



Dr Agnes Callamard presenting the annual SIM Peter Baehr lecture

## SIM Peter Baehr Lecture 2018: Solidarity, Justice and Reparations in Times of Terror

On Friday 14 September, Dr Agnes Callamard delivered the annual SIM Peter Baehr lecture with the title 'Solidarity, Justice and Reparations in Times of Terror'. Dr Callamard, the UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, started her lecture by honouring the work of Peter Baehr after whom the lecture is named, and expressing her best wishes to his family members in the audience. In the lecture she presented some of the ideas that she put forward in her latest report on armed non-State actors that she presented to the Human Rights Council in June 2018 (UN Doc. A/HRC/38/44). Using the Islamic State (ISIL) as a case study, she critiqued the different legal frameworks that are used to address the acts of terrorist groups (i.e. human rights law binding upon States, international humanitarian law, international criminal law and counter-terrorism) explaining why she considered them to be insufficient. Dr Callamard explained that a State's obligations under human rights law quickly become ineffective in situations where it has lost control of a part of its territory. They also too much focus on the State's failure to prevent or protect, rather than focusing on the acts by the armed group itself, which are not necessarily even named or identified. She argued that while crucially important, international humanitarian law does not always apply in instances where armed non-State actors are operating in 'low-intensity' conflicts. It also does not cover the full conceptual scope of the acts of armed groups controlling territory and exercising governance like functions. Referring to her recent visit to Iraq, she explained how counter-terrorism laws are often not designed to respond to the scale of crimes committed by groups such as ISIL. Their provisions are broad and vague, and the death penalty is often not only applicable, but

mandatory. Dr Callamard indicated that up to 6000 alleged ISIL members have reportedly been sentenced to death, with some 200 already executed. She argued that it was a betrayal of the victims of ISIL to frame the crimes committed by the group as domestic terrorism crimes, rather framing them properly as war crimes, crimes against humanity, genocide and massive violations of human rights.

The Special Rapporteur expressed her concern that counter-terrorism measures are increasingly impacting upon humanitarian actors. She indicated that individuals and organisations have been added to sanctions lists in part based on their providing medical services and supplies. She argued that this is in contravention with one of the most fundamental norms of IHL which requires medical care to be provided to all wounded and sick individuals who are not, or no longer, in the fight, including members of an adversary part of the population under its control. The Special Rapporteur concluded her lecture by focusing on her recent recommendations regarding armed non-State actors and human rights law, which she set out in her third report to the Human Rights Council. She indicated her view that there is a real need to recognise that human rights law applies to armed groups, in order to address the true character of their acts and their relationship with the civilian population. She talked of the need to develop a taxonomy of armed non-State actors, which identifies indicators to assess armed non-State actors governance and capacity to hold human rights obligations. Dr Callamard also suggested there was a need for a new soft law instrument, possibly along the lines of Geneva Call 'Deeds of Commitment', with the purpose of securing human rights protection on the ground.

# SIM Newsletter

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## Cities of Refuge

Cities of Refuge is the large research program on local authorities and the human rights of refugees all over Europe carried out by a team that is part of SIM, but based at UCR in Middelburg. In the Spring, for that reason, the whole team conducted research together with students in Zeeland which was shared with policy makers on 15 May 2018. With the research running for over a year, the first findings are ready to share. Moritz Baumgartel and Barbara Oomen, for instance, published an article entitled 'Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law', available [here](#). In June, Barbara Oomen gave a lecture on the research in Nuremberg, which can be viewed [here](#). The three PhD researchers – Sara Miellet, Elif Durmus and Tihomir Sabchev – are ready to start their fieldwork in the Netherlands, Turkey and Greece. In addition, the team will engage with stakeholders at the annual conference of the Fundamental Rights Forum. For project updates follow [#UUCoR](#) and the [project website](#).

## SIM Summer School 2018



SIM hosted another successful summer school on Human Rights and Gender from 2 – 13 July at Utrecht University. The summer school was a collaborative effort by SIM staff who shared their skills and expertise with 30 students from a wide range of countries including Brazil, Saudi Arabia, Ghana, and the Philippines. The first week of the course introduced human rights generally, while the second week delved into numerous pressing gender issues such as LGBTQI rights, prostitution, and discrimination.

## Human Rights in Belarusian Education



Photo credit: OSCE

Approaches to integrating human rights issues into the education system in Belarus was the focus of a workshop for Belarusian experts in educational policy development and planning, which took place in Minsk from 22 to 24 August 2018. Prof. Felisa Tibbitts (Utrecht University) was the lead trainer for this kick-off event, part of an EU-funded, two-year project that is based on a curriculum reform guide that she developed called Curriculum Development and Review for Democratic Citizenship and Human Rights Education. The workshop was organised by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in co-operation with the Belarusian Ministry of Education. The Ministry is now proceeding with an internal curriculum review that should result in recommended changes in 2019. Stay tuned!

## Educational Leadership



On 17 September, along with 16 of her colleagues from across all faculties, Dr. Brianne McGonigle Leyh completed Utrecht University's Educational Leadership Program. The program takes 14 months to complete and participants focus on educational leadership themes and strategies. In addition, each participant carries out their own project. Brianne's project was on community service learning as part of her efforts to boost active learning within the University. More information about the program can be found [here](#).

## Call for Papers

Dr Brianne McGonigle Leyh and Dr Julie Fraser are editing a volume exploring the intersections of law and culture at the International Criminal Court (ICC). Culture has impacted the work of the Court in many ways, and papers examining these issues are welcomed for inclusion in the volume. Abstracts are requested by 15 October 2018. Further information and the Call for Papers is available [here](#).

## SIM History

SIM's very first director, Hans Thoolen, posted part of his memoirs in a blog post online. It recounts his involvement in one of SIM's first human rights investigation projects, looking into the killings of four Dutch journalists in El Salvador in 1982. At the time, the murders caused a big scandal and Thoolen was asked to accompany a parliamentary delegation from the Netherlands as an independent expert. For SIM, this was the start of a project to count human rights violations in general, with an initial focus on Central America. Recently, the issue was revived when a Dutch TV documentary traced the army colonel who had ordered the killings. See Hans Thoolen's full account on his blog [here](#).



## Workshop on Rebel Governance

In June 2018, Katharine Fortin took part in a two-day set of workshops on the theme of rebel governance and civilian agency. The workshops were chaired by Professor Georg Frercks (UU), Niels Terpstra (UU) and Professor Nelson Kasfir (Dartmouth College) and held under the auspices of the European Workshops in International Studies at Groningen University.

## Conference on Armed Conflict



On Wednesday 26th September, Katharine Fortin presented on 'Human Rights Law and the Islamic State' at the launch conference of the Law of Armed Conflict and Military Operations International Research Network. The launch conference took place at the University of Amsterdam and was on the 'Rise and Fall of ISIS'.

## Presentation at the European Association of Criminology



On 30 August, Dr. Brianne McGonigle Leyh participated in the annual conference of the European Association of Criminology, in Sarajevo, Bosnia and Herzegovina. She presented with colleagues from Ghent University on *Human Rights Interpretation at the International Criminal Court*.

## Large Delegation of SIM colleagues at the annual Association of Human Rights Institute conference in Edinburgh



Many SIM colleagues presented at the annual conference of the Association of Human Rights Institute (AHRI) hosted by Edinburgh University from 6-8 September 2018. This year's theme was "Renewing Rights in Times of Transition", which was thoroughly explored by the large SIM contingent. Prof Janneke Gerards discussed a fluid conception of human rights, and Prof Antoine Buyse critically considered the shrinking of civic space in contemporary times. Prof Barbara Oomen and

## Fundamental Rights Forum



From 25-27 September, the European Union's Fundamental Rights Agency (FRA) organized its bi-annual Fundamental Rights Forum in Vienna, a large scale and very inspiring encounter of hundreds of participants from civil society, international organisations, academia, the media and the arts. SIM was represented by no less than five researchers: Felisa Tibbitts (human rights education), Antoine Buyse (civic space), Barbara Oomen, Moritz Baumgärtel and Elif Durmuş (cities, refugees and human rights). All these issues were mentioned in the closing Chair's Statement of the Forum (by FRA director Michael O'Flaherty), reflecting the societal relevance of SIM's research projects.

Dr Alexandra Timmer examined the contested conceptions of justice in Europe between 1941 and 1957. Going beyond State-centricity, Dr Laura Henderson explored certain democratic practices associated with citizenship to explore the extent to which a human rights framework troubles the State-centric view of citizenship, and Dr Julie Fraser advocated a greater role for cultural actors who are facilitating the domestic implementation of human rights. Dr Moritz Baumgärtel and Elif Durmus focused on human rights and cities, while Dr Brianne McGonigle Leyh considered truth commissions and social justice. Looking at emerging issues in human rights, Dr Daphina Misiedjan discussed the rise of environmental rights, and Alice Welland examined the tectonic shifts in our time and the disruption of human rights. The conference was closed by a moving keynote from Anne Roosevelt, the granddaughter of Eleanor Roosevelt.

## Meet & Greet with Dr Agnes Callamard



Immediately before the SIM Peter Baehr lecture on 14 September, the Netherlands Network for Human Rights Research (NNHRR) and SIM co-organised a special Meet & Greet event with Dr. Agnes Callamard, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. In this closed meeting which was governed by Chatham House rules and open to all members of the NNHRR, the Special Rapporteur discussed her work as a special rapporteur and took questions from the audience about certain aspects of her mandate.

## Workshop 'Responding to Legitimacy Challenges: Opportunities and Choices for the European Court of Human Rights – Researchers meet the Court'

Many challenges confront the European Court of Human Rights (ECtHR) and its procedures, policies and judgments. Criticism concerns the Court's backlog, its methods of interpretation, its deference to domestic actors – or its lack thereof. Reactions from states include willful partial non-compliance with judgments or even principled resistance. These challenges have appeared in many different shapes: not just as criticism from State Parties' governments, but also from domestic courts, academics, civil society organisations and the media.



Against the backdrop of these challenges, Janneke Gerards and Antoine Buyse of the Montaigne Centre for Rule of Law and Administration of Justice and SIM co-organised a workshop at the ECtHR on 21 September. The aim was to facilitate informal exchanges among academics and members of the Court including the Registry and to identify and discuss both challenges and possible solutions. They organised the workshop together with Andreas Føllesdal and Geir Ulfstein (PluriCourts Centre, University of Oslo), Eva Brems (Human Rights Centre, Ghent University) and Basak Çali (Hertie School of Governance). During the workshop, eight legal and interdisciplinary research papers were presented, selected out of 93 submitted abstracts, in sessions concerning the principle of subsidiarity and legitimacy challenges; dialogue and relations with national judges; and remedies and compliance with judgments. In each session, one of the Court's Judges commented on the presented research and there were lively debates with the audience (Chatham House rules applied). The day was closed by a panel discussion of 'keynote listeners': the Court's head of the legal division of the Registry and three Judges reflected on the findings of the workshop, based on what they had heard throughout the day. Because of the quality of the papers and the intimate setting, the workshop was highly enriching for both the researchers presenting their papers and the Judges. Given the many benefits, it is likely that the 'dialogue' between the academic world and the Court is continued as a yearly or two-yearly event.

## Panel Presentation at the World Congress of Sociology in Toronto

In cooperation with a gender studies colleague from Utrecht (Christine Quinan), two German sociologists (Verena Molitor (Dortmund) and Tatiana Zimenkova (Bielefeld) and a colleague from the law school of the American University in St. Petersburg (Alex Kondakov), Marjolein van den Brink organised a panel at the XIX ISA World Congress of Sociology in Toronto, Canada, that was held from 15 - 21 July 2018. The theme of the panel was "Human Rights and Gender Identity Registration: Examining Relationships Between Claims of (sexual) Citizens and Global Justice". It attracted scholars from all over the globe, varying from South-Korea and Brazil to the UK and South-Africa.

## Research Presentation at the Dutch Human Rights Institute

Leonie Huijbers, SIM Fellow and PhD Candidate at the Montaigne Centre, and Claire Loven, PhD Candidate at the Montaigne Centre, presented their research on mobilising human rights at the Netherlands Institute for Human Rights (College voor de Rechten van de Mens) on 18 September 2018. They based this presentation on their paper 'Pushing for Political and Legal Change: Protecting the Cultural Identity of Travellers in the Netherlands', which discusses the various actions undertaken by (inter)national actors to successfully push the Dutch Government into changing its approach to traveller camps (woonwagenkampen). Leonie and Claire reflected on this case-study and drew some general lessons from it, such as using a variety of means, cooperation between actors and actors sticking to their expertise, in order to influence policy making. They also indicated several ways for the Netherlands Institute for Human Rights to apply these lessons in practice. The presentation was followed by an interesting discussion on broader issues of dealing with giving voice to vulnerable groups, and challenges municipalities may face during the implementation of the new policy framework.'

## European Master on Human Rights and Democratisation

Marjolein van den Brink attended the closing of the past academic year as well as the opening of the new academic year of the European Master on Human Rights and Democratisation (EMA) in Venice. The students of this master take classes in Venice the first semester, and are dispersed over the 41 participating European universities in the second semester. Utrecht receives three EMA students every year.



## Netherlands Quarterly of Human Rights

The newest issue of NOHR of September 2018 features the following articles:

- Column by Philippe Sands, 'Genocide at 70: A Reflection on Its Origins'
- Article by Eline Kindt, 'Giving up on Individual Justice? The Effect of State Non-Execution of a Pilot Judgment on Victims'
- Article by Radu Mares, 'Corporate Transparency Regulations: A Hollow Victory?'
- Article by Katerina Yiannibas, 'The Adaptability of International Arbitration: Reforming the Arbitration Mechanism to Provide Effective Remedy for Business-related Human Rights Abuses'
- Recent Publications on International Human Rights



## Special Issue

Katharine Fortin was the co-editor of a special edition of the journal *Human Rights & International Legal Discourse* which focuses on the relationship between international human rights law and international humanitarian law. The volume contains headline articles by Professor Andrew Clapham and Jean-Marie Henckaerts and Ellen Nohle. Together with co-editor Steven Dewulf from Antwerp University, Katharine contributed an introduction to the edition: Katharine Fortin and Steven Dewulf, 'Introduction' (2018) 12(1) *Human Rights & International Legal Discourse* 2.

## Articles

Antoine Buyse, 'Squeezing civic space: restrictions on civil society organizations and the linkages with human rights' (2018) *The International Journal of Human Rights*.

Janneke Gerards, 'Margin of Appreciation and Incrementalism in the Case Law of the European Court of Human Rights' (2018) 18(3) *Human Rights Law Review* 495.

Brianne McGonigle Leyh, 'Pragmatism over Principles: The International Criminal Court as a Human Rights Based Approach to Judicial Interpretation' (2018) 41 *Fordham International Law Journal* 697.

Barbara Oomen and Moritz Baumgärtel, 'Frontier cities: The rise of local authorities as an opportunity for international human rights law' (2018) 29(2) *European Journal Of International law* 607.

Barbara Oomen, 'Between Signing and Ratifying: Preratification Politics, the Disability Convention, and the Dutch' (2018) 40(2) *Human Rights Quarterly* 420.

## Book chapters

Katharine Fortin, 'Blockade' 216 in D Djukic and N Pons (eds) *The Companion to International Humanitarian Law* (Brill Nijhoff 2018).

Katharine Fortin, 'Peace Treaty' 548 in D Djukic and N Pons (eds) *The Companion to International Humanitarian Law* (Brill Nijhoff 2018).

Katharine Fortin, 'Special Agreements' 653 in D Djukic and N Pons (eds) *The Companion to International Humanitarian Law* (Brill Nijhoff 2018).

Brianne McGonigle Leyh, 'Reparations and International Humanitarian Law', 616 in D Djukic and N Pons (eds) *The Companion to International Humanitarian Law* (Brill Nijhoff 2018).

Felisa Tibbitts, 'Contested Universalism and human rights education: Can there be a deliberative hybrid solution for schooling?' In M Zembylas and A Keet (eds) *Entanglements and Regenerations: Critical Human Rights, Citizenship and Democracy Education* (Bloomsbury 2018).

## Books

Diana Odier-Contreras Garduno, *Collective Reparations* (Intersentia 2018).

This book presents the first study on collective reparations. It aims to shed light on the legal framework, content and scope of collective reparations, and to the relationship between collective reparations and the individual right to reparations. In order to do so, the book analyses specific case law from the Inter-American Court of Human Rights, the International Criminal Court and the Extraordinary Chambers in the Courts of Cambodia. Additionally, the practices of non-judicial mechanisms were examined, specifically those of the Peruvian and Moroccan Truth Commissions and of two mass claims compensation commissions (the United Nations Compensation Commission and the Eritrea-Ethiopia Claims Commission). Finally, it provides an overview of the challenges that collective reparations present to the fields of international human rights law and international criminal law, including in their implementation.

