role in the background’.¹⁶⁹ The explicit connection between cities and human rights gained more prominence in the Netherlands at the time. Utrecht became the Netherlands’ first human rights city in 2012.¹⁷⁰ Prominent organisations in the Netherlands also started to promote cities’ explicit engagement with human rights. For example, the Netherlands Institute for Human Rights [*het College voor de Rechten van de Mens*] gives attention to cities and their role in the implementation of human rights. As such the Institute offers advice and information to municipalities on how to implement human rights.¹⁷¹ Also, the Association of Dutch Municipalities (VNG) published a report, in cooperation with Amnesty International, called ‘Doing well. The meaning of human rights for municipalities’.¹⁷² Through the Human Rights Agenda, Amsterdam was also able to manifestly demonstrate its engagement with human rights.

From this point, the job was transferred to another actor. Program Diversity became responsible for developing the specifics of the Human Rights Agenda. The civil servant, ‘experienced in developing new things’, took the lead. The interviewees of Program Diversity told me that the College of M&A did not have a clear idea from the beginning. The Human Rights Agenda had a ‘banal’ start stated the interviewees, there was not put in much thought as to what the human rights project should involve.¹⁷³ ‘Something explicit’ with human rights could mean many things. Because the Human Rights Agenda started with a rough idea, the civil servants had many choices to make. In doing so, Program Diversity altered the problematisation put forward by the College of M&A. In some cases, they added to the initial problematisation, but the civil servants also identified new problems.

Program Diversity built on the College of M&A’s ideas about the human rights awareness of Amsterdammers. Although, Program Diversity discarded the focus on minorities. They reasoned that human rights are relevant for all Amsterdammers. Especially in a hyper diverse

¹⁶⁷ Interview Tertium; Program Diversity.

¹⁶⁸ Interview Legal Department; The Netherlands has become a party to a considerable number of international and European human rights instruments. With regard to United Nations instruments, the most influential agreements are the ICCPR and the ICESCR. Furthermore, European and EU human rights instruments - most importantly the European Social Charter and the Charter of Fundamental Rights of the European Union - have direct working in the jurisdictions of the EU member states.

¹⁶⁹ Interview Tertium.

¹⁷⁰ For Human Rights City Utrecht, see: <https://www.utrecht.nl/fileadmin/uploads/documenten/bestuur-en-organisatie/internationale-zaken/2015-10-Human-Rights-Utrecht.pdf>

¹⁷¹ The institute is an official institution financed by the Department of Justice. Its mandate is to protect, explain, promote and monitor human rights in the Netherlands. See: <https://www.mensenrechten.nl/nl/de-gemeente-en-mensenrechten>

¹⁷² VNG en Amnesty International (2012) Report Goed Bezig. De Betekenis van Mensenrechten voor Gemeenten, online at: https://vng.nl/files/vng/publicatie_goed_bezig_over_mensenrechten.pdf (Last visited 20 August 2020).

¹⁷³ Interview Program Diversity.

city such as Amsterdam, with more than 180 nationalities, one needs a ‘common language’ they argued. The problem was that many Amsterdammers were not informed about the relevance of human rights in general, nor of the relevance of human rights for their own lives in the city. Program Diversity reasoned that when Amsterdam’s diverse inhabitants engage in dialogue with a human rights perspective, it can foster social cohesion and minimise conflict and disagreement.¹⁷⁴

Program Diversity also presented a new problem. They reasoned that civil servants, too, were unaware of the relevance of human rights for their work. Many civil servants automatically linked human rights to foreign policy, rather than considering human rights as relevant norms for their own work.¹⁷⁵ Program Diversity found that all employees of the local government should have substantial knowledge of human rights, in order to have human rights in the back of their minds when making decisions. According to Program Diversity, human rights offer a different perspective on the relation between the local government and the inhabitant: Amsterdam’s inhabitants have human rights and the local government should facilitate access to these rights.¹⁷⁶

The civil servants too wanted to make sure that Amsterdam’s local policies were in line with the local government’s foreign policies: to practice what you preach. As has been mentioned, human rights were already part of the foreign policy. Since 2014, Amsterdam’s foreign policy is presented under the slogan ‘Amsterdam Responsible Capital’.¹⁷⁷ The slogan refers to the aim to exchange knowledge and foster cooperation on several policy terrains, of which human rights. ‘Considering the profile of Amsterdam and our role as Responsible Capital [and considering that] human rights are more topical than ever, [they] must be integrated into the international policy’, states the Amsterdam Responsible Capital policy report. The connection between Amsterdam’s local and foreign policies was not always coordinated. While the Diversity Program set the goal for Amsterdam to become a human rights city, Amsterdam’s International Office already referred to Amsterdam as a human rights city during international affairs.¹⁷⁸ The interviewee of the International Office explained: ‘When we [the International Office] give presentations, we state that we are a human rights city and that we strive for equality and equal opportunities’.¹⁷⁹ While the International Office presented Amsterdam as a human rights city, Program Diversity deliberated whether this was indeed the case: ‘To take responsibility for human rights at other places, that is the easy part’.¹⁸⁰ Program Diversity

¹⁷⁴ Ibid.

¹⁷⁵ This tendency is extensively explored by Barbara Oomen. See: B. Oomen, *Rights for others: the slow homecoming of human rights in the Netherlands* (Cambridge: Cambridge University Press, 2013).

¹⁷⁶ Interview Program Diversity.

¹⁷⁷ Gemeente Amsterdam (2014) Herijking Internationaal beleid 2014-2018 Amsterdam Internationaal Verantwoordelijke Hoofdstad.

¹⁷⁸ Interview International Office; Program Diversity; In a PowerPoint presentation that was used during international visits to introduce the city of Amsterdam, human rights were one of the key points. The slides were used in several international visits to introduce the characteristics of Amsterdam. The PowerPoint presentation, unfortunately, is not online anymore.

¹⁷⁹ Interview International Office.

¹⁸⁰ Interview Program Diversity

approached the human rights city as something that requires commitment and effort: ‘Perhaps we will be a real human rights city in 2, 3 or 4 years. We believe it is a slow process’.¹⁸¹

The civil servants identified a fourth and last problem. They, like the College of M&A, reasoned that human rights often remain abstract. Human rights had to be made tangible and concrete for Amsterdammers to understand the importance of human rights. Human rights, therefore, had to be translated into a few concrete issues: focal points. This points to a problem. The civil servants did not know what Amsterdammers found important in terms of human rights. To be able to concretise human rights, the civil servants had to find out which human rights were most important for Amsterdammers.¹⁸²

Consequently, Amsterdammers were asked to provide their account of the problems. They were interviewed by external agency Tertium, to find out what should become focal points of the Human Rights Agenda. Tertium conducted the human rights talks and wrote a lengthy report: ‘Amsterdammers on Human Rights’.¹⁸³ The report identifies four focal points that were considered as most urgent by Amsterdammers: exclusion and discrimination, access to housing, education and dialogue, and the quality of healthcare.

All accounts of the problems were assembled by Program Diversity, coordinated with the College of M&A, and subsequently presented in a proposal. The proposal presents four focal points and explains the incentive behind the Human Rights Agenda. In this proposal, it becomes clear which problems were taken on board, and which were put aside. So, which problems made it to the proposal? Of the four focal points that were brought up by Amsterdammers, only one was taken on board. Human rights education and dialogue was made a focal point, while access to housing, discrimination and exclusion and the quality of healthcare were not. Instead, privacy, children’s rights and accessibility were included in the Human Rights Agenda. At first sight, the chosen focal points come as somewhat of a surprise. Why even research what Amsterdammers find important if the answer is left unused? Program Diversity and the alderman presented a pragmatic answer: issues such as women’s rights, refugee integration, undocumented migration and LGBTQ rights were already dealt with in existing projects or programs.¹⁸⁴ Program Diversity argued that the local government, for instance, already had enough consideration for the relation between human rights and migration, as embedded in the Undocumented Migration Program and the Program for Integration for Status Holders.¹⁸⁵ The focal points of the Human Rights Agenda were chosen as an incentive to give more attention to topics that received relatively little attention.¹⁸⁶

In the last step, the proposal had to go through the city council. In 2016, the focal points of the Human Rights Agenda were presented in the city council’s Commission on Youth and Culture. This commission had to deliberate whether the proposal could be sent to the ‘general’ council

¹⁸¹ Interview Program Diversity.

¹⁸² Interview Program Diversity; Letter to the city council prepared by Program Diversity: Gemeenteraad (2015) Brief aan de Gemeenteraad 25 augustus 2015 Amsterdamse mensenrechtenagenda.

¹⁸³ Tertium, Pakhuis de Zwijger en Gemeente Amsterdam (2015) Amsterdammers over mensenrechten. Mensenrechtengesprekken in de stad.

¹⁸⁴ Interview Program Diversity; City Council meeting of the Committee on Youth and Culture, 01 September 2016.

¹⁸⁵ Interview Program Diversity; See also City Council Meeting 14 June 2016.

¹⁸⁶ Interview Program Diversity; Gemeente Amsterdam (2016) Brief Mensenrechten in Amsterdam, 3.

meeting, for it to be approved. The debate was mild and rushed. The Commission debated about the Human Rights Agenda for a total of 9 minutes. During the meeting, the chair acknowledged that they were a bit behind schedule. The council members therefore started their statements with remarks such as ‘I will keep things short’. Moreover, the council members did not seem critical or involved in the proposal. All speakers acknowledged the good in ‘doing something’ with human rights, but their enthusiasm for the Human Rights Agenda was moderate. For instance, a council member stated: ‘Of course human rights are an important subject. The proposal is fine in itself, only thing is that it does not say very much [...] it is more like a summary of what we are doing’.¹⁸⁷ A few council members did engage with the four focal points. For instance, two council members emphasised the importance of children’s rights.¹⁸⁸ One council member asked why the four focal points of the Human Rights Agenda did not mirror those brought up by Amsterdammers. The alderman explained that a number of issues were already adequately addressed in existing policy domains. She deliberated that ‘it might not have added value to mention them again in the Human Rights Agenda’.¹⁸⁹ After the response of the alderman, the chair of the meeting quickly wanted to move to the next topic on the agenda: ‘So I can conclude that we can forward this to the city council? For it to be approved?’.¹⁹⁰ Everyone agreed.

Two weeks later, the Human Rights Agenda was presented in the general city council. In a total of three minutes, the proposal was discussed and approved. All council members voted in favour.¹⁹¹

The process of problematisation shows that the city council played a minor role in this actor network. They were not invested in the Human Rights Agenda and seemed content with any kind of ‘human rights project’. Contrastingly, the civil servants of Program Diversity did not simply adopt the problematisation of the College of M&A, they had their own perceptions about what the city needed. Program Diversity placed the Human Rights Agenda alongside the work of other local government departments to make it consistent (with international policy) and avoid duplication. For the civil servants, the Human Rights Agenda had to be something for the Amsterdammers, because the diverse city posed challenges between different types of Amsterdammers, and between the local government and the inhabitant. The Human Rights Agenda, correspondingly, was a governing solution for the diverse city. Program Diversity had much liberty because the College of M&A had no clearly defined ideas. The College of M&A wanted to have an explicit human rights project, possibly with the examples of other cities and image-building possibilities in mind, but also because they felt that international and regional human rights instruments required an urban interpretation. The interpretation, however, was left to Program Diversity.

¹⁸⁷ City Council meeting of the Committee on Youth and Culture, 01 September 2016.

¹⁸⁸ City Council meeting of the Committee on Youth and Culture, 01 September 2016; Gemeenteraad (2016) Voordracht voor de raadsvergadering van 14 september 2016. Vaststellen brief Mensenrechten in Amsterdam, 3.

¹⁸⁹ City Council meeting of the Committee on Youth and Culture, 01 September 2016.

¹⁹⁰ ‘Zodat erop gehamerd kan worden’, City Council meeting of the Committee on Youth and Culture, 01 September 2016.

¹⁹¹ City council meeting, 14 September 2016, Agendapunt 33.

Enrolment

This section delves into the division of roles, and the actors' responses to these roles. The civil servants had their assignment in the back of their mind. They needed to come up with an urban concretisation to human rights. Their options were not endless. They needed to think of budgets, and the wishes of the alderman, city council and Amsterdammers. The Amsterdammers, on the other hand, reasoned on the basis of their own problems and experiences. Their role did not involve defining pragmatic and feasible solutions.

The alderman enrolled Program Diversity to develop something explicit about human rights. On the one hand, it makes sense that the alderman assigned this role to a program under her direct responsibility. On the other hand, it makes the implicit assumption that human rights fit well in the domain of diversity. It is visible that Program Diversity, rather than for instance the Legal Department, drafted the Human Rights Agenda. Much of the language of the Human Rights Agenda resembles other projects of Program Diversity. The civil servants of Program Diversity are (generally) not legal experts. They used their own expertise and transported this knowledge to the Human Rights Agenda. This shows. While migration and discrimination are not focal points in the Human Rights Agenda, references to Amsterdam's diversity are ample. The letter emphasises that Amsterdam has 180 nationalities, a diverse and tolerant past, and also a difficult history. To cite: 'Amsterdam has a history as a place of refuge and as a free and tolerant city, but it also has a dark history related to slavery and the persecution of Jews during the Second World War. In Amsterdam, 180 different nationalities are living together [...] but do all these different Amsterdammers share the same core values?'.¹⁹² This fragment echoes another project of Program Diversity: 'Shared Past', which revolves around dealing with these (difficult) histories.¹⁹³ Hence, Program Diversity employed their frame of reference in the Human Rights Agenda. They urged to involve all Amsterdammers in the human rights project, rather than minority groups, which is in line with the supposition that their program is about inclusivity rather than diversity. And, they were the one to introduce the bottom-up approach that consisted of dialogue with different groups of Amsterdammers.

Program Diversity problematised the lack of human rights knowledge of civil servants and made this an integral part of the Human Rights Agenda. This implies that they tried to enrol all civil servants. This was not an easy task. The local government of Amsterdam has a total of 13,500 employees, not including those on temporary contracts.¹⁹⁴ The task was immense. It is complicated by the fact that Program Diversity is responsible for it. Program Diversity can only give advice to the other departments. As a result, the Human Rights Agenda had little firm consequences for other local government departments. Program Diversity tried to enrol them through the Human Rights Agenda, but this gave no guarantees. The Human Rights Agenda has been published on the municipal website and all civil servants were invited to sign up for

¹⁹² Gemeente Amsterdam (2016) Brief Mensenrechten in Amsterdam, 1.

¹⁹³ For the program Shared Past, see:

<https://www.amsterdam.nl/bestuur-organisatie/volg-beleid/diversiteit/gedeelde/>

¹⁹⁴ Gemeente Amsterdam (2018) Staat van de Organisatie, online at:

https://www.amsterdam.nl/publish/pages/871659/staat_van_de_organisatie-2018.pdf (Last visited 20 August 2020).

the human rights training. Still, civil servants could read about the Human Rights Agenda and do nothing.

Moreover, local government departments were not forced to implement the Human Rights Agenda. The interviewees of Program Diversity underwrote this. It had been difficult to persuade other local government departments to enrol. They did not always understand the relevance of human rights for their line of work argued the interviewees: ‘That is based on a lack of knowledge about human rights, it is that banal. This is why the human rights training is crucial’.¹⁹⁵ I also encountered this during two interviews with other local government departments. The interviewees were sceptical about the relevance of human rights for their work, although both interviewees work on topics that were brought up as focal points by Amsterdammers.¹⁹⁶ Moreover, civil servants of Program Undocumented Migration had simply not heard of the Human Rights Agenda when I interviewed them in 2018: ‘I do not know it, but it makes sense that Program Diversity is working on that’.¹⁹⁷ But, since migration was not a focal point, this could still be reasonable. Program Undocumented Migration was not explicitly assigned a role.

This enrolment difficulty was the reason why Program Diversity enrolled the experts of the University of Amsterdam. The experts were hired to make civil servants understand human rights, for them to enrol in the Human Rights Agenda. They provide a two-day training that requires some preparation from the participants. Signing up for the training is voluntary. I attended one of the training series and observed that most participants already had an affinity or interest in human rights. The civil servants of Program Diversity were aware of this. The usual suspects signed up for the training and the sceptics remained sceptic. Program Diversity was strategising over this. During the time of my interview, they were opting for a more top-down approach. If the managers and directors would be pushed to attend the training, they might transfer their knowledge to their teams. Gradually, everyone would enrol.

The Human Rights Agenda presents four focal points. But it remains unclear who will address those focal points. Or, in other words, who was enrolled to address them. There was a budget allocated for the drafting of the Human Rights Agenda, but there was no additional budget assigned for the implementation of the focal points. A letter to the city council states that the Human Rights Agenda does not have additional budgetary consequences: ‘All expenses are covered by the budgets of the departments responsible’.¹⁹⁸ It was not specified who the responsible departments were. This could make sense, as the focal points should be an incentive to give attention to new topics. But there is a contradiction. While the Human Rights Agenda intended to give attention to new topics, most focal points were already embedded in local government departments or projects. They connected well to existing initiatives and ambitions. The overlap is as follows. The same year as the launch of the Human Rights Agenda, the Convention on the Rights of Persons with Disabilities had been ratified by the Netherlands. In

¹⁹⁵ Interview Program Diversity.

¹⁹⁶ Interview Program Housing of vulnerable groups; Program Undocumented Migration.

¹⁹⁷ Interview Program Undocumented Migration.

¹⁹⁸ ‘*De genoemde beslispunten hebben geen financiële consequenties. Uitgaven vinden plaats binnen de budgetten van de verantwoordelijke portefeuilles*’. Gemeenteraad (2016) Vaststellen brief Mensenrechten in Amsterdam. Voordracht voor de raadsvergadering van 14 september 2016, 4.

response, the city council agreed on a project called ‘Amsterdam works on accessibility’.¹⁹⁹ Hence, there already was a designated human rights project on accessibility. Two years before the launch of the Human Rights Agenda, a new national youth law was introduced. The new youth law extends the responsibilities of municipalities and is based on the International Convention on the Rights of the Child.²⁰⁰ In 2014, the local government launched an initiative on human rights education.²⁰¹ The focal point privacy was the least embedded in local government structures, but initiatives were already developing. Amsterdam’s Audit Office wrote a report about ‘Privacy for Citizens’ in early 2016.²⁰² In response to the report, an alderman became responsible for assessing how municipal policies could deal with the protection of personal information.²⁰³ Thus, to enrol other departments for the focal points, Program Diversity predominantly built on existing local government structures.

Enrolling Tertium was straightforward. Tertium got an assignment for which they were paid. Tertium was paid to enrol Amsterdammers and so they did. Tertium has been able to enrol 300 Amsterdammers, and the sample was diverse. The interviewee from Tertium explained that some Amsterdammers were a bit hesitant to enrol. They were unsure what the human rights talk would entail. But, the interviewee remarked, eventually all were participating enthusiastically.²⁰⁴ The Amsterdammers were enrolled in 2015, but they have not been ever since. After Tertium finished the research phase, there have not been more human rights talks. Amsterdammers were enrolled temporarily and predominantly in the phase leading to the Human Rights Agenda. Thereafter, it remained uncertain how Amsterdammers would learn a ‘human rights perspective’.

Moreover, Tertium wrote a report about the views of Amsterdammers, but the Human Rights Agenda does not fully reflect the results. The four focal points that were chosen reflect, to a greater extent, what the city council (children’s rights), College of M&A and Program Diversity found important and/or convenient. This shows that although Amsterdammers, were enrolled and executed their roles, the local government adjusted the course of action to its liking. This also demonstrates that the local government was in a position to do so.

The city council’s role was to provide comments, approve or reject proposals. It is a powerful role. The city council used the role to introduce one focal point. Children’s rights were not identified as a focal point by Amsterdammers, but were stressed as important by the city council

¹⁹⁹ The website of the municipality emphasises that Amsterdam is one of the 25 leading municipalities (*koplopergemeenten*) in the Netherlands that have collaborated to implement the UN Convention on the Rights of Persons with Disabilities. Gemeente Amsterdam (no date), webpage on municipal policy on accessibility, ‘Wat de gemeente aan toegankelijkheid doet’, online at: <https://www.amsterdam.nl/iedereen-doet-mee/watdoetdegemeente/> (Last visited 20 August 2020).

²⁰⁰ Interview Program Diversity; For the new Youth Law of 2014, see: <https://wetten.overheid.nl/BWBR0034925/2019-07-01>

²⁰¹ Gemeenteraad (2014) Policy proposal, ‘Mensenrechteneducatie’, online at: https://assets.amsterdam.nl/publish/pages/582861/initiatiefvoorstel_mensenrechteneducatie_200114.pdf (Last visited 20 August 2020).

²⁰² Rekenkamer Amsterdam (2016) News Article, ‘Publieksonderzoek 2015: Privacy van burgers met een hulpvraag’, online at: <https://www.rekenkamer.amsterdam.nl/onderzoek/privacy-van-burgers-met-een-hulpvraag-geeft-amsterdam-voldoende-aandacht/> (Last visited 20 August 2020).

²⁰³ Gemeenteraad (2016) Vaststellen brief Mensenrechten in Amsterdam. Voordracht voor de raadsvergadering van 14 September 2016, 3.

²⁰⁴ Interview Tertium.

and ended up in the Human Rights Agenda.²⁰⁵ At the same time, the proceedings of the council meetings show that the council members were not invested in the Human Rights Agenda. When the Human Rights Agenda was on the agenda of the hours-long council meetings, it would be discussed in a few minutes. There were never real debates. There were no debates because all council members thought the Human Rights Agenda was fine. The focal points were not considered as sensitive, it had no financial implications, and all council members appeared to find human rights important. One could imagine that a different type of Human Rights Agenda could have had a different response. What if the Human Rights Agenda made access to adequate housing or migration a focal point? The council debates discussed in moment one show that the council was more divided over the assistance to undocumented migrants than it was over the Human Rights Agenda.

The process of enrolment exposes something about the network circumstances surrounding the Human Rights Agenda. It shows that even though the Human Rights Agenda intended to be 'owned' by Amsterdammers, in practice, the different sections of the local government noticeably had more decisive ability. The College of M&A, the city council and Program Diversity selected three out of the four focal points, while only one focal point (human rights education) conveyed the wishes of the Amsterdammers. Moreover, the process of enrolment portrays that the established connections between Program Diversity and other actors were fairly temporal. Tertium and the Amsterdammers were enrolled in the period leading to the Human Rights Agenda, but there was nothing in place to maintain these relations after the launch of the Human Rights Agenda. Even the relations within the local government were slightly unstable. Program Diversity tried to enrol other departments and civil servants, but they had limited tools (specifically competences and budget) to do so. In this sense, the connections predominantly developed on a voluntary basis, which made that mainly the 'usual suspects' became part of the actor network. In addition, NGOs were deliberately kept out of the actor network therewith generating a relatively frictionless human rights project.

2.3.4 Network circumstances and function

How did human rights function in a Human Rights Agenda? The two sections above, on problematisation and enrolment, assessed the network circumstances surrounding the Human Rights Agenda. These sections illustrate the particularity of the interaction between the different elements in the network. The Human Rights Agenda could have been completely different if another local department would have executed it, if the responsible alderman would not have been affiliated with political party D66, or if the local government would not care about its urban identity. Contrastingly, if the Amsterdammers would have identified different focal points, the Human Rights Agenda may have been the same. After all, the Human Rights Agenda did not reflect what Amsterdammers found important although it was claimed otherwise.

It becomes clear which network circumstances were crucial for the choices concerning the Human Rights Agenda. To start with the initial assignment of the College of M&A. This assignment was very broad because the College's perception of the problems the Human Rights

²⁰⁵ City Council meeting of the Committee on Youth and Culture, 01 September 2016.

Agenda had to address was wide-ranging. Initially, the College of M&A wanted to have an urban, and explicit, interpretation of human rights. This opened up many possibilities, and room for manoeuvre, for the local government department that became responsible: Program Diversity.

Program Diversity, to a great extent, was able to give shape to the Human Rights Agenda. They kept in mind what the Human Rights Agenda would add to existing municipal policies and projects. Program Diversity wanted to develop something complementary with existing policies (such as the Amsterdam Responsible Capital), while avoiding duplication. The Human Rights Agenda was designed to offer a smooth and frictionless fit with the organisation of the local government, thereby avoiding additional budget expenditures and the restructuring of other policy domains. This inclination towards a frictionless format determined the choices for the four focal points, and perhaps it also determined that the legal approach to human rights did not have to be put centre stage in the activities of the Human Rights Agenda – a legal approach may have had more substantive consequences for the budget and the expectations of others.

The network circumstances revolved around expertise. The type of local government department that became responsible defined how human rights functioned to a great extent. The civil servants of Program Diversity are generally not jurists and their approach to human rights resembles their expertise. They focused on building an inclusive city, and consequently, human rights were employed for this endeavour. Realising the legal approach to human rights was less suited to Program Diversity. They referred to the legal approach to human rights by mentioning the Universal Declaration, and strived for civil servants to make decisions with human rights in the back of their minds. However, in practice, Program Diversity lacked the competences to impose this, and the funds and manpower to realise this.

Much of the promises and aspirations of the Human Rights Agenda may be overly ambitious. Human rights might never become the common language of Amsterdammers, if there are no structural human rights talks with inhabitants. Amsterdammers may not take ownership of the Human Rights Agenda, when the agenda does not reflect what they considered important. Human rights may never become the ‘perspective’ of all civil servants, if the human rights training is voluntary. The governmental policy related to the four focal points (privacy, human rights education, children’s rights and accessibility) may not be influenced by human rights, if there is no budget to do so, nor a clear direction on how to do so.

Moreover, because voices external to the local government were only temporarily heard (in the case of Amsterdammers), or not invited at all (in the case of NGOs), there was little to nothing to contest the approach to human rights of the local government: the negotiation was controlled by the local government. Nor was the city council very involved. One council member asked a critical question about the four focal points, but it was quickly forgotten. It came across as if the council members appreciated the idea of doing something with human rights without critically assessing it. This disinterest and/or the positive connotations of human rights perhaps obscured a critical assessment of the Human Rights Agenda.

2.4 Conclusion

In this section, I draw parallels between the roles of human rights in moment one and moment two to analyse how these roles may differentiate and/or approximate. Amidst both moments, human rights functioned as an incentive, a legitimisation, behind the initiatives. The Human Rights Agenda and the assistance to undocumented migrants were initiated because the local government was persuaded, or acculturated, by human rights. Human rights functioned as a catalysator. Though, my research demonstrates that this itself does not show much. A local government can refer to human rights, start a Human Rights Agenda or refer to humanitarian reasons, but this does not disclose much about the work behind an engagement with human rights. During the two moments discussed, human rights did not provide a clear course of action by themselves, they did so in interaction with many other network circumstances: human and non-human actors, ideals and practical considerations.

Both the assistance to undocumented migrants and the Human Rights Agenda had a profiling or identity-construction element to it. Invocations of human rights in the realm of diversity and migration were thought to *suit* Amsterdam well. Civil servants and local politicians were drawing on ideas as to what suits or does not suit the city, to explain their invocation of human rights. Drawing on this type of reasoning, the alderman responsible for the assistance to undocumented migrants argued that the 24-hour shelter had to be understood in ‘a long tradition’. Likewise, it was reasoned that a Human rights Agenda suited Amsterdam’s tolerant past and today’s diverse inhabitants.

Human rights, as moral values, functioned as one of the central reasons for the transition to the 24-hour shelter. A way to act could have been to refer the undocumented migrants to the national immigration system. Then, there would be no need for a municipal shelter. The new local government could have kept the night shelter. But the local government did not leave it in the hands of the national government to take action, and they did adapt the format of shelter, also because of a moral approach to human rights. From the beginning of the assistance to undocumented migrants, human rights were used to justify the local government’s deviating policies vis-à-vis the national government *and* the city’s inhabitants. The local government referred to human rights to explain why they responded in the way they did to the undocumented migrants that resided on the city’s streets. It was considered to not be humane to do nothing. This was the case for the opening of the first night shelters, but also in 2018, when the local government opted for the 24-hour shelter.

Though, ‘being humane’ or respecting the ‘humanitarian minimum’ did not lead to one fixed outcome. The local government tried to be humane in many different ways. Humane could mean that migrants with a Dublin claim ended up on the streets. A few months later, it could mean that they had access to the shelter again. The ways in which this moral approach to human rights was employed depended on the political affiliations of the responsible alderman and mayor, and on practical limitations related to the lack of suitable buildings and funding. Hence, urban politics, urban space and the organisation of the municipal apparatus played a crucial role. The interpretation of ‘humane’ policy predominantly depended on the local politicians in office. With a new College of M&A, humane would mean something else: namely 24-hour

shelter. The new alderman had the plan for the 24-hour shelter on his mind for quite some time. Correspondingly, when he became responsible for the policy domain undocumented migration, he used his position to implement the plans. It was evident that the plan came from the *GroenLinks* affiliated alderman, rather than from the civil servants as they saw few benefits in the 24-hour shelter.

The formulation of the plans for the 24-hour shelter, as well as its implementation, became subject to rather practical considerations that are inherent to the bureaucratic environment of a local government, as well as to the density of urban space. The city of Amsterdam already faced a lack of urban space and immense pressures on the housing stock. The plan to have five small-scale 24-hour shelters consequently incited disagreement and friction, among council members, which revolved around the perception that Amsterdammers would have more right to these shelter locations. Despite this competition over urban space, urban space also posed a practical challenge. It turned out to be very difficult to find buildings that suited the budget, which is why the 500 beds were realised much later than initially aimed for. At the same time, budgets are an intrinsic part of the municipal organisation. To execute a plan, there must be sufficient financial means. Consequently, the budget appeared to be the central reason why Amsterdam opted to host a pilot shelter as part of the agreement with the national government. This budgetary choice had consequences for the terms for entering the 24-hour shelter, and thus for the local government's interpretation of 'humane' and the 'humanitarian minimum'.

As for the Human Rights Agenda, both (individual) politics and the municipal apparatus played a crucial part again. The Human Rights Agenda started because of the political ideals of an alderman, and were subsequently made to fit the existing organisation of the local government. The Human Rights Agenda did not change anything for the other departments of the local government. They could continue with executing their projects and programs, and could adopt a 'human rights perspective' – but only if they wanted to do so. Human rights were transformed into four focal points, even though the chosen focal points did not correspond with the participatory intentions of the Human Rights Agenda. The College of M&A and the civil servants picked and chose the focal points they could work with. Why the local government picked those four specific focal points remained somewhat obscure. The local government did not want to choose policy domains in which human rights were already 'embedded' (such as undocumented migration). Additionally, it had to do with the preference of the city council for including children's rights, with the lack of budget, and consequently the choice for existing projects. Moreover, because Program Diversity was the department to develop the Human Rights Agenda, the final product evidently resulted from the expertise of this particular department.

During both moments, human rights' function as legal standards remained largely unspecified. The local government recurrently referred to the 'humanitarian minimum', but it was not made explicit what the humanitarian minimum was based on. Hence, human rights did not inform (a) what the Human Rights Agenda should entail, or (b) what type of assistance the local government should provide to undocumented migrants. On the contrary, the local government reasoned, on the basis of the 2016 decision of the European Court of Human Rights, that the national nor local government has a legal obligation to provide assistance. The 24-hour shelter was not initiated because of an obligation to human rights instruments. It was the other way

around. The European human rights system informed the local government that they are not obliged because the national immigration system is adequate and in line with human rights standards, which enabled the local government to strategically manoeuvre around possible obligations.

The ambiguity of the role of human rights as legal standards points to a profound difference in function between both moments. In moment two, human rights were presented as a perspective and set of *legal* norms to guide civil servant' decision-making. In moment one, contrastingly, human rights had a limited guiding function in the everyday decision-making of the civil servants of Program Undocumented Migration. A value such as 'humane' did not provide an answer to the dilemmas the civil servants faced and nor did the legal standards as embedded in human rights instruments (there was, as was argued by the local government, no legal basis to provide assistance anyway). Human rights offered little concrete direction when it came to the civil servants' two main concerns: who could enter the shelter, and what would make them leave again. For the civil servants, it was a matter of trial and error. They were testing how to run the shelter in the best manner. To stimulate the outflow of people, they would introduce conditions. The consequence was that civil servants defined the conditions for entering and the solutions for leaving on the basis of other factors (e.g. advice from the legal department, preferences of the city council or aldermen, personal experience, the influence of NGOs). The interviewee of Program Undocumented Migration did not speak about human rights during our talk. At the end of the interview, I asked the civil servant: do these discussions and questions revolve around human rights? She reasoned that human rights were the incentive behind the night shelter. Though, she found it difficult to determine what human rights meant for her work: 'I find it complicated. If you would ask the Worldhouse if the shelter is in line with human rights they would say no [...] I think the local government will always violate human rights. Except when everyone is truly equal and there is freedom of movement. That world does not exist, we agreed that there are borders'.²⁰⁶ The interviewee of the other executive actor, the counter, expressed a similar view: 'Human rights as guiding values for human interaction, that is excellent [...] but to use human rights to get access to a welfare state, that is a way to blow up the system'.²⁰⁷ As for the Human Rights Agenda, it was precisely this indeterminacy of human rights that made the local government call for an urban concretisation and an Amsterdam-specific approach. How human rights did not, or could not, function in moment one, is what was being promoted in moment two.

The local government could never satisfy everyone with their usage of human rights. Civil society actors would always consider that the local government violates human rights through its assistance to only *some* undocumented migrants, and perhaps, they would also be critical of the Human Rights Agenda (if they would have known about it). The crux is that the local government was aware of this probable friction and contestation. They knew they would be criticised, and therefore strategised for it. They remained in close contact with NGOs and organised brainstorm sessions to involve them in the 24-hour shelter policy. After the plans were finalised, it was left to the NGOs to decide who still wanted to cooperate with the local government – hence, the likeminded NGOs did. In moment two, the local government knew

²⁰⁶ Interview Program Undocumented Migration.

²⁰⁷ Interview Loket Ongedocumenteerden.

that creating a Human Rights Agenda with NGOs would be very complicated, they would overshadow the inhabitants' views and would want to push for their priorities. This was not a workable format for the local government. In the end, the final product offered a smooth fit with existing priorities of the local government, and the city council, correspondingly, flagged no difficulties.



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