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978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

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# THE LOCAL RELEVANCE OF HUMAN RIGHTS

Editors

KOEN DE FEYTER

STEPHAN PARMENTIER

CHRISTIANE TIMMERMAN

GEORGE ULRICH



**CAMBRIDGE**  
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Frontmatter  
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CONTENTS

<i>Notes on contributors</i>	vii
<i>Series editors' preface</i>	xiii
<i>Preface</i>	xvii
<i>List of abbreviations</i>	xix
1 Introduction: reconsidering human rights from below	1
KOEN DE FEYTER AND STEPHAN PARMENTIER	
2 Sites of rights resistance	11
KOEN DE FEYTER	
3 Freedom from want revisited from a local perspective: evolution and challenges ahead	40
FELIPE GÓMEZ ISA	
4 Relevance of human rights in the glocal space of politics: how to enlarge democratic practice beyond state boundaries and build up a peaceful world order	82
ANTONIO PAPISCA	
5 The local relevance of human rights: a methodological approach	109
GABY ORÉ AGUILAR	
6 Ensuring compliance with decisions by international and regional human rights bodies: the case of the European Committee for the Prevention of Torture	147
MICHELLE FARRELL	
7 Building rights-based health movements: lessons from the Peruvian experience	176
ALICIA ELY YAMIN AND J. JAIME MIRANDA	

8	Defining human rights when economic interests are high: the case of the western Shoshone	208
	JULIE CAVANAUGH-BILL	
9	Struggling to localise human rights: the experience of indigenous peoples in Chile	240
	JOSÉ AYLWIN	
10	Enforcing environmental rights under Nigeria’s 1999 Constitution: the localisation of human rights in the Niger Delta region	270
	RHUKS TEMITOPE AKO	
11	Conflict resolution through cultural rights and cultural wrongs: the Kosovo example	295
	MARÍA DEL MAR BERMÚDEZ, MANUEL CALZADA PLÁ AND LYDIA VICENTE MÁRQUEZ	
12	Epilogue: widening the perspective on the local relevance of human rights	337
	GEORGE ULRICH	
	<i>Index</i>	361

Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

## NOTES ON CONTRIBUTORS

ix

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

## X

## NOTES ON CONTRIBUTORS

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

## NOTES ON CONTRIBUTORS

xi

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

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Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

## SERIES EDITORS' PREFACE

This book is the third in the series of EIUC Studies in Human Rights and Democratisation. The European Inter-University Centre for Human Rights and Democratisation (EIUC) in Venice, Italy is the principal European human rights and democratisation centre supported by forty-one renowned European universities, the European Union, the Region of Veneto, the City of Venice and other strategic partners such as Columbia University in New York, GTZ in Eschborn and regional master's programmes in all continents. Professors, researchers, teachers and experts from all over Europe and from different organisations are active in the EIUC's programmes and teaching activities. One of the main objectives of the EIUC is to create a fertile environment for research and research cooperation and the transformation of the results of that cooperation into realistic policies. The EIUC studies aim to publish the best scholarly work on human rights and democratisation resulting from that process of academic cooperation in the Venice Centre and its member universities. This includes joint projects with external institutions, groups, researchers and practitioners. The present volume is an excellent example of EIUC's attempt to act beyond the limits of the Centre's member universities and institutions and to engage in innovative discourses on human rights and democratisation issues.

The series is not limited to lawyers' discourse alone. It encompasses the scientific disciplinary and interdisciplinary dialogue on human rights and democratisation as practised in research and teaching in the Centre's activities. The present volume reflects in approach and outcome the overall aim of the EIUC series to enrich the academic discourse on human rights and democratisation with innovative contributions, which also facilitate the transfer of academic and institutional expertise into the public sphere. The contributions to the volume originate from a two-day international interdisciplinary

Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

conference, which took place in Antwerp in October 2008 organised by the University Centre Saint-Ignatius Antwerp (UCSIA) in collaboration with the Law Faculty of the University of Antwerp and EIUC on the local relevance of human rights. The conference gave inspiration and laid the foundation for the volume; however, the present book in approach and objective goes beyond the discussions at the conference.

The contributions by a diverse interdisciplinary group of authors analyse the concept of the local relevance of human rights from different angles. They identify the specific aspects of human rights claims originating from a specific local situation and environment, actions of local authorities and the existing national laws. They identify new and challenging aspects of the local relevance of human rights including the question of local human rights claims contributing to the creation of human rights norms and affecting if not generating the global discourse, the importance of community-based human rights campaigns in this respect; the advancement of social justice by local claims; the attempts to overcome the 'implementation gap' between rhetoric and reality and various cases of implementation issues from the concept's perspective. The volume contributes to the general discussion not only by providing specific insights into the local relevance of human rights but also offering perspectives on yet underestimated methodological and empirical aspects.

The editors have been able together with the EIUC professors involved to collaborate successfully in the process of multidisciplinary research on a fascinating actual subject, again setting a significant example for future cooperation in EIUC and the field in general.

We would like to express our sincere thanks to Koen De Feyter and George Ulrich having been the driving forces behind the project. The whole editorial team with Koen De Feyter, George Ulrich, Stephan Parmentier and Christiane Timmerman deserves our gratitude for having been able to present an extraordinary contribution to the human rights discourse. Without the dedication and support of the whole team, this volume would not have materialised. We would also like to express our sincere gratitude to the EIUC Board and the EIUC Assembly members who have supported not only the series with dedication and patience but also encouraged the conference underlying this book and the production of the volume.

Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

---

SERIES EDITORS' PREFACE

XV

The series would not live without the support of Finola O'Sullivan of Cambridge University Press. We would like to thank her for her continuous guidance, encouragement and assistance.

*Horst Fischer*

*Fabrizio Marrella*

*Florence Benoît-Rohmer*

*Michael O'Flaherty*

Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

## PREFACE

This present book is part of an ongoing and open-ended collaborative research project among a number of European universities and research partners in developing countries and coordinated by the Law and Development Research Group at the University of Antwerp.<sup>1</sup> The intention of the project is to complement the current book with a number of case studies based on field research, using the methodology and building on the findings presented in the present volume.

As part of the project an inaugural expert seminar was organised in April 2007. This was followed by an international conference at Antwerp University in October 2008. The conference included a call for papers identifying the research questions referred to in the 'Introduction'. Initial drafts of some of the chapters included were presented at the Antwerp conference. Subsequently the editors engaged in an intensive dialogue with the authors on their papers, and also invited additional authors to contribute to the book on themes not originally covered.

Both the 2008 conference and the subsequent editorial process (including editorial and language review) were co-sponsored by UCSIA, the University Centre Saint-Ignatius Antwerp, and EIUC, the European Inter-University Centre for Human Rights and Democratisation (located in Venice). The editors wish to express their profound gratitude to both institutions for their support.

The editors also extend their sincere thanks to Sara Mels, project coordinator at UCSIA, who acted as the editors' assistant in coordinating the editorial process; to Claire Buggenhoudt, researcher in international law at the University of Antwerp for her assistance in the substantive review of the contributions; and to Imke du Ry for her language review.

<sup>1</sup> For more information, see [www.ua.ac.be/ro](http://www.ua.ac.be/ro).

Cambridge University Press

978-1-107-00956-1 - The Local Relevance of Human Rights

Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich

Frontmatter

[More information](#)

---

xviii

PREFACE

We would also like to thank Cambridge University Press for its confidence in the project, and its invaluable help in the final stages of the editorial process.

*July 2010*

*Koen De Feyter  
Stephan Parmentier  
Christiane Timmerman  
George Ulrich*

ABBREVIATIONS

ACHPR	African Commission on Human and Peoples’ Rights
AI	Amnesty International
AICHR	ASEAN Intergovernmental Commission on Human Rights
AJIL	<i>American Journal of International Law</i>
ANPED	Northern Alliance for Sustainability
APRODEH	Asociación Pro Derechos Humanos (Association for Human Rights) (Peru)
APT	Association for the Prevention of Torture
ASEAN	Association of South-East Asian Nations
BFSP	British and Foreign State Papers
BLM	Bureau of Land Management
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women; Committee for the Elimination of Discrimination Against Women
CEJA	Centro de Estudios de Justicia de las Américas (in English: JSCA)
CELS	Centro de Estudios Legales y Sociales (Argentina)
CEO	chief executive officer
CERD	Committee on the Elimination of Racial Discrimination (United Nations)
CESCR	Committee on Economic, Social and Cultural Rights
CESR	Centre for Economic and Social Rights
CFRN	Constitution of the Federal Republic of Nigeria
CHANGE	Center for Health and Gender Equality
CHR	Commission on Human Rights
CJP	Climate Justice Programme
CLADEM	Comité de América Latina y el Caribe por la defensa de los Derechos de la Mujer (Latin American and Caribbean Committee for the Defence of Women’s Rights)
CLIP	Cities for Local Integration Policies
COHRE	Center on Housing Rights and Evictions



xx	LIST OF ABBREVIATIONS
CONADI	Corporación Nacional de Desarrollo Indígena (National Corporation for Indigenous Development) (Chile)
CPT	(European) Committee for the Prevention of Torture
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSCE	Conference for Security and Co-operation in Europe ( <i>see also</i> OSCE)
DFID	Department for International Development
DRC	Democratic Republic of the Congo
DRD	Declaration on the Right to Development
EC	European Commission
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council (United Nations)
EDHUCASALUD	Educación en Derechos Humanos con Aplicación en Salud (Education in Health and Human Rights)
EGTC	European Grouping of Territorial Cooperation
EIA	Environmental Impact Assessment
EIUC	the European Inter-University Centre for Human Rights and Democratisation
ENDESA	Empresa Nacional de Electricidad Sociedad Anónima (Chile)
ERA	Environmental Rights Action
ESC	economic, social and cultural (rights)
ETS	European Treaties Series
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FIAN	Food Information and Action Network
FOEN	Friends of the Earth Nigeria
ForoSalud	Foro de la Sociedad Civil en Salud (Civil Society Forum on Health)
FSRY	Federal Socialist Republic of Yugoslavia
GA	(United Nations) General Assembly
GDP	gross domestic product
GSDRC	Governance and Social Development Resource Centre
HIHR	Hawai'i Institute for Human Rights
HRBA	human rights-based approach
HRC	Human Rights Committee (United Nations)
HRIA	Human Rights Impact Assessment
HRIRC	Human Rights Impact Resource Center
HRW	Human Rights Watch
IACHR	Inter-American Commission on Human Rights
IAHRS	Inter-American Human Rights System

LIST OF ABBREVIATIONS xxi

IBASE	Instituto Brasileiro de Análises Sociais e Econômicas
IBRD	International Bank for Reconstruction and Development
ICC	Indian Claims Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
ICISS	International Commission on Intervention and State Sovereignty
ICJ	International Commission of Jurists
ICO	International Civilian Office
ICPD	International Conference on Population and Development
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda (United Nations)
ICTY	International Criminal Tribunal for the Former Yugoslavia (United Nations)
IDA	International Development Association
IDB	Inter-American Development Bank
IFG	International Forum on Globalisation
IFHHRO	International Federation of Health and Human Rights Organizations
IFI	international financial institution
IFTI	international financial and trade institution
IGO	intergovernmental organisation
IHRPA	Institute of Human Rights Pedro Arrupe
IIDH	Instituto Interamericana de Derechos Humanos
IIED	International Institute for Environment and Development
IIHR	Inter-American Institute of Human Rights
ILM	International Legal Materials
ILO	International Labour Organization
IMF	International Monetary Fund
IRA	Indian Reorganisation Act
IUD	intra-uterine device
JOF	Journal Officiel de la République Française
JSCA	Justice Studies Center of the Americas (in Spanish CEJA)
KKF	Khmers Kampuchea–Krom Federation
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
LHR	Localising Human Rights (research network); localising human rights
LRC	Law Reform Commission
MAM	Movimiento Amplio de Mujeres (Broad Women’s Movement)
MORETO	Movement for Reparations to Ogbia

MOSIEND	Movement for the Survival of Ijaw Ethnic Nationality in the Niger Delta
MOSOP	Movement for the Survival of the Ogoni People
NATO	North Atlantic Treaty Organization
NGO	non-governmental organisation
NHRI	national human rights institutions
NNPC	Nigerian National Petroleum Corporation
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights (United Nations)
OPCAT	Optional Protocol to the Convention against Torture
OSCE	Organization for Security and Co-operation in Europe ( <i>see also</i> CSCE)
PAHO	Pan American Health Organization
PISG	Provisional Institutions of Self-Government of Kosovo
SAPA TFAHR	Solidarity for Asian Peoples Advocacy Taskforce on ASEAN Human Rights
SCFAIT	Standing Committee on Foreign Affairs and International Trade
SERAC	Social and Economic Rights Action Center (Nigeria)
SP	Special Procedure (of UN)
SPT	Subcommittee on Prevention of Torture
SRSG	Special Representative of the Secretary-General
TB	tuberculosis
TNC	transnational corporation
UCLG	United Cities and Local Governments
UCSIA	University Centre Saint-Ignatius Antwerp
UDHR	Universal Declaration of Human Rights
UDI	Unilateral Declaration of Independence
UK	United Kingdom
UKTS	United Kingdom Treaty Series
UN	United Nations
UNAC	United Nations Association Canada
UNACLA	UN Advisory Committee of Local Authorities
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHRS	United Nations Human Rights System
UN-INSTRAW	United Nations International Research and Training Institute for the Advancement of Women
UNMIK	United Nations Mission in Kosovo
UNPO	Unrepresented Nations and Peoples Organization
UNSC	United Nations Security Council
UNTS	United Nations Treaties Series
US(A)	United States (of America)

Cambridge University Press  
978-1-107-00956-1 - The Local Relevance of Human Rights  
Editors Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich  
Frontmatter  
[More information](#)

LIST OF ABBREVIATIONS xxiii

USAID	United States Agency for International Development
USD	United States dollar
USTS	United States Treaty Series
WSF	World Social Forum
WTO	World Trade Organization