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978-1-107-04183-7 - Rights for Others: The Slow Home-Coming of Human Rights in the Netherlands

Barbara Oomen

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RIGHTS FOR OTHERS

Rights for Others is an empirical study of what happens when international human rights are applied domestically in the Netherlands. It tracks recent debates in Dutch society on citizenship and the rights of immigrants, and analyses the shift from the perception of human rights as a 'foreign policy concern' to the slow processes of home-coming in what has traditionally been a left-wing society, but now includes many more right-wing political parties. Adopting an interdisciplinary approach, Oomen combines insights from law, sociology and anthropology to explain how rights gain significance in framing social and political discussions. The book provides comprehensive coverage on relevant constitutional law, legal culture and rights realization as well as discussing case material on human rights education, polarization, socio-economic rights, domestic violence and the rights of minorities. This is an invaluable contribution to the global fields of human rights and socio-legal studies for scholars and researchers.

BARBARA OOMEN is Professor of Law at University College Roosevelt, Utrecht University and University of Amsterdam, the Netherlands.

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University College Roosevelt, Utrecht University
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ACKNOWLEDGEMENTS

The first person to have made an important contribution to this book on international human rights in the Netherlands was the reviewer who gave a rather negative assessment of the project proposal ‘Why the Dutch don’t talk rights: universal human rights as a framework for the resolution of societal conflicts in the Netherlands’. Whereas the academic reviewers were generally very positive, the person looking into the societal relevance had his or her doubts. The reviewer agreed with the study’s points of departure, which are that human rights are generally considered a foreign policy issue in the Netherlands and that they are hardly ‘a daily topic of discussion in our society’. At the same time, looking into human rights as a framework for social and political issues in the Netherlands might be a worthwhile scholarly exercise, but would hardly contribute to ‘facing, preventing or solving problems in the field of conflict and security in the Netherlands’. The proposed case study on victims of domestic violence in Zierikzee was, for instance, about a tragic failure to provide safety to the victims, but could hardly be considered a human rights violation. In all, the reviewer concluded, the study would not result in insights on how to prevent or reduce tensions in Dutch society.

I am very grateful to the Dutch Science Foundation for having accepted my response, which was that this review was a telling illustration of the project’s point of departure. This is that many policy-makers fail to see the relevance of international human rights treaties, that are part of Dutch law, to everyday policy discussions in the field of conflict resolution in the Netherlands. Understanding why this is the case, I argue, does not only contribute to scholarship on the sociology of rights, but also to Dutch society. A critical discussion of the potential of human rights to help address social conflicts in the Netherlands is not academic at all, I wrote. Or rather, ‘it should not be’. If, for instance, the case of domestic violence in Zierikzee and the calls for help by the victims had been considered a human rights issue this could possibly have led to a swifter response and the death of two children could have been avoided.

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In conducting the research itself and developing an analytical framework that combines legal, anthropological and sociological insights in understanding why human rights, in the Netherlands, are generally considered as ‘rights for others’, I have received the assistance of many more people than can be named here. For one, there are the respondents who took time to fill in the survey for the research, or speak to me in person. The resulting insights were presented during an AAA panel on the anthropology of international law, two meetings of the Netherlands School of Human Rights Research, a seminar on the Wilders case at the University of Amsterdam, a seminar commemorating the late Peter Baehr, the annual meeting of the Netherlands–Flemish Socio-legal Research Association, a conference on the Politics of Justice at the Institute of Social Studies and a seminar dedicated to ‘Rights realized, rights resisted’ in Middelburg. Here, they benefited from the advice of colleagues like André Hoekema, Sally Engle Merry, Eva Brems, Marie-Claire Dembour, Stephan Parmentier, Jenny Goldschmidt, Cees Flinterman, Fons Coomans, Leonard Besselink, Leo Gordenker and Michelle Parlevliet.

One of the great joys of working at one of the first Liberal Arts and Sciences Colleges in the Netherlands is the permanent proximity of colleagues from all disciplines imaginable, and I have enjoyed sharing this research during official research meetings and over coffee. In doing so, I not only received input from my fellow jurists Pieter Ippel and Fried van Hoof, but also learnt from discussing citizenship in the Netherlands with historians Tobias van Gent and Nancy Mykoff, discussing domestic violence with psychologist Elizabeth Wiese, research methods with Nel Verhoeven, politics with Herman Lelieveldt and human rights education with the Going Global team including John Friedman, Fatima Muller-Friedman, Eri Park, Marcin Sklad and Anneke van Os. I am also indebted to the University College Roosevelt Board of Trustees, my predecessors Hans Adriaansens and Willem Hendrik Gispén, and our Managing Director Jorrit Snijder for encouraging me to combine teaching, research and management, making each of these functions all the more enjoyable.

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the implementation of international human rights. Joey Hogeboom did archival research on the Dutch contribution to the Universal Declaration of Human Rights and the European Convention on Human Rights, while Arne Muis and Vicky van Hassel analysed the degree to which reference to human rights plays a role in current parliamentary debates. Simaya van Dooren organized the conference 'Rights realized, rights resisted', during which some of the findings were discussed. Moritz Baumgärtel, who is well underway to become a scholar in his own right, read and commented on all the chapters, and Zahra Yusufli played an important role in editing.

Parts of this book were published elsewhere, but they have been substantially revised here. Parts of Chapter 4 were published in 'Waving with Treaties? The Politics of Implementing Human Rights Education in the Netherlands', *Journal of Human Rights Practice*, 5(2) (2013): 291–317, and a section of Chapter 8 in an article co-authored with N. Rijke titled 'The Right to be Different: Homosexuality, Orthodoxy and the Politics of Global Legal Pluralism in Orthodox–Protestant Schools in the Netherlands', *Journal of Law and Religion*, 28(2) (2013): 361–400.

Much of the inspiration for the book, and the insights contained in it, comes from my work outside of academia. It was in my capacity as the Chair of the Netherlands Platform for Human Rights Education that I learned about the puzzled responses of Dutch policy-makers and politicians confronted with the notion of human rights violations in the Netherlands, and the fine art of 'vernacularization' of rights talk, forming NGO alliances and playing Putnam's two-level playing field of national and international law – all theoretical concepts to be discussed in this book. Similarly, my membership of the Constitutional Review Commission gave me the type of insight into the limits to Dutch internationalism that no combination of formal interviews and participant observation would have yielded. My membership of the Human Rights Commission of the Advisory Council on International Affairs allowed me to follow the politics surrounding the formation of the Netherlands Human Rights Institute closely. Currently, my membership of the Institute's Advisory Board also leads to insights on the politics of human rights implementation in the Netherlands. Whilst the work of current and former colleagues is subject to at times critical analysis in this book – and the methodological justification of this approach will be given elsewhere – it is important to express my admiration here for the work done by people like Pim Fischer, Carla van Os, Franka Olujić, Nathalie van Loon, Piet van Ledden, Kirsja Oudshoorn, Ton van den

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Finally, Eleanor Roosevelt’s often-quoted saying that human rights begin close to home can be considered one of the underlying motto’s of this study. There are, of course, many other things that begin close to home, and happiness is one of them. It is for this reason that I am tremendously grateful for the daily company of Herman Lelieveldt, and our sons Tom, Bram and Jeroen.

ABBREVIATIONS

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	Convention on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
ECJ	European Court of Justice
ECOSOC	United Nations Economic and Social Council
ECRI	Council of Europe Commission against Racism and Intolerance
ESC	European Social Charter
EU	European Union
ETA	Equal Treatment Act
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NHRI	National Human Rights Institute
NPHRE	Netherlands Platform on Human Rights Education
OHCHR	Office of the High Commissioner for Human Rights
PVV	Partij voor de Vrijheid (Freedom Party)
SGP	Staatkundig Gereformeerde Partij (Reformed Political Party)
UDHR	Universal Declaration of Human Rights

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LIST OF ABBREVIATIONS

UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children’s Fund
UPR	Human Rights Council Universal Periodic Review