

Conference Report

Amsterdam Law Forum Conference

Legal Perspectives on Gender And Sexual Equality

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Aurorazaal – VU University Amsterdam, the Netherlands

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On May 13, 2011 Amsterdam Law Forum (ALF) held a conference on the Legal Perspectives on Gender and Sexual Equality. For this event, we printed Amsterdam Law Forum in Review, a special issue comprising one article from each previous edition that together presents an overview of the work of Amsterdam Law Forum so far. Organizing this conference was one of our main goals this year, and we indeed look back on an inspiring event with fruitful discussions.

The conference was opened by current Editor-in-Chief Sofie Dreef. She introduced the journal to the audience and gave a brief recount of how the Editorial Board reached the decision to narrow down our scope to articles relating to international and transnational law, specialising in security and criminal law. She stressed the journal's ambition to be a platform for discussion.

We were pleased that Dr. Galina Cornelisse agreed to be the moderator of the day. Galina Cornelisse is Assistant Professor at the Law Faculty of the VU University Amsterdam. She conducts research in the programme 'Legal Principles in the International Context'. Her field of expertise is migration law. Galina introduced the speakers in the first part of the programme, Alderperson Andrée van Es and Dr. Ian Curry-Sumner. The former is responsible for Work, Income and Participation, Diversity and Integration, and Administrative System in the Amsterdam City Council, as well as Chairperson of the Supervisory Board at the Stichting Vluchteling (Dutch Refugee Foundation). Ian Curry-Sumner is Senior Lecturer and Researcher Molengraaff Institute for Private Law, Utrecht University. He is also a researcher at the Utrecht Centre for European Research into Family Law.

In her opening speech Andrée van Es described the diversity of the city of Amsterdam as a strength, yet also a complexity. In dealing with these complexities certain forms of discrimination may arise that affect the overall well-being of citizens. Furthermore, she stated that "legal emancipation is certainly no guarantee that discrimination becomes less prevalent or stops completely" and that is why the local government has a role to play. She also pointed out that all citizens need to be flexible and adapt to the changing nature of Amsterdam as a city of tolerance and freedom. Grassroots organisations of women's groups or the meeting and coming together of diverse groups will help solve certain dilemmas and in building domestic solidarity.

In his speech, Ian Curry-Sumner tackled the complex picture of registered partnership and marriage across Europe. He pointed out that since 1989 there has

been increasing recognition of same-sex couples, though with different results. As he described, the pluralistic model offers registered partnerships and marriages to both same-sex and opposite-sex couples, as is done in The Netherlands. The dualistic model, which was originally seen in Scandinavia, moved from partnerships for same-sex couples and marriage for opposite sex couples, to marriage for all. Curry-Sumner also projected into the future and applied his theories on the two models to other countries in Europe. In a light-hearted manner he was also able to deal with some of the complicated questions such as dissolution of the marriage/partnership and also the rights and duties that come along with both. When posed the interesting question of if his models could be applied outside Europe, Curry-Sumner acknowledged that same-sex couples recognition in Asia and Africa is part of a completely different debate, yet the United States provides the suitable environment to further study the application of the models with favourable results.

After a brief break and a Q & A session, the second part of the day began. In it, the focus shifted towards gender and sexual equality in migration. We first welcomed Dale Buscher, Senior Director for Programs at the Women's Refugee Commission, responsible for programs relating to protection (livelihoods, disabilities, displaced out-of-school youth, gender), reproductive health and detention and asylum. He has been working in the refugee assistance field since 1988 in a variety of capacities and has worked as a consultant for UNHCR where he wrote a field handbook entitled Operational Protection in Camps and Settlements. At the start of his presentation, Buscher used a personal story about a group of LGBTI refugees called 'Les Anges' in Uganda to highlight how certain groups are can have an even more difficult reality than the one that generally affects refugees. The definition of sexual minorities is problematic, no less because self-identification is not always forthcoming, due to the possible stigmas and consequences that may follow. He highlighted that the areas where refugees are fleeing from and fleeing to have restricted views and often impose severe penalties concerning sexual minorities. These same countries have adopted the UN Human Rights Charter and Buscher noted a divergence between policy and practice. In an important link to the next speaker, he expanded on the idea of gender equality to a concept that should also include sexual rights.

Next, Prof. Dr. Susan Martin provided an overview of the more traditional perspective of gender and refugees. She is the Donald G. Herzberg Associate Professor of International Migration at Georgetown University and was involved in the drafting of the UNHCR Guidelines the Protection of Refugee Women. The numbers Martin showed are shocking: today there are over forty million displaced people in the world that, despite multiple international Conventions and Guidelines, have very limited legal, physical, and socio-economic protection. She pointed out that persecution itself can be gendered. The situation in the Democratic Republic of Congo is a clear example of a conflict in which rape is used as a weapon of war. Physical security is problematic when fleeing, but also in the refugee camps, and even when returning to native territory. Martin recounted the story of one refugee woman who told her that she would go out of the refugee camp to collect wood, despite the danger of being raped. When Martin asked her why her husband did not collect wood instead, the woman replied that she might

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get raped, but her husband would most likely get killed. When it comes to socio-economic protection, Martin stressed that the more dependent refugees are on humanitarian aid, the more vulnerable they are, but host governments hardly ever allow them to work. In concurrence with Dale Buscher, Susan Martin stated that it is of utmost important to close the gap between rhetoric and reality,

Our final speaker was Dr. Sarah van Walsum, Associate Professor at the Law Faculty of the VU University Amsterdam. She specializes in migration law, gender and family migration policies, migrant domestic workers and transnational ties. She participates in various research projects, such as the EUROCORES programme 'Migration and Networks of Care in Europe, A Comparative Research Project' and the project 'Cross Border Welfare State'.

Family migration is a controversial issue in the Netherlands. Sarah van Walsum explained the shifting paradigms of the male as the 'breadwinner citizen' and the female as the unpaid provider of care and moral support, towards a more economical, and thus gender neutral, interpretation of the 'worker'. As a result of this change, the position of migrants at the domestic level became a political issue: the relationship between the family, the state and the notion of citizenship was re-defined, further restricting family migration. Van Walsum pointed out that at the same time, European Union migration law has evolved in quite the opposite direction. According to the European Court of Justice, the right to family life is inherent to EU citizenship, regardless of gender. In its rulings the Court has acknowledged the importance of care labour and has indicated that the 'breadwinner citizen' is no longer the measuring stick for being a worker or an EU citizen with the right to freedom of movement. This tension between domestic law and EU law, the speaker said, should be very carefully examined by judges on a case-by-case basis.

After the final speech, the four speakers joined to answer questions, each drawing from their own experience and expertise. With interesting questions from a mixed audience, including scholars, students and activists, and the skilful commentary of the moderator it became a lively discussion.

During the informal gathering afterwards, the speakers and participants had the opportunity to further discuss these issues in a more relaxed setting. It was a successful conclusion to an enlightening event.

The full speech of Alderperson Andree van Es and the articles by the speakers are published in Vol. 3 (2) of Amsterdam Law Forum, Legal Perspectives on Gender And Sexual Equality.