ENGENDERING HOSPITALITY: LEVINASIAN ETHICS AND WOMEN REFUGEES IN THE NETHERLANDS

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Presented at Gender and Power in the New Europe, the 5th European Feminist Research Conference
August 20-24, 2003 Lund University, Sweden

“Laws that are not equal for all revert to rights and privileges, something contradictory to the very nature of nation-states.”
Hanna Arendt, The Origins of Totalitarianism

“To shelter the other in one’s own land or home, to tolerate the presence of the landless and homeless on the ancestral soil (…) –is that the criterion of humanness? Unquestionably so.”
Emmanuel Levinas, Difficult Freedom

In this paper I would like to elaborate on the importance of the ethics of hospitality we find in the work of Emmanuel Levinas to a politics of hospitality. It is Jacques Derrida who has identified the ethical dynamics between self and other, the welcome of the other and the receiving of the other by the self within the dual relationship, as the right or good movement, as the ethics of hospitality.1 Whereas this ethics is founded on unconditional hospitality, a politics of hospitality is always conditional. In the field of politics and in society the conditionality of hospitality inevitably brings about generalisation and thematisation. As a result the uniqueness and otherness of the absolute other accounted for in the dual relationship is disregarded, at least to some degree. To some extent, this generalising–totalising–movement is necessary. It frees the subject from the immediate relation with the other whose appeal is received unconditionally and which moves the subject to involuntary and infinite responsibility. Conditional hospitality therefore guarantees reciprocity and the possibility for the subject to be an other for the others, to position herself. However, a politics of hospitality engenders violence, is violent in itself, if neither plurality nor the field of tension between judging an individual, unique situation and implementing general law is taken into account adequately. This phenomenon is thoroughly dealt with by political philosopher Hanna Arendt. According to Arendt, political judgement and political considerations should keep in close touch with individual differences, the particular and the individuality of events. Plurality should always be acknowledged when constituting, interpreting and implementing rules and legislation, to prevent that general laws turn out to privilege some and deprive others.

The treatment of women refugees by Dutch asylum policy is exemplary for the violence engendered by a legislation that is indifferent to differences, to otherness. No adequate account is given of the gender specific problems women refugees have or had to deal with by this policy which mainly aims at discouraging people to apply. Distressing cases of women refugees who end up in degrading and dangerous circumstances are approached rather as unpleasant by-products (‘spin-offs’) of a generally just and well-functioning policy than as appealing cases demanding critical reflection and radical change of the current politics. The works of both Levinas and Arendt offer valuable tools for criticising and revaluating a politics of hospitality, in this case the inhospitable Dutch asylum policy.

According to Levinas, his main work, Totality and Infinity, is a plea for subjectivity. A subjectivity freed from neutrality of being, from the judgement of history, from overpowering totality. Levinasian

1 Derrida, J., Adieu to Emmanuel Levinas, p. 25
subjectivity is humanity founded on the ethical relation between me and the absolute other. In this text, the fulfilment of subjectivity is elaborated as the receiving of the other, as hospitality.²

In Totality and Infinity the face of the other is assumed as the fundamental ethical category which disrupts traditional ontology. Levinas systematises the ontological principle of the face and opposes it to Parmenidean ontology in which the other is reduced to the same and plurality to totality, which is governed by the principle of autonomy. This Parmenidean ontology is the traditional philosophy that thoroughly permeates western thought and the philosophical canon.

In Levinas’s view the absolute other cannot be appropriated by the Same, nor be reduced to a thought of autonomy and identity. The metaphysical dimension by which totality is ruptured is that of Infinity, rooted in the face of the other. More concretely, by the infinity of the other is meant the impossibility to incorporate her in my knowledge, because she is always partially suspended. This is what makes the other a stranger and the stranger an other. It is the absence of a common origin, a ‘common native land’ that makes the other an alien. The stranger disrupts the home, the être chez soi, because she is free and stays free. The other doesn’t merge into my space, my economy, although she does present herself to me and radically calls my housekeeping into question.

The epiphany of the face engenders the disquieting questioning of my freedom. ‘Is my existence justified?’ ‘As a free spirit — comme une joyeuse force qui va — am I doing violence to the other?’ By the ethical imperative of the face I fully and involuntarily receive, I am moved to give an account of myself. In this way my neighbour raises my infinite responsibility and appeals to my unconditional hospitality. Thus, although it is more than I can contain, the face is unconditionally received by me. In this welcome my subjectivity completes itself through the idea of Infinity. In Totality and Infinity this completion takes place in dialogue, in discourse. Therefore discourse is the site where hospitality takes shape. The relation with the Other, Discourse itself, is a non-allergic relation; an ethical relation.

This is why Derrida describes Totality and Infinity as an immense treatise on hospitality. Although the word ‘hospitality’ doesn’t occur often in the text, Totality and Infinity presents to us a vocabulary of hospitality. “In the concluding pages, for example, hospitality becomes the very name of what opens itself to the face, or, more precisely, of what “welcomes” it. The face always lends itself to a welcome, and the welcome welcomes only a face, the face that (...) must elude all thematisation. This irreducibility to a theme, this exceeding of all thematizing formalisation or description, is precisely what the face has in common with hospitality.”³

“Time, language and subjectivity delineate a pluralism and consequently, in the strongest sense of this term, an experience: one being’s reception of an absolutely other being”,⁵ Levinas says in Difficult Freedom, Essays on Judaism. The experience of the other is the experience par excellence. It is the experience of hospitality. The face of the other touches on a deeper ground of my existence than autonomous conscience which self-confidently installs itself in the world and shapes it after its design and will. Trying to shape the other, to thematise her, to add her up to my being, to my identity, would be a forcible failure. Receiving the other marks the limit of the self-defining subject for it immediately brings into being my intentionality and stirs my consciousness. Even reason itself is interpretable as this hospitable receptivity.⁶

Until now we have been discussing the dual relation between the same and the other as the site of unconditional hospitality where totality is disrupted. When this dual relation alters into a situation in which a third party is involved, the metaphysical connection between me and the other changes into a we. The arrival of the third inaugurates politics, the state, institutions and laws which are the source of universality.⁷ With the advent of the third, my neighbour looses her unique eloquence. No longer she is the only one who appeals to me. I have to consider my position: How can I justly distribute my attention? How can I do justice to more than one other? My response to the appeal of the face of this one other now changes from an unreserved ‘yes’ in a ‘yes, but’: the arrival of the third brings about

² Levinas, E., De Totaliteit en het Oneindige, p. 20-21. All quotations in English from Dutch references are translated by myself, SM.
³ De Totaliteit en het Oneindige, for instance: pp. 357-359
⁴ Adieu to Emmanuel Levinas, p. 21
⁵ Levinas, E., Difficult Freedom, p. 293
⁶ Adieu to EL, p. 26
⁷ De Totaliteit en het Oneindige, p. 365
conditionality. Also I now become an other before the others: the dissymmetrical relation of the same and the other is ripped apart. The third is another than the neighbour, but also he is another neighbour. The other and the third are related as well and in that quality they dissociate from me. Because of this distance reciprocity and human society are realised. The ethical appeal that takes place within the dual relation, drawing the subject infinitely closer and closer to the other by evoking his infinite responsibility, has lost its magnetic force.

As already mentioned, the dissociation of the other with the arrival of the third brings about conditionality. “[T]he arrival of the third stirs the questioning of the limits of responsibility, and my being aware of this question completes my consciousness. This question introduces comparison, simultaneity, order and thematisation.” Since the introduction of the third we find ourselves in the field of politics. According to Levinas, every politics intrinsically entails a violent element. It disfigures the metaphysical relation between me and the other it springs from for political judgement is passed on us by general, universal rules. Instead of fully answering for the other, and being called to unconditional hospitality, the subject is brought into a more distant and compromising position to the other. In this respect politics always run the risk to run short: the unicity of the other, individual differences and specific conditions are easily neglected in rules, standards and legislation. Levinas speaks of the cruelty of impersonal justice on this point.

To Levinas the state represents totality for it is an encompassing and overpowering structure which brings people together in a rational, general order. Because of the generalisation, thematisation and totalisation politics engenders intrinsically, totalitarianism always lingers at the background latently. According to Levinas, political totalitarianism is founded on ontological totalitarianism. This ontological totalitarianism is the traditional thought of identity, neutrality and autonomy we already embarked upon. In this thought being is approached something neutral and indifferent (or rather: nothing, for example Heideggerian Nothingness, Platonic χωρα) against which beings are silhouetted. Beings within this kind of being are enslaved to being for beings are not fundamentally separated from being. Also, they do not essentially differ from each other: after all they are part of the same encompassing totality. Within this ontological thought limits, boundaries, are in fact non-entities. Superficial lines that confirm the effortless and unproblematic transition from one to the other. Within this ontology everything is reduced to the order of the Same, to the same being. Subjectivity based on a metaphysical rupture of being as pleaded by Levinas is out of place here. Neither heteronomy nor absolute difference fits in. A major implication of this line of thinking is that the transition of the individual, the unique, into the general, the universal, is fluent and trouble-free. The universal is effortlessly deducible from the individual and the other way around. In accordance with western political thought which has originated from this ontology, the state is the incarnation of reason: from Socrates to Hegel, whose spirit still haunts western philosophy and political science, the subject is considered as representative of an eternal order.

In political action this thought is translated in the social contract, engendered by a ‘general will’, a universal mind. This universal mind causes an encompassing imperialism. Accordingly, imperialism is a universalism. “The rationality of a universal and homogeneous society that eliminates every particularism materialises in history that has no other criterion than fulfilling its own course. The speaking individual, in all its unicity, is eventually replaced by a universal mind.” If the law and its maintenance are held to the illusionary light of the universal mind of a homogeneous society, the interpretation of a general law in order to judge an individual situation is something unproblematic. However by assuming a universal subject (within the meaning of both citizen as individual) reason is blind to differences between individuals, like differences of ethnicity, gender, class or ability. The social contract engendered by this western, traditional way of thinking is a tacit confirmation of and applies to the white, healthy adult man. This is reflected, for instance, in the

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8 Levinas, E., *Otherwise than Being*, p. 157
9 Brüggemann-Kruijff, A. Th., *Bij de Gratie van de Transcendentie*, p. 153
10 *De Totaliteit en het Oneindige*, p. 365
11 *Difficult Freedom*, p. 239
12 *De Totaliteit en het Oneindige*, p. …
interpretation and implementation of the ’51 Geneva Refugee Treaty, which is based on the model of the male political dissent from Eastern Europe.

A prominent example of western political thought in which the state appears as reason incarnated, and in which man is assumed to be an unchanging universal subject, is given by Kant who is counted among the ‘founding fathers’ of the Rights of Man. In his Toward Perpetual Peace, in the “Third Definitive Article for a Perpetual Peace”, a law or a politics of ‘universal hospitality’ is discussed. Kant places the conditions of this universal hospitality in his cosmopolitical perspective of perpetual peace. “[H]ospitality means the right of an alien not to be treated as an enemy upon his arrival in another’s country. If it can be done without destroying him, he can be turned away; but as long as he behaves peaceably he cannot be treated as an enemy. (…) the right to visit belongs to all men by virtue of their common ownership of the earth’s surface (…) because originally no one had a greater right to any region of the earth than anyone else.”

Derrida, who is concerned with the relation between the ethics of hospitality (an ethics as hospitality) and a law or a politics of hospitality, reflects on Kant’s writing on cosmopolitan law. He notes that Kant’s concept of hospitality is limited by several conditions. In fact, Kant’s hospitality is a universal hospitality, but also exclusively a conditional hospitality. It is regarded on the level of world-citizenship, cosmopolitan law and of the relation of the state with its subjects. Also, Kantian hospitality law is only concerned with temporary sojourn of strangers in a nation-state and not with the right of residence.

Furthermore, Meyda Yegenoglu remarks in Liberal Multiculturalism and the Ethics of Hospitality in the Age of Globalization: “As a juridical regulation, [Kant’s article] concerns the rights of citizens of states that are to be regulated and deliberated by a cosmopolitical constitution. As such, it suspends and conditions the immediate, infinite, and unconditional welcoming of the other.” This suspension certainly is one of the inevitable necessities when putting an ethics of hospitality into practice. However, the question remains whether an amendment like Kant’s “Third Article for a Perpetual Peace” guarantees an unproblematic citizenship for everybody. In works as The Origins of Totalitarianism: Decline of the Nation-State and the End of the Rights of Man and The Human Condition, political philosopher Hanna Arendt (1906-1975) puts into question Kant’s concept of hospitality by emphasising plurality and humanity that surpass any legislation.

The fate of a large group of stateless people after World War II revealed to Arendt the discrepancy between the ideal of the Rights of Man and the everyday practices in which these rights could not be gersured. Since the Great War the League of Nations appeared not to be capable to guarantee the fundamental rights of the stateless. Opposed to the optimistic universalism of Kant, a fantasy of a homogeneous world population in which everybody was guaranteed a peaceful and humane life by his amendments, Arendt established more differentiated and nuanced conditions to politics. Among other things, she localises the possibility of a new politics in the recognition of plurality and the particular while constituting, interpreting and implementing law.

Judging and considering the political should not be constricted to taking into account generalities but should continually undertake differentiations and keep in close touch with the particular, the unique. As much as possible, Arendt wants justice to be done to the individuality of events within the public realm. Political thinking should be engendered by everyday downright experience. Furthermore the political realm should be conditioned by plurality. For people, however different they might be, are equal insofar they can appear and participate in discourse.

Arendt’s point of view shows kinship with the duality of being human as outlined by Levinas, in which man is determined by the dual relation on the one hand, and by being-the-other-before-the-other in society, in the public realm, on the other hand. Interesting enough, Levinas himself describes his work and life as ‘dominated by the presentiment and the memory of the Nazi horror’ whereas also Arendt’s life and work is thoroughly influenced by this unprecedented totalitarian regime.

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13 Kant, I., Toward Perpetual Peace, p. 118
14 Adieu a EL, p. 87
15 On page 6 of this article.
16 Verhoeven, M., Boreling en Beginner, p. 44
17 Arendt, H., Oordeelen, p. 21
18 Difficult Freedom, p. 291
Nevertheless, neither Levinas nor Arendt would defend that conditionality or generalisation are entirely negative notions. Intrinsically to every legislation, to every regulation within society, to some extent, generalisation and conditioning emerge. Conditions actually have to be made in order to guarantee reciprocity and equivalence within a community. The arrival of the third Levinas describes warrants the possibility for every individual within society of self-determination, to position herself, to take a stance.

In contrast to what is sometimes thought, the arrival of the third is not a disastrous incident that brutally disrupts an ideal situation in which subjectivity is already entirely completed, in the sense of ‘two is a company, three is a crowd.’ It is true that the political element the third brings about, carries with it the contingency of violence. But at the same time, for Levinas, the arrival of the third is inevitable and even essential to the accomplishment of subjectivity, for it demands the positioning of the subject: Who am I and how far will I go? To what extent am I hospitable? This new state of affairs engenders settlement. I can be an other for the other now and level with the people surrounding me. ‘Grâce a Dieu’ – “’Thanks to God’, I am another for the others”, Levinas writes19, there is reciprocity in my relations with others. Nevertheless, a community of individuals can only exist legitimately when it stays in close connection with the internal metaphysical relation. Moreover the order of things should not be disregarded. First there is the non-reciprocal, strictly dual relation with my neighbour. Subsequently there is community life. “The third party is other than the neighbour, but also another neighbour, and also a neighbour of the other, and not simply his fellow”20. One of those neighbours I am myself.

Although Levinas committed his work for the most part to an elaboration of the metaphysical dual relation, the eventual fulfilment of subjectivity for Levinas is located in the interval between the immediate relation with the face of the absolute other and the social relation of the subject with its neighbours. Subjectivity is established alternating between the dual relation and the position of the subject within society, and therefore between unconditional and conditional hospitality. I determine myself in society, I consciously choose my position, and as a citizen I respect the law and make reasonable demands on my neighbours I relate to. Nevertheless I still experience an absolute resistance, a specific obligation towards that particular other who appeals to me, that cannot be demolished by the state nor the third.21 No matter what I do, the appeal of the face of the other stays unquestionable. It is not only on the level of a policy or a legislation that the particular should not be neglected: also as a subject (both as citizen and as an individual) I have to deal with this tension, this resistance which could even lead me to civil disobedience. Confronted with the other who is done wrong because of general laws that neglect his otherness I am receptively called to responsibility. The question “What do I have to do with justice?” [my italics] is raised.22

In Arendt’s work we find, on a politico-philosophical level, an analogous duality of subjectivity. Every human being is both a unique individual and a member of humankind. Especially Arendt emphasises difference, which should be respected above all. People are not born equally. Equality is first and foremost a human, political construction.23 The recognition of everyone’s unicity therefore calls for political confirmation in the shape of rights. Rights that guarantee political equality to a wide diversity of individuals in a multiplicity of situations. This view is not meant to provoke hierarchisation or discrimination. Arendt states that the ideal of the Rights of Man has failed because of the fact that the people who needed to appeal to these rights most, became victims of loopholes of the law. These loopholes consisted out the fact that the subjects on whom they applied, were assumed to possess certain universal properties. In the case of Arendt this particularly concerned the stateless, people who had lost their nationality and therefore were not offered protection by a government. No one could or wanted to guarantee their right to be treated humanely and to be part of humanity. “No paradox of contemporary politics is filled with a more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as “inalienable” those human rights, which

19 Otherwise than Being, p. 158
20 Ibid, p. 157
21 Boer, Th. de, Tussen Filosofie en Profetie, p. 139
22 Otherwise than Being, p. 157
23 Boreling en Beginner, p. 56
are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.” 24 Obviously not only the absence of papers or of citizenship, but also other distinctive conditions can lead to deprivation of fundamental rights. Conditions I call ‘distinctive’ because traditionally they are not reckoned to be ‘universal’. Among other things, these conditions are determined by differences in gender, ethnicity, class and ability.

Yet what exactly has philosophy to offer to politics? When asked in an interview why and how a politics of hospitality should benefit from philosophy, Derrida gives what I think is an appropriate answer: “All political experimentation, [for instance] the initiative of the ‘refugee city’, despite its limits and its inevitably preliminary character, has in it a philosophical dimension. It requires us to interrogate the essence and the history of the state. All political innovation touches on philosophy. The ‘true’ political action always engages with a philosophy. All action, all political decision making, must invent its norm or rule. Such a gesture traverses or implies philosophy.” 25

Arendt is a political philosopher. It isn’t that hard to see how her thought could contribute to politics. But what about Levinas? The question is raised whether out of the ethics of hospitality we identify in his work, it is possible to design a law or a politics in the public realm, beyond the familial dwelling of the subject, that can be certified in society. Is it possible to actually deduce from the ethics of hospitality a range of laws that guarantee hospitality in the public/political domain? In Adieu to Emmanuel Levinas, Derrida negates this possibility: “[T]here is no assured passage, following the order of a foundation, according to a hierarchy of founding and founded, of principal originality and derivation, between an ethics or a first philosophy of hospitality, on the one hand, and a law or politics of hospitality, on the other. Let us assume that one cannot deduce from Levinas’s ethical discourse on hospitality a law and a politics, some particular law or politics in some determined situation today. (...) How, then, are we to interpret this impossibility of founding, of deducing or deriving? Does this impossibility signal a failing? Perhaps we should say the contrary.” 26 This impossibility is necessary. It forms a threshold, an epoche, a rupture, which protects hospitality from appropriation, regulation and determination. The Good, Love, Justice, Ethics, Faith always run the risk being perverted when made immanent.27

Despite these risks, however, we should not stop referring and reflecting on Levinasian unreserved unconditional hospitality. Derrida calls it ‘an absolute pole’ which is the an-archic source of hospitality as we practice and receive it as citizens. Now, “[T]he political task remains to find the best ‘legislative’ transaction, the best ‘juridical’ conditions to ensure that, in any given situation, the ethics of hospitality is not violated in its principle - and that it is respected as much as possible. To that end, one has to change laws, habits, phantasms, a whole ‘culture’.” 28

Time and again, history testifies of political practices in which a hegemonic dominant order brings about generalisation and totalisation on every level of the state (juridical, political, social) and in which the ethics of hospitality is violated. The individual, the unique other is neglected in a way that exceeds the ‘necessary generalising violence’ the third brings about by far. Evidently, European asylum policy manifests the totalising features of contemporary western politics and the imperialistic ‘Fortress Europe’. I will concentrate here on Dutch asylum policy, which is in many respects insensitive to the various problems encountered by women refugees. In general, it aims to discourage people as much as possible to appeal to their rights. By now, Dutch asylum policy belongs to the most restrictive policies conducted in Western Europe. And it works: within three years the number of refugees decreased from 44.000 to 19.000. This year even only 8.000 applications are estimated29 whereas the world did not become a safer place.

Dutch asylum policy, the practising of a politics of hospitality, is more and more guided by fear and nationalistic reactions instead of by a sense of justice and hospitality. The Refugee Treaty of ’51 is

24 Arendt, H., Origins of Totalitarianism, p. 279
25 see the interview at http://culturemachine.tees.ac.uk/Cmach/Backissues/j002/Articles/art_derr.htm
26 Adieu to EL, p. 20
27 Adieu to EL, p. 35
28 http://culturemachine.tees.ac.uk/Cmach/Backissues/j002/Articles/art_derr.htm
29 Verbaas, F., “Streng en onrechtvaardig”, p. 22
regarded rather as an archaic agreement than as an authoritative mandatory rule, which appeals to humanity and is a condition to keep to the Rights of Man western democracies take so much pride in. The anxious and rigid maintenance of a privileged position seems the first matter of importance in everyday asylum practices.

Characteristic to Dutch asylum policy are the blind bureaucratic mills applications fall into and the absence of concern for specific situations related to, for instance, gender, ethnicity, class and health. Also, especially before the implementation of the New Refugee Law of April 2001, refugees have to wait for a definite disposition for years. Waiting for more than three years is not exceptional. Strangely enough, newcomers now get to deal with an abridged and therefore inconsiderate procedure which is conveniently employed on a large-scale but which was originally meant for cases that didn’t have much chance. I will restrict myself here to a discussion of the gender insensitivity of Dutch asylum policy. This policy of hospitality is exceptionally inhospitable to women refugees. Standing up to the present inhumane and sexist policy, considering the specific situation of women asylum seekers is of major importance. At the present poignant individual cases are not given the serious concern they deserve in designing and executing law. On the contrary these cases are regarded as the inevitable and even as the usual by-products of a furthermore just policy.

In many respects women are in different social positions than men and therefore suffer from different infringement of rights. This is the case for women refugees in The Netherlands, but also for women refugees in their countries of origin. Nevertheless the Refugee Treaty is interpreted and implemented with disregard to the specific problems, needs and risks that are encountered by women asylum seekers, although 49% of migrants and asylum seekers in The Netherlands are women these days. Dutch asylum policy frequently ignores the specific status of women refugees a) as far as the situation in the country of origin is concerned and b) with regard to their life conditions in The Netherlands, both during the procedural settling of the application and after possible rejection, when women are condemned to an illegalised existence. The problems that appertain the policy manifest themselves in many different ways. I only allow myself here to touch upon a few examples that clearly demonstrate the inequitable treatment of women asylum seekers by the Dutch government.

First I will go into the policy as far as the juridical evaluation and judgement of the cause of flight is concerned. On this score notions like political resistance and the danger of losing one’s life are formulated and interpreted gender neutral all too frequently. Reality, as we all know, is anything but gender neutral. Because of this women asylum seekers are unjustly refused. More and more countries are declared safe, also for women. This concerns for instance Iran, Pakistan and Afghanistan. For a lot of women, however, these countries are far from safe. The Dutch court and the state nevertheless ground their declarations of safety chiefly on official reports they receive from the embassies of these countries.

 Usually embassies are elitist male organisations not particularly known for their feminist perspective. Generally they are located in larger cities and therefore often inadequately informed on what happens in the provinces. Independent international recommendations, for example from Human Rights Watch and Amnesty International, that provide a more realistic picture are renounced by both government and court.

This is why an Iranian women threatened with stoning in Iran because she left her husband who abused her, now leads her life as an illegalised in The Netherlands. Concretely this means no legal income or financial support whatsoever, no proper housing, no education, no insurance, no old-age pension, very little medical care, etcetera. Iranian sharia (Islamic law) is officially prohibited but performed strictly in many districts of Iran. This legislation for instance declares the testimony of a woman is only worth half of that of a man. A man is allowed to kill his wife in case of adultery unpunished, whereas he is allowed to have several wives and mistresses at the same time. A woman who flees from domestic violence, especially if she flees to the West, risks to be accused of promiscuous behaviour and adultery, with stoning as ultimate consequence. In spite of this, this state of affairs doesn’t give cause for legitimate residence according to the Dutch Integration and Naturalisation Service (IND).30

Likewise political and social action by women and what happens to them because of those activities is not interpreted within a human rights perspective. Rather, it is omitted as something marginal in the

‘real’ man’s world. Thomas Spijkerboer, professor of migration law and the author of *Gender and Refugee Status*: “Within present discourse women refugees are depicted as passive victims of Third World chaos. This image is set off against the masculine image of the prototype classical dissident, who operates courageously and individually.” Many women, on the contrary, undertake political action in many different ways and run risks because of their activities. Their applications are frequently rejected because of the stereotypical image of the unemancipated (for non-western) woman, for whom it is impossible to be assertive and politically active. Also women offer different types of resistance, which are rarely recognised as such. Taking care of the politically persecuted by giving shelter and food is often labelled as resistance in the country of origin but is not recognised as such by the IND. Women asylum seekers are persecuted and repressed in different ways than men, for instance by means of sexual violence. Since the Yugoslavia tribunal, rape is acknowledged as a war crime. In theory rape should be accepted accordingly as legitimate cause of flight in case of war or severe political disturbances. But when is a situation recognised as a state of war? When is something acknowledged as rape? When is rape acknowledged as a form of torture, instead of random sexual violence ‘that could happen to anybody in any country’? In practice this vagueness functions as an advantage to the reluctant policy.

On top of this, the care given and the facilities offered to women asylum seekers who wait for a decision are far from sufficient. Asylum Seekers Centers (AZC’s) and Care Centers (OC’s) are badly facilitated and, above all, very unsafe for women. Deliberately located in remote areas (for example at the margins of suburbs, alongside the highway) and usually badly lit, women constantly run the risk of being confronted with sexual and sex specific violence. At night there is often only one safety guard who only shows up ‘when there’s really something wrong’. Crailo, one of the centres I have visited, located in a deserted military barracks, only has bathroom facilities in secluded barracks outside the sleeping buildings. Because of this women usually don’t go to the bathroom alone. In the centres people are hospitalised on top of one another in extremely depressing and primitive living conditions. Protection against aggression coming from other asylum seekers is hardly provided. Women traders and pimps are attracted to these centres as well. Also, women and girls disappear into the sex trade, no one knows exactly how many. A certain number ends up in forced prostitution. Very few measures are taken to protect women or to inform them properly.

Since the new Immigration Law of April 2001, when a single minor asylum seekers turns eighteen and isn’t granted permanent asylum, her temporary residence permit expires and she is relentlessly turned out into the street. During her stay in The Netherlands as a single minor asylum seeker, she is deliberately isolated from society to prevent integration as much as possible. This is done in order to minimise the desire to reside in The Netherlands after repudiation. If she ends up on the streets after all, she has had no chance to set up a social network that might offer protection. Therefore she is more vulnerable to all kinds of violence.

When their application is repudiated and sometimes even before repudiation but after a certain time, asylum seekers are thrown out of the centres and become homeless. Since people are seldom really repatriated, they end up in what some call ‘parallel society’ and live their lives as unprotected outcasts without future prospects. It is considerably harder and more dangerous for illegalised women to survive. For example they often end up working alone while men have more chance to work together in construction or in market gardens. While they don’t receive a National Insurance Number and their working conditions are not monitored, women work indoors, in the private sphere. This significantly increases the risk of becoming victim of exploitation and sexual and sex specific violence. The signed Refugee Treaty states that life-threateningly ill refugees have the right to a residence permit on humanitarian grounds, especially if the country of origin doesn’t provide adequate care. In daily practice this does not follow. Former Assistant Secretary Ella Kalsbeek stated that humanely irresponsible risks of repatriation are only taken into account if war violence against citizens is involved. For instance women who fled from Africa with HIV, some of them pregnant, do get

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31 *Pardon voor de Verloren Jaren*, p. 50
32 With thanks to Jenneke Arens, a member of “Steungroep Vrouwen Zonder Verblijfsvergunning”, a Dutch support group for women without a residence permit, who provided me with more information on this subject.
33 See for instance: [http://www.minjust.nl/b_organ/wodc/publicaties/tijdschriften/pubtijds/pujv998v.htm](http://www.minjust.nl/b_organ/wodc/publicaties/tijdschriften/pubtijds/pujv998v.htm)
temporally medication but their application is not honoured, although sufficient medication in the
country of origin is very improbable. Hospitals contact NGO’s for help, for at a governmental level,
there are no arrangements made for these women.  
To conclude, when a female asylum seeker is granted a permit together with her husband, she will
receive a residence permit which is dependent on that of her husband for at least a year (this used to be
three years). Even in case of domestic violence she cannot leave her partner without the risk of being
expelled from the country. Thus, her negotiating position in case she wants to leave her husband is
extremely weak. The so called ‘Blijf van m’n Lijf’ centres are shelters for women who fled from
domestic violence. These centres are strongly dependent on governmental financial support and
women without papers are usually refused residence because, for one thing, women have to pay for
accommodation. Obviously illegalised women usually don’t have much money. They will have to
depend on services and help provided by private persons or NGO’s.

The strict admission policy in The Netherlands is ignorant to different backgrounds, positions and
specific needs of people and therefore leads to unjust decisions. The gender insensitivity, the
inhospitality towards women refugees and their specific problems, both in the countries of origin as in
The Netherlands, is exemplary to the policy’s inappropriate strictness. I hope to have clarified this
insensitivity convincingly.

It is indisputable that distressing individual cases are hardly taken as a reason to reconsider the policy.
In her essay Liberal Multiculturalism and the Ethics of Hospitality in the Age of Globalization, Meyda
Yegenoglu uses David Bennett’s term ‘add-ons’ to describe the way minorities are regarded to the
existing nation form and culture as part of the ‘troubling tendency’ of understanding cultural and racial
difference. A similar tendency that can be identified in The Netherlands, which is at least as
troubling, is the fact that poignant cases that result from an insensitive policy are regarded as ‘spin-
offs’: the unpleasant but usual by-products of an acceptable and even just treatment of refugees.
Causes are to guess at. Is the indifference with regard to differences caused by patriarchal tradition that
determines policymaking and the legal system? Is our restrictive asylum policy infused by xenophobia
and fear of the decline of the welfare state? Or is bureaucracy causing the trouble? In current
bureaucracy, which in many respects has become a monstrous caricature of what was meant as an
impersonal and unprejudiced system, individual responsibility seems to dissolve.

Anyhow, critical reflection, thorough revaluation and radical change of the present asylum policy is,
from a humane perspective, highly necessary. For that purpose the work of Hanna Arendt certainly
offers a valuable contribution for it deals with the importance of taking into account plurality and
individual differences in political judgement at great length. Also it is an urgent elaboration on the far-
reaching risks of maintaining laws that are not equal for all.

Although Levinasian unconditional hospitality cannot be simply translated in some workable, public
or political version, for it is located in the dual relation which precedes the social and the political
realm, it nevertheless functions as a touchstone for the juridical conditions of a politics of hospitality.
The ethical imperative of the face other I receive unconditionally in the dual relationship demands the
assurance that the ethics of hospitality is not violated in rules or in legislation. Also, on a private level,
it evokes my desire to respond to the other in need. As a subject which determines itself in society I
have to make up my mind how to respond to the appeal of the other who is done wrong because of
general laws that neglect his or her otherness.

Unfortunately, at the moment chances are few that Dutch asylum policy will radically change and, for
one thing, will be made more gender sensitive since main purpose of the policy still is to discourage
people to apply for asylum. In that case it will depend on private initiatives of citizens. Of course there
are many people and a lot of non-governmental organisations dedicatedly and often voluntarily
fighting for the rights of women asylum seekers and for refugees in general. However, everyone, as an
individual and a citizen, must decide for herself or himself what is just –ask the Levinasian question
“What do I have to do with justice?”– and, correspondingly, how to act, even if this may lead to civil
disobedience.

34 See note 28
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