

CELEBRATING CONNECTIONS

A Brief Introduction to the Work of Jeanne Gaakeer

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1. INTRODUCTION

The auditorium of Erasmus University Rotterdam, the afternoon of 13 October 2023. On the stage is a robed figure, taking on the persona of The Professor for a final performance. With her farewell lecture on that day, Jeanne Gaakeer enacted the rite of passage from full professor to professor emerita. Jeanne appreciates such moments of formality, yet is unimpressed by their standard meaning. Her appointment ends, but her work is not finished. As a professor emerita, she is busy as ever: thinking, writing, speaking, creating meaning in the universe of law.

The centre of this volume is the text of her lecture, but that text is given context through the voices of her friends and colleagues who reflect on her work, develop her themes and show how she inspires them to engage with the field of Law and Humanities.

In this brief introduction, we reflect on Jeanne's work and person by sketching a few characteristics that we see as key to understanding what she writes and perhaps who she is. For each of these traits, we showcase texts that can illuminate them and give a sense of the paths she has taken in academia.¹

2. THE THREE DEGREES: ENGLISH LITERATURE, PHILOSOPHY, LAW

Academics traditionally mark their entry into their research field with the publication of their PhD thesis. In Jeanne's case this thesis not only presented her contribution to legal scholarship but also established a new field of research, a new interdiscipline, in Dutch academia. Those paying attention to developments in the English-speaking world might already have noted the growth of 'Law and' movements, particularly in the United States, but for most Dutch scholars this was still relatively exotic. It was Jeanne's dissertation on the work of James Boyd White that, in 1995, brought the field of Law and Literature to the Netherlands. The dissertation was in Dutch, *De waarde van het woord*, but it was clear that its content incorporated many English things. This was particularly fitting because Jeanne could play to one of her strengths: her study of English literature and her extensive knowledge of the English literature canon. The thesis, however, also allowed

¹ We would like to thank Elaine O'Keeffe and Jens la Roi for their assistance in preparing this volume.

her to develop the other two academic disciplines that she had mastered: philosophy and law.

The book is a thorough study of White's work that in the process built a solid foundation for Jeanne's bigger project: convincing European audiences of the importance of Law and Literature. For those unable to read Dutch, there is the shorter English adaptation Jeanne created a few years later – *Hope Springs Eternal*. The affinity with James Boyd White's approach is a constant feature of Jeanne's take on law, literature and the moral dimension of the practices of reading, interpreting and deciding. She engages with the discussion within and about Law and Literature, for instance, with her nuanced take on canonical texts. We may need Great Books, but we also need a critical and open view on which books are great. In her own work, she discusses not only Shakespeare, Conrad and Melville but also the Dutch poet Gerrit Achterberg and the German 'Dichterjurist' Julie Zeh, to name but a few.² Here it is worthwhile to recall her rejection of an essentialist view of the Great Books reading list: such lists are perfectly acceptable, if we keep in mind that they have a function in providing inspiration to new readers and if we make sure that the lists evolve.³

Introducing Law and Literature in the Netherlands was only the first important step in the development of Jeanne's interdisciplinary endeavour. Engaging with the expanding field of Law and Literature within Europe, she found that European scholars were focused mainly on American models and themes. To overcome this bias, Jeanne pursued the mission to 'Europeanize' Law and Literature, in an expansive rather than oppositional manner, since she, as a literary-legal nomadic judge, is always keen on hearing the other side.⁴ Therefore, she encourages the thorough and critical study of, and dialogue with, American Law and Literature, while also emphasizing the

2 These are just a few of the many different literary works she discusses; for these see: J. Gaakeer, 'De verborgenheid der ongerechtigheid: Over Billy Budd, Sailor', in W. Witteveen and S. Taekema (Eds.), *Verbeeldingsmacht: Wat juristen moeten lezen*, Den Haag, Boom juridisch, 2000, pp. 215-221; J. Gaakeer, "'The Word that Coincides with You', the Poet Gerrit Achterberg's Experience with Law and Forensic Psychiatry', *Revue Interdisciplinaire d'Etudes Juridiques*, Vol. 61, pp. 49-71; J. Gaakeer, "'The Bloody Book of Law', Some Remarks on the Interrelation of Law, Medicine, and the Behavioral Sciences in William Shakespeare's 'The Tragedy of Othello the Moor of Venice'", in K.-M. Simonsen and D. Tams (Eds.), *Law and Literature, Interdisciplinary Methods of Reading*, Copenhagen, DJØF Publishing, 2010, pp. 21-32; J. Gaakeer, "'Exterminate All the Brutes", Tegenstrijd als paradigma van broederschap en onmenselijkheid in Joseph Conrad's Heart of Darkness', in C. Bouteligier and A. Ellian (Eds.), *Fundamentele Verhalen, Over recht, literatuur en film*, Amsterdam, Boom Uitgevers, 2014, pp. 359-388; J. Gaakeer, *Judging from Experience. Law, Praxis, Humanities*, Edinburgh, Edinburgh University Press, 2019 (Achterberg and Zeh); J. Gaakeer, "'Select before You Collect": Uses and Abuses of Profiling and Data Mining in Law and Literature', *Polemos, Journal of Law, Literature and Culture*, Vol. 14, 2020, pp. 57-71 (on Zeh).

3 J. Gaakeer, 'De canon in recht en literatuur: Van Wigmore via Weisberg naar het WorldWideWeb?' in Witteveen and Taekema, 2004, pp. 19-35.

4 J. Gaakeer, 'European Law and Literature: Forever Young. The Nomad Concurr', in H. Porsdam and T. Elholm (Eds.), *Dialogues on Justice: European Perspectives on Law and Humanities*, Berlin, De Gruyter, 2012, pp. 44-72.

importance of European cultural inquiry to do justice to the historical development of law in Europe.

In 2007, together with Greta Olson, Jeanne founded The European Network for Law and Literature Research (ENLLR). Through this network, they aimed to increase communication and collaboration among scholars across all of Europe.⁵ The network offers the opportunity to meet and exchange ideas, work and viewpoints and serves as a forum for discussion. Here, another important personal and professional characteristic of Jeanne comes to the fore: she has the ability to connect people. For example, she instigated a PhD reading group, where junior researchers in Dutch Law and Literature could meet and discuss their ideas departing from a work of literature. Today, these researchers are still connected (two of them have co-edited this volume). Jeanne always encourages and stimulates young scholars to form their own thoughts, especially when these involve connecting law with humanities themes. She wholeheartedly supports the new generation of Law and Literature scholars and always provides guidance and help.

It is clear that Jeanne is one of the pivotal figures in the development of European Law and Literature. The list of contributors in this volume confirms this, with contributions by scholars from the Netherlands, Belgium, France, Germany, Ukraine, Norway, Italy, Australia and the United States who are all connected through the work and person of Jeanne.

3. TEACHING LAW: LEGAL DOCTRINE IN CONTEXT(S)

For international readers of Jeanne's work, her Dutch teaching career in law may be less known. During her time at Erasmus University Rotterdam, she taught different bachelor courses in law, and for these courses she also developed innovative textbooks and materials. Jeanne taught the course 'Introduction to legal scholarship' for many years, as well as other courses in which doctrinal subjects were combined with theoretical reflection and socio-legal insights. The Rotterdam programme had a unique 'Integration course' at the end of the first year, which combined various subdisciplines to take on a particular theme that varied over the years, such as evidence, causality or expertise. The core text for these courses was the book *Meesterlijk recht*, co-written by Jeanne with Marc Loth, in which a contextual vision of law is developed that can be recognized in many of Jeanne's other works. A key feature of this work is the importance of the profession of the

5 The network collaborates with ISLL (Italian Society for Law and Literature), the Nordic Network for Law and Literature, AIDEL (Associazione Italiana di Diritto e Letteratura), Digitales Fundheft "Literatur und Recht", CNLH (Canadian Network of Law and Humanities) and, more recently, OSL: Netherlands Research School for Literary Studies.

jurist⁶ in the context of teaching. It is not enough to educate students in the principles and concepts of legal doctrine; they also need an awareness of the roles lawyers perform and, importantly, sensitivity to the ethical dimension of these roles.

The vision of law that Jeanne puts forward to make this road to professionalism possible is a deeply contextual one. There is always an important historical component in her work, because we need to be aware of what formed the law that we have to work with today. There is also a philosophical component: in order to understand law, we need to be familiar with the ideas behind its concepts, principles and values. These two dimensions, the historical and the philosophical, are joined in the history of ideas that has a prominent place in all Jeanne's textbooks. Moreover, history and philosophy not only provide ideas but also furnish stories, stories that help to grasp what law is about. How can the perplexity of the authority of law be better introduced to beginning law students than by the trial of Socrates? The third crucial dimension is the linguistic one: language is the tool of law, and this implies that lawyers act through language. This is not just a basic insight that all students need to be aware of but also one that has wide-ranging consequences. Language matters in legal decision-making, and this means linguistic openness and the ensuing interpretations are key in understanding legal cases. It also means that all jurists bear responsibility for their use of legal language. Mindful of Robert Cover's warning of the violence of law,⁷ Jeanne emphasizes what law's language does to people. The importance of legal ethics arises out of this connection. Here, we also confront law's social context: law is part of society, in that it arises out of, and feeds into, social practices. Although Jeanne is not a socio-legal scholar in an empirical sense, she takes on the central realist message that law in the books does not determine law in action.

While the study of law is thus a multifaceted contextual endeavour, the teaching of law also has a special bond with narrative, more precisely with the use of literary tales. The best example of Jeanne's approach to using literature in legal education is her introduction to law entitled *Recht op verhaal*.⁸ In this short book, Antigone, Michael Kohlhaas, Josef K. and Shylock make their appearance to introduce the classic themes of a legal introduction. The literary figures meet the protagonists of classic case law and are embedded in a rich explanation of doctrinal concepts and principles. Such acts of connection are one of the most typical features of Jeanne's work, more generally: narrative is everywhere, its beauty perhaps found in literary works, but the riches of detail found in the narratives of legal cases are equally intriguing. Such cases may also

6 We use this term rather than lawyer to echo the idea of Roger Cotterrell of the jurist as someone responsible for the integrity of the legal order. This resonates strongly with Jeanne's ideas about the profession. R. Cotterrell, 'The Role of the Jurist: Reflections around Radbruch', *Ratio Juris*, Vol. 26, No. 4, 2013, pp. 510-522.

7 R. Cover, 'Foreword: Nomos and Narrative', *Harvard Law Review*, Vol. 97, 1983, pp. 4-68, p. 40.

8 The ambiguity of the Dutch is lost in translation. It is the right to a story but also the right to redress.

be echoes of literary stories in unexpected ways and moments. Jeanne has a special sense for discovering such stories in case law, sometimes moving, sometimes slightly bizarre. And she knows how to put them to educational use. The Dutch judge who recited the old poem ‘Jantje zag eens pruimen hangen’, in which a little boy steals plums despite his father’s prohibition, at the trial of a theft suspect became an apt illustration of the principle of impartiality in the introductory textbook.⁹

Although cases and stories serve to draw students’ attention and help them see what law is about, there is an important theoretical point about law that Jeanne is making here. Law is not an abstract matter: it plays out and becomes known in the circumstances of the case. We may pretend to know what law means when we discuss statutory rules or general principles, but meaning is ultimately found in confronting the facts. Facts are here certainly not those of Mr. Gradgrind in Dickens’ *Hard Times*, the statistical hard facts; rather, they are the particular, maybe even peculiar, details of the practical situation that impact the interpretation of the rules, co-determining the decision. Sometimes, they are the facts of Sissy Jupe, the things people value, even if the law does not acknowledge them. A boy drowned in a hospital pool after being left unsupervised. His parents did not want damages but only the legal acknowledgement of the hospital’s fault. In Dutch liability law, this was not possible: damages had to be claimed. Thus, a case may show the limits of the law.¹⁰ Only a contextual account of legal problems can give us a sense of what legal doctrine can and cannot do.

4. THE INTERTWINEMENT OF THEORY AND PRACTICE

Law and Literature is regarded as one of theoretical subdisciplines of law, yet it touches legal practice. Expanding on the way theory and practice of law relate has become an ever more prominent theme in Jeanne’s work. To make these connections, she can draw on her two careers, the academic professor of legal theory and the senior judge in the Court of Appeal. Although there are many examples of the strong connection between theory and practice in Jeanne’s work, two of these examples may serve to show both the breadth and the depth of the bond: the course for judges and her monograph *Judging by Experience*.

The first, also chronologically, is Jeanne’s central role in the professional course for judges on Law and Literature. The course is run as a three-day summer course, as part of the curriculum for permanent education for judges (and later also public prosecutors). From the start, the idea was to use Law and Literature as a lens through which the

9 S. Taekema, J. Gaakeer and M. Loth, *Recht in context: Een inleiding tot de rechtswetenschap*, Den Haag, Boom juridisch, 2023, pp. 295-296.

10 Ibid., pp. 323-324.