In memoriam Eltjo Johannes Hidde Schrage, 1945–2023

On March 10 2023, Eltjo Johannes Hidde Schrage passed away in Amsterdam. He was laid to rest in his ancestral village of Nieuwolda (Oldamt), in the province Groningen.

Eltjo Schrage studied law at the University of Groningen from 1964 to 1968, where he was attracted to legal philosophy and excelled in his exam with the leading scholar of that field, Gerard Langemeijer, whose monograph Gerechtigheid in ons burgerlijk vermogensrecht he updated in 1994. His Master’s thesis subject was the causa of contracts in Dutch private law.

In 1969 he became a junior lecturer at the Vrije Universiteit, at a time when its orthodox protestant roots were clearly discernible. He felt at home there, for they concurred with his own Calvinistic beliefs. The same year he married Anneke Buitenbos, whose later wish to study theology and to be a minister in the Dutch reformed church he encouraged and supported full heartedly.

He was appointed as assistant of Koos Verdam, who held the Chair of Roman Law and Private International law from 1945. But within a year Verdam was appointed provincial governor of Utrecht, and Eltjo Schrage, at an age of 25, was charged with all responsibilities for the teaching of Roman law at the Vrije Universiteit. After a sabbatical at the Netherlands Institute for Advanced Studies (NIAS) in the academic year 1972/73, he obtained his doctoral degree at Leyden University in 1975. His dissertation is entitled Libertas est facultas naturalis, Menselijke vrijheid in een tekst van de Romeinse jurist Florentinus. His supervisor, Robert Feenstra, also introduced him to the many secrets of research in medieval and early-modern Roman law, which would soon become one of his areas of expertise, as is foreshadowed in the title of his 1976 inaugural lecture as Reader in Roman law: Action and right, Roman and medieval roots of a modern concept (Actio and subjectief recht, Romeinse en middeleeuwse wortels van een modern begrip). In 1980 he obtained the Chair of Roman law, because a 1980 statute made all readers into professors. In 1979 he became a deputy judge in the Amsterdam District Court, soon thereafter, in 1983 deputy-justice at the Amsterdam Court of Appeal. In that same year, 1983, he was appointed to the Board of Governors of the Rijksinstituut voor Oorlogsdocumentatie (representing the protestants in a still pillarized Dutch society). In 1997, having

1 Whence there is no inaugural address concurrent with this professorship.
served as its president in a time of transition from 1989, he was awarded a royal decoration. In 1998 he changed the Chair of Roman law at the Vrije Universiteit for a Chair in the foundations of private law at the University of Amsterdam, where he was offered a position of vice-dean for research and director of the Paul Scholten Institute (for research in the foundations of ethics and law). His 1999 inaugural lecture is entitled: *Partij en derde, De bevoegdheden van crediteuren ten aanzien van het wilsrecht van de legataris*. He was invited to be Visiting-Fellow at Magdalen College Oxford and Trinity College Cambridge. He held the prestigious TPR Exchange-Chair in 2005, teaching ‘Art and Law’ at Leuven. One year before his retirement in 2010, he was appointed honorary professor at the department of private law of the Nelson Mandela University in South Africa. His inaugural lecture on August 24 2009 was entitled: *The role of private law in promoting social justice*\(^2\). Since 2010, as emeritus professor, he remained involved in research and teaching, but also enjoyed spending time with his wife, four children and eight grandchildren: babysitting the infant twin and teaching Latin to his teenage granddaughter, for sure slipping in some Roman-law tidbits.

His numerous publications concern both legal history and private law, their subject varies from the trial of Jesus\(^3\) to potestative conditions in Dutch law. His two fields of interest, medieval Roman law and comparative private law, meet seamlessly in the four volumes he initiated and edited of the prestigious series ‘Comparative Studies in Continental and Anglo-American Legal History’: one on the law of restitution (1995), one on the law of torts (2001), one on the third-party contracts (2008), and one on the law of limitation and prescription (2019). This meant bringing together specialists from different common law and civil law jurisdictions, facilitating debate amongst them in a spirit of critical co-operation, editing their papers, and summarising their findings in an introduction, which in its phrasing rises above the terminology and technicality of each separate legal system, and seeks out the points of real similarity and difference. That required (as Sir John Baker wrote in his Preface to the last volume Eltjo Schrage edited) leadership, scholarship, patience and diplomacy, not to mention a keen awareness of linguistic and cultural differences. Qualities he exhibited in abundance, making the participation a pleasure rather than a chore for all who were involved with him, not least through his generous and memorable hospitality\(^4\).

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2 Published in the Nelson Mandela University law journal *Obiter*, 32 (2011).
Always immaculately dressed in three-piece suits, Eltjo Schrage was the proverbial professor, eloquent and humorous in his lectures, erudite and witty in his speeches at the dinner table and at the doctoral ceremonies of his many pupils, an excellent host at his home in Ouderkerk. Furthermore, apart from his talent in raising funds, which a.o. facilitated the transcription of the *Casus Codicis* of Guillelmus de Cabriano (by Tammo Wallinga) and the edition of the *VOC Ceylonese Statutes* (by Lodewijk Hovy), another trait of his should be mentioned here: In the mid 1990’s, subsequent to a visiting-professorship at Cape Town, he forged links between the Vrije Universiteit, the University of Pretoria, and the University of the North (now University of Limpopo). His program enabled its staff and students to obtain post-graduate law degrees abroad. For many years he returned to lecture, to supervise South-African Ph.D. students, and to mentor an even larger number of academics. He was also twice the promotor of an honorary doctorate, one granted in 1995 by the Vrije Universiteit to the rector of the University of the North, Njabulo Ndebele, the other awarded in 2002 by the University of Amsterdam to Arthur Chaskalson, the chief justice of South Africa. In 2014, his South-African students and colleagues honoured him with a Festschrift entitled: ’De iure gentium et civile’, complementary to one by his European pupils and friends, published in 2010.

One publication, perhaps, best reflects Eltjo Schrage’s person. It is a booklet, written in Dutch, containing five essays linking the Bible, ethics and law, entitled *The path of justice*. It is the path he sought to follow.

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5 The university was established in 1959 under the apartheid regime’s policy of separate ethnically-based institutions of higher education. The apartheid regime was repealed in June 1991.

Supplementary bibliography of Eltjo J.H. Schrage

Monographs

Editions of works by others

Articles and parts of books

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7 Supplementary to the list of 206 publications in *Ius Romanum – Ius Commune – Ius Hodiernum*, p. xiii-xxxii.


231. Bare pacts are not enforced by actions, With an edition of the commentary to this rule and its exceptions by Symon Vicentinus, in: Cui bono, Księga jubileuszowa dedykowana Profesor Annie Pikulskiej Radomskiej, ed. L.J. Korporowicz and D. Skrywanek-Jaworska, Lodz 2020, p. 521-534.


Book reviews


Miscellaneous
