



## NETHERLANDS NETWORK FOR HUMAN RIGHTS RESEARCH

### Toogdag 2018

(Annual Research Day)

**THE FUTURE OF HUMAN RIGHTS**

**HUMAN RIGHTS OF THE FUTURE**

**Friday 22 June 2018**

De Nieuwe Koninklijke Harmonie, Stationsstraat 26, Tilburg

In 2018 we celebrate that it is 70 years ago that the international community adopted the Universal Declaration of Human Rights. Despite historic advances in human rights law over the decades, human rights seem to have fallen on hard times. The world is a different place now posing several challenges to human rights law as it stands, for example in relation to cross border movement, non-state activity and scientific developments. Increasing numbers of refugees and migrants are testing the resilience of human rights. The world continues to witness human rights abuse at the hands of non-state actors which international human rights law with its state centric focus seemingly is unable to effectively address. Such developments in practice together with more theoretical criticism have led some to announce 'the end times of human rights'. Yet, it may also be argued that human rights law is now needed more than ever and a more optimistic perspective is called for. The current challenges may be viewed as opportunities to further expand human rights law to help fulfill the original promise.

During this *Toogdag* we will take stock and confront some emerging and persistent challenges to human dignity and discuss the role of human rights and human rights law.



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## PROGRAM TOOGDAG

**09:30 - 11:00** PhD-meeting  
Presentation by Intersentia on publishing your PhD

**10:30 - 11:00** Registration and coffee

**11:00 - 12:00** Welcome Prof. Nicola Jägers (*Tilburg University*)

Welcome Prof. Ernst Hirsch Ballin (*Asser Institute*)

Key note Prof. **Morten Kjærøum**

*Prof. Kjærøum is Director of the Raoul Wallenberg Institute, head of the EU Fundamental Rights Agency (FRA) 2008-2015, founder Danish Human Rights Institute, Chair of the board of the European Council on Refugees and Exiles (ECRE) and Chair of the Voluntary Fund for Technical Cooperation in the Field of Human Rights.*

Q&A

**12:00 - 13:30** Lunch  
Poster-presentations members NNHRR in the foyer

**13:30 - 15:00** Parallel thematic panels:

- ❖ Panel A: Business and human rights: Quo Vadis?
- ❖ Panel B: People out of place: what to expect from human rights law?
- ❖ Panel C: Human rights in the digital age: new frontiers.

*(For more information see below)*



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15:00 - 15:30 Break

15:30 - 16:30 **The Future of Human Rights**, Panel-discussion with members of the NNHRR Advisory Board:

- ❖ Jos Silvis, Procurator General, Supreme Court of the Netherlands
- ❖ Morten Kjærum, Director Raoul Wallenberg Institute
- ❖ Eduard Nazarski, Director Amnesty International, the Netherlands
- ❖ Farah Karimi, Director Oxfam Novib, the Netherlands

Moderated by Prof. Yvonne Donders, (*University of Amsterdam*, Chair of the NNHRR Steering Committee)

16:30 - 17:30 Drinks



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## PANELS

### Panel A

#### *Business and human rights: Quo Vadis?*

After the adoption of the UN Guiding Principles on Business and Human Rights, a fragile consensus emerged around a new business and human rights paradigm, which promised to overcome the previous stalemate in human rights discourse around the need for new binding international law measures. A variety of new initiatives entered the arena, instigated by both governments and private actors, to help decrease the negative impacts of businesses: to help overcome the corporate impunity for harm which has arisen under so-called 'governance gaps'. Ten years on, it is important that we evaluate this paradigm, reflecting on what has been achieved, what has failed, what challenges remain, and where solutions lie. What is 'business and human rights': the best attempt we have of ending negative impacts arising from businesses, a rhetoric disguising the legitimization of these impacts, or a plaster over inevitable wounds left by economic globalization? As of 2018, can we still believe in what was proffered by the UN Guiding Principles, is there a need to return to the promise of creating new international law obligations (e.g., a business and human rights treaty), should we accept defeat, or is there another way forward?

Chair: Dr. Nadia Bernaz, *Wageningen University*

- ❖ Dr. Antoine Duval, *Asser Institute*: The Turn to Arbitration in Business and Human Rights: A corporate fox guarding the human rights henhouse?
- ❖ Lucas Roorda, *Utrecht University*: Jurisdiction Problems in EU Business and Human Rights Cases.
- ❖ Everhard Tilstra, *University of Groningen*: A Multi-Level Governance Approach to Business and Human Rights in the Groningen Gas Extraction.



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## Panel B

### *People out of place: what to expect from human rights law?*

In the field of migration there is a strong divide between persons granted refugee status, subsidiary protection and other migrants. Those who qualify as refugees are provided the protection under the Refugee Convention in those states party to it. Those who fall outside the scope of the Refugee Convention nor receive subsidiary protection are destined to find other ways to regularize their stay or live a life in illegality. Many of these migrants are equally unable to return to their home country or to rely on protection from the home country. Without the protection in the host country they risk human rights violations, abuse, exploitation and becoming stateless. What role can or must human rights play in order to protect these migrants? In 2010 Alexander Betts in his article '*Soft Law and the Protection of Vulnerable Migrants*' ([available here](#)) argues that 'despite the existence of international human rights norms that should, in theory, protect migrants who fall outside the scope of the refugee convention, there remains a fundamental normative and institutional gap in the international system'. Rather than requiring new hard law treaties to fill the gap, he argues that a "soft law" framework should be developed to ensure the protection of vulnerable irregular migrants.

Chair: Prof. Conny Rijken, *Tilburg University*

- ❖ Dr. Laura van Waas, *Institute for Statelessness and Inclusion, Tilburg University*: Putting People Out of Place: Citizenship as a Weapon of Exclusion.
- ❖ Veronika Flegar, *University of Groningen*: The Social Construction of "Vulnerability" in the Context of (Forced) Migration: A Case Study of UNHCR's Social Protection Policy for Urban Refugees in Khartoum, Sudan.
- ❖ Dr. Otto Spijkers, *Utrecht University*: The Rohingya.

Closing remarks: Prof. Ernst Hirsch Ballin



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## Panel C

### *Human rights in the digital age: new frontiers*

Robust, pluralistic public debate is an essential feature of any democratic society. Technological developments, in particular the advent of the Internet and social media, have generated unprecedented opportunities for individualized communication and for imparting ideas. Another result of those technological developments has been the emergence of a new set of private actors (i.e., intermediaries), who exercise gate-keeping functions over online expression insofar as they can control access to content and can influence the terms and topics of public debate. Concerns thus arise that key decisions about public speech are taken by powerful private actors without sufficient regulatory oversight. These developments prompt probing questions about whether and how existing human rights frameworks can continue to safeguard robust, pluralistic public debate in which a diversity of voices and critical opinions can be articulated and heard in the digital age.

The affordances of advanced technological possibilities in the fields of data processing, surveillance and connectivity have long triggered concerns for the rights to privacy and data protection. The newly adopted EU data protection framework enters into force in May 2018. Along with progressive CJEU case law concerning data retention obligations or EU-US data sharing agreements, this can be seen as advances for the protection of freedoms in the digital age. Yet, it remains to be seen whether this legal framework will adequately address ongoing technological developments and in particular, big data, internet of things, automated decision-making, predictive analytics, or algorithm-based personalised recommendation systems, insofar as they challenge its applicability and the safeguards it provides for.

New-frontier themes for human rights in the digital age are not, of course, limited to issues concerning the rights of freedom of expression, privacy and data protection. The NNHRR working group on human rights in a digital age also has a keen interest in the wider human rights dimensions of artificial intelligence, for instance.

Chair: Dr. Tarlag McGonagle, *University of Amsterdam*

- ❖ Anna Berti Suman, *TILT, Tilburg University*: Citizen Sensing for a co-governance of the risk: the Fukushima Safecast case.
- ❖ Anne Kamphorst, *University of Groningen*: Challenges for the Right to a Fair Trial in the Digital Era: Assessing the Fairness of Online Consumer Dispute Resolution.
- ❖ Dr. Mando Rachovitsa, *University of Groningen*: The protection of human rights in the core infrastructure of the Internet.

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