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### Realizing rights: signs of a promising romance between human rights law and sociology

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Of course, the field on which the rapprochement between the two disciplines takes place is vast, and covers scholarship ranging from large-scale quantitative surveys on rights realization to anthropological fieldwork on rights discourse with Bolivian ngo's. What all these studies have in common, however, is their departure from the normative assumption of the *universality* of rights, as a given, in exchange for a more empirical interest in the *universalization* of rights, as a process. In looking into this process of *universalization* there appear to be seven dimensions which, in conjunction, can serve as indicators of the realization of rights: the institutional, the cognitive, the affective, the discursive, the mobilizing, the constitutive and the realizing dimension.

The *institutional* dimension is still within the realm of classic human rights research. It looks into, amongst others, the ratification of treaties, their enactment within the domestic context, and their interpretation by national and international courts. The International Law in Domestic Courts database is an interesting example here. In addition, there is an increase in research on those institutions put in place to monitor compliance with international human rights; from public protectors to national human rights institutes to specialized bodies like Commissions on Equal Treatment.

Where social scientists step in is, for instance, in looking into the *cognitive* dimension. What do the people at large, and specific groups like the police, the judiciary and educators know about the concept and the contents of particular human rights instruments? Research by the Dutch chapter of the FIDH, for instance, pointed at a lack of knowledge of human rights in the Netherlands, as did more recent research by the author. In a similar vein, Victor Gedzie, a PhD student at the ISS, points at the lack of knowledge of women's rights as one of the main reasons for discrimination in succession cases in Ghana.

Closely related to this, social scientists have also developed an interest in the *affective* dimension of human rights, which encompasses support for a wide variety of rights. Scholars like An Na'im have pointed out how rights discourse is accepted more easily if it resonates with religious and cultural traditions. Merry, in this context, has written about the importance of the "vernacularization" of rights and the role of "translators" in this process. The rapidly expanding field of transitional justice also relies strongly on quantitative and qualitative research that maps out the support for trials, truth commissions and traditional mechanisms in a given context.

Another element to be distinguished is the *discursive* dimension, which looks into the degree to which social problems are framed in rights discourse. Whereas a woman seeking access to land in a setting in which communal tenure prevails would traditionally base her claim upon a particular version of customary or religious law, she will increasingly also refer to her lack of land as a rights violation. Robins, to give another example, describes the discursive strategies of people suffering from hiv/aids in South Africa and how rights talk has become the main avenue of social activism in this field. Of course, political scientists like Glendon have, in an early stage, pointed at the limits of making public policy on the basis of – particularly – claims to individual rights.

The *mobilizing* dimension zooms in on the degree to which, and the way in which, rights are actually mobilized, by individuals or

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It is far too early to speak of a full-fledged love affair but there are definitely telling signs of a mutual interest between human rights law on the one hand and the sociology of rights on the other. The reasons are clear: after decades of strong emphasis on standard-setting and institutionalization human rights scholarship has sunk its teeth into issues of enforcement. Inspired by – amongst others - the

coming about of the ICC and the strides in the field of socio-economic rights there is a notable emphasis on "realizing rights", human rights impact assessments and issues like access to justice. Sociologists, on the other hand, have let go of their initial disdain for the individualist, normative human rights discourse in the face of the rise of rights as, in Ignatieff's words, one of the main languages of globalization.

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collectives. Whilst early sociological research, like Scheingold's and Epp's, looked into the role of lawyers, there is by now also a large body of scholarship on the crucial role played by civil society in this respect. Jeff Handmaker, for instance, defends a PhD titled *Advocating Accountability* on the role of civil society in realizing refugee rights in South Africa at Utrecht University later this year. Similarly, Marlies Glasius wrote a fascinating study on the ICC as a global civil society achievement.

The *constitutive* dimension of human rights covers a concern with the intended and unintended effects of rights discourse with global unequal power relations. To what extent does rights talk amplify certain voices and silence others? What are the limits to rights-based identities and subjectivities? To give one example; the increase in recognition of indigenous rights has in some cases given rise to ethnogenesis, to the creation of cultural groups instead of their mere recognition. Whilst this might be necessary in order to gain access to natural resources, this does not always strengthen – for one – the position of women within a given community.

A final interest is the extent to which the aims embodied in human rights legislation are actually *realized*. Here human rights lawyers come into the picture again, with an interest in evaluation reports, the findings of treaty monitoring bodies and shadow reports. Nevertheless, it is in explaining why certain rights do (partially) get realized, and others not, that it is so important to understand the other dimensions and the structural conditions which shape them.

It is for this reason that it is to be hoped that the advances between human rights law and sociology move beyond a mere amorous flirtation towards a full-fledged relationship.

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