



Can human rights lawyers and legal academics support human rights defenders in new ways?

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Abstract: Understanding human rights law as a discourse of preventative practice, rather than remedy, can support preparedness in the face of large-scale emergencies, like the ecological crisis, but also in the face of 'everyday' emergencies faced by human rights defenders.

Human rights lawyers and legal academics might use their skills to support human rights defenders in very concrete and urgent ways, but how might they – myself included – support in ways that are perhaps more holistic and preventative? While they might assist with complaint writing, deciphering official letters, or offering legal representation in pressing remedial matters, are there other ways to support the implementation of human rights law, including from a distance?

I have been reflecting on this question, prompted by my participation in a research-for-development project, the [One Ocean Hub](#). As a large group of researchers working across several countries and an international team, we have been promoting [fair and inclusive](#) decision making for a healthy ocean. We have worked with communities, decision makers, and a range of partner organisations

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from local to international scales. Much of the focus in this project has been on traversing disciplinary ways of thinking and diversifying knowledge sources, but I have also wondered about the specific role of human rights lawyers and legal academics as I navigated my own contributions. In this post, I share reflections on how understanding human rights law as a discourse of preventative practice, rather than remedy, might support human rights preparedness.

How does human rights law connect?

In the One Ocean Hub, I've been interested in understanding ways that human rights law narratives are, or can be, used by different actors and in new contexts. Being exposed to the work of colleagues undertaking academic-community collaborations in support of human rights defenders has given me an opportunity to think about the role of a human rights law lens.

For example, in South Africa, the [Coastal Justice Network](#) has built on longstanding relationships to develop a network of small-scale fishers' leaders, environmental and legal NGOs, and researchers within academic institutions to defend against a range of [extractive and exclusionary](#) practices. Some human rights lawyers/academics may be scholar-activists and play a translation role as described in Sally Engle Merry's work on human rights '[vernacularisation](#)'. They might translate transnational human rights discourse into local vernaculars in ways that allow it to be used, and to be useful, at the grassroots, with one foot in transnational practice and one foot in local practice.

Others – again, myself included – might have a foot neither in transnational advocacy, nor on the ground in local struggles within any particular project. What can we contribute that might progress the work of human rights defenders? It seems to me that part of the answer should lie in how we can help connect human rights law to other legal regimes in the ways that we talk and in the research that we do. While law of one kind or another was everywhere within the community-based struggles that I observed early in the project – domestic state law, customary law, constitutional law – human rights law specifically was present but not prominent (for an example of how human rights framing was included later in the project, see a recent [workshop report](#)).

It would be a gross oversimplification though to simply assert that local struggles should be framed more strongly in fundamental constitutional rights or international human rights language. Instead, we need to understand and share how human rights law can connect with, echo, or add to other relevant legal regimes and local framings of justice struggles in very precise and often uneven ways.

There is a need to identify and communicate entry points for human rights law as an additional component within pre-existing discourse; in a sense, to inject a human rights law framing as a 'top-up'. This is a form of diffuse integration rather than direct vernacularisation of human rights law, which respects the complex

fluidity of the intermingling of different discourses and state duties. This means that human rights can infuse the gaps in-between, in localised processes and accountability spaces.

When does human rights law connect?

This kind of work by human rights lawyers and legal academics in support of human rights defenders requires a broader view of human rights and a different perspective on timescales for intervention. In the contexts that I have observed, my impression is that human rights language tends to be associated with legal enforcement mechanisms and viewed as last-resort, often after-the-fact litigious claims. The limitation is not when human rights are seen as being about law, but when they are presumed to be about courts; it is not when human rights are seen as being about remedies, but when they fail to be seen as relevant for everyday decision-making. There is a need to amplify a perception of human rights law as standards to be integrated in states' operational and strategic decision-making at all levels.

Human rights lawyers and legal academics can contribute to amplifying this understanding of human rights law as a discourse of decision-making and practice rather than only contentious legal challenges. We can help to inject and connect human rights law to other legal framings in mutually supportive ways where possible, and help reveal tensions where present.

In this sense, a discourse of human rights law as decision making can support preparedness. In the case of the One Ocean Hub, as Elisa Morgera discusses in a [post](#) for this blog, local struggles have promoted human rights to, for example, food, to take part in cultural life, and to a healthy environment, arguing for ways of interacting with the ocean that sustain it, sustain communities traditionally connected to it, and indeed the right to life of all since human life depends on the ecosystem services that the [ocean provides](#).

Ocean-connected human rights defenders are faced day-to-day with the ecological emergency, but for all human rights defenders in all contexts we can say that their work is always facing an emergency, as they deal with urgent human rights risks. Many human rights defenders, and those supporting their struggles, carry the burden of human rights implementation and failed implantation in daily state practice, when it should be carried instead by human rights duty bearers. We can support a role for human rights law that enters these struggles before emergencies take on greater proportions with more devastating consequences.

What does this mean for the way in which human rights lawyers/academics, who may not themselves be embedded in local justice struggles, are able to recognise and support human rights defenders?

We need to be willing to listen to what people want to say, not just a little bit of what we would quite like to hear. We need to understand context, including

historical complexities, and the priorities within a particular setting. We need to be precise in how we use and advocate the use of human rights language, and offer our legal knowledge to help disentangle and reconstruct legal frameworks to communicate an integrated picture that human rights defenders and advocates can situate their struggles within where beneficial. This is one complimentary role that we can support, to increase the potential of human rights law to make the most meaningful range of contributions, including in the face of the 'everyday' emergencies faced by those defending their own and others' human rights.