

# Jong en illegaal in Nederland

Een beschrijvende studie naar de komst en het verblijf van onrechtmatig verblijvende (voormalige) alleenstaande minderjarige vreemdelingen en hun visie op de toekomst

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# Summary

## *Background*

The background of the present study on the current situation of undocumented (former) unaccompanied minors in the Netherlands lies in the changes that have taken place in the policies on undocumented unaccompanied minors from 2001 onward. Debate on the effects of policy changes on the position of undocumented unaccompanied minors is largely dictated by the large number of undocumented unaccompanied minors who leave for an unknown destination during or after the asylum procedure, or after reaching adulthood. Members of the Lower House of Parliament express their concerns about undocumented unaccompanied minors who have been sent to the Netherlands by human traffickers or who have been recruited for prostitution by human traffickers in the Netherlands. The disappearance of boys and girls from asylum centres also gives rise to discussions in the Lower House of Parliament. The great number of young asylum seekers that leave for an unknown destination raises the question of what happens with these 'disappeared' minors. Are they the victims of crime and exploitation, do they choose illegality above returning to their home country, or do they only make use of the opportunities created by the existing policies to start a new life in Europe? Available research sheds no light on what actually happens to minors who leave for an unknown destination. The starting point of this research is the lack of knowledge on the living conditions and considerations of undocumented (former) unaccompanied minors residing in the Netherlands.

## ***Research questions and method***

The research questions are as follows:

1. How and why did the undocumented (former) unaccompanied minors come to the Netherlands?
2. How do undocumented (former) unaccompanied minors provide for their living and housing?
3. Which contacts do undocumented (former) unaccompanied minors have with the authorities regarding health care, education and justice?
4. How and where do undocumented (former) unaccompanied minors see their future and which considerations play a role?

This study is based on interviews with 118 former undocumented unaccompanied minors and representatives of 41 (private) organizations and institutions. The recruitment of the un-

documented (former) unaccompanied minors was achieved through two means. Firstly, respondents were recruited through the personal networks of the research assistants. Secondly, respondents were recruited through contacts with representatives of (private) organizations, institutions and persons who shelter, counsel or offer other forms of support to the minors. Additionally, we tried to get into contact with respondents in specific locations or during events visited by undocumented (former) unaccompanied minors, if possible independently from organizations.

We have defined four criteria to determine the selection of respondents into the sample group during and after fieldwork. The first criterion is that the respondent has entered the Netherlands as an unaccompanied minor. The second criterion is that the respondent has entered the Netherlands after the implementation of the new Aliens Act 2000 (April 2001). Thirdly, the respondent should be between fifteen and twenty-five years old during the fieldwork. The fourth criterion is that the respondent resided without documents in the Netherlands for a certain period of time. We have interviewed 84 respondents meeting all four criteria as set out above. Additionally, we interviewed 34 young adults who offered additional valuable insights. We have subdivided these young adults into three groups: (1) former unaccompanied minors who settled in the Netherlands before the implementation of the Aliens Act 2000 (n=8), (2) unaccompanied minors in detention (n=11), and (3) young adult returnees in Freetown, Sierra Leone (n=15).

Because of the illegal status of the (former) unaccompanied minors it is impossible to compose a representative sample group. Moreover, the sampling method may lead to overrepresentation or underrepresentation of specific groups of (former) unaccompanied minors. For example, we recruited many respondents through (private) organizations. It is arguable that undocumented (former) unaccompanied minors with little or no contact with organizations are underrepresented in the sample group. It is also possible that (former) unaccompanied minors who are forced to work in prostitution or other sectors are shielded from (shelter) organizations by their employers and are therefore underrepresented in our research. Also, it is possible that (former) unaccompanied minors who are able to provide a living for themselves through crime or informal employment and who remain independent from (private) organizations are underrepresented in this research. These limitations and selectivity mechanisms are an integral part of this type of research. It is important to note that we have tried to minimize the risk of selectivity by working with different research assistants who independently recruited respondents. Furthermore, we tried to geographically spread the recruitment of respondents and used different networks and organizations to recruit respondents. This broad set up resulted in a great variety of respondents in terms of background, age, country of origin and place of residence in the Netherlands.

### *Why and how did the undocumented (former) unaccompanied minors settle in the Netherlands?*

What emerges from the interviews with the (former) unaccompanied minors is that the reasons for migrating are mostly related to circumstances in the country of origin and to a lesser extent to the attraction of the Netherlands or other European countries. In other words, it is mostly the push factors that caused the respondents to leave their country, rather than the pull factors to go to a specific country or region. The motives for migration of the (former) unaccompanied minors can be related to changes on the macro level (war, political instability, religious conflicts, and economic developments) and changes at the meso level, such as difficult situations within the extended family or in the youngster's immediate surroundings.

To understand how (former) unaccompanied minors come to the Netherlands, we used three migration patterns in our analysis. These migration patterns differ on who supervises the journey: human smugglers, the (extended) family or the migrant himself. The migration pattern under the guidance of human smugglers is the most common among the respondents in this research (n=81). Only a small number of respondents came under the guidance of family networks (n=11), or on their own (n=10). In the latter two migration patterns there also appears to be significant involvement of human smugglers at different stages of the journey. Typical of the youngsters who travelled through smuggling networks is that after arrival they are left to fend for themselves. Often, these youngsters do not have any family members or acquaintances they can fall back on after arrival.

The eleven respondents who travelled under guidance of family networks, distinguish themselves from the youngsters in the other two migration patterns in the fact that after arriving they are taken care of by relatives. These youngsters travel from family members in their home country to family members in the destination country. In order to arrange the journey of the youngsters, relatives often make use of the services of smugglers. Sometimes these smugglers only arrange for (falsified) travel documents or visas, but it also happens that the smugglers arrange the entire journey and travel with the youngsters to the destination country. In this case, the guidance of the journey remains with the family, because after arrival the youngster is taken in by family members.

The ten respondents who travelled on their own, often travel across land and make use of local transport, or use smugglers on some stages of the journey. Sometimes these youngsters stay in a transit country for a while to earn some money before proceeding with their journey. Often these youngsters had no specific destination in mind prior to their departure, but wanted to go to Europe or America. Their ultimate destination has been determined mainly by the contacts and ideas they gained on their journey.

## *How do undocumented (former) unaccompanied minors provide for their living and housing?*

In retrospect, the asylum procedure is a very important time for (former) unaccompanied minors. During their legal stay (former) unaccompanied minors establish new and diverse social contacts in the Netherlands, which they can use after losing their legal status to obtain different forms of support. Furthermore, during their legal stay the youngsters gather knowledge about the Netherlands and its customs and rules, which they can use later after losing their legal status. For most (former) unaccompanied minors the protection and security of the formal care came to an end upon reaching the age of eighteen years, or for some just before reaching eighteen years, and they were forced to fend for themselves. The highly structured life of these youngsters in the formal care until they reach eighteen years, especially in housing, (health) care and income, ended. The majority of the respondents left for an unknown destination. By far the largest group of (former) unaccompanied minors left for an unknown destination around their eighteenth birthday right after they received a formal message that their temporary stay permit would not be renewed and that the formal care would end. Secondly, we see a small group of respondents who did not want to wait for the outcome of their asylum procedure while they were still underage and decided to disappear. Thirdly, there are some (former) unaccompanied minors who left for an unknown destination after they were put on the streets from a detention centre. In this research we did not speak to (former) unaccompanied minors who left for an unknown destination and who are suspected to be victims of human trafficking during their stay in the Netherlands.

### **The construction of a new social network**

The (former) unaccompanied minors are not embedded in a (family or ethnic) support network, but they create a new social network during their asylum procedure and the subsequent period. These new social networks are heterogeneous by ethnicity and residence status. An important part of the contacts of the respondents consists of fellow undocumented (former) unaccompanied minors and/or (former) unaccompanied minors who have recently been able to formalize their residence status. In both cases these are individuals in a similar socio-economic position and with relatively few opportunities to provide support to the respondents. Also, a part of the new social network of the (former) unaccompanied minors consists of native Dutch, including professionals from organizations and peers, whom the respondents met during their schooling period or in their spare time.

### **Work and earnings**

Since the majority of the respondents were undocumented during the fieldwork period, this means that under normal conditions they are excluded from formal employment, legalized self employment and the provisions of the welfare state. This study also shows that only few

(former) unaccompanied minors work in the informal economy. While in previous research on undocumented migrants the scarcity of jobs in the informal sector forms the basis for their non participation, this does not play a major role in the situation of the undocumented (former) unaccompanied minors in this research. Work implies a greater risk of arrest and the fear of being arrested while working (which will compromise future possibilities to successfully formalize their residence status) has a major influence on the decision of the respondents to work in the (in)formal sector.

The sectors in which the youngsters perform informal work vary from cleaning and construction to catering and personal services. The work is characterized by uncertain working hours. There are often few hours available and the work often takes place on call. The pay is meagre and few respondents can survive exclusively on their earnings.

### **Criminal activities**

By far the largest group of respondents has never been involved in criminal activities. Twelve respondents reported that they had been involved in criminal activities in the past, such as violence (during the asylum procedure or when in formal care), drugs, property crime (theft and the selling of stolen goods) and document fraud. These offences were mainly committed during the asylum period, when the respondents were still underage, or just after they lost their residence status, and were aimed to provide for a living. The majority of the respondents indicated that they consciously stayed away from criminal activities in order not to damage their chances of formalizing their residence status in the future. The (former) unaccompanied minors who entered the Netherlands with the help of false documents, or who are able to work in the formal sector with the use of someone's identity documents, have a different perception of legal qualifications such as fraud and crime. From their perspective, their actions are not criminal, but inextricably linked to irregular migration and illegal residence.

### **Housing**

The majority of the respondents have spent a short or long period on the street. Especially the first period after the termination of the formal care or from the moment that these (former) unaccompanied minors leave for an unknown destination, appears to be the period in which these youngsters roam the streets. Only over time do they find more suitable forms of housing, usually through newly acquired social contacts. Most respondents have free use of a living space. The downside of this free lodging is the shame that many respondents struggle with. These feelings of shame lead in some cases to the youngster preferring to spend the night on the street rather than to rely on friends. More often (former) unaccompanied minors try to compensate for their feelings of shame through promises to repay once they have formalized their residence status and have money. We have also described several cases of abuse of power that are interwoven with free or cheap accommodation and with the illegal

status of the (former) unaccompanied minors. In exchange for housing or under threat of reporting illegal residence, some homeowners or chief residents expect the youngsters to carry out certain tasks, such as cleaning, or to get involved in intimate relationships or perform sexual services.

### **Support from the social network: private organizations and friends**

The undocumented (former) unaccompanied minors are mainly supported by friends and private organizations for their living and housing. It is because of this support that the youngsters can continue their (illegal) stay in the Netherlands and do not roam the streets. Especially the private organizations play a prominent role in supporting these youngsters. Our study shows that the role NIDOS (the organization that is appointed as the legal representative and formal guardian of the unaccompanied minors) played in the lives of the (former) unaccompanied minors before their eighteenth year, after their eighteenth year is taken over by private organizations.

The support youngsters receive from friends, acquaintances, nationals or private organizations is however not open-ended. The acceptance of clients by private organizations, including the relevant practical and financial support, is subjected to criteria. For example, organizations evaluate whether the (former) unaccompanied minor is likely to obtain legal residence in the future. If there is no prospect for a future legal residence in the Netherlands, most organizations aim at the prospect of returning to the home country and they expect the youngster to collaborate with IOM (International Organization of Migration) for their future return. Determining whether there is a prospect for a future legal residence happens in some cases, especially with the more professional organizations, on the basis of a consistent system, such as migration story analysis. Sometimes non legal factors also play a role in determining if a youngster can receive support from an organization, such as personal involvement of a professional with a specific youngster. Another criterion is that organizations only accept clients from their own municipality or region. Finally, some organizations expect the (former) unaccompanied minor to perform certain tasks, such as voluntary work.

### *An indigent group?*

The findings in this study show that the living conditions of the undocumented (former) unaccompanied minors in the Netherlands can be qualified as outright poor by Dutch standards. The undocumented (former) unaccompanied minors struggle to find shelter and to a large extent depend on the minimal (financial) support from private organizations and friends. These youngsters are indeed capable to live on such a basic minimum income, but this is not a matter of course. They are entitled to medical assistance and also make use of health care. Nevertheless, not all of them know how to get access to medical care and many respondents

are experiencing mental health problems. They also have, under certain circumstances, the right to education, but due to different reasons cannot always exercise this right. The (future) perspective of these undocumented (former) unaccompanied minors is problematic. These youngsters have no opportunities in their spare time for self development through education and/or employment. They focus on obtaining a residence permit in the future and in the meantime try to stay out of the hands of the police for fear of deportation. This group of undocumented (former) unaccompanied minors leads a life far removed from the relatively carefree life of the 'average Dutch youngsters', who live with their parents, go to school, have jobs, earn money, and spend their money on all kinds of consumer goods.

### *Victims of human trafficking in the sex industry?*

One of the motives behind this research lies in finding an answer to the question as to whether or not undocumented (former) unaccompanied minors are victims of human traffickers in their home country and are recruited for exploitation in prostitution in the Netherlands or elsewhere. In the course of our research we came across two (former) unaccompanied minors who were victims of exploitation in forced prostitution. In this research we found no further specific or implicit indications that young men and women are recruited in their home countries by human trafficking networks to be exploited in forced prostitution in the Netherlands. However, this does not mean that there are no victims of forced prostitution among undocumented (former) unaccompanied minors, but there is likelihood that this is happening on a smaller scale than presumed by politicians and the media. If (former) unaccompanied minors are on a large scale exploited in forced prostitution after losing their legal status, we should have come across more victims of forced prostitution – given our broad sampling approach – and we should have heard more stories from the youngsters about this phenomenon.

### *Victims of 'other forms of exploitation'?*

Since 2005 the legal definition of human trafficking includes more than exploitation in (forced) prostitution or other forms of sexual exploitation. According to Dutch Penal Code, article 273f, exploitation also includes slavery and slavery or servitude related practices and forced or mandatory labour or services, also summarized under the term 'other exploitation'. (Art. 273f Sr, lid 2). Despite the fear of the authorities that undocumented (former) unaccompanied minors leaving for an unknown destination from asylum centres or the formal care system become (or are at risk of becoming) the victims of human traffickers in the sex industry, we found that undocumented (former) unaccompanied minors have a greater risk of becoming victims of other forms of exploitation outside the sex industry.

We have described several cases of abuse of power that are interwoven with free or cheap accommodation and (informal) employment and with the illegal status of the (former) unaccompanied minors. In exchange for housing or under threat of reporting illegal residence, some landlords or chief residents expect the youngsters to carry out certain tasks, such as cleaning, or to get involved in intimate relationships or perform sexual services. Several respondents told us about the poor working conditions they were faced with due to their illegal status, which can even lead them to stop working. Other respondents see their vulnerable position in the labour market and poor working conditions as a logical and almost self-evident consequence of their illegal status. They are convinced that they cannot change these circumstances and that they have to accept them or stop working.

The (former) unaccompanied minors who work in the informal labour market are almost always approached by the employers themselves. The great need of undocumented (former) unaccompanied minors to generate income or to find proper housing may lead them to easily accept poor working conditions. In line with the reasoning of Lestrade and Ten Kate (2009) we believe that, depending on the circumstances, this need to work under poor conditions limits the free will, in which case it is indeed possible to speak of forced labour. We have found no evidence that there was pressure through the use of physical violence. We see that sometimes there was indirect pressure, such as employers threatening to withhold (part of) the salary, to terminate housing or threatening to report the illegal status of the youngster to the authorities. The vulnerability of the (former) unaccompanied minors is thus mainly reflected by dependency relationships and situations of exploitation in underexposed areas such as housing and employment, outside the sex industry.

The undocumented (former) unaccompanied minors cannot just be characterized as powerless victims of exploitation and modern slavery. There are at least two factors that serve as a bar against exploitation by counterbalancing their dependence on employers and landlords. Firstly, most undocumented (former) unaccompanied minors receive emotional and financial support from private organizations and thus the majority of the youngsters are not fully dependent on work in the informal sector. Secondly, the strong orientation of the youngsters towards a lawful residence in the Netherlands causes them to fear the risks of arrest while working, so they rather settle for the limited support of private organizations and friends. The support of private organizations and the focus of the youngsters towards a lawful stay thus constitute a buffer against exploitation. Again, however, there is a downside. Friends and acquaintances sometimes benefit from the services of the youngsters in their own way, for example by expecting the youngster to work for them. The unequal exchange of labour for money, goods and services supplied by friends, nationals and organizations can in certain situations create multiple forms of dependence, whereby the youngster depends for housing, legal aid and livelihood on one organization, partner or friend. Depending on the circum-

stances at how the interdependence between the youngster and the private organization takes shape, and despite all the good intentions, we believe here is also a risk of exploitation.

*Which contacts do undocumented (former) unaccompanied minors have with the authorities regarding health care, education and the justice system?*

Most undocumented (former) unaccompanied minors in this study have relatively much spare time, because often they don't work and do not attend school. The respondents handle this abundance of spare time differently and this can be expressed in two ideal-typical lifestyles. In the first pattern the (former) unaccompanied minors live a secluded life. This is expressed in a minimal number of social contacts available to them, and the few contacts that they do have are with individuals who are in a similar socio-economic position as themselves. Furthermore, these youngsters engage little or do not engage at all in outside activities. They are guided by the fear of being arrested and generally do not go outside, unless they really have to. The second pattern we have described as an 'entrepreneurial life'. These respondents have a very extensive and heterogeneous social network that can provide support and assistance. They undertake many activities outside and are not stopped by the fear of getting arrested. Some of these youngsters lose all caution and sometimes even forget that they do not have a residence permit. We have described how undocumented (former) unaccompanied minors use various strategies to move around in the public arena and sometimes use certain strategies to gain access to public facilities. Firstly, undocumented (former) unaccompanied minors may conceal or emphasize their illegal status to maintain friendships or to receive support of private organizations. Secondly, undocumented (former) unaccompanied minors try to adopt a legal status by strategically using their old personal documents, or by using the personal document of someone else, sometimes by paying for its use. Finally, the undocumented (former) unaccompanied minors try to reduce the risk of being arrested by abiding by the rules in the public domain. At the same time we have to conclude that the respondents who live an 'entrepreneurial life' sometimes forget to use these strategies and/or forget their illegal status altogether, and as a consequence of their boldness get arrested.

One of the areas in which the youngsters adopt the above described strategies is health care. We see that the youngsters are largely able to realize free access to medical care with the help of social contacts, in particular through private organizations. A significantly smaller group of respondents tries to get into contact with health care institutions on their own, without the use of social contacts, and pay them directly. Still another group of respondents do not make use of medical care because they never needed to, or because they lack the knowledge and the right social contacts to get into contact with doctors.

The biggest problem that the (former) unaccompanied minors faced during their schooling period was the difficulty to complete their education. In most of these cases this coincided with the moment the youngsters turned eighteen years old and, as a consequence, the financial support of NIDOS was terminated, with the result that the youngster could no longer afford the schooling. Internships are also often a stumbling block, due to the lack of financial support and failure to obtain a working permit. This situation prevents the youngsters from completing their education with a diploma or certificate.

The respondents often lack knowledge about their own rights, for example when it comes to medical care or education. The undocumented (former) unaccompanied minors learn about their rights mostly through professionals of private organizations, who also do not always know what undocumented (former) unaccompanied minors are entitled to. The youngsters' ignorance is further fuelled by situations that occur in their immediate social environment, for example undocumented acquaintances who have to pay for medication or are forced to leave school.

Over half of the respondents have at some point been arrested by the police, mostly because of illegal residence. Most arrests were made when the youngsters were travelling, for example at a border control. The majority of the youngsters who have been arrested have spent time in detention. The (former) unaccompanied minors who are currently in detention or who have been in detention in the past are negative about this experience. They think detention is unjust and they view detention as very similar to prison. These youngsters state that they have not committed any crime and that they have been put in detention only because of their illegal status. Other contributing factors to their negative feelings are the uncertainty about the length of the detention period, the uncertainty about the outcome of the detention (deportation to the home country or back on the street), and, finally, the linguistic and cultural differences between the detainees themselves as well as between detainees and supervisors. The reasons given for lifting the detention were unclear to most respondents. The majority of the respondents explained that one day they received a discharge certificate and were told to leave the Netherlands of their own accord within a certain time frame (24 or 48 hours). This lack of clarity concerning the ending of their detention caused feelings of disbelief and bewilderment once these youngsters found themselves back on the streets.

*How and where do undocumented (former) unaccompanied minors see their future and which considerations play a role?*

The decision to stay in the Netherlands is the outcome of several considerations which are related to the circumstances in the Netherlands and to the circumstances in the home country. Ultimately, the youngsters prefer the certainty of an illegal stay in the Netherlands over the uncertainty of a residence elsewhere or in their home country.

Migrating to another European country or returning to their home country are not serious options for most respondents. Their knowledge about the Netherlands and the social contacts they have acquired are too valuable to exchange for the uncertainty of a new country, or an unfamiliar home country, where they have no friends or acquaintances and have no knowledge about the current situation.

The respondents in Freetown, Sierra Leone, were able to offer valuable insights into the circumstances of return to a home country. The respondents who returned of their own accord had sufficient time to prepare their journey; they had saved money, and/or received an allowance from IOM. The youngsters who were deported and did not have money saved, no social contacts re-established, and no time to prepare for their return, had an initial lag as compared to the youngsters who returned voluntarily and on their own.

Once back in Sierra Leone, the initial difference between youngsters who returned voluntarily and those who were returned forcibly disappears and both groups are confronted with similar problems. The youngsters are detached from the situation in their country after a long stay in the Netherlands. They quickly use all their money on essential everyday necessities such as housing, food and/or medical care for a family member. Contacts with family members are usually difficult after the return of the youngsters. On the one hand, this is caused by the long absence of the youngster. The family members and the youngster have grown apart. On the other hand, family members and friends have high expectations of the returnees. Often relatives have financially invested in the migration of the youngster and they expect financial support and prosperity once the youngster has returned. Besides high expectations, there is also a great deal of mistrust and suspicion towards the returnees. The family can and will not accept that someone who has lived in Europe can return with nothing to show for it. These emotions of suspicion and disappointment often lead to the unwillingness of family members to support the returnees with housing or food. The social contacts that the returnees were counting on for support after their return, in fact turn out to be contacts that do not offer any kind of support.