PART B: LECTURE

"WHOSE BUSINESS IS IT ANYWAY?"

VALEDICTORY LECTURE DELIVERED AT UTRECHT UNIVERSITY, 1 JULY 2014*

Jenny Goldschmidt**

1. ESTEEMED LISTENERS

While an inaugural lecture can be seen as the unfolding of a program for the future, the standards are less clear regarding a farewell address.

After so many years, the question arises: what have I really learned in the 40+ years in which I have been associated with various universities? In connection to this, I now realise how important "teachers" have been, how much I have learned in the first half of my life, and how much I have gained from this. In elementary school, I learned how much fun it is to learn. Therefore, when I received the book *Ot and Sien* (an iconic Dutch children's book like Dr. Seuss) at my PhD Defense from my, unfortunately very recently deceased first grade teacher, it was very special: I have been fortunate enough to have always had good teachers and tutors. Gradually, the separation between teacher and pupil faded: I am now learning from my colleagues, and perhaps most from my PhD students and young scientists, who ask critical questions and are curious.

In addition, I realised at a young age what elements determined my identity. I go back to the little girl who went to school in Rotterdam and introduced herself as 'I'm Jenny Goldschmidt, I'm deaf, Jewish, and I have no father'. Only much later did I come to realise how essential this is, the way in which people define where they belong. They partly determine this themselves, partly it is determined by their environment: the "Jewish" was only added to my list after two classmates asked me in a mysterious tone whether I was Catholic or Protestant (I was in a public school, so this was not clear beforehand, as was the case at other schools at that time). I could only answer that question after having quickly consulted my mother: after all, we were not religious…I knew we had some traditions that were important to me and my family, and those turned out to be Jewish. Just like I took care to quickly add to the information that my father was deceased when I was three years old, "but he was not killed": what it

* Translated into English from the Dutch original.

** Emeritus Professor of Human Rights Law, Utrecht University, The Netherlands.

Netherlands Quarterly of Human Rights, Vol. 32/3, 322–333, 2014.

was exactly, I did not know but there were a lot of people who were spoken about lovingly who were "killed" and that was much worse, you could feel that. It was a shock of recognition when a Rwandan colleague in the same manner added to the announcement that her father was deceased, "but he was not killed". We talked about this for a long time: about these aspects of identity.

Later I started to 'put the pieces of the puzzle' together and saw not only how these identifiers have determined my life, but also how they have formed my interests. Not having a father anymore implied that I had a less obvious perception of male and female roles. Although my mother was a traditional housewife, I perceived no power relations at home. I did see them unconsciously at the homes of my friends, where something changed in the atmosphere and the family's dynamics when the father came home from work at 6 pm: I was just as happy not to stay for dinner in those homes (and not just because my mother was the best cook). I experienced the term 'dominant' before I knew it.

Being deaf also evokes particular reactions of others. For yourself it means developing mechanisms to anticipate and compensate for information that others automatically get and to get the same recognition. This has also brought many advantages. I myself had no problem with being deaf (thanks to my mother who has never treated me as an exception). That others often did, I fortunately only encountered much later in life, or maybe I did not want to see it until later.

Being Jewish in the end means being part of a cultural-historical context with its own traditions and "laws" (which are not always enforced: knowing what is kosher, does not mean that you have to abide by it) within a circle of fully integrated family and friends. And, just as important, it meant that the information that I was Jewish was never followed by a neutral reaction: people responded either uncomfortable or exuberant ("how fun"… why?) and fortunately only a very few times downright negative. That made me aware of the importance and the positive value of a collective identity. The positive may not always be obvious, but in my case it is. Despite its negative past, the collective identity of me and my relatives stands for the positive power of life and hope.[1] The German Jewish past also meant that my family was internationally oriented: they lived mostly outside the Netherlands.

These experiences prove the importance of perspective: it is not relevant in the first place whether there is a difference, but whether a distinction is made: it is more than significant that we talk about *making* a difference. My father was dead, but I made a distinction between the deceased and the killed. To me, being Jewish was nothing special, to others it was. For me, being deaf was difficult at times, but not a negative trait: others saw this otherwise. These are aspects of the fact that difference, and making a difference is two-sided.

1 The strong belief that positive powers will eventually prevail is reflected in: Gerhart M. Riegner, *Ne jamais désespérer, Soixante années au service du peuple juif et des droits de l'homme*, Editions du Cerf, Paris, 1998, mémoires of my father's cousin.

These aspects form part of my story this afternoon, in which I want to try to connect some of the topics I have been working the past 40 years to the themes of pluralism, human rights and democracy. I will try not to make it too heavy and add to discussions to which you can hopefully relate.

As many of you know, in recent years I have been fascinated by the UN Disability Convention. Within this Convention lies, as noted by Bielefeld, a potential for innovation,[2] inter alia because the Convention compels to deal with difference in a special manner. Article 1 of the Treaty describes people with disabilities as people who are limited in their full and effective participation in society on an equal basis with others because of the interaction between their disability and various barriers. These barriers can be both physical and social (Preamble under (e)). The Disability Convention focuses on participation, inclusion, and autonomy; concepts that are important in human rights discourse. It forces us to take differences into account (for example by making reasonable accommodations). Thus, the Convention codifies what has developed in the human rights debate in the course of time, to encourage that everyone is equally protected by these rights. In the explicit recognition of the two-sidedness of difference and the focus on the key aspects of equality of people, lies the added value of this Convention, which goes beyond the rights of the disabled.

For a long time already, feminist legal theory has been paying been attention to the deconstruction of legal norms that are based on a particular dominant perspective. In 1990, Martha Minow published 'Making *all* the Difference,'[3] where she warns against the power of classifications. Obviously classifications are indispensable to create and apply rules, but they have by definition an exclusive effect. As classifications are based on a particular perspective, usually that of the dominant group in society, it is important to make visible who will be excluded and test the justification for this exclusion.

In the Netherlands, the article 'Different Law' by Rikki Holtmaat[4] serves as an example of an approach that has been changing the centre itself, the dominant standard. The approach is consistent with Article 5 of CEDAW which requires states to eliminate prejudices, as well as 'prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women'.

Meanwhile, this thinking has been extended by various authors. It is essentially still about equality as an aspect of human dignity and the equal enjoyment of fundamental rights is at its core. However, the concept of equality is and remains slippery. Titia Loenen analysed this in her 1992 dissertation and the dilemmas she formulated are still topical: how do you prevent adaptation to dominant norms, how

2 Heiner Bielefeldt, "Zum Innovationspotenzial der UN-Behindertenrechtskonvention", Essay, *Deutsches Institut für Menschenrechte*, Berlin 2009.

3 Martha Minow, *Making All the Difference. Inclusion, Exclusion and American Law* (Cornell University Press, Ithaca and London, 1990).

4 Rikki Holtmaat, "Naar een Ander Recht", *Nemesis* 1988, p. 3–13.

is difference constructed, what treatment is offered and how do you stop placing the male standard at the centre of this treatment?[5] This approach has been codified in the UNCRPD.

This conceptualisation has proceeded and has been placed within a broader human rights framework; for example, Sandra Fredman stresses the multidimensionality of material equality, and sets out the objectives of participation, transformation, redistribution, and recognition.[6] The asymmetric nature of equality is essential: it is not difference per se, but the hierarchical notion that is connected to it, which gives rise to jurisprudence of vulnerable groups. That concept, as nicely analysed by Timmer and Peroni, can again maintain a myth of normality by sustaining the vulnerability.[7] The emergence of this kind of essentialism is a risk that should be taken into account when interpreting rights.

In some cases, the aspect that causes vulnerability is more structural and less open to change than in other cases. Although I do not want to discuss this further now, the specific character can be a reason for a more stringent legal review. This is the case if a specific characteristic is difficult or impossible to change without harming the identity. However, this recognition should not lead to ignoring other characteristics or circumstances, which can make people extremely vulnerable in a specific situation. One can think of prisoners, amongst which are prisoners who have been convicted of very serious crimes, such as terrorism. Although these people are not so much a uniform group, they do have in common that their rights and interests are not necessarily respected by the majority and herein lies the fundamental importance of equal protection for all.[8] Human dignity is not reserved for the "good man", our friends or peers only.

Associated with this difference in the nature of vulnerable groups is the tension between the collective perspective of the group and that of the individual. Although human rights are conceived primarily as individual rights, this does not mean they do not relate to groups as well: freedom of religion, of association, and the right to culture are examples of rights related to groups. Similarly, parts of the deaf community are claiming their own culture and recognition of their language, rather than forcing themselves to assimilate to the world of the hearing. And where every human being, it is said, is part of different communities, individual development is connected with the position of the respective groups.

---

5 T. Loenen, "Verschil in Gelijkheid, De conceptualisering van het juridisch gelijkheidsbeginsel met betrekking tot vrouwen en mannen in Nederland en de Verenigde Staten", Tjeenk Willink, Zwolle, 1992.

6 Sandra Fredman, *Human Rights Transformed. Positive Rights and Positive Duties* (Oxford University Press, 2008).

7 Lourdes Peroni and Alexandra Timmer, "Vulnerable Groups: the Promise of an Emergent Concept in European Human Rights Convention Law", 11 *International Journal of Constitutional Law* (2013) 1056–1085.

8 See J.E. Goldschmidt, "Mensenrechten voor iedereen? De betekenis van mensenrechten voor kwetsbare groepen", *Tijdschrift voor Antilliaans Recht-Justicia*, 2008, nr. 3, p. 174–182.

One of the aspects of feminist legal theory[9] that gives rise to criticism, according to Martha Minow, is that the emphasis on a particular difference can lead to ignoring or mitigating other differences: to avoid this, the concept of intersectionality has become important in research. We as individuals are, after all, not solely defined by a feature or category.

To promote the concept that differences do not lead to oppression and exclusion, we need to not only to take differences and diversity into account in the "right" unsuspected way and focus on the most disadvantaged category, but we must also guard against paternalism and the confirmation of dominance, within and between groups. This understanding has led to a focus on empowerment, a concept that is difficult to translate to Dutch: it shows that we do not get ahead if we just "care" for the least powerful, vulnerable group, but rather progress comes from ensuring that this group and its members can invoke their rights and define their needs themselves. Again, this becomes very clear from reading the UNCRPD. It is seen as a paradigm shift from a medical model to a social or legal model. The importance of a social approach goes for other grounds for exclusion as well. A feature of the model is that the social deprivation and exclusion are often not based on the individual characteristics of an individual, but on prejudices and stereotypes of the environment.[10]

The members of the disadvantaged group and those affected by the dominance of others should therefore be able to incorporate their perspective in the legal discourse themselves and claim their rights. Through this process, *all* fundamental rights are involved, both the classic civil and political rights, and the socio-economic; focusing on access to the basics for a decent life, such as shelter, food, education, and medical care.[11]

If we assume that individual rights have meaning in the context of the various features associated with groups, it means that it is important to involve these collective structures in the study of (human) rights. In this regard, I attach great importance to the concept of semi-autonomous fields, which was developed by Sally Falk Moore in 1973. Ever since I was introduced to this concept while writing my thesis on a totally different topic, it has always been confirmed how much the meaning and effect of rights depends on the norms in the various "fields" (as Moore describes them).[12] On the basis of several case studies, Moore demonstrates there is an interaction in society between existing social fields, sub-societies, and the state itself. For an individual or a group the law of the state is one, but not the only, system of norms which plays a

9 Minow, above n 4, p. 236.

10 See Peroni and Timmer, above n 7.

11 See Bas de Gaay Fortman, *Political Economy of Human Rights. Rights, realities and realization* (Routledge, London and New York, 2011).

12 Sally F. Moore, "Law and social change: the semi-autonomous social field as an appropriate subject of study", *Law and Society Review* 7: 719–746, 1973. Dutch Translation in Vakgroep Rechtsfilosofie, rechtssociologie, rechtsantropologie en rechtsinformatica van de Rijksuniversiteit Groningen, Ars Aequi, Nijmegen, 2nd ed., 1992, p. 309–337.

role in his or her actions. Of course, state law by its nature has an individual character and enforceability, but its effects are determined in part by the 'competitive' systems. Focusing on the right to equal treatment, this means that, for example, implementation of equality legislation will be difficult or even impossible in an organisation with a strong, tough, corporate culture with strict standards on working conditions, pay, and promotion which are different from what is prescribed by national law.[13] To change this situation, different solutions can be conceived and can be alternately or simultaneously used, such as: encouraging to change the work culture through dialogue, education, and training in the hope that those stakeholders who see the value of equal treatment are reinforced, and supporting these stakeholders (empowerment). On a state level, heavier sanctions and stricter obligations should perhaps be required (quotas and setting conditions on permits and contracts are examples of this).

I likewise think of the various state and interstate, international and supranational organisations as semi-autonomous fields. Whether treaty law is effectively implemented and has an impact depends on the coherence with the different national legal systems and on the national and international social fields.

An essential aspect of Moore's concept is the *semi*-autonomous nature of all fields. Moore outlines a system in which the various fields can be, and are, affected by the standards of adjacent or overlapping fields. This is partly because individuals belong to multiple fields and thus 'import' various norms into different regulatory systems. In this way, norms and regulations change under the influence of other normative systems. I have previously argued that I think this piece of fluidity and 'openness' is crucial, especially for the non-dominant groups. Indeed, the pattern of either democratically-elected or undemocratic majorities who are in power to determine the rules on one side, and minorities and other vulnerable groups who are not in that position on the other, occurs in all fields. Therefore, attention for the protection of human rights against non-state actors has increased. For these reasons, it is important that non-dominant groups have access to information about normative systems in different fields, and use the standards from other fields to support their legitimate legal claims. This is of crucial importance in particular because the rights from other fields permeate into fields where the fundamental rights of vulnerable groups are not (or are less) protected.

Protecting the rights of vulnerable groups should be paramount, and this can benefit from understanding the underlying normative patterns. Effective protection also requires supporting vulnerable groups in various fields. Because the protection of human rights is first and foremost about the protection of vulnerable groups, in the contextual meaning indicated above, the combination of the recognition of the significance of various social fields and their own normative systems with the

13 See John Griffiths' article "The Social Working of Legal Rules", *Journal of Legal Pluralism* 2003, p. 1–77 and John Griffiths, "The Social Working of Anti-Discrimination Law", in Titia Loenen and Peter R. Rodrigues, *Non-Discrimination Law: Comparative Perspectives* (Martinus Nijhoff, The Hague/London/Boston, 1999) 313–330.

empowerment of vulnerable groups in those fields is crucial. The best possible protection and empowerment of vulnerable groups has to be the first goal. Therefore, my approach differs from others, such as the receptor approach.[14] Moreover, in no case can taking into account the normative systems of different fields in the process of implementation of human rights justify a situation where fundamental rights are violated.

Recognising semi-autonomous fields therefore requires a certain openness in the fields or sub-cultures, where dialogue should be possible to support the vulnerable groups in their struggle for better protection of human rights.

The recognition of semi-autonomous fields in and around the national state does not imply that there is no room for one's own national identity. In a recent article on the state in the context of Europe, Tjeenk Willink formulates the relationship between unity and diversity in the European and national context:

> Unity – as a concept – becomes meaningless without diversity. Diversity is *the* hallmark of democracy; a positive attribute, not an administrative obstacle and therefore it is about the socio-cultural diversity. This diversity is the expression of one's own national identity. Dutch citizens will only become European citizens if they continue to feel at home in their own country. And citizens will feel more at home in their own country if they feel that they are included in their own neighborhood, town or city.[15]

Citizens live in multiple fields, and from there they search for their collective identity without losing touch with their own identity.

The effective implementation of human rights is served by having insight in other fields. One example is the research of Oomen et al on the impact of the lawsuits against the SGP (a Dutch conservative Christian party) which forced the party to adhere to international standards and give women the right to stand for election on behalf of the party.[16] This case has not had a merely positive impact on the party nor on the women in question. Oomen rightly notes that this example does not mean that by definition no impulse has been given to change stereotypical attitudes and practices in the longer term and that is relevant. Sometimes a compulsory change in direction from the outside is necessary to protect the rights of a vulnerable group in a particular field. In this case, this is also legitimated by the fact that it is about the core of democratic rights, such as the right to vote. The European Court of Human Rights declared the appeal of the SGP inadmissible precisely *because* of the close relationship between the rights enshrined in the Convention and democracy:

---

14 See inter alia Tom Zwart, "Using Local Culture to Further the Implementation of International Human Rights: the Receptor Approach", *Human Rights Quarterly* 34 (2012) 546–569.

15 Herman Tjeenk Willink, "Wilt U meer of minder Europa? Dat is precies de verkeerde vraag", *Volkskrant* 3 May 2014, p. 30.

16 Barbara M. Oomen, Joost Guijt and Matthias Ploeg, "CEDAW, The Bible and the State of the Netherlands: the struggle over orthodox women's political participation and their responses", *Utrecht Law Review*, Volume 6, Issue 2, June 2010, p. 158–174.

> [N]ot only is democracy a fundamental feature of the European public order but the Convention was designed to promote and maintain the ideals and values of a democratic society. Democracy, the Court has stressed, is the only political model contemplated in the Convention and the only one compatible with it. By virtue of the wording of the second paragraph of Article 11, and likewise of Articles 8, 9 and 10 of the Convention, the only necessity capable of justifying an interference with any of the rights enshrined in those Articles is one that may claim to spring from a "democratic society".[17]

Herewith, the parallel between the semi-autonomous field's model and the debate on the relationship between national, European, and international legal orders has been given. Sometimes it is legitimate to infringe upon autonomy, including the sovereignty of the nation state, in order to protect the rights of vulnerable groups. The nation state itself is a semi-autonomous field that opposes interference from outside. In recent debates, some seem to want to close the borders of the nation state, not only literally, but also with regard to the debate on fundamental rights: but whose business is it anyway?

This question is raised as the ECtHR 'interferes' with religious symbols at a school in Italy, when the UN authorities question the racist implications of the phenomenon of *Zwarte Piet* (the traditional black servant in the Dutch celebration of *Sinterklaas*), or when rights to basic needs for illegal immigrants must be guaranteed. There is growing opposition to the restrictions that international law poses to the sovereignty of states, and there is increasing criticism of national and international courts which, as is stated, without democratic legitimacy interfere with acts of the legislature or impose obligations on the executive. The questioning of the judiciary's legitimacy poses a serious threat to the protection of human rights. Everyone who knows the writings of my promotor, Koopmans, recognises here his confidence in the judiciary to act where the democratic decision-making fails: 'If we want to retain democracy, the courts should face their share of the job'.[18] If we do not cherish the checks and balances inherent in democracy, we create an absolute version of democracy, a tyranny of the majority. Especially because judicial review of legislation is not permitted in the Dutch constitutional system, the role of international courts and treaty bodies is more than crucial. They have power and duty to review whether the law is in accordance with international law.

Koopmans has repeatedly stressed that the role of the courts can be less reluctant when it comes to the protection of fundamental rights, and is confident that the courts are able to maintain the balance between 'the powers of the institutions and the challenges of social evolution'.[19] This evolution is not only a challenge, but can

---

17 See ECtHR Decision Staatkundig Gereformeerde Partij against the Netherlands, App no 58369/10 (ECtHR 6 October 2010).

18 Thijmen Koopmans, "Legislature and Judiciary, Present Trends" in *Juridisch Stoppelwerk* (Kluwer Deventer 1991) 191–219, op p. 219.

19 See *The Roots of Judicial Activism* in ibid., p. 392.

also in some cases be necessary to break through the dominant perspectives in favor of vulnerable groups. Judicial procedures can contribute to their empowerment by means of strategic litigation where vulnerable groups can penetrate the dominant legal discourse and bring their perspective via legal means. It is no coincidence that many important cases that have challenged stereotypical interpretations were supported by organisations of vulnerable groups. Thus, a trial is a way to enforce changes in the law, incorporate the other perspective, and open the eyes of the legislator in the process.

It seems clear to me that a court ruling alone is not sufficient to bring about these effects; it is about the permeation of a tough field, where it cannot be taken for granted that the majority will go along. In case of judgments of international courts it is even harder to bring about change. Although the national states have committed themselves to respect international human rights, the lack of implementation at the national level remains the major problem. It is too easy to attribute this to the interference of the international courts in the national law. The courts actually leave plenty of room for the own balancing of interests by the states by using instruments such as the "margin of appreciation".

Poor compliance with international rulings erodes confidence in the legal order, and it is a major cause of the Strasbourg Court's overload, which, unfortunately, is not a myth.[20] Therefore, both in legal practice and in academic literature, attention is rightly paid to compliance with the rulings of international courts. When dealing with the implementation of decisions, we have to deal with different domains which are not necessarily open to the change which might flow from this other international domain. To remain effective, we must be aware of the broader context. Drzemczewski notes the importance of the dual mandate of the members of the Parliamentary Assembly of the Council of Europe which offers the parliamentarians who are part of both their National Assembly and that of the Council of Europe the opportunity to ensure that European standards are implemented in a national manner. This requires adequate legal support on a national level, which is facilitated by the dual mandate.[21] The need for solid knowledge of international human rights law for Dutch lawyers is therefore a fact.

It would be naive to expect that this expertise is sufficient to ensure the implementation of international judgments into domestic legal systems. Effective implementation requires more, as is set out in the recent book by Hillebrecht. In addition to the direct efforts of all three branches of the Dutch government, an active, strong social input is required.[22] Compliance requires coalitions of different actors, political and social. Political will is a necessary condition, of course, but it is alone not

20 Egbert Myjer and Peter Kempees, *Jack and the Solemn Promise- A cautionary tale* (Wolf Nijmegen, 2010).

21 Andrew Drzemczewski, "Recent Parliamentary Initiatives to Ensure Compliance with Strasbourg Court Judgements" in *L'homme et le droit* (Editions Perone, Paris, 2014) 293–304, p. 303.

22 Courtney Hillebrecht, *Domestic Politics and International Human Rights Tribunals: The Problem of Compliance* (Cambridge University Press 2014).

sufficient. NGOs are important actors as well, they can facilitate the implementation of international judgments into the national system because they are best placed to ensure that the necessary other voices permeate the national system. They play a role in what is called the "framing" of issues in a different perspective: "The concept of framing refers to the attempt of government policy makers and advocacy NGOs […] to create "patterns of understanding" that influence the way problems are understood and addressed".[23] Thus, NGOs play a crucial role in the implementation of human rights. They can incorporate the vision of vulnerable groups in the development of standards (as was the case in the UNCRPD), they can support lawsuits to change stereotype interpretations, and they then ensure the embedding of the outcomes in the national field.

After all, national considerations should, and can, play a role in the implementation of international human rights in the national field and this applies to all kinds of rights and associated obligations. There is room for both normative and economic arguments, but they must be within specific frameworks. NGOs can strengthen the dialogue between the various fields. The state has an interest in it, although at first instance the "other" voices can be burdensome. State's support to opposing voices not only contribute to the empowerment of vulnerable groups and the countering of stereotypical patterns, but reflect a self-interest of the government: the 'subsidised revolution', as it is sometimes called, prevents excessive social discontent which could result in a far less gentle revolution.

In this context, national human rights institutions should be mentioned: they are the independent network of coalitions from the social fields. 'The essential role for NHRI's is to remind societies of their imperfections' as Jařab so nicely puts it.[24] He points to their role in ensuring that attention is paid to different groups threatened by violations of their rights, and to carry the local and national perspective. It is not an easy position, which entails a balancing act to keep the equilibrium, while at the same time actively defending vulnerable groups. It takes courage and vision. While the status of the institution is important in order to exert influence, the status of those who comprise the institute is subordinate to it. Of course we should not forget that the institution itself should never be more important than what aims to do, 'any discussion about human rights should be about people, not institutions'.[25]

---

23 Quote from Lissack in Julie Mertus and Tazreena Sajjad, "The War on Terror through a Feminist Lens" in Michael Goodhart and Anja Mihr, *Human Rights in the 21st Century, Continuity and Change Since 9/11* (Palgrave, London 2011) 49–62, p. 53.

24 Jan Jařab, "Perspectives on the Need for national Human Rights Institutions in Europe and the World" in Jan Wouters and Katrien Meuwissen (eds.), *National Human Rights Institutions in Europe, Comparative, European and International Perspectives* (Intersentia, Antwerp, 2013) 287–297, p. 290.

25 Bruce Adamson, "NHRI and their European Counterparts: Scope for Strengthened Cooperation and performance Towards European Human Rights Institutions", in Jan Wouters and Katrien Meuwissen (eds.), *National Human Rights Institutions in Europe, Comparative, European and International Perspectives* (Intersentia, Antwerp, 2013) 127–155, p. 127.

This brings me back to the beginning: human rights are about people. People who live together in different contexts; who derive their own individual identity and dignity from different contexts and from the way in which their individual characteristics are viewed. The fact that human rights are individual rights does not diminish the importance of collectives, but 'group rights can only be justified in order to protect the "individuals who compose the group"', in the words of the Kadt (in his book on religious intolerance).[26] Within each field there is discussion on the applicable norms. Often those individuals who are questioning norms belong to vulnerable groups; they bring a different perspective to the front by opposing the stereotypical images of the dominant majority. A debate is necessary, and organisations can promote the 'agency' of non-dominant groups. National human rights institutions have a great responsibility here.

The question 'whose business is it anyway?' is a, very understandable one: Dutch society, which adheres to the tradition of *Sinterklaas*, assumes it cannot do without *Zwarte Piet* in this celebration. This society does not see *Zwarte Piet* as racist and the majority of the society is not racist. But still, the question should be asked differently. It is precisely this aspect which is, essentially, about the willingness to approach this discussion from a different perspective. If a large part of the population *do* have the experience that *Zwarte Piet* has a negative impact because of the statements and stereotypical associations of others, this perspective is essential in the balancing of interests. And if it turns out that children, who this is ultimately all about, are not affected whether *Zwarte Piet* is green, purple, or any other colour, then you have to dare to ask where the criticism of the opponents of *Zwarte Piet* within your own field comes from. The same applies to the SGP when it comes to a woman's right to be elected. The fact that not all women currently want this right does not detract from the importance of the right.

In order to actually embed "other" human rights norms, the voices from the field should be heard, they must feel to be heard, but at the same time the organisations that represent the voices of the minority and other vulnerable groups should get some space within their own circles.

Human rights exist by virtue of the fact that they make our affairs their business, even though this is not always convenient.

POSTSCRIPT

The kind of insights on which the above is based, cannot be developed from one discipline only. Interdisciplinarity is one of the characteristics of SIM, the institute I had the privilege of being attached to in recent years. I called it a dream job when I started, because SIM is a great institution which is always working on the content,

[26] Emanuel J. de Kadt, *Assertive Religion, Religious Intolerance in a Multicultural World* (Transaction Publishers, New Brunswick and London, 2012) 82.

thinking about justice, about the interaction between theory and practice of human rights at the international and national level. Where great people worked and are working, who from various disciplines, social fields and countries, inspire and stimulate each other. Where former employees continue to feel involved and where the door is always open to the practice. I will not mention names: you have all been important to me and I hope to keep in touch with most of you inside or outside SIM. I am very happy that the interdisciplinary study of and transfer of knowledge on human rights will be continued on a high level, and I wish the one who will get this beautiful task a lot of success.

I have always felt the obligation to strengthen that which my predecessors, Hans Thoolen, Manfred Nowak, Peter Baehr and Kees Flinterman have built. Luckily I could continue to often work with them and continue to learn from them. Peter Baehr's involved and steadfast spirit I have always felt around me following his death, and I have missed his wise advice ever since.

I am proud of the *Netherlands Quarterly of Human Rights*, our Intersentia issued authoritative international human rights journal. Fried van Hoof, with his vast knowledge and his talent to transfer it, was the editor in chief of this magazine until his mournful passing away a few weeks ago.