

**“Global Values in a Changing World”**  
Synergy of State and Society in a Globalized World

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First Lecture: **‘The Universality of Human Rights: The Way Forward’**

Speaker: **Willem van Genugten**, Tilburg University

Moderator: Lars van Troost, Amnesty International

On Monday 18 October, Willem van Genugten, Professor of International Law at Tilburg University and Chair of the Commission on Human Rights of the Dutch government delivered the first lecture in the 2010-2011 SID NL Lecture Series, ‘Global Values in a Changing World’.

**Summary**

In the 65 years or so since the Universal Declaration of Human Rights was adopted in 1948, there have been many legal developments in modern human rights law resulting in the emergence of among other things, the UN human rights treaty system and the Universal Periodic Review process conducted by the Human Rights Council. As a result of these accomplishments, human rights are often seen as one of *the* success stories in the field of international law and international relations since WWII. However, when the Universal Declaration of Human Rights was drafted, it was by and large seen as a self-evident framework for managing the relationship between state, individuals and communities; the core goal of the Declaration being the wish to express what ‘human dignity’ is all about. Nowadays though, many political systems around the world are presenting a different view of human rights.



Van Genugten issued **four warnings** concerning the supposed ‘universality’ of human rights. **(1)** It is too simple to say that the numerous international conventions referring to a huge number of human rights and instruments indeed reflect universally accepted norms as the UN label suggests. **(2)** Universality is not uniformity (already stated in 1998 by the Dutch Advisory Council on International Affairs). The (quasi-) legal answers of states are not as convincing as they look like. Universality does not mean that we should not take local contexts into consideration: regional views need to be taken into account. In principle, all internationally recognized human rights are universal rights

until states can argue on good grounds that an exception to the rule is desirable or acceptable in their situation. **(3)** Many states are urged to accept human rights terminology ('standards') but are not willing to accept external control and criticism by external bodies or independent experts. Also, many states do a lot of window-dressing by inserting human rights standards in their constitutions and by ratifying human rights conventions while adding in numerous reservations, in some cases on a very fundamental level. **(4)** There are frictions between international legal obligations and national (constitutional) legal characteristics of states. Sovereign states tend to have a central government, which is not always (fully) in charge as far as international legal affairs are concerned.

With these four warnings in mind, Van Genugten addressed three important issues when looking at the way forward. First of all, we should aim for a process-like approach in which human rights education is extremely important. The buzz-word should be 'universalisation'



rather than 'universality' which refers to an end station ('human rights *are* universal'). Second of all, a bottom-up-approach is needed to confront those who are politically and legally responsible for upholding human rights with their obligations and to show them a way forward. It is important to include here the perceptions of local communities, as cultural exceptions are mainly voiced by local communities as opposed to states that have ratified human rights instruments. Thus, the discussions on the universality of human

rights occur not only between states and international law, but more so within sovereign states, between national governments and local communities who may practice certain cultural rituals which conflict with universal human rights norms. Third of all, civil society can play an important role in communicating these local perceptions and in contextualizing some of these international human rights norms. These civil society actions should not only be conducted by people with legal training but also by people with other backgrounds such as anthropologists, historians, political scientists, and economists.

