



Dunja Mijatović Council of Europe Commissioner for Human Rights

# SIM Newsletter

## Fall 2019

*In this issue*

### SIM Peter Baehr lecture by Dunja Mijatović

On 20 September 2019, the Council of Europe Commissioner for Human Rights, Ms Dunja Mijatović delivered the annual SIM Peter Baehr lecture entitled "From Hostility to Reconnection: How to Make Human Rights Relevant for All". Ms. Mijatović addressed the human rights challenges that are at the center of her current work, including gender violence and discrimination, intolerance towards migrants and minorities, archaic institutional treatments of people with disabilities, the attack on free media and artificial intelligence. The commissioner closed the lecture with a plea for human rights scholars and activists to be more politically active and engage in dialogue, including with those with whom we disagree. The lecture was followed by thought-provoking questions by the students of Utrecht University. Ms. Mijatović's lecture will be published in the December issue of the Netherlands Quarterly of Human Rights.



Workshop 'Unpopular Protest?'

Page 2

### Katharine Fortin awarded Veni grant



In July 2019, **Katharine Fortin** was awarded a Veni grant from the Netherlands Organisation for Scientific Research for Scientific Research for her research project entitled 'Dangerous Liaisons: Civilian agency, armed groups and international law'. The project explores the precarious position of civilians living in territory under the control of armed groups in non-international armed conflict. It explores the legal risks, realities and opportunities that emerge out of the idea that civilians are not only victims of war, but also often play an active role in their own protection.

The project will assist practitioners working on civilian protection and build essential bridges between political science, anthropology and international law. This is the third year in a row that SIM researcher have been awarded a prestigious Veni grant.



Lecture on Political Backlash by Mikael Rask Madsen

Page 3



AHRI Conference in Potsdam

Page 4

## Summer School in Human Rights



From 8 – 12 July 2019, SIM hosted its annual summer school on human rights. The students came from around the world to learn about human rights law and to engage with the pressing rights issues today. They were taught by SIM academics including **Jenny Goldschmidt** and **Brianne McGonigle Leyh**. The week long course included a visit to the Dutch Institute for Human Rights and the International Criminal Court. **Julie Fraser** organised the school.

## Keynote in Bilbao



In June, at the closing conference of the Erasmus Mundus Master in Human Rights Policy and Practice at the University of Deusto in Bilbao, SIM director **Antoine Buyse** delivered the keynote speech "People Power under Pressure. Civic Space and Human Rights". Antoine Buyse was a visiting researcher at that university's Pedro Arrupe Human Rights Institute from May to July 2019.

## Workshop 'Unpopular Protest?'

On 24 June 2019 the Utrecht University Centre for Global Challenges held an expert meeting bringing together academia, law enforcement and activists to discuss improving the implementation of the right to protest in the Netherlands. The UGlobe Consultancy team presented the main findings of their research on the right to protest in the local Dutch context, which addressed both legal, and societal and cultural aspects of protest. The UGlobe Consultancy was commissioned by the Public Interest Litigation Project and was supervised by **Laura Henderson**.

The UGlobe Consultancy report finds that even though the Dutch laws on protest are of a high quality, they are not always effectively enforced. The report studies one particular event, the Code Road protests in Groningen in August 2018 and concludes that the Dutch authorities failed to properly enforce international, regional and Dutch law on the right to protest. Further, the report shows that Dutch officials and media pay a great deal of attention to security, safety, and public order in light of protests, rather than emphasizing protest as a democratic tool and human right. Read more [here](#).

## Peace Education in Myanmar schools?



**Felisa Tibbitts**, Chair in Human Rights Education at SIM, traveled to Myanmar in late June at the request of UNESCO and the Ministry of Education and carried out a Policy Seminar for over 100 representatives including the Minister of Education, his deputies, regional education administrators, teachers, and community-based organizations. Prof. Tibbitts' work focused on the explicit infusion of peace inside the curriculum, both thematically and pedagogically. Over 30 recommendations were made, including: Establishment of a Coordination Committee to provide strategic advice and facilitate the further review and elaboration of education for peace and sustainable development within curriculum strategies and other supports; Development of learner competencies and targets for knowledge, values and skills, in consultation with stakeholders at the local level; Integration of education for peace and sustainable development within the upcoming curriculum writing and teacher education efforts, in cooperation with key domestic and international partners; and Development of a public awareness campaign to help motivate teachers to carry out this teaching and reduce potential resistance from parents and families.

## Guest lecture in Amsterdam



In July, **Kushtrim Istrefi** gave a guest lecture at a summer school organised by the University of Amsterdam. The lecture was titled 'Targeting the unknowns: 'financial Guantánamos' of the UN counter-terrorism sanctions regime'.

## Diplomats' Training



At the end of August, **Antoine Buyse** conducted two interactive lectures on human rights in international relations for the newest batch of Dutch diplomats. The new group of fifty diplomats-in-training (also known in Dutch as 'het Klasje') receive several months of intensive training at Clingendael, the Netherlands Institute of International Relations in the Hague. The lectures on human rights were part of a thematic week on Peace, Security and the Rule of Law.

## LLM PIL kicks off

In September 2019 the Master Programme in Public International Law commenced. SIM runs the human rights track of this programme, including lecturers pictured below, **Julie Fraser**, **Kushtrim Istrefi**, **Katharine Fortin**, and SIM Director **Antoine Buyse**. This academic year there are around 100 students in the Master from a range of countries with diverse backgrounds. We wish them a fruitful and productive year!





## Lecture on Political Backlash by Mikael Rask Madsen



Mikael Rask Madsen

## Sexual orientation in Dutch Equality Law

**Marjolein vanden Brink** and **Jet Tigcherlaar** wrote a paper on the possible consequences of changing the ground of discrimination 'heterosexual or homosexual orientation' to 'sexual orientation' in the Dutch law on equal treatment (*algemene wet gelijke behandeling*). The research was requested by the Dutch Ministry of the Interior. The paper was discussed at a seminar on 21 June attended by civil servants, academics and the Netherlands Institute for Human Rights. The possible changes to the Dutch Equality Law are further discussed during an expert meeting on 17 October.

## Migration and Social Change: A new Focus Area

This Summer, Utrecht University announced that Migration & Societal Change would be one of its new areas of focus. In this 'focus area', Utrecht researchers from different disciplines are brought together, and stimulated to strengthen both academic and societal impact. SIM's **Barbara Oomen** is one of the chairs of this focus area, together with **Christoph Baumgärtner** (humanities), **Ilse van Liempt** (Geosciences) and **Maykel Verkuyten** (Social Sciences). The group will be able to spend E 400.000 over the coming four years to strengthen UU's thematic focus on migration and societal change.

On 18 September **Javier Couso** organised a joint SIM-Montaigne event entitled 'Backlash? Explaining the politicization of European Human Rights'. The guest speaker was professor Mikael Rask Madsen, director of iCourts and Professor of Law and European Integration at the Faculty of Law of the University of Copenhagen. In his engaging lecture, professor Rask Madsen contextualized the backlash against the European Court of Human Rights. He argued that international courts are more susceptible to face backlash politics than domestic ones, due to the dual nature of international politics. After a brief summary of the history of the European Court of Human Rights, he addressed how pre-existing commitments to international institutions might be given up rapidly when significant domestic interests collide with international institutions and their practices. Using an empirical study that focused on the reform of the European Court of Human Rights through the 2018 'Copenhagen Declaration' (which, according to Madsen, seems to allow for a greater margin of appreciation up to the states), he suggested that backlash politics against international institutions are transformed when seeking institutional reform. Entering a collective bargaining process, backlash objectives are changed by the logic of diplomatic negotiation, academic scrutiny and the interests of states and civil society.

## Book symposium on *Organizing Rebellion*

Between 16-23rd September 2019, **Katharine Fortin** co-organised a joint online book symposium between her blog [Armed Groups and International Law](#) and [Opinio Juris](#) on Tilman Rodenhäuser's book *Organizing Rebellion*. In addition to [introductory](#) and [concluding](#) comments from Tilman himself, the symposium included posts from the following list of renowned scholars and practitioners: [Marco Sassòli](#), [Laurie Blank](#), [Daragh Murray](#), [Melanie O'Brien](#), [Mathias Holvoet](#), [Sareta Ashraph](#), and [Adejoké Babington-Ashaye](#). It also included posts from the co-editors of *Armed Groups and International Law*, [Katharine Fortin](#) and [Ezequiel Heffes](#).

## Civic Space Workshop

**Antoine Buyse** presented his paper 'Watchdogs Helping Watchdogs? How European Human Rights Protection Institutions Attempt to Protect Civic Space' at a workshop at the University of Exeter on 12-13 September. In the paper, he argued that there is a feedback loop between shrinking civic space for civil society organisations and the effectiveness of European human rights watchdogs such as the Strasbourg Court. The workshop, organized by professor Nicole Bollejer, brought together political scientists, legal scholars and practitioners, was entitled 'The Shrinking of Legal Space for Civil Society in the European Union'.

## Indonesian Human Rights Commission for Women



**Julie Fraser** presented her PhD research in Jakarta, Indonesia, at the National Commission for Women's Rights (KOMNAS Perempuan) on 20 June 2019. Her presentation was entitled: "Every Organ of Society: Role of Social Institutions in Human Rights Implementation". Julie undertook field research in Indonesia in 2017 on the role of Islam in implementing women's right to family planning. She discussed her findings and conclusions with Commissioners and other staff members.

## Laura Henderson at EUI

From September to mid-November 2019, **Laura Henderson** will be a fellow at the Law Faculty of the European University Institute (EUI) in Florence Italy. There, she will work on issues of democracy and human rights, as well as on the project Professional Ethical Judgment for Global Challenges. On 6 November, she will present her work at the EUI's Legal and Political Theory Working Group.

## Welcome to Kushtrim Istrefi

Kushtrim Istrefi is Assistant Professor with SIM at Utrecht University. He teaches Human Rights Law and Public International Law. His research interest lies on the intersection of the European Convention on Human Rights and international peace and security. Dr. Istrefi has previously taught at the University of Amsterdam, Leiden University, the VU University Amsterdam and the Riga Graduate School of Law. He was a visiting fellow at Cambridge University, the Graduate Institute in Geneva, the Max Planck Institute in Heidelberg and the European Court of Human Rights. Next to academic work, Dr. Istrefi has litigated human rights cases concerning enforced disappearance and advised Kosovo institutions on Kosovo-Serbia agreements. He is in the editorial board of the ECHR Law Review and Counsel with Public International Law and Policy Group, the Netherlands Office.



Kushtrim Istrefi

## ICON-S Conference

**Javier Couso** attended the annual conference of ICON-S (The International Society of Public Law), held in Santiago, Chile, on July 1-3. With over one thousand active members, ICON-S gathers scholars from around the globe working in International Law, Constitutional Law and Administrative Law. At the conference, Prof. Couso presented the paper "Transformative Constitutionalism: Evaluating Constitutional Strategies to Materialize Social Justice in Latin America", at a panel organized by Armin von Bogdandy (Max Planck Institute for Comparative Public Law and International Law). He also participated in the panel "Democratic Change or Democratic Dissolution? The Populist Challenge to Liberal Constitutionalism". Finally, he was one of the presenters in the Roundtable "Judicial Appointments in a Comparative Perspective: The Kavanaugh Confirmation and Beyond", with Sujit Choudhry (UC-Berkeley) and Amnon Reichman (Haifa University).

## South African delegation to ILGA



On 2 September 2019 a delegation of 10 South Africans met with civil society at the offices of ILGA Europe in Brussels. **Marjolein van den Brink** was invited to discuss the legal situation of trans and intersex persons under EU law (following the report authored by Van den Brink & Peter Dunne (Bristol), which can be found [here](#)) and in the Netherlands. The South African delegation consisted of both government representatives and NGOs. The purpose of the delegation was to explore legal gender recognition legislation based on self-determination as well as legislation targeted to eliminate intersex genital mutilation.

## World Conference of Statelessness

On Thursday 27th June, **Katharine Fortin** took part in a panel at the World Conference of Statelessness and Inclusion which was organised by the Institute of Statelessness and Inclusion in The Hague. Together with fellow panellists Bart Klem (Melbourne University); Sila Sonmez (Norwegian Refugee Council); Marika Sosnowski (Melbourne University, Dr Fortin explored the way in which legal identity is documented and experienced for people living in territory controlled by armed non State actors.

## Gender and Law in Belgium

In September, **Alexandra Timmer** and **Lucia van der Meulen** went to Brussels to attend a seminar on the book 'Recht en Gender in België' (Gender and Law in Belgium) for which they are co-writing a chapter. The meeting was hosted by the editors Eva Brems, Liesbet Stevens and Pieter Cannoot. All the contributors were asked to present their chapters which cover a wide range of legal fields from a gender perspective. The book is expected to be published in 2021, 10 years after the previous version of the book.

## Association of Human Rights Institutes (AHRI) Conference in Potsdam



Four SIM members participated at the annual AHRI conference hosted this year at Potsdam University. This year's theme celebrated 70 years since the 1949 Geneva Conventions and examined intersections of international humanitarian and human rights law. **Katharine Fortin** presented her research as part of a panel chaired by Manfred Nowak, entitled: Out of the frying pan, into the fire: civilian self-protection, IHRL and IHL. This research will form part of her Veni funded three year study. **Julie Fraser** presented her research entitled: Exploring Legal Compatibilities and Pursuing Cultural Legitimacy: Islamic Law and IHL. Julie's paper was the runner up for the AHRI conference prize. **Diana Odier-Contreras** presented her research: Dancing in the clouds? Reparations for violations of IHL. In her presentation, Diana

considered how via international criminal law and institutions some victims of war crimes are able to seek reparations, despite international humanitarian law itself not providing for any such avenues. **Antoine Buyse** chaired a panel on the rights of refugees and migrants and represented Utrecht University in both the executive committee as well as the general assembly of AHRI. Antoine also co-presented the book "The Faces of Human Rights" to which he contributed a chapter on Max van der Stoep.



## Global Human Rights at Risk?

On 6 June, **Brianne McGonigle Leyh** participated in a multidisciplinary conference on the future of human rights at Leiden University. Her presentation entitled 'Transformation as a Traveling Concept in Human Rights and Transitional Justice', explored how 'transformation' has had a significant normative impact in both human rights and transitional justice; pushing the boundaries on how issues of equality, reparation and security should be addressed in both fields. However, there are dangers of adopting the label without bearing in mind its original meanings and contexts. These dangers include the inflation of victim expectations or the overreach of international interventions into societies that have either not requested transformation or are unable to support transformative efforts.



From left to right: Brianne, Dr. Sandra Rios, Dr. Nicole Immler, and Prof. Daniel Thomas

## Jenny Goldschmidt

**Jenny Goldschmidt** was appointed by the Minister for Primary and Secondary Education and Media as external expert for Selection Lists for the Archives of the House of Representatives; **Jenny Goldschmidt** will chair the Complaints Committee for individual compensation that will be provided by NS (The Dutch Railway Company) for survivors and next of kin of those who were transported by NS to be taken to concentration or extermination camps during World War II; **Jenny Goldschmidt** will contribute to the Seminar on EU Disability Law and the UNCRPD in Trier (ERA), on 16 September 2019: The right to found a family of persons with disabilities.

## Visiting Scholar Marike LeFevre



Marike LeFevre

From late September onwards, Marike Lefevre will stay for six weeks as a visiting scholar at SIM under supervision of **Alexandra Timmer**, who is a member of her doctoral committee. Marike is a PhD researcher at the Leuven Centre for Public Law (Human Rights department – KU Leuven). She conducts her doctoral research in the context of an FWO research project entitled "Popular Culture on Trial: European Human Rights as Agents of Cultural Change or Conservation?". The research focuses on the conflicts between the aspiration to change popular culture (Zwarte Piet, Aalst Carnival,...) in the name of human rights and the demand to preserve popular culture also based on human rights. Cultural rights, the right of freedom of expression, discrimination law and the use of stereotypes are the main areas in which her research is being conducted.

## Politics and Gender Conference

**Lorena Sosa** participated in the European Conference of Politics and Gender (ECPG), held from 4th to 6th of July in Amsterdam. The ECPG, held bi-annually, is the world-leading conference on politics and gender. Lorena presented her paper entitled: Now you see me? The use of 'travesticide' in Criminal Procedures as strategy of visibilization of trans issues.

## Rebel Governance and Legal Identity

On 13-14th June, **Katharine Fortin** co-organised a workshop on Rebel Governance and Legal Identity that took place at Utrecht University. Co-funded by Melbourne University's Statelessness Hallmark Initiative and UGlobe and organised together with Marika Sosnowski and Bart Klem from Melbourne University, the workshop brought together academics from different disciplines and practitioners to explore the notion of legal identity in territory under the control of armed non State actors. Presentations focused on the LTTE (Sri Lanka), Karin Independence Army (Myanmar), the Islamic State (Iraq), Palestinian Liberation Organisation (Lebanon) and Syrian Interim Government (Syria), Donbass (Ukraine). Discussions centred on the different ways in which individuals living in territories outside the control of the State secure documentation registering and recording life events such as birth, marriage and death. There was a rich dialogue between the participants on issues such as the legal framework relating to citizenship and legal identity, the issue of alternative documentation issued by armed groups and the challenges faced by humanitarian organisations working on the issue of civil status documentation. The workshop was held under Chatham House Rules.

## EMA Graduates



On 29 September, the graduation of the 2018-2019 class of the European Master's Degree in Human Rights and Democratisation (E.M.A.), in which Utrecht University has been a participant for many years, took place in the Scuola Grande di San Rocco in Venice. Three E.Ma students were hosted by Utrecht in Spring 2019 to take second semester courses and write their thesis in Utrecht: Lauryane Leneveu, Liesbet Debecker and Federica Russo. They received their diplomas from **Antoine Buyse**.

PhD Defences

On Wednesday 6 November at 10.30am, **Naema Tahir** (co-supervised by Barbara Oomen) will defend her thesis. Title of her book: *The Arranged Marriage – changing perspectives on a marital institution*. The PhD analyses the arranged marriage system, and delves into the question whether the arranged marriage supports the human rights standard of full and free consent.



Naema Tahir

On Monday 25 November at 12.45 pm, **Niels Rijke** (co-supervised by Barbara Oomen) will defend his thesis at the Academiegebouw in Utrecht. Title of his book: *A continuous school struggle. Identity-based personnel appointment policy at orthodox Protestant schools in The Netherlands in relation to human rights*. Before the defence he will organise a symposium in the Belle van Zuylenzaal in the Academiegebouw, from 10.00-11.45 am. At the symposium he will first present his research. Then panels with representatives of school boards, employees, LGBT-community, appeal committees and The Netherlands Institute for Human Rights will reflect on the results. An interactive discussion with the audience will follow. (Language of defense and symposium is Dutch). You are cordially invited to join, please send an email to [n.a.rijke@ucr.nl](mailto:n.a.rijke@ucr.nl).



Leonie Huijbers

On Monday 4 November at 10:30am, **David Ngira** (co-supervised by Barbara Oomen) will defend his thesis on children's rights and customary law in Kenya.

On Friday 8 November at 10:30am, **Leonie Huijbers** (supervised by Janneke Gerards) will defend her thesis at the Academiegebouw in Utrecht. Title of her book: *Process-based Fundamental Rights Review: Practice, Concept and Theory*.

Human Rights in Higher Education



**Felisa Tibbitts** participated in an all-day event at Columbia University on 2 August, which included 25 directors and faculty from human rights centers based primarily in U.S. higher education. The event "Critiquing and Constructing Human Rights Education in Higher Education" focused on how to strengthen human rights programming across campuses and discussions about if and how core content might be standardized. The organizers of the event, the University and College Consortium for Human Rights Education (UCCHRE) hope to facilitate ongoing networking and idea-sharing among human rights faculty based in different universities.

Artificial Intelligence and Human Rights

In September, **Janneke Gerards** participated in a seminar on Artificial Intelligence in relation to social and economic right. The seminar was organised by the Dutch Section of the International Commission of Jurists (NJCM). A recorded version of the seminar can be found [here](#).

Upcoming SIM Events



- PhD Defense David Ngira, 4 November 10:30, Academiegebouw Utrecht
- PhD Defense Naema Tahir, 6 November 10:30, Academiegebouw Utrecht
- PhD Defense Leonie Huijbers, 8 November 10:30, Academiegebouw Utrecht
- PhD Defense Niels Rijke, 25 November 12:45, Academiegebouw Utrecht

Follow us

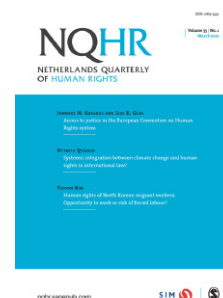
- [facebook.com/SIMHumanRights/](https://facebook.com/SIMHumanRights/)
- [twitter.com/SimUtrecht](https://twitter.com/SimUtrecht)
- [uu.nl/sim](http://uu.nl/sim)



## Netherlands Quarterly of Human Rights

The newest issue of NQHR of September 2019 features the following articles:

- Column by Janneke Gerards, 'The fundamental rights challenges of algorithms'.
- Article by Eva Brems, 'Positive subsidiarity and its implications for the margin of appreciation doctrine'.
- Article by Lize Glas, 'The European Court of Human Rights supervising the execution of its judgements'.
- Article by Francesca Camilleri, 'Compulsory vaccinations for children: Balancing the competing human rights at stake'.
- Recent publications on international human rights.

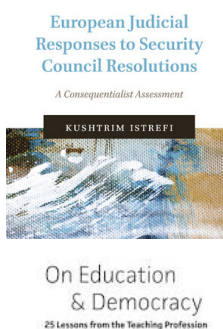


## Publications

### Books

Kushtrim Istrefi, *European Judicial Responses to Security Council Resolutions* (Brill, 2019).

Kushtrim Istrefi examines the multiple effects of European courts decisions as regards Security Council targeted sanctions and security detentions interfering with fundamental rights. He elaborates what type of judicial responses ensured real and practical respect for human rights for the petitioners, encouraged Security Council due process reform, clarified Security Council authorisations on security detentions, and tested the primacy and universal character of the UN Charter.



Prof. Felisa Tibbitts is a supporting author for the publication "On Education for Democracy: 25 Lessons from the Teaching Profession", published by Education International (EI) in Brussels, the headquarters for teacher unions worldwide. Timothy Snyder (author of "On Tyranny: Twenty Lessons for the 21st Century", which inspired the EI publication) wrote the preface. The book outlines the contributions that quality education with professional educators can make in meeting the many challenges to democracy and freedom.



### Special issue Journal of Legal Pluralism

Barbara Oomen, together with Eva Brems, edited a special issue of the Journal of Legal Pluralism titled 'Cities and the Contestation of Human Rights between the Global and the Local'. It contains a number of contributions by Cities of Refuge team members: Elif Durmus and Barbara Oomen wrote an introduction on Cities and Plural Understandings of Human Rights: Agents, Actors, Arenas. Sara Miellet contributed an article on human rights encounters in small places: the contestation of human rights responsibilities in three Dutch municipalities. Moritz Baumgärtel and Barbara Oomen, finally, teamed up in writing an article titled "Pulling human rights back in: local authorities, international law and the reception of undocumented migrants." The full issue, including all the other articles, is Open Access.

### Book Chapters

Kushtrim Istrefi, 'The Policy Effects of the Decisions of European Courts on Targeted Sanctions: Whither Human Rights?' in G. Ulrich and I. Ziemele *How International Law Works in Times of Crisis* (OUP, 2019).

Javier Couso, 'The Possibilities and Limits of a Constitution-Making Transnational Legal Order: The Case of Chile,' in G. Shaffer, T. Ginsburg and T. Halliday *Constitution-Making and Transnational Legal Order* (CUP, 2019).

Janneke Gerard's contribution to the Max Planck Encyclopedia on International Procedural Law has been published online. The contribution on the Advisory Opinions Procedure at the ECtHR can be found here (only accessible from a university computer or with a Max Planck account).

### Articles

Elena Butti and Brianne McGonigle Leyh, 'Intersectionality and Transformative Reparations: The Case of Colombian Marginal Youths' (2019) *International Criminal Law Review*.