

Contraventions of the labor rights of Indonesian undocumented migrant workers in The Netherlands: Policies, Safeguards and Access to Justice

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By Hafizh Atfin

Student number: S1488430

Supervisor: Dr J.S. Oster, LL.M.



Abstract

The relationship between the Netherlands' state policy and migrants in an irregular situation is mediated by international and EU conventions, agreements and Directives. This study will suggest that victims' protection safeguards are not fully in place, especially for undocumented migrants. This research provides an overview of the provisions for the protection of the basic human rights of undocumented migrants in particular, as the most vulnerable group of migrants. The study suggests that the effectiveness of legal protection provisions depends on how these provisions are formulated and also on their practical application in specific cases. Recognition of undocumented people's rights includes the important issue, which is focused on in this study, of the undocumented as victims of criminal forms of labor exploitation. Therefore this research focuses on the implementation of these safeguards through the study of three cases of three undocumented Indonesian migrants in the Netherlands in attaining their rights and protection as victims of labor exploitation. Being undocumented has put them in a precarious situation when it comes to reporting crime to the police, and then accessing justice for prosecution and reparations. A related study has been conducted by the EU Agency for Fundamental Rights on labor exploitation in EU member states more generally. However, this study seeks to fill a gap in empirical studies by interviewing and reporting on, and analyzing the accounts of Indonesian undocumented migrants in particular, about their experiences in relation to crimes of labor exploitation in the case of the Netherlands. This is the knowledge gap this research seeks to address. The study's findings tend to confirm the view that irregular migrants can be understood both as victims of labor exploitation crimes, and as agents seeking justice within the provisions of what is possible, given the priority of the Dutch authorities with protection of the national territory and labor market from 'unauthorized migrants'.

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Chapter 1

Introduction

In any country, being undocumented means that some regulations designed to protect those with regular status are not applicable to you. Particularly in the enjoyment of basic protections right, for instance as a worker, or in relation to access to justice. This puts undocumented migrants in an often precarious situation in the labor market. These migrants are more often exploited due to their inability to effectively access justice or seek redress (Sellers, 2015). One of the focal debates is whether being in an irregular situation is an act violating the sovereignty of a nation or precisely the reverse - the result of victimization through rigorous norms of legality. This normative question underpins debates around human movement and its meaning as an integral part of human existence (Duvell, 2011). This is an important perspective on the definition of a migrant as an agent, being a perpetrator or a victim of policy and authority as structure (Barker & Jane, 2016). This is a crucial element for the effectiveness of the policy and safeguards provided for the undocumented migrants.

Being in an irregular situation does not mean being without any rights. As a review of literature will show, there are safeguards in place on various levels of human rights that should ensure protection of fundamental rights without discrimination based on legal status. So when some actors make use of someone's irregular migration status as a weapon to exploit them as a migrant, these safeguards should be able to protect such migrants as victims of crime. Whenever an undocumented migrant becomes a victim of crime, for instance through abusive employment practices, the authorities are confronted with conflicting pressures. On the one hand, the law often supposes that aliens who stay illegally in the state territory should be deported. On the other hand, in recognition of the fact that all residents, whether legal or not, should have access to basic human rights, the law can also offer some partial protection for the undocumented person, for instance as a victim of labor trafficking or forced labor. In November 2015, the European Union member states implemented a minimum standard on the rights, support and protection of all EU residents as victims of crime under the victims' directive (Directive 2012/29/EU). This was the first time a legal provision by the European Union acknowledged the legal challenges faced by undocumented migrants in seeking to access justice and the support of the courts. Due to their irregular situation, this Directive recognized that the undocumented could be disproportionately exposed to exploitation and violence in the labor market, and in society more generally.

In light of this dilemma of punishment/justice for undocumented workers, this study will address the question:

“How do EU policies safeguard the already limited access of undocumented migrants to protection in the context of contrary pressures to ‘securitize’ (i.e. problematize) undocumented migrants’ status in EU member states?”

The researcher is fortunate to have had five years of experience with an undocumented migrants’ organization, IMWU (Indonesian Migrant Workers’ Union). It is clear that the fear of deportation and lack of clear right to access justice in the case of law enforcement on behalf of the undocumented still constitutes a significant deterrence for migrants in an irregular situation to report crimes to the police and move from there to seeking to exercise their fundamental legal rights to justice as victims. Another question, therefore is:

“How far does fear of arrest, detention or deportation influence effective access to justice by undocumented migrants seeking prosecution of those responsible and reparations for themselves as victims of crime?”

With an estimated 4.5 to 8 million migrants living in an irregular situation across the EU, it is crucial to study whether a country like the Netherlands, a member of the EU, can acknowledge the existence of irregular migrants by respecting their fundamental rights, as ratified at the international Conventions. There has been similar research conducted in the protection of undocumented migrants, this study has been inspired by the aim of filling the gap between the general academic literature that primarily focuses on macro perspectives at European Union level and specific experiences of undocumented workers within individual EU countries, in this case the Netherlands. There is an urgency to concentrate on the victims’ perspective and whether the particular country of origin (in this case Indonesia) also contributes unforeseen factors which eventually could affect the effectiveness of efforts to access justice in the particular country of destination (in this case the Netherlands). It is anticipated that in a modest way the results of this research can help to hold this member state accountable for human rights protection, showing that effective regulation of migration and strong state sovereignty are not necessarily the same thing (Rudolph, 2005) and that there is more to economic migration than push and pull factors (Daugherty & Kammeyer, 1995). Since undocumented migration will not stop in the near future, its continuous complications deserve further investigation.

1.1. Contextualizing Migration: time and space

Throughout history migration forms an integral part of human existence, the definition of migration being human movement from one location to another. Yet, social scientists are still not able to come to an agreement on the causal aspect of human migration theory. This is why the

topic migration and its development always becoming a thought-provoking one for research. Essentially, the theories about human migration are often multi-disciplinary and involve a combination of economic, political, social, legal, demographic and geographical perspectives, as well as approaches rooted in psychology and cultural studies (Brettell & Hollifield, 2008). One of the earliest theories on human migration was defined by Ernest Ravenstein, who argued that “push and pull” factors were determinant variables based on his examination using census data on migration from Wales and England. In his study, both push and pull factors were important, including employment rates, wages and health care as factors that both urged people to leave and to move to another location or country of residence (Daugherty & Kammeyer, 1995).

From this perspective, the mobility of migration raises the challenges of sovereignty. When control over cross-border movement is framed through the notion of a fixed state-ness or national identity, then human movement can be seen as in conflict with the security of the state, or even with human rights for citizens. The law of migration is arguably quite a recent development, since before the early twentieth-century, most of those who moved (at least voluntarily) between countries across the globe, even if these countries were divided by borders, did not require supporting documents such as passports to cross such borders (Nichol & Dummett, 1990). Since then, the concept of sovereignty has allowed governments not only to regulate the flow of migration crossing its border, but also the status and movement of people within the state’s national territory.

According to Berg & Bovarsson, there are two major driving forces for global migration: the growing disparity in incomes and human (in)security. In other words, the majority of people are moving to escape from poverty, as well as from war and persecution, among other reasons. Uneven economic development accelerated the push factors of migration, especially after the global economic crisis of 2008 and with rapid advances of technology in transport and communication especially (Castles, 2013). Human security has the advantage that it provides additional dimensions which add to Ravenstein’s theory, and is not limited to economic dimensions and opportunities of migration but also includes other dimensions (Berg & Bovarsson, 2013).

This thesis is focused on the driving force of migration triggered by growing disparities in the world labor market and the global economy. When migration happens outside regulatory mechanisms in both the country of origin, transit and the country of destination, this is what creates what is defined as irregular migration and the undocumented migrant (International Organizations for Migration, 2011). The term “*undocumented migrant*” is used in reference to those migrants who do not have the required papers to be legally established in their place of final destination.

1.2. Indonesians in the Netherlands

In narrowing down the scope of the variables, this study will focus on the undocumented migrants coming from Indonesia in pursuit of a better living and work as a domestic worker in the Netherlands. Indonesians were selected as a representation of third country nationals, through contacts with those in IMWU, with the Netherlands' state policies as focused structures.

The ties between Indonesia and the Netherlands have roots since 1603 when the Dutch East India Company took administrative on behalf of the Dutch Government. The settlement lasted till 1949 when the Netherlands recognized the independence of the Republic of Indonesia. The 1946-1949 era is also the period when the largest immigration from Indonesia to the Netherlands took place (Veenman, 1990). This longstanding history of Dutch and Indonesian immigration relationship accumulates as "*social capital*", a term coined by an American sociologist James Coleman, who argued that "*the relation among persons change in ways that facilitate actions*" (Coleman, 1994). The social capital this can generate provides support to chain migration, in ways I found comparable to the immigration relationship between the US and Mexico (Massey, Durand, & Malone, 2002). It was hard to find a body of literature on this special relationship, but during the recent trial of a Dutch family who illegally employed an Indonesian caretaker, it was mentioned that their preference had been based on an old romantic version of a relationship from the colonial era (De Stentor, 2016). According to the Indonesian Diaspora Network in the Netherlands, almost 10% of Dutch society still has somehow or other close ties to Indonesian culture (Prahadi, 2015). These close cultural ties provide a strong pull factor in relation to the preferences of Indonesian migrant workers for coming to the Netherlands. Other than that, Indonesians are generally known in The Netherlands for their friendliness, politeness and patience (Gusnelly, 2011).

According to the September 2013 Data by the United Nations Department of Economics and Social Affairs via The Asian Migrant Centre, out of almost 3 million Indonesian nationals working abroad, 140.000 are working in the Netherlands. The Netherlands is among the top six countries in terms of destination of Indonesian workers, and the only European country listed as a major destination for Indonesian workers (United Nations, 2013). This number is based on regular skilled and semi-skilled workers, who are registered through official channels. 78% of these Indonesian migrants abroad are working in the domestic sectors. Research on labor migration from Indonesia concluded that improving the quality of life through higher salaries and greater economic opportunities were the main push factors for Indonesians migrating abroad in the 2000s (International Organization for Migration, 2010). However, it is interesting that many, if not most, undocumented Indonesian migrants in the Netherlands are working a particularly

low-pay sector, the domestic work sector (Soraya, Indonesian (undocumented) migrant workers in the Netherlands, 2012).

In the Neoclassical economic model, the cost-benefit argument is that economic migrants, through migrating to Europe, find better employment and generate higher income than at home, and that these are the main motives for their migration decision. The risks involved include complicated work permit procedures or even accidentally becoming undocumented, as well as leaving the family behind, changing one's way of life. Even so, tightly restricted economic mobility at home, and limited employment continue to contribute as push factors in new migration decisions (Massey, et al., 1998).

The majority of Indonesian migrants in The Netherlands are searching for available work, including domestic household work. Some, due to limited options, end up working in domestic work. In the process, they come across many obstacles to social mobility. These migrants mainly face the problem that domestic work is not officially recognized as paid work in the Netherlands labor system unless someone is documented, tax is paid and so forth (Brooks & Van Gelderen, 2008). Since the Netherlands is not a signatory of ILO Convention 189, an international policy on the protection of domestic worker (International Labor Organization), this means many domestic workers in Netherlands are not protected. Many work under false promises, are underpaid and work long hours, without decent breaks. Some face physical abuse and working conditions that are unsafe and unhealthy, and may be owed considerable back wages (Botman, 2011).

Such forms of criminal labor exploitation, particularly for undocumented migrants in domestic work, can be connected in some cases with charges of human trafficking and forced labor (Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2006). In accordance with the EU Anti-Trafficking Directive (Directive 2011/36/EU), by law, trafficking in a human being is a crime in all member states. All victims of this offense taking place in the Union are supposed to be protected and should be given access to protection and justice before the law, regardless of their residence status, according to the EU Victims' Directive (Directive 2012/29/EU).

In practice, however, there are still apparent differences in implementation of these rights, since some may question their compatibility with effective state controls. This can lead to safeguards being used more to punish undocumented migrants as not having legal status, than to protect them as victims of crimes of forced labor and illegal exploitation, in the Netherlands context.

1.3. Methods and structure of research

The research starts by contextualizing the (irregular) migration through time and space, through depicting the character that embodies this phenomenon, the amount, the types and the driving forces of irregular migration. I will then continue with the independent variable of this research, the fundamental rights of undocumented migrants and their access to justice of victims' rights. This variable will be deliberated from the level of the global level of United Nations, the European Union to the Dutch national legislation. These legal basis of protections are a presumed cause, stable and unaffected, where the safeguards are provisions that had been put in place.

The field research will challenge the independent variable through case studies of a situation when an Indonesian undocumented domestic migrant worker manages to escape from the perpetrator; and he/she is facing two options, to report or not to report the abuse to the judicial institutions. Why one option is taken and not the other? Who are the stakeholders in this situation? The qualitative method is used in this research to explore the other sample cases where a victim reports to the police/ local authorities, and why on one instance support and protection were given to the victim while in the other same case were not. This fourth chapter is seeking to address the question:

“How do the safeguards in place able to provide access for the prosecution and reparations to the undocumented victims of labor crime?”.

In order to provide a rival theory, this research will be conducted in a case study method. The case study is considered as the appropriate method to provide a divergence in attitude as to whether the Netherlands has provided an optimal protection to undocumented migrants as victims of crime. This research method is chosen because it allows the research to focus on understanding the dynamics of single settings, in order to have a thorough understanding of specific nuances of the irregular migration phenomenon (Yin, 1994). The researcher will conduct a multiple case study, a variant of a case study that enables replication of several case studies of the equivalent initial scene. This replication will refine the construction of these cases and develop a pattern of when undocumented migrants are not able to access the protections as provided in the previous chapter. This relation between constructions will establish a theory that will refute or confirm the hypotheses (Santos & Eisenhardt, 2004).

The hypothesis of the research presumes that there is an ineffective attitude executed by the Netherlands' state policies when an undocumented migrant is becoming a victim of labor exploitation; therefore not all undocumented migrants could access the protections provided for.

The sixth chapter will assess the empirical study investigating the effectiveness of protections as the dependent variable, by exhausting systematically the pre-defined set of procedures and collecting evidence through these cases as group whom receives influences of that independent variable. Why there are different scenarios to this story? What is the standard operational procedure to this case in the Netherlands? These are the sub questions to be deliberated to measure the effectiveness of the rights outlined in the third chapter. Further the study also examines risk factors on the background situation of the case studies.

This research will be conducted in a semi-structured method with so far as possible through desk research on the particular laws that support the rights provided for the undocumented migrants and in-depth interviews with experts engaging on the two sample cases with different outcomes when an undocumented migrant is reporting a case of human trafficking. Interviews are also conducted with the undocumented victims themselves to get a personal justification of the decision-making process. The last chapter will reflect on the findings of this research along with discussions, limitation as well as the recommendation for future studies and conclusions.

Chapter 2

Irregular Migrants as Victims of Crime

In understanding irregular migration, we have looked at the two point of views as Franck Duvell (Duvell, 2011) that of the irregular migrant itself as the perpetrator versus the irregular migrant as a victim of politics and authority. Irregular migration is viewed as the perpetrator that breaches the EU immigration policy, where the main actors are the individual immigrants themselves or the facilitator of their irregular stay albeit they might enter through regular channels (European Commission, 2006). Another point of view, brought by numerous migration activists, is that of the irregular migrant as a victim of unfair economic forces and to some degree as a result of racist immigration regimes (Hayter, 2004). These two point of views are subject to many controversies as who is accountable for irregular migration; the state or the individual. The states arguably are to blame on irregular migration, as irregular migration is not an independent social phenomenon but rather a result of state policies in social, political and legal construction of exercising sovereignty and setting out legal justification of what is regular and irregular in the scope of their territory and labor market (Duvell, 2008). The ongoing uneven economic development in the globalization era provides a push factor for economic migrants (Daugherty & Kammeyer, 1995). In this modern day migration, those who could not fulfill the requirement of the destination country will form the irregular migration (Rudolph, 2005).

2.1. Theoretical framework

To fully comprehend the rights provided for migrants in an irregular situation, we need to shed a light upon the terminology used in addressing this particular migration phenomenon. Terminology has played a major role in capturing the presence of stigmatization of undocumented migrants. In many EU member states, the term illegal migration does relate to the criminalization status of being undocumented while being undocumented does not necessarily constitute a crime in the countries (Lee, 2005). The context of illegality that is subjected to a person has become an integral representation to the undocumented migrant linked to the security concerns and crime in the society (Guild & Minderhoud, 2006). Therefore, in addressing this issue the Platform for International Cooperation of Undocumented Migrant (PICUM), European-wide migrants' movement has campaigned on the use of the correct terminology to address undocumented migrants in the EU to minimize the discriminative words

and instead use expressions that are respectful to the dignity and human rights of the migrant itself (PICUM, 2014). Therefore term undocumented, unauthorized and irregular migrants are used interchangeably in this research, instead of illegal migrants.

It is important to outline the right term to what constitutes as irregular migration and the actor exercising because there is a lack of harmonization framing this situation within the Member states, resulting in a much-debated scope of irregular migration among scholars. The terms irregular, illegal, undocumented and unauthorized have been used to address this type of immigration (Morehouse & Blomfield, 2011). In comparison with the United States in using the term of illegal migration, the United Nations, non-governmental organizations, as well as the migrant movements in Europe prefer the term of undocumented or irregular migration. In its 2005 report, the United Nations' Global Commission on International Migration agreed to use the term of "migrants with irregular status" to emphasize that a person or human being cannot be "illegal" nor "irregular" (Chacon, Davis, & Cardona, 2006).

The European Union itself has been extremely careful in addressing the person, and prefer to emphasize the illegality of the migration itself. The phrasing of illegal immigration was carefully selected to appear in the titles of the 2002 document "Proposal for a comprehensive plan to combat illegal immigration and trafficking of human being", as well as the 2006 "Communication on Policy priorities in the fight against illegal immigration of third-country nationals" and the latest in the 2008 Return Directive "Common standards and procedures in Member States for returning illegally staying third-country nationals".

This careful move by the European Union is a clear association to the political agenda of the Union as there is not yet a harmonization on the term to address these migrants. One of the few definitions set up in purpose to that harmonization in the field of asylum and migration policy was the definition contained in the Return Directive (European Commission, 2008):

'illegal stay' means the presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State (Article 3(2)).

2.2. Counting the uncountable

Being undocumented or irregular by nature embodies a character of being uncountable. It is already quite a challenge to estimate on the stock and flow of undocumented migrants in one member state let alone to have a reliable account in the European Union-wide. However, it is important to reveal the amount of irregular migration in the European Union, regardless the fact that there have been very few reliable attempts, in order to measure an effective enforcement of

regulation. Inexistence reliable data might lead to unjustified abhorrence, as Koser explains, *“The presentation of undeniably significant numbers runs the risk of fueling further public and media overreactions to the phenomenon”*, he further argues, unless data provided in proper context, irregular migration would perhaps be perceived as a less overwhelmed problem (Koser, 2005). The need to have a reliable account will further provide a well-deserved discussion on the social inclusion of these migrants in public service as well as the possibility of regularization (Vogel, Kovacheva, & Prescott, 2011).

There have been several efforts by the Union on counting the uncountable irregular migration. One of the latest attempts can be found in a document from the European Commission accompanying the proposal for Employer Sanctions Directive (European Commission, 2009). In 2007, the European Commission presented an estimation of illegal migrants in the union to be in a range of 4.5 million and 8 million. This estimation is believed to be based on the one percent rule of thumb, where the lower benchmark is supposed to be the 1% of the total EU 25 population in 2005, although it is arguably an unfounded observation claiming that 1% of the total population is believed to be undocumented (Papademetriou, 2005). The higher benchmark is roughly an estimation using the foreign population rule; where 10-20% of the foreign population in EU-25 is believed to be undocumented.

On another occasion, a 10% calculation is used by the Global Commission on International Migration in its report, resulting in an amount of 5 million estimation of irregular migrants (Global Commission on International Migration, 2005). Another estimate is 6-8 million, according to an EU agency report (Krieger, 2005) and 8 million is an estimate based on data provided from UN Trends in Total Migrants Stock, which is based on 20% of EU 25 foreign population in 2005 (Nations, 2005).

In 2007 the European Commission launched a project called CLANDESTINO. The Clandestino Project final report in 2009 reveals that in the 500 million population of the European Union, it is estimated that 1.9 million to 3.8 million undocumented migrants resided by 2008 (see table 1). In comparison, it estimates an 11.2 million irregular migrants in the United States, with a population of 300 million citizens, making it larger in proportion than in the European Union (European Union, 2009).

The project also finds the irregular migration in the European Union decreasing since 2002 notably as a result of newer member states joining the Union, regularization programs in several member states and the introduction of coordinated border management implementation throughout the European Union as well as agreement and cooperation with the “sending countries” to combat irregular migration or unauthorized migration.

Table 1. Unauthorized Migrant Population Estimates in the European Union 2002-2008

Year	Absolute Population Numbers (in millions)		Percentage of Population		Percentage of Foreign Population	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
EU-15						
2002	3.1	5.3	0.80	1.40	14	25
2005	2.2	4.8	0.58	1.23	8	18
2008	1.8	3.3	0.46	0.83	7	12
EU-27						
2008	1.9	3.8	0.39	0.77	7	13

Source: Clandestino Project Final Report; Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe, 2009.

In the Netherlands itself, there seems to be limited literature available regarding the amount of undocumented migrants in the Netherlands. Most of the literatures refer to the report presented by the Dutch Minister of Immigration, Integration, and Asylum Policy called "*The Dutch Migration Map*" that quotes about 100.000 undocumented migrants estimated in 2009 (Government of the Netherlands, 2012). The previous reports were conducted between 1997-2003, thus no longer applicable due to the abolishment of borders within the European Union. There are tendencies to leave aside the necessity to publish an estimation of the undocumented in the Netherlands for the sake of political purpose, not to provide document for the undocumented (Jennissen, 2011).

The majority of the undocumented migrants in the Netherlands are coming from Indonesia, Ghana, Philippines, Nigeria, Morocco, Turkey, Colombia, China and Brazil (Soraya, Indonesian (undocumented) migrant workers in the Netherlands, 2012). Most of these migrants are working in the informal sectors, and a number of them are united into several worker unions. One of these worker unions is the Indonesian Migrant Workers Union in the Netherlands (IMWU-NL) where according to the latest data that at least 400 of their members are undocumented. This number seems to be approved by the immigration consular of the Indonesian Embassy for the Netherlands in one of the informal meeting with the Indonesian Migrant Workers Union. With the non-existence of appropriate literature, this amount seems to be underrepresented. If we are following the one percent rule of thumb as exercised by the

European Union institution, there should be an approximate calculation of 1400 undocumented Indonesian migrants in the Netherlands.

2.3. Indonesian migrants in an irregular situation

In understanding irregular migration, we need to analyze how Indonesians as third-country nationals could become migrants in an irregular situation in the Netherlands. The report for Transatlantic Council on Migration (Morehouse & Blomfield, 2011) illustrates several major pathways in which non-nationals would become irregular migrants. Contrary to popular believe, there are more significant numbers of third country nationals entering Europe using a legal channel as opposed to illegal border crossing. However, it is discovered at a later stage that they are either using a false document or fake ID or by providing false information to the legal documents produced to enter the immigration process. Regardless the accomplishment of entering Europe legally, but by using false identification, they become an unauthorized migrant by definition.

The third-country nationals could also become irregular when they are overstaying what travel visa allowed or any of their temporary residence permits. This manner is commonly exercised by economic driven migrants by using a Schengen tourist visa, cultural exchange program (au pair) or student visa (Catarino, Kontos, & Shinozaki, 2013). Many of the undocumented Indonesian migrants in the Netherlands are undocumented as a consequence of the above two pathways. They are entering the border using a tourist, seamen or cultural exchange visa with the help of private agents or the employer to whom they will work as a domestic worker (Aegi, 2010). When they get caught and deported, they often re-enter through immigration using a new identity to alter the entry ban that comes with the deportation. The Clandestino Project led by the European Commission in 2009 also reveals that being born into irregularity from irregular parents constitute another pathway to irregularity. The project also concluded that irregular migration is an inevitable phenomenon and member states should work on opening more possibilities to regular channels migration (European Union, 2009).

There are several explanations why irregular migrants are to remain in Europe regardless of the complications of being in an irregular situation, one of them is the economic motive. On the one hand, the search for a better future is an apparent drive, with a popular belief that one will earn better in Europe with its high standard than being in home country. On the other hand, the argument of the economic rationale for the destination country itself. Undocumented migrants provide a functional input, contributing a cheap source of unskilled and semi-skill labor in sectors where nationals or regular migrants are unwilling to fulfill. This is illustrated by the fact that domestic work does not constitute an employment and therefore is unregulated by member states, but the demand in reality shows otherwise, a gap that is fulfilled by most irregular

migrants (Huhn, Lockwood, & Semanski, 2006). Another argument by undocumented migrants retaining in Europe is the fact that the family at the home country is dependent on their income. While sometimes being a sole breadwinner to sustain their family life at home, their income in Europe is crucial to their continual being. As for other migrants, it is simply the case that money loaned to smuggle them to Europe is not yet paid. Many irregular migrants are trapped in so-called '*debt bondage*'. A debt bondage is a situation that forced these migrants to stay and make money, at whatever cost, before getting the chance to think of returning to their home country. Migrants with a debt bondage are most prone to exploitation and abuse. A debt bondage might also occur as a result of loan inherited by a family member in the home country and constitute a common practice of the modern day slavery (UN Human Rights Council, 2016).

2.4. Undocumented migrants and victims of crime

The reasons mentioned above are contributing to the constant fear of being deported by the immigration authorities. The lives of undocumented migrants playing "hide and seek" with the authorities become a fundamental factor that define their decision making, behavior and lifestyle (Sigona, 2012). This fear also makes them precarious to exploitation by certain parties, to name a few, there have been many cases of unpaid works, back wages, overpriced accommodation to sexual abuse that goes unreported. This unreported crime gives impunity to the delinquency which at the end does contribute a risk to the community's safety. The immigration status of undocumented migrants becomes a barrier to access justice and protection services. It results in a fear of being reported to the immigration authorities found comfort in risking repeat victimization of the crime committed by the perpetrator, a risk that is taken to avoid deportation. When justice discriminates, the injustice will dominate. Hence, there are efforts proposed by the institutions to minimize the impact of these consequences living in an irregular stay.

The 13th UNODC Congress on Crime Prevention and Criminal Justice in 2015 advised the concept of "*Firewall*" for undocumented migrants. The firewall means that there should be a clear separation of immigration law enforcement procedure and the responsibilities of the institution to report undocumented migrants by social service providers (such as education, healthcare, and shelters for victims of domestic violence) and justice system (such as police and labor inspection). Therefore there has been many discussion and suggestion to constitute a clear separation, a concept of firewall in the European Union context, between migration policies enforcement and the service providers. There should be a warranty provided by the member states when an undocumented migrant is reporting abuse or exploitation to the authorities because in reality, this concept is neither always well-understood nor implemented by the local authorities and by the migrants themselves. When undocumented migrants are becoming a

victim of crime, chances are they will have to face detention and eventually return home, essentially on the fact that they are trespassing or staying illegally in the member state and therefore should be expelled in conformity with the Return Directive (Directive 2008/115/EC).

2.5. Conclusion

With an approximate calculation of 1400 undocumented Indonesian migrants in the Netherlands, this study seeks to comprehend the complexity of life of undocumented migrants, and their motives of living in Europe and attitudes in attaining justice for prosecution and reparations, which will be deliberated further on the next chapter. The detail of the protection provided for undocumented migrants as victims of crime will be the main variable of this thesis because the laws and protections are worth nothing on paper without a correct and effective implementation of national legislation in practice.

This chapter also introduced the concept of firewall, a concept of separation between the migration policies enforcement and the State's service providers. This is where the theory of Franck Duvell sets base on the framework, that in the irregular migration world, the migrant is the perpetrator of one's sovereignty. When viewed as perpetrator, both the irregular migrant and state's policy understand that accessing justice for prosecution and reparations as victims of crime forfeit the immigration policies enforcement.

Chapter 3

Global to National: Policies for Protecting Undocumented Workers as Victims of Labor Crimes

One of the intrinsic features of globalization is the international migration of citizens. This feature is closely related to the idea of territoriality and sovereignty of a nation to rule who is allowed to enter a country, and who is not. It is particularly applicable to the definition of Sovereignty as “... *the rightful entitlement to exclusive, unqualified, and supreme rule within a delimited territory*” (McGrew, 2001). Regardless the human rights freedom to leave a country is granted by the European Convention on Human Rights notably on the Article No. 2 of the Protocol No. 4; this is not necessarily accompanied by the right to enter a country. Another issue that plays a part in the migration is the right to stay. When these two, right to enter and right to stay, are not being adhered to, the government sees these as unwanted migration, which gave birth to the terms of undocumented migration, migration without proper documentation, unauthorized or irregular migration. The importance to recognize and to administer rights provided for the undocumented migrants is crucial to take into account as part of the theoretical framework of the existing theory, that the human rights should prevail against discrimination on the subject of administrative status of a person and where the contravention took place.

Human rights should be provided for, to each and every person, with no discrimination of their immigration status, because human rights are applicable as a consequence of being human. Consequently, without a proper administrative document does not mean without rights. This chapter will deliberate the aspect of laws provided for the undocumented migrants as an independent variable. The effectiveness of its implementation and applicability depends on the law set forth (Fan, 2010).

3.1. Global policies on human rights and victims' protection

The international bill of laws, provided by the United Nations on the human rights for all, primarily originated from the main treaties The Universal Declaration of Human Rights (UDHR) that was signed on 10 December 1948 at the Palais de Chaillot. Article 2 clearly specifies “... *without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*”, and Article 3 specifies that

everyone has the rights to life, liberty, and security. Although the UDHR has not a legally binding status to its signatories, it is internationally accepted as the benchmark for the rights set forth as well as used to hold a government morally accountable.

The first convention of United Nation's protections provided for the undocumented migrant could be found in *the International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) that was adopted on 21 December 1965. The convention that came into force on 4 January 1969 provides a commitment to its signatories to eliminate racial discrimination in all forms and promotes understanding among all races. Particularly on Article 14, that specifically gives power for an individual complaints mechanism, enforces limited jurisprudence towards the interpretation and the implementation of the Convention against its parties. This convention was followed by the *International Covenant on Civil and Political Rights* (ICCPR) 16 December 1966 and the *International Covenant on Social, Economic, and Cultural Rights* (ICESCR) that was signed on the same day. The Fourth Convention on the nine core of human rights treaties is the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) that was signed on 18 December 1979 that emphasized on its application to all women including the undocumented persons. This is concluded with the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* of 10 December 1984 and the *Convention on the Rights of the Child* of 20 November 1989 which are also applicable to the undocumented migrants. The Netherlands are pursuant to these UN key instruments of human rights.

One of the most comprehensive of migrants' protections by the United Nations is the *International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families* (ICRMW), which was signed on 18 December 1990 and came into force on July 1, 2003, after 20 signatories ratified the convention by March that year. As of May 2015, 48 countries had signed and ratified this convention that protects migrants working and living abroad. Unsurprisingly, the ratifications are mostly coming from the sending countries in purpose to protect their citizen abroad, and very few to almost no interest is coming from the receiving countries such as Western Europe (including the Netherlands, to the purpose of this research), North America, Australia, India, South Africa and the Arab States of the Persian Gulf (Pecoud & Guchteneire, 2006). To their defense, this convention is believed to discourage temporary migration and therefore is not in their favor. However, the organization behind this convention, the International Labor Organization (ILO), is working hard not only to get more ratification but also to find a more desirable solution in protecting migrants to these receiving countries (Bohning, 1991). In principle, this convention is more supportive to existing fundamental rights protection but with underlining a precise implementation in the case of transnational migrants.

The ICRMW is a groundbreaking international treaty which for the first time defines the term of migrant worker as prescribed in Article 2 paragraph 1:

“The term “migrant worker” refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”

This article also further provides the definition of frontier worker, seasonal worker, seafarer, worker on an offshore installation, itinerant worker, project-tied worker, specified-employment worker and self-employed worker and their family members who are also pursuant to this Convention (Article 2 paragraph 2). This convention carefully placed irregular migrants and its fundamental rights to be respected equally as its nationals particularly in emergency measures and in relation to employment safety (United Nations, 1990).

In the area of victims protection, the first known international point of reference by the United Nations concerning the protection of victims was in November 1985 with the adoption of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Only about 15 years later, the provision on the protection of victims is extended when the United Nations Convention on Transnational Organized Crime was signed in Palermo. The Convention was to set a legal base for mutual legal assistance with the adoption of United Nations Convention against Corruption in 2003. In the same year, the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, was born accentuating the protection and assistance for victims of trafficking in human beings as mentioned in the Article 6 of the Protocol (Touzenis, 2010). The latest Congress on the crime prevention and criminal justice has been held in Qatar's capital, Doha, in April 2015. The 13th UNODC gave birth to what is called the Doha Declaration on the Integrating crime prevention and criminal justice (Akee, Basu, Bedi, & Chau, 2014). This Congress is also where the concept of firewall was introduced as mentioned on the previous chapter.

3.2. European Union policies on human rights and victims' protection

The establishment of the European Union common immigration policy dates back 15 years ago, and fighting irregular migration has been a primary focus on the key policy area, particularly in tackling smugglers. However, this measure at times conflicts with guarding the rights to those trafficked. The European Union institution responsible particularly for protecting the fundamental rights provided for the undocumented migrants in the European Union is the FRA, the European Union Agency for Fundamental Rights (FRA).

The FRA prescribed that the following article from Charter of Fundamental Rights of the European Union is applicable and therefore serves as a legal basis to everyone including migrant workers in an irregular situation. The first title of the Charter is Dignity, with the Article 1

dedicated to human dignity. *“Human Dignity is inviolable. It must be respected and protected”*. Additionally, Article 31 of the Charter provides safeguard to fair and just working conditions, and states that every worker, and by definition worker is a person who receives remuneration, has the right to working conditions which respect his or her health, safe and dignity (paragraph 1) and has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave (paragraph 2).

The protection of victims of crime has been an important element of the European Union on freedom, security, and justice, where the Council Framework Decision 2001/220/JHA from 15 March 2001 on the standing of victims in a criminal proceeding has laid a common ground on the EU standards of protection. Implementation of due diligence could be seen at the report of the Commission in 2009 where it is shown that there are still a lot of challenges to harmonize a legislation in the field of victims’ rights due to the vast discrepancies in national laws. Three years later, the Council Directive 2004/80/EC of 29 April 2004 was born relating to the compensation to crime victims. However, this directive failed to provide a satisfactory level of protection to the victims itself (Groenhuijsen, 2014).

Additionally, the Council adopted a resolution on 30 November 2009 on a Roadmap for strengthening procedural rights of suspected or accused persons in a criminal proceeding. The Roadmap underlines an adoption of specific measures with the attention to measure on the special safeguards for suspects or accused persons who are vulnerable, whereas the roadmap only invites the Commission to propose a recommendation for member states on the practical measures and best practices to set out guidance to deal with victims in special needs. The term victims in special needs was preferred compared to the initial proposal that used the term vulnerable person to recognize that all victims are vulnerable, with no exception, however, in practice, the term victims in special needs was chosen to address irregular migrants. This roadmap is the foundation of the EU Victims’ Directive (Directive 2012/29/EU of 25 October 2012) that has explicitly set a recognition as victim across the discrimination ground, including residence status of a person. However as the directive has only been implemented per 16 November 2015, a proper implementation of the directive is still under the scrutiny of many social groups. The next EU Commission report and the Member states status is to be conveyed by 16 November 2017. The correct implementation of this directive is crucial as the first EU provision to set residence permit as a ground of discrimination. Therefore, in a case of domestic worker from third-country nationals (e.g. Indonesians) experiencing severe labor exploitation, the EU Victims’ Directives is crucial in attaining a recognition as a victim.

When the recognition as victim is admitted, the EU Member states should give access to temporary residence permit to the undocumented migrant worker in accordance of EU

Residence Permit Directive (Directive 2004/81/EC of 29 April 2004) particularly when the case is conforming the offence as laid out in the Article 2 of Anti-Trafficking Directive (Directive 2011/36/EU). In a situation where the litigation is proven otherwise, the prosecution and reparations will go only as far as set forth in the Employer Sanction Directive (Directive 2009/52/EC of 18 June 2009). This is particularly the case for Article 3 on the obligation of the Member State of the Union, to prohibit employment of undocumented migrants, and the consequence set forth in Article 9 "*the Member states shall ensure that the infringement of the prohibition referred to in Article 3 constitutes criminal offence when committed intentionally, in each of the following circumstances as defined by national law: (c) the infringement is accompanied by particularly exploitative working conditions;*" which is applicable to the undocumented migrant workers.

With the implementation of the Return Directive (Directive 2008/115/EC of 16 December 2008) serves an obligation to the Member states to return illegally staying third-country national, it might be a hindrance for the undocumented migrant to report a case to police and attaining recognition as a victim of crime in a first place.



3.3. Dutch policies on human rights and victims' protection

The first Article of the first chapter in the Dutch constitution prescribes that “*All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief political opinion, race, or sex or on any other grounds whatsoever shall not be permitted*”. This constitution came into force on 17 February 1983 and acted as starting point of the measures on anti-discrimination provisions.

In the Netherlands, the health care system is laid down in the *Zorgverzekeringswet* or Health Insurance Act which has roots similar to the German’s Bismarckian social insurance practice (Wallace, 2013). Unfortunately, this system has excluded the undocumented migrants from accessing the health care system with the adoption of *Koppelingswet* or the Linkage Act in 1998, that connects the right to social and health care services with the administrative status of a person.

However, the Dutch Aliens Act or *De Vreemdelingenwet* of 2000 has mentioned in Article 10(2) that everyone without exception is entitled to a -primary-education, medically necessary care, preventive health care public health (as covered in the Public Health Act, *Wet Publieke Gezondheid*) and access to justice.

“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” (Dutch Government, 2000).

The following paragraph of this article affirms that access to these rights does not cover access to regularization of stay in the country.

In the case of accessing the basic medical care, the undocumented migrant must pay the bill because the service provider cannot claim through the insurance policy, because the migrant has no access to the insurance coverage. In case the undocumented migrant cannot cover the payment, the service provider will seek reimbursement from the National Health Care Institute (*Zorginstituut Nederland*). However, the service provider must first prove that they have tried to collect the money from the undocumented migrant. As for the preventive health care, the coverage that can be reached by undocumented migrants is mostly akin to the right of the child, such as, free vaccinations, free preventive care, and check-ups at baby clinics (Knollema, 2009).

The Defense for Children International has opened a case to the Dutch Government via the European Committee on Social Rights in 2008. As a signatory of the European Social Charter, the Dutch Government obliged to extend the beneficiaries of the right to shelter to all children in the territory regardless the legal administrative status. The Committee argued that the children on the street constitute the *“outright helplessness,”* and therefore the Dutch Supreme Court since then ruled the Dutch authorities to extend the scope of the right to shelter to the undocumented children, resulting in a shift in the Dutch protection to the undocumented migrants (Defence for Children International (DCI) v. the Netherlands, 2010).

In the context of protection of victims, The Victims Help (*Slachtofferhulp*) is the pioneer in representing and educating the rights as victims in The Netherlands. As the only member of the Victim Support Europe, the umbrella organization for rights and services of victims of crime in Europe, the *Slachtofferhulp* organization has launched several research projects in accelerating the protection of victims in The Netherlands, including, but with less attention, the undocumented migrants.

There is still stigmatization when an undocumented migrant is reporting a crime to the police or a justice institution, let alone accessing the services provided by the government. The police station in Amsterdam has launched a trial of a safe reporting program to extend the possibilities

on reporting a crime, either as victims or witness, so that even undocumented migrants could still enjoy the rights to protection of justice provided by the police (Politie, 2015). The campaign of “*Free in, free out*” has started since the launch of the Act prior the EU Victims’ Directive and the outcome is rather satisfactory but without prejudice it will be robust to be implemented at any other municipality with so far only Eindhoven as another city participating. This success is mainly due to the characteristics of the city that welcomes immigrants from all over the world and not so much attention to the legal status of the person. In the Netherlands being undocumented is not constituting a crime but is rather considered as a wrongdoing; thus fines would still be imposed with eventually an immediate deportation subsequent the EU Return Directive.

By November 2015, the European Union Victims’ Directive should have been implemented in the Dutch national law. It is crucial to see if this directive has been implemented correctly to be able to provide additional protection to the undocumented migrants when they are becoming a victim of crime. Since severe labor exploitation is one of the categories of human trafficking violation, it is a crime. It is a states’ obligation to provide access to justice and protection to all victims of crime regardless of their residence status. The recognition as a victim is crucial as the first point in obtaining protection and support.

In the Netherlands the implementation of this Anti-Trafficking Directive at the national level is the legal base of the B8/ B9 regulation that gives protection to the victims of the trafficking in human beings when cooperating with the judicial procedure according to The Criminal Code Article 273 F. The article mentions labor exploitation as one of the categories in the human trafficking offense, along with sexual exploitation and removal of organs without consent. The Residence Permit Directive translates into the B8/B9 regulation at the Dutch Aliens Act (*vreemdelingen circulaire*). According to this regulation, the temporary residence permit is given to a third-country national when there is a slight chance of human trafficking allegation, within the three months reflection period, the willingness to file a formal report against the perpetrator (Comensha).

3.4. Conclusion

This chapter is outlining the policies on human rights and victims’ protection from the global institutions to the national, especially for the undocumented migrants in particular as the most vulnerable group of migrants. The effectiveness of the implementation and accessibility of the protection safeguards mentioned in this chapter will be the main subject of concern, and will be illustrated through case studies of undocumented Indonesian migrants as the influenced group, when becoming a victim of crime, notably of severe labor exploitation and human trafficking in the Netherlands.

The following chapter will portray the different outcomes through different cases studies of undocumented migrants, specifically Indonesians when becoming a victim of crime particularly of labor exploitation and its access to claim the protection set forth. Through the comparative examination approach, this thesis aims to prove how the ever stricter securitization in the European Union migration policy has failed to see that the migrants as victims in this overly rigid normative.

Chapter 4

Indonesian Undocumented Workers Seeking Access to Criminal Justice

The researcher is comparing three cases of Indonesian undocumented migrants in the Netherlands experiencing severe labor exploitation and managing to abscond from the perpetrator. However, on each of these cases, there are different decisions made by these migrants to draw different attitude within the scope of the migrants themselves.

4.1. Case studies of undocumented migrants as victims of crime

The original motive of this research begins from the involvement of the researcher with the Indonesian undocumented migrants workers in the Netherlands. The typical situation is, that a third-country national, (e.g. Indonesian) with a difficult economic background, is approached by job promoter or job agency to help him/her getting out from the severe economic condition. These migrants are promised a certain job in the Netherlands, or Europe in general. Some of them don't even have to pay them fee immediately but they can pay this "*transport cost*" once they start working. Many of these migrants are aware that they will be working as a domestic helper, either to cater elderly or household (Soraya, Laporan dari Belanda: Pekerja Gelap Indonesia, 2009). This agent will arrange the visa to enter the Netherlands, or through other Schengen countries, and is usually acting as the first contact with the employer. Generally, upon their arrival, the job description was not as promised. These migrants had to suffer poor working situations, working for long hours, secluded from the social world and a significant under payment. Isolated with limited working place along with little knowledge of Dutch language and regulations they are refraining from reporting the exploitation for fear of losing their job, and therefore, income. They are also indoctrinated by the agent or the employer about their irregular status and employment. These migrants are also aware not to get into trouble with the police or authorities for fear of deportation and detention because of being undocumented. The use of the word illegal alien to refer these undocumented migrants brainwashed them to feel insecure and criminalized for their existence.

Many social workers and migrant organizations are aware of this situation. However, for confidentiality reasons, they cannot report these exploitations without the victims' consent. Victims support and protection are only accessible for victims of human trafficking who provide assistance to the police investigation (European Union Agency for Fundamental Rights, 2015).

The main question in analyzing these three cases is, to what extent are victims of severe labor exploitation recognized as victims of trafficking in human beings?

In order to provide dynamics in the single setting, the research will study three cases with the same contexts. In these three cases, the three samples are victims of severe labor exploitation and managed to escape from the perpetrator. Case A will exhibit reluctance of reporting her employer to the police. Case B will demonstrate the willingness of the victims to report to the authorities and does show that her rights as a victim were recognized. As a consequence, the state has provided protection to her. Similarly, Case C also elaborates a case of labor exploitation. The victim reported the case, and recognition as a victim was also lend to her. However, her case was dismissed, and she was deported to Indonesia.

In order to maintain the privacy of the victims, their names have been altered corresponding with the case. Thus, case A is representing victim A, case B for victim B and case C for victim C. In conducting the study, Case A was examined through an in-depth interview with the victim herself. Case B and C were observed by interviews with the victims and lawyer through interpretation of the NGO representing these cases.

4.2. Case A

Background information

Ms. A is a 26-year-old single parent of a 4 years old. She was living with her mother and her daughter in West Java, Indonesia. The global economic crisis of 2007 had hit her family tremendously, and she couldn't find a decent job to sustain a family of three. She was at that moment working in a garment factory. A very close acquaintance, named Mrs. Z offered her to work with her family in The Netherlands. Z's husband is working as a diplomatic service. *"Don't worry, my husband is working at the embassy, we can arrange all the documents for you"*, Z said to assure her. With the exceptional treatment of the diplomatic services, a calling visa from the embassy was used to arrange a tourist visa for A. Z never arranged any proper working permit or entry for A, and A never knew that would mean she becomes an undocumented migrant worker. Z also used A's baggage allowance for her purposes, to bring Indonesian spices and dishes, while A was only allowed to bring two sets of clothes and a praying mat. All expenses are paid by Z, but it was never mentioned how much was spent.

Problem situation

A was promised by Z to get a salary at least similar to a babysitter in Malaysia, and they never discussed a specific amount. Her only task is to babysit Z's two children and nothing was mentioned about domestic work. A was desperate, and trust the goodwill of Z to provide income for her family. She assumed that she would be working according to European standard and

took into account a basic salary of a babysitter in Malaysia was about €500. In her opinion, a salary around that range, for such a simple job, would be sufficient to sustain her four years old daughter and her mother. On the first month, she was given her salary in an envelope; she told Z to keep it for her so that after a few months, she can send it home. After almost a year, A asks Z to send the money to her family. She was surprised to realize that the accumulated salary was only about €900.

She worked from 7 AM to 9 PM daily, consistently for seven days a week. *"Your job is to wake up my children and prepare them to go to school. You also have to arrange breakfast for all of us. Then you bring my two children to school, return home and prepare the lunch. By noon you have to return to school to pick up the children and feed them. In the meantime, you need to do chores at home such as cleaning, washing, and ironing for the whole family and don't forget to prepare dinner!"*, Ms. A impersonating what her boss said about her daily routine. She was not allowed to go out of the house except for bringing the children to school. She was brainwashed that people outside mean bad to her, and that they are jealous to the people working for the diplomatic services. When doing her work, she was often yelled at when she was not quick enough to run things. She was mentally battered and isolated from the outside world.

Ms. A was misled by Z, that she can only send money to her family at home through her help. She does not know how much was transferred because Z always says that she gave some extra amount for A's son. She was happy to accept the situation, by which at least her son and her mother can suffice their life at home. She was given her own room at Z's house, and eat whatever left over from the family. She never received or had extra money while living and working for Z. All salaries she has ever received were said to be sent to A's mother. After two years, she could not resist being kept in the house, the salary was too small, and she starts slowly looking for a way out.

After the first year salary was received, she learned that the job would not be sufficient to send her daughter to school. She needed to find a better job secretly. From some hear and say, she realized that the salary she received was way below the minimum standards, especially with such long hours and demanding works. The exclusion from the outside world was mentally battering her, and she was not allowed to meet anyone from outside the house, except when bringing the children to school or buying groceries. She met another Indonesian migrant at school who influenced her to escape from that house. On another occasion, she was in contact with a migrant worker from the Philippines, M, who offered her to work at her boss house. They were in contact when A was searching for a local job through social media. She had not much expectation, but in her mind, anything outside from her current boss is a better situation, *"I just want to get out from this hell!"* she said. Slowly she started packing and discharged anything that

she would not need. After careful planning, A agreed to meet M and started to work with her. She left a note to Z that she could no longer accept the work situation at her house and decided to leave.

Decision taken against the situation

Ms. A promised herself not to report the case to police for two reasons; she was afraid of deportation because she learned that her work at Z's house was illegal employment. If deported, she would be no longer able to support her family in Indonesia, and they would return to poverty. The second reason is that she feared for the safety of her family in Indonesia from Z's family since they are in close proximity and the position of Z's husband at the diplomatic service. Ultimately, she decided not to return because she still needs to support her family in Indonesia.

She received a standard salary from work with M. She earned €1600 in the first month, much more than she ever dreamed of. She worked maximum 8 hours per day and was entitled for two days off. If she had to do some other chores on her day off, her boss gave her €10 extra per hour. Initially, she was not willing to open up about her previous situation to anyone. For her, it was a closed chapter, and she focused on moving on and working as much as she can to sustain her family in Indonesia. She also feels ashamed of her abusive experience.

4.3. Case B

Background information

Ms. B is 40 years old woman from East Java, Indonesia. She has two children. In 2009 her husband got fired, and the economy of the family was at risk. After one year, they barely managed to pay the rent for the house and the tuition fee for their two children. One of her neighbors has family that lives in the Netherlands and is looking for a house maid. The neighbor finally arranged a meeting between B and the future employer, let's call her Mrs. Y. After a short interview, Y agreed to take B to work for her. Y lives with her husband and their three children in a posh neighborhood in the province of North Holland. Y also agreed to pay a certain amount of salary per month (not specified but under the minimum wage allowance in the Netherlands) and arranged all the documents needed to get B into the country. The only condition is, for practical reason, that B will enter using a false document that Y arranged. A new name and new passport. Y also arranged an entry visa (using a tourist visa) and paid for the flight. Mrs. Y never specified the work that she expected from B. The only task mentioned was to take care of the household, including cooking, cleaning, and laundry as well as to cater the need of the children. B agreed to the conditions, including the salary as well as the "job description". Little that she knew about the working hours and the fact that the amount was below the minimum wage of the country. The only thing in her mind was she needs to do something to safe her family.

On the agreed time, Ms. B arrived at the Schiphol airport, and Y picked her up. On the way to her house, Y already asked B's passport to hold. She said for safety measures, and B innocently agreed.

Problem situation

B worked essentially 10 to 12 hours a day, without any break and no day off. As agreed, she was responsible for cooking, cleaning, laundry as well as bringing Y's children to school and cater to their needs. Many times B has to work till late at night if she did not finish the laundry or ironing. Many times that B also asked to walk Y's dogs as early as 5 AM in the morning. She was not permitted to go out from the house apart from bringing Y's children to school or walk the dogs which was only allowed in the dark hours. *"This neighborhood is not safe for migrant workers, if they know you are a worker, they can asked money. In the dark hours they'll think you are just normal citizen"*. That was the explanation she got from Mrs. Y.

Since the first month, Y refused to give her salary with the excuse that she needs to repay the expenses to bring her to the Netherlands. After few months, Y claimed that she had transferred the salary to B's bank account in Indonesia. However, when B contacted her husband, he affirmed not as much as B estimated. When confronted to Y, Y claimed higher amount. It was difficult for B to prove the right amount.

Apart from the burden of workload and salary earned, B was also experiencing the mental abuse from the Y's children. Y's family treated B as a slave and at times demanded her to do inappropriate things.

Decision taken against the situation

After two years, B started searching for help. When walking Y's dogs she met another Indonesian, Mr. N, and B carefully told her story. N agreed to meet B on a regular basis while walking the dog to hear the full story. N encouraged her to report to the police, which B was initially afraid for. B was aware of her illegal employment, her false identity and also afraid of the safety of her family in Indonesia if she brought this case to court, but she could not handle living under the horrible treatment at Y's house. N convinced her that her situation is considered a human trafficking allegation and is a violation of law in the Netherlands. N informed her that once she escaped from Y's house, she will acquire protection in a shelter and have a lawyer to defend her case. Furthermore, she will receive a temporary residence permit and financial support to continue to support her family in Indonesia. In the meantime N also got in contact with a pro bono lawyer who is interested in this case and will help to access shelter while building evidence of the abusive behavior.

On a cold morning of December 2013 at 5 AM, as usual, B had to walk the dogs while Y's family were still asleep. "Please help me escape", B asked N to help her to escape from the house. With N's car, B left the house and immediately went to the lawyer. Together they chaperoned B to the shelter in the same province of North Holland upon references from the lawyer. That same day another lawyer provided by the shelter accompanied her to report the case to the police station. B received protections and recognitions as victim of trafficking of the human being according to the police report, and she was invited to the court to hear the case. The shelter also provided an interpreter to help her during the hearing. In the shelter, she received a financial support and enquired some vocational training. She received a one-year temporary residence permit on humanitarian ground during the judicial process of her case. At the end of this period, the case is still continued, and she received an extension of three years residence permit. This extension allows her to obtain a social lodging and with the vocational training she received at the shelter she now finds a better job following minimum wage and national working standard. However, her lawyer still pursues to claim her back wages from her work at Y's family.

4.4. Case C

Background information

Ms. C is a 45 years old woman from West Java, Indonesia. She lives on her own and is looking for a better economic opportunity. Her financial situation was relatively sufficient, but being unmarried to that age, she was an outcast in the society. In 2011, she met Mrs. X and agreed to work with her in The Netherlands. She met X through a friend in the village. Similarly to the previous cases, C decided on the nominal without being aware that the amount was below the minimum wage and without clear specification on the job that she has to do at her house.

Mrs. X arranged all the documents needed to enable C to enter the country and worked for her. C entered the Netherlands with a tourist visa. After two years her mother got very ill, and C asked X to return home on her expenses. After six months in Indonesia C's mother passed away. She had to pay huge medical bills and funeral costs of her passing mother that drained all her savings. She needed to work again. But at age 47, there is not much option available, and the Indonesian economy has not recovered from the crisis. She contacted X again to work with her, undeterred by the fact that the workload was more than she expected and she was isolated from the outside world due to her non-existence residence status. She still determined to migrate again.

Problem situation

By 2013 she began to work again with X with the same wage sum. She borrowed money from family to cover the tourist visa arrangement and her flight because X refuses to pay for her

return. *“I agreed to what she said, because I wanted to work (with her) again”*, she reckons her decision.

After one year X's family situation deteriorated. X's husband is divorcing her and left her with her three children. Since then, the payment for C's salary was also coming tardy. Her workload increased because X's husband was usually bringing the children to school. C also many times became the subject of frustration, and she was physically exhausted from her daily tasks too. Every day she worked up to 16 hours nonstop running chores for the household. After a year suffering severe labor abuse, she convinced herself to go to police station to file a report. At the police station, she immediately mentioned that she is not in possession of any residence permit apart from her passport. She knew that she is oppressed and the police should help her.

Decision taken against the situation

She reports herself to the police station in North Holland province without any preparation beforehand. Out of despair, she knew that she could not bear the situation any longer. She was asked to return to X's house, and the police would proceed the case. The next day, several police officers came to X's house and took X into the police station on suspicion of human trafficking. C was brought to a victim center appointed by the police. During her stay at the shelter, she was assisted by a lawyer, and an interpreter was provided. In the shelter, she received vocational training, financial support and a one-year temporary residence permit on humanitarian ground. She was also in contact with her brother in Indonesia who brought the story to an NGO for Indonesian migrants workers abroad named Migrant Care, whom then connected the case with the Indonesian migrant union in the Netherlands. The NGO together with the Indonesian embassy visited her at the shelter, however, they did not provide much of assistance to her case as it was taken care of by the judicial proceeding system and the shelter.

After almost a year the judicial proceeding turned down negative on the basis that her second return was fully on her consent and X did not provide assistance on the second return. However, X has to pay an enormous amount of fine for employing an undocumented third-country national in accordance with Employer Sanctions Directive. C did not receive back wages because she cannot prove of any salary negotiation. With this judicial judgment, together with the lawyer, she was given an opportunity to object the decision. However, the claim was not accepted, and she is to be deported. There was a discussion of lodging an application on humanitarian ground as an alternative option after her B8/B9 entitlement was revoked. However, according to the victim support, these applications virtually always get rejected. So she was suggested not to proceed with this option.

4.5. The Netherlands Context: Mapping rights and duty of stakeholders

To have a complete analysis of the cases presented, it is essential to map all the stakeholders involved on the subject of this situation. Each stakeholder will be explained with their rights and duties in relation to these cases.



4.5.1. The undocumented migrants working in domestic sector

The rights of the undocumented migrant worker have been laid out thoroughly in the previous chapter. However, it is important to acknowledge that some of their rights provided are not given or accessible, due to various circumstances. As a legal subject, it is the duty of the migrant to know about his/her rights, exercising them and claim the rights provided. Seclusion from the social environment, low education and language boundaries are some of the circumstances hindering the process as shown in the case studies.

4.5.2. Police as protection and administration provider

According to Article 1 of the Compulsory Identification Act (*identificatieplichtwet*), any police report should be accompanied by an identification of the person who reports. Particular attention is given to foreign citizens in line with Dutch Aliens Act 2000 (*vreemdelingenwet 2000*) that should enable to present the status of stay in the country. From this obligation, it is proven that it hinders undocumented migrants to report. Therefore, using Article 8 of the Police Act (*politiewet 2012*), the police should be able to provide a safe reporting procedure for all and the Article 1 of the Compulsory Identification Act is considered as a hindrance to the police task. Police officers play an important role as the first contact in the judicial proceeding, as well as the

first extension of the government to decide whether a criminal offense is considered and the antecedent recognition of a person as a victim is taking place. With the recognition as a victim, the officer also acts as the first official information in giving a reference in accessing the shelter and other services provided for victims of crime.

However, the challenge is whether the police would also impose immigration force, to inform the immigration office when detecting an undocumented migrant and not extending the services based on the administrative status. This practice has the conflict of interest with the safe reporting measure, and its application is diverse in the different police stations in the Netherlands (Bouts, Coenen, & van Dijk, 2016). The cases B and C show the police, at least in these two stations, are conducting a safe reporting measure. Thus, the recognition as alleged victim of crime was taking place. However, there is still no legal provision in place defending the safe reporting procedure that is much needed. This argument is affirming with a study for the Dutch Police Office itself (Jacobs & Kalmthout, 2014).

4.5.3. Legal authorities and judicial proceedings

Once a case is registered, it is the task of the legal proceeding to find truth following the law provision in the national legislation. The government of the Netherlands defines the role of jurisdictions as: “*to safeguard the quality of the justice system and to make the courts accessible to everyone*” (Government of the Netherlands).

4.5.4. Lawyer as advocacy provider

An advocate is provided once a victim is recognized and references given from the shelter as shown in case C. However, it is also possible for a victim to be in contact with the advocate at choice before reporting the case to the police station as exhibited in case B. The basic philosophies on the duty of lawyers are set out in the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba (The Office of the United Nations High Commissioner for Human Rights, 1990).

4.5.5. NGO as safe and social network

The role of social groups or NGO's as the stakeholder is notably to assist and give references from the humanitarian perspective. As a non-state actor, the NGO plays an important role in initiating and preserving in compliancy of government with human rights standards. As a civil society, NGOs are also contributing in raising awareness, advocating the protections of rights as well as providing access to services that implement rights (Fraser, 2016). In case A and case B, the role of a social network was crucial as an additional inspiration to the victims, particularly to realize that the situation was abusive and should not be tolerated.

4.5.6. Shelter as service provider

Shelter services are provided for victims of crime to provide a safe haven during the first hearing of the case, particularly to victims in a precarious situation (Federatie Opvang). However, with the current social support provision (*Wet Maatschappelijke Ondersteuning*) Article 1.2.2, the law confers zero acceptance to irregular aliens in the Netherlands. But there is a small exception when the undocumented citizen is accompanied by the letter of acceptance as a victim of human trafficking from the police station and not 'just' labor exploitation. In practice, a shelter provider has the right to accept or to reject an application without the duty to explain, though it was not shown in the case B and case C.

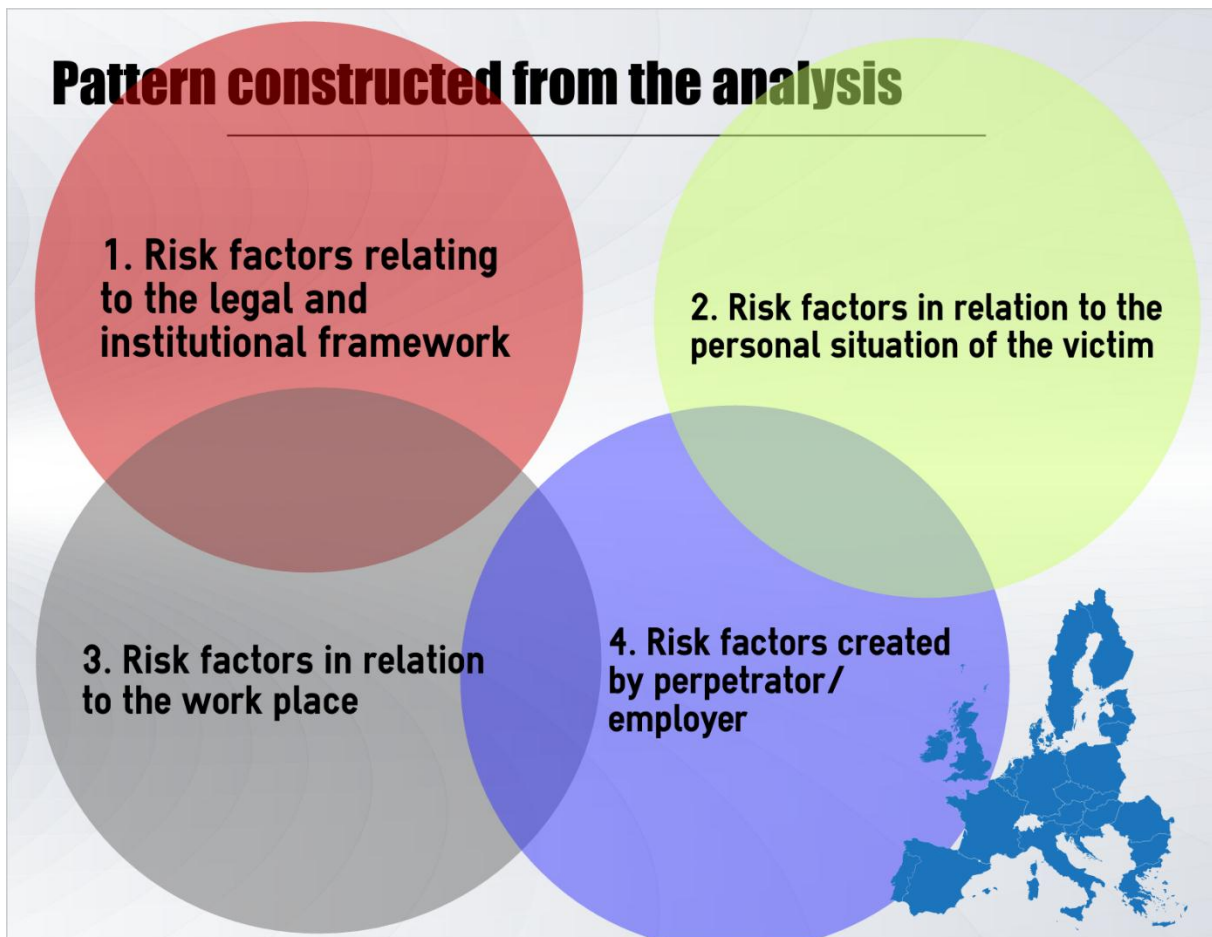
4.5.7. Embassy as representative of aliens abroad

The embassy or consulates should provide protection and assistance to its citizens-in-trouble. However in practice, according to many cases found within the IMWU (The Indonesian Migrants Worker Union) networks it was shown that the Indonesian Embassy to the Kingdom of the Netherlands was persisting to the duty of assisting return or deportation procedure of undocumented migrants following the national legislation. The embassy also does not provide shelter to citizens-in-trouble. Case C also showed that little effort was made by the consular officer in lending protection to the victim. Case A, however, shows a conflict of interest when the perpetrator was working at the embassy.

Chapter 5

Analyzing patterns from the case study

Findings from these three cases have constructed a pattern that is described as risk factors. Risk factors of victim recognition concerning human trafficking protection particularly to the undocumented domestic workers are collected from the analysis of the theoretical framework as well as findings from the three case studies. This pattern shows considerably the recurrent themes found as risk factors which contribute to the existence of severe labor exploitation and the analysis of the lack of responses provided at the national level.



6.1.1. Risk factors relating to the legal and institutional framework

In the institutional framework, there is a deficiency of effective investigation that is sensitive to the undocumented migrants, and safe reporting is not equally implemented in all police stations

across the Netherlands (Bouts, Coenen, & van Dijk, 2016). The immigration status of victim plays a crucial role in a first contact and fear of deportation as exemplified from the case A.

Case A exhibited a dominant fear of deportation and the lengthy procedure contributes to the concern for continuous income to support her family. Fear of the safety of the family in the home country by the perpetrator also was a dominant factor in deciding whether to report the case to the police.

Another interpretation from case A would be that the victim A did not see herself as a victim. The exploitative treatment and underpaid salary are still considered better off than being deported and unemployed. She was afraid that the money generating activities essentially stopped in order to follow the procedure.

The fear of deportation and closeness ties with the perpetrator is indeed hindering many undocumented migrants to report the abusive situation to the police. There is also the lack of confidence that they actually will get help, which is contributed by their belief and experience in their home country, that government authorities are not to be trusted. The psychological fear of a corrupted government was also the argument brought by case A.

Case C also exhibits a position where immigration policy is weightier than human rights protection, despite the fact that she was a victim of severe labor exploitation. This is corresponding with one theory which argues that a migrant is an autonomous individual that rationally makes a decision based on cost and profit. Thus, the decision to migrate has always been concluded as a rational choice (Muhajir, 2005), the consent to engage in the irregular migration process by disbursing certain remuneration in exchange for crossing the border, therefore falls out from the scope of human trafficking, merely the human smuggling. There is the inadequacy of legal channels to regularize domestic work and this makes domestic undocumented workers are prone to exploitation. Some actors are taking advantage of this situation, the nature of dual illegality both the person and the occupation are used as a weapon for exploitation. However, victims of labor exploitation nonetheless should be granted residence status in order to access justice for prosecution and reparations by pursuing a complaint against unscrupulous employers.

6.1.2. Risk factors in relation to the personal situation of the victim

The primary factor is a lack of education level and knowledge of rights when becoming victim of labor exploitation. Furthermore, a language barrier of the victim in the destination country adds to the limitation on the access to justice. Extreme poverty in the country of origin and disparities in economic development between home and destination countries contribute as a significant push factor to migrate. When a migrant is facing an exploitative situation according to

the standard in the country of destination, in this case, the Netherlands, if he could bear the situation, his family in the origin country is still better off than when he is deported. This is in accordance with the Neoclassical economic model argument presented in the second chapter. Particularly when the victim is in debt bondage, he/she must endure the exploitative situation by any means possible to pay off the debt he/she made upon the departure.

6.1.3. Risk factors in relation to the workplace

The three cases exhibit that the workplace is in a private home, making it more difficult for labor inspection to access. The cases also drew a pattern of a customary character of the domestic care sector that it cannot provide a clear definition of the salary, workplace, job description and working time. The victims usually also have no access to their own income. On top of that, the workplace is in an isolated location with little contact or access to the social and outside world which are a violation to basic freedom of movement. Domestic and care work are considered a precarious employment or bogus self-employment, notably in the Netherlands where this type of work is not clearly regulated. This is where the importance to acknowledge the domestic care sectors and ratification to referred international labor convention becomes crucial.

6.1.4. Risk factors created by perpetrator/ employer

The non-existence of a written contract and recognition of employment, or in a language that is not understandable by a victim, is the biggest risk factor as portrayed in all three cases. The workers are not being informed of the entitlement or no precise amount of salary discussed upon recruitment. During employment, the workers are given no access to knowledge of their rights. This is also crucial in providing enough evidence of the maltreatment.

There are difficulties in proving a case of labor exploitation. Unlike a sexual exploitation - another ground for human trafficking category- a labor exploitation is not necessarily about violence and abusive intimidation by the perpetrator. Dependency on the employer, created through debt or familial bondage is more personal and complicated to find the evidence for. This manifold of dependency is also created by the accommodation provided by the perpetrator, the lack of a travel document (by holding the victims' passport) and the use of an irregular situation as a ground to create fear with authorities.

In certain cases, there is diplomatic immunity when victims are working for the diplomatic services. The situation thrives impunity to the domestic work at diplomatic houses.

Chapter 6

Discussion and Conclusion

7.1. Discussion

At the beginning of this extensive study, the researcher had a presumption that the Netherlands had not extended its maximum protection and access to justice to the length of migrants in an irregular status when becoming a victim of crime, particularly of abusive employment practices. The qualitative method was chosen to be able to explore thoroughly this phenomenon, and investigate the effectiveness of the safeguards in place. In conducting this research, it was found to be challenging to find case studies where the victim of severe labor exploitation has managed to claim their rights, and was provided access to justice with concluding retribution of the perpetrator.

Many cases found are as portrayed in case study A, cases where the victims are apathetic to report the offender or abusive behavior in fear of deportation and fear of the safety of his/her family in the home country for the reason of close affiliation with the perpetrator. There are many cases where the perpetrator restrains the victim with debt in return for work or the security of the family at home, or where the family at the home country is in a debt burden and victims are accountable to pay off. That was why case study A was chosen, as it fulfilled the three conditions that prevent an undocumented victim to report any abuse or exploitation objected to him/her. However, in reality, the situation is not always as complicated as case A is. Even when a debt bondage does not exist, or the safety of family at home country is unaffiliated with the perpetrator, the anxiety of deportation is still constituting the biggest deterrent for victims in an irregular status to come forward with the case, because it will stop the money generating activities. It is a matter of extensive reaching out from the police as an institution to disseminate this information and practice of safe reporting.

From this hypothesis, it was expected that this study will acquaint factors that affect the effectiveness of the safeguards in place in protecting all victims of crime, other than fear of deportation as described above. Therefore case B and C were selected to present a divergence of results where case C concluded in the deportation of the victim, as the prominent fear of undocumented migrants, and where case B settled with a residence permit as ultimate protection and access to justice. The research has refuted the researcher's initial hypotheses. In both cases B and C, it was proven that the Netherlands had implemented a provision that

provides access to justice and protection without discrimination to one's residence status as indicated on the Article 1 of the EU Victims' Directive.

The different outcome of the two cases was due to the fact that the victim in case C once stayed in the country illegally and therefore constituted another offense prior to the ongoing case where protection is given. The judge considered this new litigation as the victim being not completely honest and cooperating with the police during the proceeding, and committing a prior delict that revokes the enjoyment of rights provided. This is a significant factor that affects the effectiveness of protection to victims of crime, where a prior immigration delict prevails over the conservation of victims' rights. This event constitutes a violation of the labor rights seeking protections against exploitation.

It is also crucial to recognize that a social network serves as a key stakeholder that can build trust to the undocumented migrants to come forward and report the exploitative situation they are facing. Another key concern -institutional wise- is that the correct implementation of the EU Victims' Directive, particularly of the first article, has recognized fear, as dominant factor for the undocumented migrant to report and claim its right and justice as prescribed on the EU Anti-Trafficking Directive and EU Residence Permit Directive as victim of labor crime.

7.2. Limitations

To the concern of the researcher, the case studies undertaken might have been too limited which may affect the generalizability of the result, particularly on its reference to other countries of origin. The decision to limit the nationality of victims was taken to have uniformity of cases to be compared and to secure validity (Winter, 2000). Of these three cases, none of the victims were actively seeking advice or protection from the Embassy as a representation of their nationality abroad. In one of the cases, the perpetrator was even working for the diplomatic service of the same nationals. However, it is proposed that the reader takes into account a different perspective, where in some cases the embassy has provided maximum outreach to provide information to its citizens without prejudice to their legal residence status in the Netherlands to come forward and provide access to protection and even legal support when experiencing abuse abroad.

7.3. Suggestions for follow-up research

As one of the European Union studies research, it is suggested that a follow-up examination should focus on the legal category that meets the condition of victims of human trafficking circumstances. Currently, there is still no legal definition and category of trafficking in a human being in the European Union as suggested by the report of the EU Agency for Fundamental Rights (European Union Agency for Fundamental Rights, 2015). This EU-wide legal definition is

needed as a measure to harmonize access to justice and the prosecution. The writer hopes a follow-up study on these conditions should meet the categorization of human trafficking that adhered the human rights provision as well as the definition of forced labor according to the International Labor Organization: *“All work or service which is exacted from any person under the menace of any penalty for which the said person has not offered himself or herself voluntarily”* (ILO, Forced Labor Convention, 1930, Article 2).

Protection and a temporary residence status are provided on condition that the victims agree to cooperate during the judicial proceeding and for the duration of the investigation as demonstrated in the cases B and C. When the perpetrator is proven not *“severely”* abusive or on the occasion that the victim can escape from the aggressor, the protection that was provisioned by regulation B8/B9 in the Netherlands is not applicable. It is then suggested as a recommendation to the government institution that the temporary residence permit should extend its protection beyond the investigation period, to be able to extend vocational training and education to be completed, and by this means empowers this migrant to contribute to the community. This argument confirming the corpus theory of an undocumented migrant as a victim of policy and authority as Franck Duvell (Duvell, 2011) explained. The migrant workers are victims of the Dutch policies that shape the conditions and framework to these irregular immigration. Therefore, the authorities and policies should be able to enable a shift of this situation of the undocumented migrant from a victim to a contributing member of the society.

Finally, the ratification of the ILO (International Labor Organization) Convention 189 by the Netherlands will add protection to these migrants. The recognition of the domestic care sector as work will add measures of safeguards when severe labor exploitation take place in this industry. By ratifying C189, the Netherlands will have the freedom –and obligation- to regulate the sector that is considered a pull factor for illegal employment and employment for irregularly staying third-country nationals (Huhn, Lockwood, & Semanski, 2006).

The domestic labor sector has experienced a long battle to be acknowledged as low skilled work, and this particularly provides a pull factor for irregular migration in the Netherlands, because the field is not manageable to be filled by the Dutch citizen nor the EU citizen. By not ratifying the ILO 189 convention this sector will remain to be filled by irregular migrants. As a consequence, when labor exploitation takes place in the domestic care sector involving undocumented migrants, it is a conflict with the employment act. The employment of illegally staying of TCN is regulated by the employment sanction directive but it is conflicting because the domestic care sector is not heavily regulated. Therefore, the only protection given was through the human trafficking provision, which includes labor exploitation as part of the categories and in the same categories as sexual exploitation and organ removals by means of force. But has this

protection enshrined on the Dutch Criminal Code 273 F effectively provided a safe net for the undocumented migrants as victims of labor exploitation?

7.4. Conclusion

Two key players on the global migration are the migrants themselves as agency and the authorities that possess the territory and sovereignty as structure polity. When a migrant enters a territory, not through regular channels provided by the authority, he/she becomes an irregular or unauthorized migrant. The same idea applies when a migrant does not possess a proper document to enter or stay in a sovereign territory. This irregular migration comes with two points of view; the undocumented migrant as a victim of immigration policies by the authorities, and the perpetrator that violate a sovereign territory (Duvell, 2011). This theory is then challenged by the human rights provision, the fundamental rights of being human.

The key research question of this research is whether a migrant in an irregular situation could enjoy protection and is given access to protection and justice by the authorities when becoming a victim of labor crime, regardless his/her irregular status. The research concluded that access to protection and justice are provided in the Netherlands, but is limited to particular victims of crime, the trafficking in human beings, and not to human smuggling, regardless the severity of labor exploitation.

The legal basis for protection of fundamental rights of migrants in an irregular status when they become a victim of crime, particularly to labor exploitation was presented in Chapter 3 of this research. Case studies have been conducted in this research to rival the theorem and challenge its applicability on the field. The study was conducted based on the presumed hypothesis that many undocumented migrants are afraid to report to the police station in fear of deportation. This assumption was based on the fact that they are not in possession of a legal residence status, and that irregular migrants are the perpetrator of a country's sovereignty. According to the case studies provided in Chapter 4, as long as the undocumented migrants are willing to cooperate with the police, the judicial institutions are providing all rights mentioned in the theorem without discrimination on the grounds of a residence status as many undocumented migrants feared. However, it is important to pinpoint that only for cases of possibly human trafficking the victims are provided with a temporary residence permit. This residence permit will secure access to justice and protections to these undocumented victims and a mean contribute an effective policy and safeguards by the authorities. The implementation of the European Union Anti-Trafficking Directive in the Netherlands has secured legal protection to these victims of human trafficking with the provision of the B8/B9 regulation that further provides temporary residence permit to these victims, provided that they are cooperating during the judicial procedure of the case.

This research also constructs a pattern which contributes risk factors when an undocumented migrant is becoming a victim of severe labor exploitation through legal and institutional framework, personal situation of the migrant, workplace and the employer. This research also identifies an unexpected finding that is crucial to the effectiveness in attaining protections, that the safeguards will not be given when the victim previously committed an immigration offense, or was voluntarily working with the abusive perpetrator. Again, depicting the focal debates whether being in an irregular situation is an act violating the sovereignty of a nation or precisely the reverse - the result of victimization through rigorous norms of legality, confirming the initial theory of Frank Duvell (Duvell, 2011).

Bibliography

- Aegi. (2010, 4 13). Derita Pekerja Ilegal Indonesia di Belanda. Den Haag: Kompas. Retrieved from <http://internasional.kompas.com/read/2010/04/13/10473453/Derita.Pekerja.Ilegal.Indonesia.di.Belanda>
- Aisch, G., Almukhtar, S., Lai, R., White, J., & Park, H. (2015, December 22). *Countries Under the Most Strain*. Retrieved from New York Times: http://www.nytimes.com/interactive/2015/08/28/world/europe/countries-under-strain-from-european-migration-crisis.html?hp&action=click&pgtype=Homepage&module=photo-spot-region®ion=top-news&WT.nav=top-news&_r=0
- Akee, R., Basu, A., Bedi, A., & Chau, N. (2014). Transnational Trafficking, Law Enforcement, and Victim Protection: A Middleman Trafficker's Perspective. *The Journal of Law & Economics* 57(2), 349-386. doi:1
- Albrecht, H.-J. (2015). Terrorism, Victimization and Compensation of Victims of Terrorism. (Z. Chen, Ed.) *New Reports in Criminal Law*, 8, 208-229. Retrieved from https://www.mpicc.de/files/pdf1/albrecht_terrorism_and_victimization__10.pdf
- Barker, C., & Jane, E. A. (2016). *Cultural Studies Theory and Practice* (5 ed.). London: SAGE Publications Ltd. Retrieved from <https://us.sagepub.com/en-us/nam/cultural-studies/book245321#description>
- Berg, H. v., & Bovarsson, O. B. (2013). *The Economics of Immigration: Theory and Policy* (2 ed.). New York: Springer-Verlag. doi:10.1007/978-1-4614-2116-0
- Bohning, R. (1991). The ILO and the new UN Convention on Migrant Workers: The Past and Future. *The International Migration Review*, 25(4), 698-709. doi:10.2307/2546841
- Botman, S. (2011). *Gewoon Schoonmaken. De troebele arbeidsrelaties in betaald huishoudelijk werk*. Amsterdam: Amsterdam Institute for Social Science Research (AISSR). Retrieved from <http://hdl.handle.net/11245/1.358184>
- Bouts, R., Coenen, T., & van Dijk, R. (2016). *Een goede zaak: Onderzoek naar veilige aangifte voor ongedocumenteerden*. Hogeschool Utrecht. Utrecht: Stichting Landelijk Ongedocumenteerden Steunpunt. Retrieved from <http://www.stichtinglos.nl/sites/default/files/los/Praktijkonderzoek%20Stichting%20LOS%2023-05-2016%20Ties%20Coenen%20%20Robbert%20van%20Dijk%20%20Rafael%20Bouts.pdf>
- Brettell, C. B., & Hollifield, J. F. (2008). *Migration Theory: Talking Across Disciplines* (Vol. 2). New York, NY: Routledge.
- Brooks, K., & Van Gelderen, T. (2008). Fighting Invisibility -The Recognition of Migrant Domestic Workers in The Netherlands. *Humanity in Action*, 1. Retrieved from <http://www.humanityinaction.org/knowledgebase/103-fighting-invisibility-the-recognition-of-migrant-domestic-workers-in-the-netherlands>
- Castles, S. (2013, May 10). The Forces Driving Global Migration. *Journal of Intercultural Studies*, 34(2), 122-140. doi:10.1080/07256868.2013.781916

- Catarino, C., Kontos, M., & Shinozaki, K. (2013). Family Matters: Migrants Domestic and Care Work and the Issue of Recognition. Dalam F. Anthiyas, M. Kontos, & M. Morokvasic-Muller, *Paradoxes of Integration: Female Migrants in Europe* (hal. 133-140). Dordrecht: Springer.
- Chacon, J. A., Davis, M., & Cardona, J. (2006). *No One is Illegal: Fighting Violence and State Repression on the U.S.-Mexico Border*. Chicago, IL: Haymarket Books.
- Coleman, J. S. (1994). *Foundations of social theory*. Cambridge, Mass: Belknap Press of Harvard University Press. Diambil kembali dari <http://hdl.handle.net/2027/heb.31522.0001.001>.
- Comensha. (t.thn.). *Hoe Nu Verder?* Dipetik 1 20, 2017, dari Hoe Nu Verder?: <http://www.hoenuverder.info/uploads/FEO0024%20Folder%20Mensenhandel%20NL%20WEB.pdf>
- Daugherty, H. G., & Kammeyer, K. C. (1995). *An Introduction to Population* (2 ed.). New York: Guilford Press.
- De Stentor. (2016, 01 13). Woede over boete voor illegale schoonmakers. *de Stentor*. Retrieved from <http://www.destentor.nl/algemeen/binnenland/woede-over-boete-voor-illegale-schoonmakers-1.5623249>
- Defence for Children International (DCI) v. the Netherlands, 47/2008 (European Committee of Social Rights 02 28, 2010). Retrieved from [http://hudoc.esc.coe.int/eng#{"ESCDcIdentifier":\["cc-47-2008-dmerits-en"\]}](http://hudoc.esc.coe.int/eng#{)
- Dutch Government. (2000, 11 23). *Overheid*. Retrieved from Vreemdelingenwet 2000: <http://wetten.overheid.nl/BWBR0011823/2015-07-20>
- Duvell, F. (2008). Clandestine Migration in Europe. *Social Science Information*, 47(4), 479-497.
- Duvell, F. (2011). Path into Irregularity: The Legal and Political Construction of Irregular Migration. *European Journal of Migration and Law* 13, 275-295.
- European Commission. (2006). *On policy priorities in the fight against illegal immigration of third country nationals, communication from the Commission, COM (2006) 402 Final*. Brussels: European Commission.
- European Commission. (2008, December 16). *Directive 2008/115/EC of The European Parliament and of The Council on common standards and procedures in Member States for returning illegally staying third-country*. Retrieved from Official Journal of The European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>
- European Commission. (2009, June 18). *Directive 2009/52/EC of The European Parliament and of The Council providing for minimum standards on sanctions and measures against employers of illegally staying*. Retrieved from Official Journal of the European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>
- European Commission. (2011). DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. *Official Journal of the European Union*, 101/1. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>
- European Commission. (2012). Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of

- victims of crime, and replacing Council Framework Decision 2001/220/JHA. *Official Journal of the European Union*, L 315/57. Retrieved from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012L0029>
- European Commission. (2013). *Country specific: The Netherlands*. Dipetik 1 20, 2017, dari Together Against Trafficking in Human Beings: <http://ec.europa.eu/anti-trafficking/content/nip/netherlands>
- European Commission. (2013, June 23). *Regulation (EU) No 604/2013 of The European Parliament and of The Council establishing the criteria and mechanisms for determining the Member State responsible for*. Retrieved from Official Journal of the European Union: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0604&from=EN>
- European Union. (2008, 12 16). *Directive 2008/115/ EC of The European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for Returning illegally staying third-country nationals*. Dipetik 12 12, 2016, dari Official Journal of the European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>
- European Union. (2008, 12 24). DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. *Official Journal of the European Union*, 348/98. Retrieved from <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF>
- European Union. (2009, 6 18). *DIRECTIVE 2009/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*. Dipetik 1 20, 2017, dari Official Journal of the European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>
- European Union. (2009, 6 18). *DIRECTIVE 2009/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*. Retrieved 1 20, 2017, from Official Journal of the European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>
- European Union. (2011, 04 5). *Directive 2011/36/EU of The European Parliament and of The Council of 5 April 2011 on preventing and combatting trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*. Dipetik 12 12, 2016, dari Official Journal of the European Union: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>
- European Union Agency for Fundamental Rights. (2015). *Severe Labour Exploitation: Workers moving within or into the European Union*. Luxembourg: Publications Office of the European Union.
- Fan, S. (2010). *Independent Variable in Encyclopedia of Research Design*. (N. J. Salkind, Penyunt.) Thousand Oaks, CA: SAGE.
- Federatie Opvang. (t.thn.). *Wie Zijn Wij*. Dipetik 01 20, 2017, dari Federatie Opvang: <http://www.opvang.nl/site/item/344>

- Flegar, V., Dalli, M., & Toebes, B. (2016, February 25). Access to Preventive Health Care for Undocumented Migrants: A Comparative Study of Germany, the Netherlands and Spain from a Human Rights Perspective. (R. Powell, Penyunt.) *Special Issue "The Intersection of Human Rights Law and Health Law"*, 5(9), 1-17. doi:10.3390/laws5010009
- Fraser, J. (2016, November). Understanding the Role of NGOs in a State-Centric Human Rights System. *Cultures, Citizenship and Human Rights*. Retrieved from <http://cchr.uu.nl/understanding-the-role-of-ngos-in-a-state-centric-human-rights-system/>
- Frontex. (2012, April-June). *FRAN Quarterly Issue 2, April-June*. Frontex. Warsaw: Frontex Risk Analysis Unit.
- Global Commission on International Migration. (2005). *Migration in an Interconnected World: New Directions for action*. Versoix: SRO-Kundig. Retrieved from <http://www.queensu.ca/samp/migrationresources/reports/gcim-complete-report-2005.pdf>
- Government of the Netherlands. (2012, 1 27). The Netherlands' biggest immigrant group are workers are from the EU. Retrieved from <https://www.government.nl/latest/news/2012/01/24/the-netherlands-biggest-immigrant-group-are-workers-from-the-eu>
- Government of the Netherlands. (t.thn.). *The Dutch court system*. Dipetik 1 28, 2017, dari Administration of justice and dispute settlement: <https://www.government.nl/topics/administration-of-justice-and-dispute-settlement/contents/the-dutch-court-system>
- Groenhuijsen, M. (2014). The development of international policy in relation to victims of crime. *The International Review of Victimology*, 20(1), 31-48. doi:10.1177/0269758013511740
- Guild, E., & Minderhoud, P. (2006). *Immigration and Criminal Law in the European Union: The Legal Measures and Social Consequences of Criminal Law in Member States on Trafficking and Smuggling in Human Beings*. Leiden: Martinus Nijhoff.
- Gusnelly. (2011). Trend Issues Indonesian Labour Migration in The Netherlands. Research Center for Regional Resources Indonesian Institute of Science. Retrieved from https://www.academia.edu/3441735/TREND_ISSUES_INDONESIAN_LABOR_MIGRATION_IN_THE_NETHERLANDS
- Hayter, T. (2004). *Open Borders: The Case Against Immigration Controls*. London: Pluto Press.
- Heaney and McGuinness v. Ireland (2000), 34720/97 (European Court of Human Rights March 21, 2001). Retrieved from [file://vuw/Personal\\$/Homes/14/s1488430/Downloads/001-59097.pdf](file://vuw/Personal$/Homes/14/s1488430/Downloads/001-59097.pdf)
- Huhn, A., Lockwood, C., & Semanski, K. (2006, September 23). *Breaking the Silence: An Honest Discussion About Illegal Immigration to Germany*. Retrieved from Humanity in Action: <http://www.humanityinaction.org/knowledgebase/239-breaking-the-silence-an-honest-discussion-about-illegal-immigration-to-germany>
- International Labor Organization. (n.d.). *Convention concerning decent work for domestic workers (Entry into force: 05 Sep 2013)*. Retrieved from International Labor Organization: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::p12100_instrument_id:2551460
- International Organization for Migration. (2010). *Labour Migration from Indonesia: An Overview of Indonesian Migration to Selected Destinations in Asia and the Middle East*. Jakarta:

- International Organization for Migration. Retrieved from https://www.iom.int/jahia/webdav/shared/shared/mainsite/published_docs/Final-LM-Report-English.pdf
- International Organizations for Migration. (2011). *Glossary on Migration* (Vol. 25). Geneva, Switzerland: International Organizations for Migration.
- IOM. (2016, April 1). *Mediterranean Migrant Arrivals in 2016: 169,060; Deaths: 620*. (L. Doyle, Penyunting, & International Organization for Migration) Retrieved from Missing Migrants Project: <http://missingmigrants.iom.int/mediterranean-migrant-arrivals-2016-169060-deaths-620>
- Ippolito, F., & Sanchez, S. I. (2015). *Protecting Vulnerable Groups: The European Human Rights Frameworks*. Oxford: Hart Publishing.
- Jennissen, R. (2011, 11 30). *The Dutch Migration Monitor: Backgrounds and Developments of Different Types of International Migration*. The Hague: Boom Juridische uitgevers. Retrieved from https://english.wodc.nl/onderzoeksdatabase/migratiekaart.aspx?nav=ra&l=migratie_en_integratie&l=migratie
- Katsoris, N. C. (1990). The European Convention on the Compensation of Victims of Violent Crimes: A Decade of Frustration. *Fordham International Law Journal*, 14(1), 206-209. Retrieved from <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1265&context=ilj>
- Knollema, J. (2009). *Monitor Gefinancierde Zorgverlening Illegale Vreemdelingen*. Minister van Volksgezondheid, Welzijn en Sport, POU. Diemen: College Voor Zorgverzekeringen. Retrieved from <https://www.zorginstituutnederland.nl/binaries/content/documents/zinl-www/documenten/publicaties/rapporten-en-standpunten/2009/0903-monitor-gefinancierde-zorgverlening-illegale-vreemdelingen/0903-monitor-gefinancierde-zorgverlening-illegale-vreemdelingen/>
- Koser, K. (2005). *Irregular migration, state security and human security*. London: Global Commission on International Migration.
- Krieger, H. (2005). *Who is going where? Migration trends in the EU context*; SIPTU National Women's Forum. Tralee: European Foundation for the Improvement of Living and Working Condition. Retrieved from https://www.eurofound.europa.eu/sites/default/files/ef_files/docs/areas/populationandso-ciety/krieger050422.pdf
- Lee, M. (2005). Human trade and the criminalization of irregular migration. *International Journal of the Sociology of Law*, 33, 1-15.
- López, L. G. (2008, July 21). *Pushed Into Exclusion: The Legal Status of the "Tolerated" in Germany*. Retrieved from Migration Citizenship Education: http://www.migrationeducation.org/fileadmin/uploads/The_status_of_the_Tolerated.pdf
- Massey, D. S., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, E. J. (1998). *World in Motion: Understanding International Migration at the End of the Millenium*. Oxford: Clarendon Press.
- Massey, D., Durand, J., & Malone, N. J. (2002). *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration*. New York: Russell Sage Foundation.

- McGrew, A. (2001). Globalization and Global Politics. Dalam J. B. (eds.), *The Globalization of World Politics* (Vol. 3, hal. 25). New York: Oxford University Press.
- Morehouse, C., & Blomfield, M. (2011). *Irregular Migration in Europe*. Washington: Migration Policy Institute. Retrieved from www.migrationpolicy.org/pubs/TCMirregularmigration.pdf
- Muhajir, D. (2005). *Bagai Telur di Ujung Tanduk*. (A. M. Wattie, Penyunt.) Yogyakarta: Pusat Studi Kependudukan dan Kebijakan UGM.
- Nations, U. (2005). *International Migrant Stock: the 2008 Revision*. Retrieved from World Trends in Total Migrants Stock: <http://esa.un.org/migration/index.asp?panel=1>
- Nichol, A., & Dummett, A. (1990). *Subjects, Citizens, Aliens and Others: Nationality and Immigration Law*. London: Weisenfeld and Nicolson.
- Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. (2006). *Human Trafficking for Labour Exploitation/Forced and Bonded Labour*. Organization for Security and Co-operation in Europe. Vienna: Prosecution of Offenders, Justice for Victims. Retrieved from https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/osce_exploitation_identification_prosecution_en_1.pdf
- Papademetriou, D. (2005, September). The regularisation option in managing illegal migration more effectively: a comparative perspective. *Migration Policy Brief*, 4, 1. Retrieved from www.migrationpolicy.org/pubs/PolicyBrief_No4_Sept05.pdf
- Pecoud, A., & Guchteneire, P. d. (2006). Migration , Human Rights and The United Nations: an Investigation into the Obstacles to the UN Convention on Migrant Workers' Rights. *Windsor Yearbook of Access to Justice*, 24(2), 241-248.
- Pestana, I. M. (2012, August). 'Tolerated stay': what protection does it give? *Forced Migration Review: Being Young and Out of Place*, 40, 38-39. Retrieved from <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/young-and-out-of-place/pestana.pdf>
- PICUM. (2014, June). *Terminology "WordsMAtter" Campaign: Why 'Undocumented' and never 'Illegal'*. Retrieved from Platform for International Cooperation on Undocumented Migrants: <http://picum.org/en/our-work/terminology-words-matter-campaign/>
- Politie. (2015, 11 11). *Illegale vreemdelingen kunnen veilig aangifte doen*. Retrieved from Politie: Nieuws: <https://www.politie.nl/nieuws/2015/november/11/09-illegale-vreemdelingen-kunnen-veilig-aangifte-doen.html>
- Prahadi, Y. Y. (2015, 6 10). Ada 1,8 Juta Diaspora Indonesia di Belanda. *SWA online Magazine*. Retrieved from <http://swa.co.id/swa/business-strategy/ada-18-juta-diaspora-indonesia-di-belanda-ini-komposisinya>
- Rudolph, C. (2005). Sovereignty and Territorial Borders in a Global Age. *International Studies Review*, 7(1). Retrieved from <http://www.jstor.org/stable/3699618>
- Santos, F. M., & Eisenhardt, K. M. (2004). *The SAGE Encyclopedia of Social Science Research Methods*. (M. Lewis-Beck, A. Bryman, & T. F. Liao, Penyunt.) The SAGE PUB. doi:10.4135/9781412950589
- Sellers, E. (2015). Access to Justicefor Undocumented Immigrant Victims of Domestic Violence. *UMKC Law review*, 84/1, 543-547. Retrieved from

http://heinonline.org/HOL/Page?handle=hein.journals/umkc84&div=26&g_sent=1&collection=journals

- Sigona, N. (2012). I have too much baggage, the impacts of legal status on the social worlds of irregular migrants. *Social Anthropology*, 20(1), 50-65. doi:10.1111/j.1469-8676.2011.00191.x
- Soraya, Y. (2009, 10 19). *Laporan dari Belanda: Pekerja Gelap Indonesia*. Dipetik 01 20, 2017, dari The Indonesian Migrant Workers Union: <http://www.imwu-nl.com/document/information/Laporan%20dari%20Belanda%20-%20Pekerja%20Gelap%20Indonesia.pdf>
- Soraya, Y. (2012). *Indonesian (undocumented) migrant workers in the Netherlands*. Brussels: PICUM. Retrieved from <http://picum.org/en/news/blog/32079/>
- The Office of the High Commissioner of United Nations for Human Rights. (2014, 4 14). *The Core International Human Rights Instruments and their monitoring bodies*. Retrieved from The Office of the High Commissioner of United Nations for Human Rights: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>
- The Office of the United Nations High Commissioner for Human Rights. (1990, 09 7). *Basic Principles on the Role of Lawyers*. Dipetik 1 20, 2017, dari The Office of the United Nations High Commissioner for Human Rights: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>
- Touzenis, K. (2010). *Trafficking in Human Beings: Human Rights and Transnational Criminal Law, Developments in Law and Practices* (Vol. UNESCO Migration Studies 3). (P. d. Guchteneire, & A. Pecoud, Penyunt.) Paris: United Nations Educational, Scientific and Cultural Organization.
- UN Human Rights Council. (2016). *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*. Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development . New York: United Nations. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/142/67/PDF/G1614267.pdf?OpenElement>
- United Nations. (1990, December 18). *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. Retrieved from United Nations Human Rights Office of the High Commissioner: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>
- United Nations. (2013, September). Trends in International Migrant Stock: Migrants by Destination and Origin. Department of Economic and Social Affairs. Retrieved from http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates_origin.shtml
- Veenman, J. (1990). *De arbeidsmarktpositie van allochtonen in Nederland, in het bijzondere van Molukkers*. Groningen: Wolters-Noordhoff.
- Vogel, D., Kovacheva, V., & Prescott, H. (2011). The size of irregular migrant population in European Union- counting the uncountable? (E. Gozdzia, Penyunt.) *International Migration*, 49(5), 79-82.
- Wallace, L. (2013). A View of Health Care Around the World. *Annals of Family Medicine*, 11(1), 84. doi:10.1370/afm.1484.

Winter, G. (2000). *A Comparative Discussion of the Notion of 'Validity' in Qualitative and Quantitative Research*, *The Qualitative Report*. 4 (3). Manchester: Masthead. Retrieved from <http://nsuworks.nova.edu/tqr/vol4/iss3/4>

Yin, R. K. (1994). *Case study research: Design and methods*. California: Thousand Oaks, Sage.