

# Caught Between Rights and Restrictions

## An Ethical Analysis of the Rights and Capabilities of Undocumented Immigrants in the Netherlands

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Narratives by Billy Walkman

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*Using the capabilities space of Martha Nussbaum as a measure of quality of life, this article analyzes what undocumented immigrants are actually able to do or to be within the rights and capability space made available to them by the Dutch immigration policy. It inquires into the practical implications of this policy by examining available quantitative data, supplemented with the testimony of one man, living illegally in the Netherlands. This article strives to answer the question whether the Dutch policy on illegal residents can ensure a life worthy of a human being, not a life of merely surviving. At the same time, it aims to urge the capability paradigm of Martha Nussbaum to address the issue of immigration; an ethical dilemma of human justice that is waiting at the sidelines of the theory.*

**Keywords:** *human rights, irregular immigrants, Dutch immigration policy, capabilities approach, Martha Nussbaum*

### Introduction

Sixteen years ago, in the year of 1996, Billy Walkman fled Liberia during the civil war and was stranded in Amsterdam. He was 19 at the time, and witnessed how his father and sister got murdered. The Dutch authorities did not grant Billy asylum, as he was unable to prove his Liberian nationality. Although Billy was born and raised in Liberia, his parents were Ghanaian immigrants, which complicated his case. However, knowing that other Liberians did get a refugee status, Billy decided to hang on in order to collect the right papers to prove his nationality. He was young, strong, and a believer. He could stay at the house of a documented country fellow, and had occasionally some work which generated some income. Fate turned against him when his host died in 2003, and he found himself on the streets. This is how Billy ended up in a shelter for drug addicts. In order to survive, he became the 'assistant' of one of them, meaning that it was Billy who had to keep the drugs on him, while the other tried to sell it to passers-by. He was

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