

Empowering historically marginalised communities to realise their human rights

I. Introduction

Through our research we assist historically marginalised communities in realising their human rights with the help of indigenous knowledge. For the purposes of this research both formerly colonised peoples in the Global South and ethnic and religious minorities in Northern societies are regarded as historically marginalised communities.

Indigenous knowledge is defined as a set of traditional norms and social values, as well as mental constructs that guide, organise and regulate the people's way of living and making sense of their world, which have been handed down through generations by cultural transmission.¹ Indigenous knowledge includes religion, which is undervalued in Northern research as a result of both Eurocentrism and secularism.²

As the research conducted by Alatas³ and Connell⁴ demonstrates, as was the case during colonisation, academic research is still very much determined by Eurocentric concepts, insights and methodologies. Euro-American academics often assume that their hypotheses based on Northern insights represent global trends. Recent research conducted by Henrich, Heine and Norenzayan shows that this Northern bias is still very much present.⁵ Researchers in the behavioural sciences who publish in the leading journals frequently extend their findings to humanity in general, while 96% of their respondents come from Northern industrialised or 'WEIRD' societies.

Instead we focus on alternative approaches based on indigenous knowledge, which can refresh and enrich the academic debate. We take the position that, in order to protect and promote the human rights of historically marginalised communities, indigenous knowledge is an undervalued tool with high potential. This position is based on the Universal Declaration of Human Rights (hereafter: UDHR) which calls on 'every individual and every organ of society' to realise human rights in their relation with others while relying on their own resources.

We operate both at the international and the national level as will be explained in the following sections.

II. International activities

¹ George J. Sefa Dei, Budd L. Hall and Dorothy Goldin Rosenberg, Introduction, in: George J. Sefa Dei, Budd L. Hall and Dorothy Goldin Rosenberg (eds.), *Indigenous Knowledges in Global Contexts, Multiple Readings of Our World*, Toronto, 2000, 3-17, at 6; Fikret Berkes, Johan Colding, and Carl Folke, Rediscovery of Traditional Ecological Knowledge as Adaptive Management, 10(5) 2000 *Ecological Applications*, 1251 - 1262, at 1252.

² Jonathan Fox and Shmuel Sandler, *Bringing Religion into International Relations*, Houndmills, 2004; Elizabeth Shakman Hurd, *The Politics of Secularism in International Relations*, Princeton, 2008; Kiatezua Lubanzadio Luyaluka, An Essay on Naturalized Epistemology of African Indigenous Knowledge, 47(6) 2016 *Journal of Black Studies*, 497-523.

³ Syed Hussein Alatas, Intellectual Imperialism: Definition, Traits, and Problems, 28(1) 2000, *Southeast Asian Journal of Social Science*, 23 - 45.

⁴ Raewyn Connell, *Southern Theory, The Global Dynamics of Knowledge in Social Science*, Cambridge, 2007.

⁵ Joseph Henrich, Steven J. Heine and Ara Norenzayan, The WEIRDest People in the World?, 33(2-3) (2010) *Behavioral and Brain Sciences*, 61 - 83.

2.2. The receptor approach to human rights: relying on social institutions to meet international human rights obligations

We apply the so-called receptor approach,⁶ which is aimed at identifying social institutions which assist in implementing international human rights obligations. Social institutions are sets of patterned strategies, consisting of norms, values, and role expectations, which people develop and pass on to succeeding generations for dealing with important social needs. By relying on ethnographic research, the researchers are able to identify such social institutions which match international human rights obligations.

Thus, we are currently exploring whether women in Afghanistan would be able to gain access to employment, education and social life with the help of Islam, which posits gender equality. The assumption is that Islam, which is the main religion in Afghanistan, will be a more effective instrument in this regard than human rights treaties, which in Afghanistan are often regarded as part of Northern imperialism.⁷

Where these institutions and values fall short of the obligations, they can be amplified with the help of home-grown remedies. Where possible, therefore, the receptor approach relies on the indigenous knowledge, as well as the resilience and the agency of the people.

2.3 China

NGO's and academics have been trying to impact China's human rights situation mainly through a strategy of 'naming and shaming'. Although these attempts are understandable, academic research shows that they are ineffective and perhaps even counterproductive.⁸ Therefore, alternative strategies and approaches need to be developed.

We have been working on human rights in China since 2007. Our research team conducts *community-based participatory research* with the community of academic scholars who are engaged in human rights research in China. As part of the Confucian tradition, scholars in Chinese society are held in high regard. Rather than being under government control, as is sometimes assumed, their advice is valued by the government and has a demonstrable impact on policy development. Thus, the Human Rights Action Plans, which serve as the foundation of Chinese national human right policy, are being drafted by academics. In close cooperation with our Chinese academic partners we are aiming to increase human rights protection in China by organising seminars and publishing papers. We are working on two projects mainly.

⁶ Tom Zwart, Using Local Culture To Further the Implementation of International Human Rights: The Receptor Approach, 34 (2012) *Human Rights Quarterly*, 546 - 569.

⁷ Farhana Rahman, Narratives of Agency: Women, Islam, and the Politics of Economic Participation in Afghanistan, 19(3) 2018 *Journal of International Women's Studies*, 60 -70.

⁸ Jack Snyder, Backlash Against Human Rights Shaming: Emotions in Groups, 12(1) (2020) *International Theory*, 109 - 132; Jamie Gruffydd-Jones, When Human Rights Pressure is Counterproductive: A Survey Experiment on Women's Rights in China, 2016, <https://zdoc.pub/when-human-rights-pressure-is-counterproductive-a-survey-exp.html>

First, we try to secure China's continued participation in the rule based international order. Since the People's Republic took up the Chinese seat at the UN in 1971, there have been concerns that China was not acting as a committed player within the rule based international order, in particular within the international human rights system. Some were even concerned that China as an emerging power would be tempted to set up its own parallel systems where different - more lax - rules would apply.⁹

Therefore, in 2016, I presented a paper during a conference of the Chinese Academy of Social Sciences (CASS) calling on China to express its criticism within rather than outside the international human rights system. Furthermore, I made the point that the best way for China to ensure that its criticism would be taken seriously by others within the international human rights community was to express it while loyally discharging its human rights duties under international law. This 'contesting through compliance' paper was published shortly thereafter in the Chinese Review of International Law,¹⁰ China's flagship international law journal, and was channelled to the government. There are indications that the paper has had an impact on China's position.

In addition, together with our Chinese partners we started a campaign to ensure that the Universal Declaration of Human Rights (UDHR) would become a more prominent part of the Chinese government's narrative on human rights. The key to achieving this was drawing attention to the fact that the main architect of the UDHR was a Chinese scholar, called Zhang Peng Chun. This kindled pride in the contribution of this fellow countryman while making the UDHR part of China's heritage. This campaign was so successful that it led to a statute being erected in honour of Zhang on the campus of Nankai University, where he had been a professor before taking up his role in drafting the UDHR. As a consequence, the UDHR has become a common part of government parlance on human rights.¹¹

These and similar activities are part of a broader drive, led by Chinese academics and NGO's, to ensure that China will remain committed to the international rule based order and will resist setting up a parallel system. This has resulted in the Chinese government launching the concept of 'building a community of shared future for mankind', which expresses China's unreserved commitment to the international rule based order, while at the same time calling on the international community to making it more responsive to the needs and aspirations of countries in the Global South. Thus, in his speech to the UN General Assembly on 21 September 2021, President Xi Jinping stated the following: "There is only one international order, *i.e.* the international order underpinned by

⁹ Katrin Kinzelbach, Will China's Rise Lead To A New Normative Order? An Analysis of China's Statements on Human Rights at the United Nations (2000 - 2010), 30(3) 2012 *Netherlands Quarterly of Human Rights*, 299 - 332.

¹⁰ Tom Zwart, Zai Zun Xing Zhong Tiao Zhan: Wei Zhong Guo De Ren Quan Ying De Geng Duo Zhi Chi, 2017 (1) *Chinese International Law Review*, 3-15.

¹¹ See, for example, the speech delivered by Foreign Minister Wang Yi to the Human Rights Council in Geneva on 22 February 2021, entitled 'A People-centred Approach for Global Human Rights Progress', https://www.fmprc.gov.cn/mfa_eng/wjb_663304/wjbz_663308/activities_663312/202102/t20210223_9889755.html

international law. And there is only one set of rules, i.e. the basic norms governing international relations underpinned by the purposes and principles of the UN Charter."¹²

Second, we are aiming to secure the rights of Muslims, especially their freedom of religion. Thus, during the centenary of the Communist Party academic conference at Jilin University in 2021, while speaking during the opening ceremony in the presence of ministers and Politburo members, I called on the Chinese government to abolish the repressive antiterrorism regime and to guarantee the freedom of religion of Muslims in China to the full.¹³

In addition, together with Chinese scholars and a local Muslim community we are developing a pilot to combat terrorism with the help of Islam and the Muslim community rather than through repressive means. Jihadi terrorists try to legitimise their atrocities by tracing them back to the authoritative sources of Islam, namely the Qur'an and the Sunnah. By teaching young Muslims the proper way to interpret these sources, they can be immunised against being drawn into the terrorist camp. The motto of the project is 'more Islam, not less'.

2.4 Developing peace bottom-up in Israel/Palestine

Since the Middle-East peace process based on the Oslo Accords is stalling,¹⁴ fresh initiatives should be welcomed. Therefore, in 2020 we started to research whether indigenous knowledge can be relied upon to develop an alternative peace trajectory. This has led to a proposal, '*Relying on the grass-roots to build peace*', to generate peace bottom-up, starting at the micro-level.

The situation in the Middle-East is often being portrayed as a conflict between the homogenous Jewish and Palestinian peoples. However research shows that this presumed binary does not represent the facts on the ground.¹⁵ For a proper understanding ethnographic fine-tuning is required. Israel-Palestine actually is a highly diverse patchwork of different ethnic and religious communities. It has been described as an 'enclave society' in which members of different communities only rarely interact,¹⁶ because they strongly prefer the company of the members of their own group.

Nonetheless, such interaction does take place. Members of different communities encounter each other in the corridors that run between the neighbourhoods.¹⁷ In addition, the region is dealing with several challenges, such as water supply, which are

¹² Bolstering Confidence and Jointly Overcoming Difficulties to Build a Better World, speech delivered by President Xi Jinping at the 76th Session of the UN General Assembly on 21 September 2021, http://www.news.cn/english/2021-09/22/c_1310201230.htm

¹³ *The common ground between the localisation policy of the Communist Party and the teachings of Islam*, paper presented during the international academic conference on 'The Communist Party and the Progress on Human Rights in China, International Law Department, Jilin University, 7 April 2021.

¹⁴ Pdraig O'Malley, *The Two State Delusion, Israel and Palestine - A Tale of Two Narratives*, New York, 2015, 20-29.

¹⁵ Yehouda Shenhav, *Beyond the Two State Solution, A Jewish Political Essay*, Cambridge, 2012.

¹⁶ David Lehmann and Batia Siebzehner, *Remaking Israeli Judaism. The Challenge of Shas*, London, 2006, 4 - 20.

¹⁷ Daniel Monterescu, Estranged Natives and Indigenized Immigrants: A Relational Anthropology of Ethnically Mixed Towns in Israel, 39(2) (2010) *World Development*, pp. 270-281, at 278-279.

being dealt with jointly across community lines. This exercise of good neighbourliness can serve as a receptor for building peace bottom-up. Finally, Orthodox Jews from the so-called Mizrahim community meet frequently with Muslim Palestinians belonging to the Islamic movement to discuss religious topics.¹⁸ The Mizrahim, who are the majority group in Israel, are the Jews originally coming from Arab countries,¹⁹ who do not experience cultural distance to the Palestinians. Although these religious meetings take place below the radar, they can act as powerful receptors for bottom up peace.

The research is aimed at uncovering these interactions across community lines, to distil best practices from them and turn them into a replicable toolkit which can assist in bringing peace to the region bottom-up. The goal is to promote a sustainable peace which is culturally embedded, rather than an agreement which exists on paper only. The proposal developed by the Centre has been submitted for consultation to various stakeholders.

III. Het ondersteunen van minderheidsgroepen in Nederland

3.1 Algemeen

Wij staan vaak minderheidsgroepen bij in hun contacten met de overheid. Het doel is om de groepen in staat te stellen om hun mensenrechten te verwerkelijken binnen de democratische rechtstaat. Wij adviseren, onderhandelen en procederen. Zo hebben wij groepen in vijf beklagzaken voor de rechter bijgestaan wegens het niet vervolgen van racistische delicten, op grond van artikel 12 van het Wetboek van Strafvordering. Één daarvan was de beslissing van het Parket Rotterdam om de appende agenten die racistische boodschappen met elkaar wisselden niet te vervolgen.

In 2020-2021 stonden we organisaties in de Zwarte gemeenschap bij toen er spanningen ontstonden tussen deze groepen en enkele instanties in de strafrechtsketen. Vaak ontbreekt het medewerkers in die keten aan interculturele competentie.²⁰ Daarom studeren we nu op mogelijkheden om die competentie te vergroten. Daarover hebben verkennende gesprekken plaatsgevonden met het OM.

3.2 Samenwerking met de moslimgemeenschap

Sinds 2015 staan wij de Nederlandse moslimgemeenschap bij in haar relaties met de overheid. Het doel is de gemeenschap in staat te stellen om op te komen voor haar belangen en die van de islam met behulp van de mogelijkheden die de democratische rechtsstaat daartoe biedt. Centraal staat de godsdienstvrijheid, maar ook het non-discriminatiebeginsel en de verenigingsvrijheid spelen een belangrijke rol.

¹⁸ Nissim Mizrahi and Erica Weiss, 'We Do Not Want to Assimilate': Rethinking the Role of Group Boundaries in Peace Initiatives between Muslims and Jews in Israel and in the West Bank, 7(2) (2020) *European Journal of Cultural and Political Sociology*, pp. 172-197.

¹⁹ Yehouda Shenhav, *The Arab Jews, A Postcolonial Reading of Nationalism, Religion and Ethnicity*, Stanford, 2006; Rachel Shabi, *Not the Enemy, Israel's Jews from Arab Lands*, Yale, 2009.

²⁰ Laura van Oploo, *Culturele Overwegingen in Pro-Justitia Rapportages, Een Empirische en Juridische Studie naar de Plaats en Betekenis van Etnische en Culturele Factoren in Gedragkundige Rapportages*, Den Haag, 2021.

Uitgangspunt is dat de islam en de democratische rechtsstaat elkaar wederzijds kunnen versterken als de gemeenschap en de overheid elkaar vertrouwen. Daarom wordt er voortdurend gezocht naar aanknopingspunten tussen het islamitische en het statelijke recht. Dat is tot nu toe zeer goed gelukt. Er zijn twee factoren die dat succes met name verklaren. In de eerste plaats zijn de Nederlandse en Europese geschiedenis schatplichtig aan de islam omdat deze een enorme bijdrage heeft geleverd aan de Renaissance en de Verlichting.²¹ Zo is het concept van de menselijke rede, dat als fundament voor de Verlichting geldt, ontwikkeld door de islamgeleerde en filosoof Ibn Rushd (en niet door Thomas van Aquino).²² Daarnaast eist de islam van gelovigen in moslimminderheidslanden dat zij de overheid respecteren, de wetten naleven en zichzelf een plek geven in de samenleving. Nederlandse moslims nemen deze verplichting zeer serieus.

Wij staan de gemeenschap bij door het geven van juridisch en strategisch advies en door het geven van cursussen. Samen met de gemeenschap verrichten we *community based participatory research*. Dit heeft geleid tot een onderzoeksvoorstel gericht op het voorkomen en bestrijden van terrorisme met behulp van de gemeenschap en de islam, over de uitvoering waarvan nu gesprekken plaatsvinden met de overheid.²³

Sinds de aanslag op de Twin Towers is de vertrouwensrelatie tussen de overheid en de moslimgemeenschap onder druk komen te staan. De overheid beschouwt de gemeenschap als een potentieel veiligheidsrisico, waardoor de verhoudingen in toenemende mate worden gesecculariseerd. Door middel van repressieve maatregelen - in het bijzonder het strafrecht - wordt geprobeerd met name jonge moslims in toom te houden.

Door enkele recente incidenten is het vertrouwen van de gemeenschap in de overheid zwaar op de proef gesteld. Zo heeft de overheid via een particulier bureau geïnfiltrerd in een aantal moskeeën. Daarnaast heeft de Belastingdienst belastingplichtigen die aan hun moskee doneerden in het frauderegister opgenomen. De verontwaardiging over deze actie is groot.

Samen met de gemeenschap en de overheid proberen we het dieptepunt in de relaties om te zetten in een keerpunt: vanaf nu moet de weg naar boven worden ingezet. Daartoe zijn we een agenda 'Bouwen aan Vertrouwen' aan het ontwikkelen die beoogt de betrekkingen geleidelijk op een hoger plan te brengen. Het doel is dat de overheid het beleid niet langer maakt *over* moslims, maar *samen met* hen. Dat moet dan gebeuren op basis van gedeelde probleemstellingen en gedeelde oplossingen, ook wel cocreatie genaamd.²⁴ Daarbij wordt zoveel mogelijk gebruik gemaakt van de kennis en kunde van de gemeenschap waarbij de islam het uitgangspunt is. Het plan om terrorisme te voorkomen en bestrijden met behulp van de gemeenschap is daarvan een goed voorbeeld. Zowel bij de overheid als de gemeenschap bestaat de goede wil om de relaties op deze manier op een hoger peil te brengen.

²¹ S.E. Al-Djazairi, *The Hidden Debt to Islamic Civilisation*, 2018

²² Sari Nusseibeh, *The Story of Reason in Islam*, Stanford, 2017.

²³ Tom Zwart, Waaronder de Islam en de Moslimgemeenschap Onmisbare Bondgenoten Zijn bij de Bestrijding van Terrorismen, 12(1) (2021) *Tijdschrift voor Religie, Recht en Beleid*, 23 - 44.

²⁴ Christopher Ansell and Jacob Torfing, *Public Governance as Co-Creation, A Strategy for Revitalizing the Public Sector and Rejuvenating Democracy*, Cambridge, 2021.