

The Netherlands and the Development of
International Human Rights Instruments

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The Netherlands and the Development of
International Human Rights Instruments

Hilde Reiding

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To Monique Castermans-Holleman

PREFACE

When I started my Ph.D. research in September 2001, I knew relatively little about how international human rights instruments are created. Once I became familiar with the topic, I began to realize that the negotiation processes I studied actually have several things in common with the writing of a Ph.D. thesis. In the first place, because both are usually long-drawn-out and complicated processes that take much longer than one had hoped or expected. For negotiators as well as researchers, the route towards the final text can be so full of difficulties and pitfalls that they may sometimes even start to doubt whether the work can be successfully completed at all. However, the interviews that I have carried out with officials that were involved in the drafting of international human rights instruments have left me with the impression that participation in such negotiations is nonetheless experienced as a pleasant and valuable experience. Personally, I would say the same accounts for writing a Ph.D.

I have chosen to write my dissertation in English to open the possibility of sharing information and knowledge with foreign researchers, and to facilitate, for instance, comparative research. Hence, the need to express myself in a language other than my native tongue was something else I had in common with (many) officials participating in international drafting exercises. I did not always find it easy to find the right words for what I wanted to say, and apparently, this was something the drafters of human treaties also struggle with. The following anecdote clearly illustrates this. After years of negotiations, and careful phrasing and rephrasing of articles, a draft Convention against Torture was about to be completed. However, it appeared to contain a somewhat peculiar provision. It was meant to ensure that victims of an act of torture would obtain redress, but what the drafters had actually laid down was that victims of torture would be redressed, and would in other words receive new clothes.¹ Fortunately, an editor of the UN Secretariat discovered the error before the adoption of the final text.

By its nature, conducting a Ph.D. thesis is a more solitary job than negotiating an international human rights instrument, but completing this study would not have been possible without the help and support of others. I am especially grateful to my team of supervisors, who were willing to give me their time and comment on my work. First of all, I would like to thank my daily supervisor, Peter Malcontent. His suggested improvements and constant encouragement stimulated me to improve my work, while

¹ Document entitled 'Agenda item 10 (a): Torture and other cruel, inhuman or degrading treatment or punishment, concluding remarks made on 29 February 1984 by J.H. Burgers, Chairman-Rapporteur of the Working Group', Archive BZ, VN 1975-1984, 999.232.154, file 2581.

his sense of perspective and sense of humour helped me to let go when this was needed. I am indebted also to Cees Flinterman, who patiently helped me understand legal problems, and who introduced me to whomever I wanted to interview. My thanks furthermore go to Fred Grünfeld, whose detailed comments stimulated me to critically evaluate what I had written, and to Peter Baehr, who generously shared his enormous knowledge, and who let me benefit from his remarkable accuracy. Finally, I want to express my gratitude to Monique Castermans-Holleman, to whom I have dedicated this book. The idea for this study was hers, but unfortunately, she passed away before it was finished.

Apart from my supervisors, I would like to thank the members of my reading committee, David Forsythe, Willem van Genugten, Jenny Goldschmidt, Bob de Graaff, and Duco Hellema, for reading my manuscript, and for their positive comments. I would furthermore like to express my gratitude to the persons mentioned in the list of persons interviewed. They were willing to make time to answer my questions, and to share information and insights with me, which contributed considerably to my study. A special word of thanks goes to Jan Herman Burgers, who not only made himself available for an interview, but who also allowed me to make use of his personal archive. In addition, I would like to express my appreciation to the Ministry of Foreign Affairs, the Ministry of Justice, and the Ministry of Social Affairs and Employment, who gave me permission to examine their records. I want to thank some persons in particular: Hans den Hollander, Fred Steenbergen, Maarten van Rijn, and Rinske Baan. Without their help, it would have been much more difficult to find the information that I needed.

Many others have in one way or another contributed to the completion of my study. The friendship and support of my colleagues at the Netherlands Institute of Human Rights (SIM) have encouraged me, especially when I was faced with difficulties, or when I was fed up with the research. Special thanks are due to Saskia Bal and Maaike Hogenkamp for their help in tracking down available literature, and to Marcella Kiel for her assistance in the final stages of this project. For the correction of my English and the professional lay-out of this book, I am indebted to Scott Curry-Sumner and Titia Kloos respectively. A word of thanks also goes to Carla van Baalen and my new colleagues of the Centre for Parliamentary History (CPG), who gave me the opportunity to finalize my work in time.

Completing this research would furthermore have been impossible without the moral support of my friends and family. I want to thank them for their patience, and for making my life more fun. In particular, I would like to mention my family-in-law for their warm interest in the ups and downs of my life, and Karine van 't Land and Sico van der Meer, who have agreed to be my *paranymphs*. Finally, I would like to thank a few persons who are particularly dear to me. I am very grateful to my parents for their unconditional support and love, and for their confidence in my ability to make the right choices in life. Above all, my gratitude goes to my partner, Philip Bont, who supported me in countless ways. His love and his presence in my life have made me

very happy and provided me with the strength to overcome all the difficulties that are inherent in writing a Ph.D. thesis.

Utrecht, December 2006

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ABBREVIATIONS

AI	Amnesty International
APT	Association for the Prevention of Torture (former SCT)
AVV	Adviesraad Vrede en Veiligheid [Advisory Council on Peace and Security]
BMO	Breed Mensenrechten Overleg [Broad Human Rights Consultation]
BZ	Ministerie van Buitenlandse Zaken [Ministry of Foreign Affairs]
CAHMIN	Ad Hoc Committee for the Protection of National Minorities (CoE)
CAT	UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT-OP	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDA	Christen Democratisch Appèl (Dutch christian-democratic party)
CDDH	Steering Committee for Human Rights (CoE)
CDSO	Steering Committee for Social Affairs (CoE)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW-OP	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CiO	Chairman-in-Office (CSCE/OSCE)
CNV	Christelijk Nationaal Vakverbond [National Federation of Christian Trade Unions in the Netherlands]
CoE	Council of Europe
CPC	Conflict Prevention Centre (CSCE/OSCE)
CRC	Convention on the Rights of the Child
CRC OPAC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
CRC OPSC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
CSCE	Conference on Security and Cooperation in Europe
CSO	Committee of Senior Officials (CSCE/OSCE)
D66	Democraten'66 [Democrats 1966]
DCI	Defence for Children International
DH-EX	Committee of experts for the extension of the rights embodied in the European Convention on Human Rights (CoE)

Abbreviations

EC	European Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECOSOC	Economic and Social Council (UN)
ECPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ESC	European Social Charter
ETUC	European Trade Union Confederation
EU	European Union
FCNM	Framework Convention for the Protection of National Minorities (CoE)
FNV	Federatie Nederlandse Vakbeweging [Federated Dutch Trade Union Movement]
G-77	Group of Seventy-Seven (group of developing states in the UN)
HCM	High Commissioner for Minorities (became HCNM)
HCNM	High Commissioner on National Minorities
IAPL	International Association of Penal Law
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
ICRC	International Committee of the Red Cross
IIHR	Inter-American Institute of Human Rights
ILO	International Labour Organisation
IMEC	Industrialised Market Economy Countries (ILO)
IPEC	International Programme on the Elimination of Child Labour (ILO)
IRA	Irish Republican Army
MFA	Ministry of Foreign Affairs
MHP	Vakcentrale voor Middengroepen en Hoger Personeel [Trade Union Federation for Middle Classes and Higher Level Employees]
MJ	Ministry of Justice
MRG	Minority Rights Group
MSAE	Ministry of Social Affairs and Employment
NATO	North Atlantic Treaty Organisation
NGIZ	Nederlands Genootschap voor Internationale Zaken [Netherlands Society for International Affairs]
NGO	Nongovernmental Organisation
NHC	Netherlands Helsinki Committee
NJCM	Nederlands Juristen Comité voor de Mensenrechten (Dutch branch of the ICJ)
NNA	Neutral and Non-aligned (countries)
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Co-operation in Europe

PvdA	Partij van de Arbeid (Dutch labour party)
PPR	Politieke Partij Radicalen [Radical Political Party]
SCT	Swiss Committee against Torture (later APT)
SGP	Staatkundig Gereformeerde Partij [Reformed Political Party]
SIM	Studie- en Informatiecentrum Mensenrechten [Netherlands Institute of Human Rights]
UN	United Nations
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICE	Union of Industrial and Employers' Confederations of Europe
UNICEF	United Nations International Children's Emergency Fund
VNO	Verbond van Nederlandse Ondernemingen [Federation of Netherlands Industry]
VVD	Volkspartij voor Vrijheid en Democratie [People's Party for Freedom and Democracy (liberal party)]
WEU	Western European Union
WHO	World Health Organisation

