

School of Human Rights Research

Annual Report 1998



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PREFACE

This is the third annual report of the School of Human Rights Research. The present report covers the activities of the School during a year in which Professor Peter Baehr retired from his official university functions, which included the function of Academic Director of the School. Professor Baehr was the driving force behind the establishment of the School in 1995 and contributed in a most significant way to the development of the School over the past years. His commitment to and work for the School are deeply appreciated by all junior- and senior-researchers who are involved in the activities of the School. They are determined to continue the work he started and to further strengthen the role of the School as a(n) (inter)disciplinary platform and centre of scholarly activities in the field of human rights. The Universal Declaration of Human Rights (1948), the fiftieth anniversary of which was also commemorated by the School in the form of an international, interdisciplinary conference, will continue to serve in that respect as a source of inspiration and innovation.

Professor Cees Flinterman,
Academic Director (since 1 November 1998)

July 1999

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INTRODUCTION

The School of Human Rights Research is one of the first research schools in the field of law. The objective of the School is to bring together excellent junior and senior researchers in the field of human rights from different academic disciplines. The School presents itself as an interdisciplinary research school. For this reason not only researchers from the field of law, but also from political science, the social sciences and history are among the participants of this School.

This report contains information about the board, the staff, the mission of the Research School, new initiatives, and the publications of the participants of the School. More specific information about the research programme, information about participants, as well as names of senior and junior researchers, are listed in the booklet 'Programme of Research 1995-1999'. To obtain this brochure, one should contact the Secretariat by writing to the School of Human Rights Research.

One of the highlights of the past year was the organisation of the International Conference on the occasion of the 50th Anniversary of the Universal Declaration of Human Rights. Prominent national and international researchers participated in this conference, which took place from 10 to 12 December 1998.

At the first day of this conference, Ms. Yvonne van Rooy, President of Tilburg University, presented the Human Rights Award 1998 of Tilburg/School of Human Rights Research. The jury decided to present the award both to Peter Malcontent, for his Ph.D. thesis 'Op kruistocht in de Derde Wereld' ('A Third World Crusade') defended at Utrecht University, as well as to Barbara Tószegi, for her master's thesis 'Human Rights and democracy conditionality in the external relations of the European Union, in particular in the context of the eastward enlargement' from the University of Maastricht.

This year, the first step in the application for renewed recognition for the next five years have also been set. Three international experts in the

field of Human Rights Research were asked to evaluate the past performance of the School of Human Rights Research. On 14 December 1998, the committee consisting of Prof. H.G. Schermers (Leyden University, the Netherlands), Prof.dr. R. Howard (McMaster University, Ontario, Canada) and Prof.dr. Ph. Alston (European University Institute, Florence, Italy) paid a 'site-visit' to the School. The evaluation process will be continued in 1999.

RESEARCH PROGRAMME

In general, most researchers of the School have participated in several symposia, international congresses, etc. All these kinds of activities are not specifically mentioned.

Below, you will find some of the highlights of the cluster activities. Besides these specific cluster-activities there are of course also working relations between the several clusters. Some of the senior researchers are members of several clusters.

1. International Norms and Procedures

Within this cluster several activities were organised. A research proposal on 'International Economic developments and human rights' was written and submitted to NWO. The cluster was also consulted about several research proposals and some of the members have written articles together.

Several members of this cluster have been active within the so-called 'Kalshoven-group', in the field of International Human Rights, as well as within the so-called 'Minority Research Group'.

Finally, Prof. Willem J.M. van Genugten was asked to revise The EU Human Rights Reference Handbook, in which he consulted some senior members of the Research School, Prof. Peter Baehr and Prof. Cees Flinterman. The Human Rights Reference Handbook (second, revised edition) was published in January 1999.

2. Civil and Political Rights

In the year 1998 there was no general meeting of all of the members of the research cluster. However, they held close contact and several members worked together on various research projects. As a result, in 1999 the outcome of some of these projects will be discussed by all of the members. For instance, a broad research project on Human Rights within the European Union was completed: *Grenzen aan grenzenloosheid, Algemene leerstukken van grondrechten en de Europese Unie* [General aspects of Human Rights and the European

Union], L.F.M. Besselink and H.R.B.M. Kummeling (eds), Deventer 1998, 287 pp.

After several years of intensive work finally the third edition of Van Dijk/Van Hoof's well known *The European Convention in Theory and Practice* was published.

Several members of the clusters were asked by the Netherlands Helsinki Committee to give lectures on various aspects of the rule of law, democracy and human rights in courses for jurists from Central and Eastern Europe.

Prof. Kummeling and Dr. Van Schagen were asked by the Dutch Government to develop a new electoral system for The Netherlands.

3. Economic, Social and Cultural Rights

Within this cluster no special information is received. Most activities were centred on the supervision of the dissertations of Ms B. Toebe and Ms K. Arambulo.

4. Special or Vulnerable Groups

Within this cluster, most activities were undertaken by individuals. However, there were some common activities. In 1998, several members of this cluster were active in the organisation and activities of the 'International Conference on Comparative Non Discrimination Law' in June 1998. Prof. Titia Loenen presented the keynote speech about 'Indirect discrimination: oscillating between containment and revolution' during the conference. A book on this conference will appear.

Some members were also active in the writing of a research proposal within the NWO programme Multicultural and Pluriform Society. Unfortunately, this proposal has not received a positive advice. A renewed proposal will be sent to NWO in 1999.

5. Foreign Policy

Within this cluster a workshop was organised on the subject of Human Rights and Foreign Policy. Some of the Ph. D. Candidates from Utrecht

University (Ms Marlies Glasius, Ms Esther van den Berg and Ms Mielle Bulterman) organised a workshop on the future of the EU's human rights policy, entitled 'United we stand, divided we fall'. For this occasion, Mr. Gijs de Vries, President of the Liberal Group in the European Parliament, was invited to give a public lecture on 'The EU's Foreign Policy and Human Rights'. Prof. David Forsythe (USA) gave a lecture on 'Federal versus State Human Rights Policy of the USA'. Prof. Peter Baehr, director of the School, acted as the chairman of the day. More than 50 participants attended the workshop.

6. Causes of Human Rights Violations

This cluster comprises of three researchers: Prof. Piet van Reenen (as extraordinary) professor; Dr Hans Werdmölder and Dr. Niels Uildriks who was appointed as post doc in May 1998. Three research-projects have been, or are in the process of being, set up: a) an international comparison of gross human rights violations by the police; b) a study on international police co-operation and human rights; and c) the introduction of human rights within the new South African police.

Preparatory work has been carried out concerning these projects. Regarding the latter project, a formal collaboration has been set up with Technikon SA (Johannesburg, South Africa). In the first two projects work has been done to get the funds necessary to carry out the empirical research. Preliminary work for the first project has been carried out during visits to South Africa and Mexico where working relations have been established with Technikon SA and UNAM University. Dr Hans Werdmölder presented a keynote speech, 'Failed States and Human Rights', at the world conference on 'Modern Criminal Investigation, Organized Crime & Human Rights' in Sun City, South Africa.

In addition there has been active involvement in the setting up of an interfaculty centre for conflict studies, which is to be set up in 1999. The centre is an initiative of the University of Utrecht, involving the faculties of Social Sciences, Humanities and Law. Utrecht University has taken this initiative in response to the foundation of the European Centre for Conflict Research in Utrecht, with which the interfaculty centre will be allied.

7. Historical Dimensions

On 29 May 1998, some members of this cluster (Prof. Peter Baehr, Dr. Hans Werdmölder, Dr. Maarten Kuitenbrouwer and Drs. Floribert Baudet) have organised an Interdisciplinary Seminar 'Ethnic Conflicts and Human Rights'. The main subject of this seminar was the conflict in the former Yugoslavia that raged from 1991 till 1995. Some future prospects of the conflict were also discussed.

Due to a NWO grant, it was possible to invite some international scholars. Dr. D.T. Batakovic (Institute of Balkan Studies, Belgrade), Dr. J.W. Honig (King's College, London) and Mr. D. Rohde (New York Times) were attending the Seminar. The seminar was attended by 30 academics, from different disciplinary backgrounds. A book, based on the contributions for this seminar, will appear in 1999.

Besides the organisation of this seminar, Prof. Ab van Goudoever has given lectures on 'Human rights in history', organised by the European Faculty, Cluj (Rumania). Some members of the cluster also participated in the KNAW-colloquium on 'The 50th anniversary of the Universal Declaration of Human Rights' on 10-12 December 1998. Prof. D. Hellema, as the successor of Prof. C.B. Wels, will be participating in this cluster.

8. Criminal Law and International Humanitarian Law

The board of the School has decided to bring in a new cluster in the School. A first constitutional meeting was held on 11 December at Maastricht University.

The cluster has also submitted a NWO research proposal on 'Consensuality, fundamental rights and shifts in Dutch criminal law and criminal procedure'. Researchers from three different faculties (U.M., EUR and U.U) were involved in the submission of this proposal.

Strategic Cooperation

Since 1998 the School of Human Rights Research is working together with Schoordijk Institute (KUB), Research School Ius Commune and Netherlands School for Social and Economic Policy in the framework of the NWO Programme of Stimulating-Action Law Research. (SARO).

One of the Programmes, 'Grondslagen van een Europese Rechtsorde: Concurrentie, convergentie en coöperatie' [Foundation of the European Legal Order: Competition, Convergence and Cooperation], in which the School of Human Rights Research is participating and coordinating, has been honoured by the NWO Commission for Law and Public Administration (REOB).

GRADUATE PROGRAMME

The Graduate Programme of the Research School consists of three different 'trajectories' or training-paths: the individual trajectory (individual courses), the faculty trajectory (general introduction on conducting research) and the Research School trajectory (specialised courses and workshops). Besides these three training paths linked to the Research School, there are more general meetings (so-called Ph.D. network days) during which candidates from different universities in The Netherlands meet each other and present regularly their research projects.

In 1998 the following workshops, Ph.D. network days and meetings were organised:

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| 20 January 1998: | Methods of Research (Ph.D. workshop, Utrecht) |
| 23 January 1998: | Meeting with...J.H. Burgers (The Hague) |
| 27 March 1998: | Council of Europe (Ph.D. networkday, Maastricht) |
| 3 April 1998: | Meeting with...Th. van Boven (Utrecht) |
| 23 April 1998: | Instruments of Human Rights Policy (Ph.D. networkday, Utrecht) |
| 25 September 1998: | Law and Cultural Diversity (Ph.D. workshop Utrecht, organised by Ph.D. group Human Rights and Minorities) |

In 1998 a start was made in organising a so-called 'à la carte' programme. Within this programme information is given about all the activities, courses, seminars and workshops in the field of human rights, which are organised by the participating faculties of the School.

The aio's were also stimulated to participate in several conferences, organised by the Research School:

conferences

- 24 April 1998: Symposium 'United we stand, divided we fall'. The Future of the EU's Human Rights Policy: Could the USA provide a shining example?, Utrecht
- 6 May 1998: Panel Discussion The Fifth Anniversary of the Yugoslavia Tribunal: Is there a reason to celebrate?, Utrecht
- 29 May 1998: International Expert Meeting 'Ethnic Conflicts and Human Rights', Utrecht
- 22-24 June 1998: International Conference 'Equal Treatment and Non-discrimination in International and comparative Perspective, Utrecht (in association with Women's Legal Studies and Equal Treatment Commission)
- 24 June 1998: German-Dutch Seminar on International Human Rights Law at the Ruhr-University, Bochum
- 12-13 November 1998: Conference 'Coordination of Human Rights Treaties', Maastricht
- 10-12 December 1998: International Academic Conference 'Universality of Human Rights', Utrecht/Amsterdam

EVALUATION

In 1998, a start was made with the evaluation-process of the Research School. Within this process of evaluation a committee of three international experts in the field of human rights paid a so-called 'site-visit' to the School. The committee consisted of the following persons: Prof.dr. H.G. Schermers (Leyden University, chairman), Prof.dr. R. Howard (McMaster University, Ontario, Canada), Prof.dr. Ph. Alston (European University Institute, Florence, Italy) and Dr. H. Werdmölder (Utrecht University) as secretary. The aim of this visit was not to present a detailed review of the individual qualifications of the groups and their participants, but rather to provide an overall evaluation of the quality of the research, paying special attention to the added value of the Research School.

The committee came to the following conclusions. The School of Human Rights Research intends to be an interdisciplinary school in the field of human rights research and the main focus of the establishment of the Research School is to bring researchers from various disciplines together. This implies, according to the committee, a more open mission as well as strong efforts to expand their basis to other disciplines. The committee also recommended the incorporation of human rights researchers from other law faculties in the Netherlands.

In relation to the so-called 'added value' of the Research School, the committee recommended the intensification of common research activities. The joint research activities of senior and junior researchers should be further stimulated. It is important for junior researchers to get the feeling of being part of a wider group. Co-operation is also required in order to attract funding from the various research institutions in the Netherlands. The committee was very positive about the establishment of the Summer School on Human Rights as a joint enterprise between Leuven University and the School.

The committee was positive about the efforts to generate a Ph.D. educational programme to improve the training of the next generation of researchers. The committee was impressed by the high quality of the present Ph.D. candidates within the Research School. Some of them

actively participated in the international conference of 'The 50th anniversary of the Universal Declaration of Human Rights' on 10-12 December, 1998. In relation to the present educational programme for Ph.D. candidates, the committee recommended to make all efforts to achieve a more structured course.

In general, the members of committee were impressed by the performance of the School, their presentation and the high quality research that has been carried out.

INTERNATIONAL PROGRAMME

Thanks to a financial contribution by the board of governors of Utrecht University, the School is able to set up an International Programme. Within this Programme it is possible to give Individual Research Grants to excellent Ph.D. students from abroad, the possibility for foreign senior researchers to come to Utrecht in the framework of the so-called Short Term Fellowships and finally the School is organising Summer Courses each year.

Individual Research Grants

In 1998, the following foreign Ph.D. candidates were active within this programme:

Mr. Joe Washington, from the U.S., started his Ph.D. research on 1 April 1998 at SIM (Netherlands Institute of Human Rights). The topic of his dissertation is: 'Negotiating Human Rights?'

Mr. Mac Darrow, from Australia, was accepted as a Ph.D. student. For the time being he will stay at the European University Institute (Florence), he will pay visits to his supervisor at the Research School occasionally. His topic is: 'Mainstreaming Human Rights in the United Nations System: Problems and Prospects in the International Development and Security Contexts'.

Mr. Shuichi Furuya, from Japan, started his post-doc research on 1 October 1998 at SIM. The title of his project is: 'Function of the International Criminal Tribunal as an implementing mechanism of international human rights and humanitarian law: its relationship with state jurisdiction'.

Mr. Adriaan Haupt, University of Venda, Thohoyandou, South Africa, started his Ph.D. research on 'African Values and Human Rights' (working title) on 1 November 1998 with a grant from Tilburg University.

Mr. Ian Seiderman, from the U.S., continued his research project on 'Supernorms under International Law with particular reference to international human rights law' at SIM.

Finally, *Mr. Sun Shiyan*, from China, was also one of our guest-