BOOK PROJECT

Looping for Human Rights: An Ethnographic Theory of Expansion
Research Sabbatical funded by Riksbankens Jubileumsfond (8/2023-7/2024)

Miia Halme-Tuomisaari (Associate Professor in Human Rights Studies, Lund University)
Presentation on 10 October, 2023 (Room S12) at the Tuesday Seminar, Anthropology and
Sociology Departments, The Graduate Institute of International and Development Studies

Abstract

How does a societal concern turn into an uncontested human rights issue? Using a pioneering approach, this book will engage with this question by developing an ethnographic theory of expansion. In everyday parlance, human rights are cast as tools for addressing social injustices. Yet not all injustices acquire prominence as recognized human rights issues in international monitoring, state policies, legislation, and NGO lobbying: while LGBTI+ rights have become mainstream, the rights of the elderly, for example, have remained marginalized. Based on prolonged, multi-sited research of UN human rights monitoring practices, state reporting, NGO activism and previously unstudied primary data at UN archives, the monograph will theorize the 'looping' practices through which human rights insiders maneuver within the opaque transparency of human rights bureaucracies to expand the scope of what becomes accepted under the human rights umbrella. Simultaneously, the book explores the kinds of material and knowledge capital influence requires. Building upon recent anthropological work on bureaucracy, expertise, and documents, it will make a significant contribution to human rights studies and the study of global collaboration, international organizations, and soft law. Finally, it reflects upon global power dynamics: has the conceptual expansion of human rights resulted in an unambiguous realization of their egalitarian potential or instead become a mechanism for reincarnating privilege?

Introduction: "Looping" at the Palais Wilson

"You know, this issue was way ahead of its time—no work had been done to prepare the ground." We are standing on the terrace outside the cafeteria of the Palais Wilson, headquarters of the UN Office of the High Commissioner for Human Rights (OHCHR) in the heart of Geneva. Lac Léman in front of us has developed gentle waves. It is warm, but somewhat windy, as is often the case by the water. The day has already turned toward the afternoon and we should be heading back indoors as the UN Human Rights Committee is likely back in session. Yet, I delay finishing my coffee just a little longer as I hope to learn more about how one maneuvers inside the opaque transparency of the UN human rights apparatus to make one's case, "to form an issue". My interlocutor, an NGO delegate of British origin in his 50s, knows this and more, having been engaged in human rights work for decades, thus embodying significant institutional memory. Preparing the ground and "ripening an issue," getting information in the right hands—a textbook example of the "looping" processes of social negotiation via which things really are done.

I ask John how he first got involved in UN human rights work. He says he had first entered UN treaty body proceedings in 2002 after getting the first NGO to accredit him. He soon pursued study of one particular issue, conscientious objection, that was not addressed by the Human Rights Committee, and realized that, since no such survey existed, this could be a case for which it might be possible to receive funding. This assessment turned out to be correct, as he has been able to win funding for his lobbying efforts up until the present. In other words, he managed to find the right niche to professionalize his lobbying efforts in the enormously competitive field of human rights activism.

The first time the issue was introduced as an individual communication, it was considered inadmissible since it was not seen as something that the Human Rights Committee or the ICCPR addresses. Yet, slowly things start to change. John recounts how, in this change, different moments of engagement build upon each other: he describes going back and forth between the Human Rights Committee and the Human Rights Council, first trying to get the committee to note or recognize something that he authored – in the public Constructive Dialogue, the UN press script or even the Concluding observations that the Committee issues on the basis of periodic reports presented to by state parties to the ICCPR - so as to be able to

take that work back to the council as the view of the committee, of course not as a view of "John as quoted by the committee."

The same logic functions across the board of issues that the UN Human Rights Committee and other UN treaty bodies address. To think of LGBTI+ issues, with any luck, the UN press secretary picks up the topic and publishes it in the daily summary of the session. An NGO could then pick this mention up and use in their own PR and share with the press of the NGOs home state. Further, if LGBTI+ issues are raised at the Constructive Dialogue, this increases the likelihood that they also end up as part of the Human Rights Committee's Concluding Observations. The NGO could then take advantage of this during the next hearing of a UN human rights monitoring mechanism, for example, during a Human Rights Committee Universal Periodic Review, or the CEDAW Committee. In other words, achieving a mention in the Constructive Dialogue provides needed raw data for looping, which, in turn, contributes to creating and sustaining dialogue. Jointly, all this helps to "mature the ground", as John characterized the process, for a continuously more solid conception that the issues in question, such as LGBTI+ concerns, are undisputedly a core human rights issue, both in Finland and internationally.

Introduction to Book Project

How does a societal concern become an uncontested human rights issue? This monograph will pose this question by developing an ethnographic theory of expansion. In the seven decades since the first reference to human rights in the UN Charter's preamble (UN 1945), the concept of human rights has expanded tremendously: today, it seems difficult to grasp that a few decades ago, the question of whether women's rights were unquestionably 'human rights' was up for debate (Cook 1994; Sikkink 2015). Today, human rights refer to an almost endless range of concerns. Indeed, some ask if, in the Anthropocene, human rights should transcend not only the human-animal, but also the animate-inanimate divide (Grear 2018; Bétaille 2019; Celermajer & Lefebre 2020).

In human rights scholarship, expansion is commonly approached as favorable development representing a natural-law-like progression of the unilinear evolution of mankind (Halme-Tuomisaari & Slotte 2015). The mechanisms via which the concept of human rights expands are mostly accepted without problematization or analytical curiosity. Apart from a few case

studies (Kelly 2011; Diggelman & Cleis 2014; Kessler 2013; Reiners 2021), scholarly attention has not been directed at patterns of human rights expansion between centers and peripheries (Wallerstein 2004). In anthropological scholarship, the most influential theory of human rights formation is Merry's (2006) work on vernacularization (Merry & Levitt 2016). Merry's work has given rise to collective efforts to study how human rights notions transform in practice via individual case studies (Destooper & Merry 2018). This work, however, does not explore the transformation of human rights in global 'centers'.

This book will redress the oversight through a systemic exploration of the strategies, techniques, and sentiments that accompany transformations of human rights (Simpson 2015; Cowan 2020; Vilaca & Varaki 2021). It examines the multifaceted patterns via which human rights concepts change from everyday parlance to NGO initiatives presented in front of international monitoring bodies to arguments in academic publications, policy guidelines, pieces of legislation, and arguments in court proceedings. It documents the micro- and macroprocesses of 'looping' via which human rights concepts meet the concerns of changing times, political visions, and ideological currents.

This book asks who are the individuals and groups that influence looping processes. It traces professional affiliations and scholarly backgrounds to map the cultural and knowledge capital required for membership in the transnational community of practice (Levi & Wenger 1991) of human rights insiders. It dissects how these attributes transcend state, NGO, and international organization (IO) borders. It discusses the empirical sameness that characterizes influential human rights insiders in different sectors and the consequences of this (Halme-Tuomisaari 2021), offering unprecedented insights into the global expansion of human rights consciousness, scholarship, law, and bureaucracy.

This book exemplifies looping practices through the example of LGBTI+ rights. Over the past two decades, LGBTI+ rights have ascended in status from a marginal, contested, even nonexistent human rights issue to holding an increasingly solid place at the center of contemporary human rights (Sanders 2002; Thorensen 2014; Langlois 2015; McGoldrick 2016; Bosia, McEvoy & Ragman 2020; Lalor 2019; Rayside 2020; Thorensen 2020). This shift likewise occurred in UN human rights monitoring, the ECHR, and state legislation around the world (Ayoub 2014, 2016; Ayoub & Kelly 2020; O'Flaherty 2015; Harrison & Michelson 2017), assisted by activities in domestic courts (Helfer & Vouten 2014). A

tremendous change in public opinion, mirroring the emergence of a global LGBTI+-movement (Garretson 2018; Belmonte 2020), also occurred. This book investigates the techniques and strategies LGBTI+ activists use to successfully lobby for the expansion of 'everyone' in UN human rights treaty bodies, the Human Rights Council's Universal Periodic Review (UPR), and regional human rights courts.

By contrasting the shifting position of LGBTI+ rights with the ongoing marginalization of the human rights of the elderly, this book reflects on why this difference exists. It connects these findings to global power dynamics, asking: has the conceptual expansion of human rights resulted in an unambiguous realization of their egalitarian potential or become a vehicle for regeneration of privilege?

Methodology and Theory

This book emerges from two decades of research on the post-World War II human rights phenomenon examining human rights education, expertise, bureaucracies and lobbying (Halme-Tuomisaari 2010, 2012, 2015b, 2020, 2021). It engages with cutting-edge 'global' ethnographies studying IOs as 'palaces of hope' among others (Niezen & Sapignoli 2017; Greenberg 2018; Clark 2019; Cowan 2021; Halme-Tuomisaari 2016, 2017, 2020). As a 'multi-sited,' 'extended,' 'deterritorialized' ethnography (Rabinow et al. 2008; Deeb and Marcus 2011; Andersson 2014), this book builds on Feldman's (2011) distinction between direct social 'relations' and mediated social 'connections.' The methodology of 'exaggerated transparency' the author (Halme-Tuomisaari 2018) developed assures access to fieldsites.

Ethnographic data come from anthropological study of the UN Human Rights Committee, the treaty body that monitors state compliance with the ICCPR, often called the most authoritative of the 10 UN treaty bodies. Ethnography includes participant observation of Human Rights Committee sessions, particularly in 2013 and followed by recurring visits and interviews.

Interlocutors include Human Rights Committee members, UN Office of the High Commissioner for Human Rights staff, international and local NGO delegates, and civil servants with whom the author has carried out semi-structured interviews, impromptu chats, and prolonged discussions, as well as examination and occasional drafting of documents. The

book tails civil servants as they prepare constructive dialogues in Geneva's July heat, joins NGO activists for lunch meetings as they negotiate tactics for hearings with committee members, and engages with tired UN functionaries in the corridors of the Palais Wilson, rushing to prepare material for Concluding Observations.

Theoretically, the book defines the international human rights framework as forming an apparatus (Foucault 1980 [1977]) characterized by icelike opacity (Halme-Tuomisaari 2018) and 'fuzzy logic' (Bourdieu 1990: 62–3, 1977: 81–2; Friedland 2009: 4). Discussing processes of social construction, it draws inspiration from Bruno Latour's (1987) work on the social construction of scientific facts – an approach he also applies to the study of legal actors (Latour 1987, 2002, 2009). It connects to Hacking's (1996/2012) work on 'looping effects' of human kinds. Finally, the book employs Kennedy's (2002) analysis of the dual nature of rights claims as factoids and universal – one that gives them the ability to transgress the borders of law as both laws and reasons for law.

Two decades of anthropological work on documents (Riles 2005), bureaucracy (Bear & Mathur 2015; Brown, Reed & Yarrow 2017), international organizations (Abélès 2011; Deeb & Marcus 2011; Sarfaty 2012; Muller 2013; Bélanger-Vincent 2020), and international justice (Dembour & Kelly 2007; Kelly 2011; Sapignoli 2018) provide scholarly context. Also important is anthropological scholarship on international law (Riles 2021), in particular work on international human rights monitoring and courts (Cubucku 2018; Clark 2019; Halme-Tuomisaari 2013, 2020, 2021; Greenberg 2020; Cowan & Billaud 2020). This scholarship illustrates multiple incarnations and techniques from 'legal encapsulation' (Clark 2019) to audit processes (Cowan 2014; Shore & Wright 2015), the importance of 'legal technicalities' (Riles 2015), and the politics of truth and reconciliation (Wilson 2001). This book engages with recent work on the subjectivities of international civil servants and state delegates, revealing new ways to assess how such work may serve realization of certain beliefs, visions, or utopias (Dembour 2006; Garsten & Montoya 2008; Billaud & Cowan 2020; Cowan 2021).

Via these insights, the book will offer grounded microperspectives on ongoing debates on human rights expansion's postcolonial influences (Barreto 2013; Dhawan 2014; Jensen 2016; Moses, Duranti & Burke 2020), and the role of feminist influences, both on the creation of the international human rights agenda and its realization (Johnstone 2006; Adami 2015; Bourke 2020). It connects this scholarship to a broad body of TWAIL scholarship,

highlighting the intrinsic connections between current international regulatory arrangements to the underlying world order (Anghie 2005; Eslava 2015).

The book will explore interdisciplinary expertise and transnational activist and expert networks (Littoz-Monet Joachim & Locher 2008; Keck & Sikkink 1998), which offer pivotal insights into this project's search for shared patterns of transformation (Korey 2001; Simmons 2009). Relevant studies highlight the growing influence of independent experts in human rights (Piccone 2012), and their influence on transnational law making (Reiners 2021), EU policymaking (Leino-Sandberg 2021), and informal lawmaking (Pauwelyn, Ramses & Wouters 2012).

Book Structure

The book will contain five main chapters and a Conclusion. Chapter 1 lays the theoretical foundation for the ethnographic chapters and offers an introduction to their structure. Chapter 2 discusses human rights expansion since the UDHR's adoption, contextualizing the shifting position of LGBTI+ rights. Chapter 3 documents the transformation from 'real' to 'UN' reality in treaty body proceedings, analyzing how societal concerns translate into recognized human rights issues in international monitoring.

Chapter 4 illustrates looping practices with concrete examples from UN Human Rights Committee sessions, highlighting how different moments build on each other in activist engagement. It also illustrates the relevance of scholarship in looping processes. Chapter 5 discusses the significance of insider knowledge in "looping," also illustrating *serendipity*'s importance, revealing the centrality of continual participation in UN corridors to activist engagement.

The Conclusion connects the book's insights to propose an ethnographic theory of expansion. It reflects on what this offers to future scholarship and the notion of expansion in light of current developments in human rights, overshadowed increasingly by concern for climate change and sustainability. It will expand these findings to a general discussion of UN human rights treaty bodies' future, and by extension, that of UN human rights monitoring and the current basis for post-World War II multilateralism.

References

Abélès, M. (2011). *Des anthropologues à l'OMC: scènes de la gouvernance mondiale*. Paris: CNRS Editions.

Allen, L. (2012): *Rise and Fall of Human Rights: Cynism and Politics in the Occupied Palestine*. Stanford: Standford University Press.

Bear, L. & N. Mathur (2015). Special Issue: Remaking the Public Good: A New Anthropology of
Bureaucracy.' *The Cambridge Journal of Anthropology*, 33(1).

Bélanger-Vincent, Ariane 2020: '"Bypass the UN": Diplomatic Practices and Change in Multilateral Settings.' PoLAR: Political and Legal Anthropology Review 43 (8138)

Billaud, J. & J. Cowan (2020). 'The bureaucratisation of utopia: ethics, affects and subjectivities in international governance processes.' *Special Issue, Social Anthropology / Anthropologie Sociale,* 28(1).

Biltoft, Carolyn: Sundry Worlds within the World: Decentered Histories and Institutional Archives Journal of World History, Volume 31, Number 4, December 2020, pp. 729-760

Brown, H.; A. Reed & T. Yarrow (2017). Special Issue: Meetings: Ethnographies of Organisational Process, Bureaucracy, and Assembly. *Journal of the Royal Anthropological Institute*, 23(1), 5–207.

Celermajer, D. & A. Lefebre (eds) (2020). *The Subject of Human Rights. Stanford University Press*. Stanford: Stanford University Press.

Cowan, J.; M.-B. Dembour, R. Wilson (2001). *Culture and Rights: Anthropological Perspectives*. Cambridge: Cambridge University Press.

Cowan, J. (2021). 'Modes of Acting Virtuously at the Universal Periodic Review. In *Ethical Leadership in International Organizations: Concepts, Narratives, Judgment, and Assessment* (eds. G. Vilaça & M. Varaki). Cambridge: Cambridge University Press, 176-202.

Cowan, Jane K (2020) *'The feeling of pursuing an ideal': a League of Nations civil servant reflects on his work.* Social Anthropology, 28 (1). pp. 17-34.

(2014) 'The Universal Periodic Review as Public Audit Ritual: An Anthropological Perspective on Emerging Practices in the Global Governance of Human Rights.' In *Human Rights and the Universal Periodic Review: Rituals and Ritualism* (eds. H. Charlesworth & E. Larkin). Cambridge: Cambridge University Press, 42–62.

(2007) 'The Success of Failure? Minority Supervision at the League of Nations' in Marie-Bénédicte Dembour and Tobias Kelly (eds.), Paths to International Justice: Social and Legal Perspectives. Cambridge University Press, 2007, pp. 29-56.

(2013) 'Before Audit Culture: Towards a Genealogy of International Oversight of Rights.' In *The Gloss of Harmony: The Politics of Policy Making in Multilateral Organisations*. Birgit Muller, ed. Pluto Press. http://sro.sussex.ac.uk/42781/, accessed January 14, 2014.

(2014) The Universal Periodic Review as Public Audit Ritual: An Anthropological Perspective on Emerging Practices in the Global Governance of Human Rights. In Human Rights and the Universal Periodic Review: Rituals and Ritualism Pp. 42–62. Cambridge University Press.

Clark, K. (2019). *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback*. Durham: Duke University Press.

Clark, J. & M. Halme-Tuomisaari (2016). *Anthropology of Human Rights*, Virtual edition for *PoLAR: Political and Legal Anthropological Review* (https://polarjournal.org/2016-virtual-edition-human-rights/).
Cohen, A. (2017). 'ADR and Some Thoughts on "the Social",' in *Searching for Contemporary Legal Thought* (eds. J. Desautels-Stein & C. Tomlins). Cambridge: Cambridge University Press, 454-464.
Cubucku, A. (2018). *For the Love of Humanity: The World Tribunal on Iraq*. Pennsylvania: University of Pennsylvania Press.

Deeb, H. and G. E. Marcus (2011). 'In the green room: an experiment in ethnographic method at the WTO.' *PoLAR: Political and Legal Anthropology Review,* 34(1), 51–76.

Dembour, M.-B. (2006). *Who Believes in Human Rights?: Reflections on the European Convention*. Cambridge: Cambridge University Press.

Dembour, M.-B. & T. Kelly (eds) (2007). *Paths to International Justice: Social and Legal Perspectives*. Cambridg: Cambridge University Press.

Destrooper, T. & S. E. Merry (eds) (2017). *Human Rights Transformation in Practice*. Pennsylvania: University of Pennsylvania Press.

Feldman, Gregory (2011) If Ethnography Is More than Participant-Observation, Then Relations Are More than Connections: The Case for Nonlocal Ethnography in a World of Apparatuses. Anthropological Theory: 375.

Foucault, M. 1980 [1977]. The confessions of the flesh, in C. Gordon (ed.), Power/knowledge selected interviews and other writings, 194–228. New York: Pantheon Books.

Garsten, C. & M. Lindh De Montoya (eds) (2008). *Transparency in a New Global Order: Unveiling Organizational Visions*. London: Edward Elgar Publishing.

Goodale, M. & S. Merry (2007). *The Practice of Human Rights: Tracking the Law Between the Local and the Global*. Cambridge: Cambridge University Press.

Goodale, M. (2022). *Reinventing human rights*. Stanford: Stanford University Press.

(2006). 'Introduction to Anthropology and Human Rights in a New Key'. *American Anthropologist*, 118(1), 1-8.

Greenberg, J. (2020). 'Law, politics, and efficacy at the European Court of Human Rights.' *American Ethnologist*, 47(4), 417-431.

Halme-Tuomisaari, M. (2021). 'New Paradoxes in Human Rights'. In *SAGE Handbook of Cultural Anthropology* (ed. Pedersen, Lina & Cligget, Lisa), 604-611.

(2020). 'Guarding Utopia: Law, Vulnerability and Frustration at the UN Human Rights Committee.' *Social Anthropology / Anthropologie Sociale* 28(1), 35-49.

(2018). 'Methodologically blonde at the UN in a tactical quest for inclusion.' *Social Anthropology / Anthropologie Sociale* 26(4), 2018, 456-470.

(2017). 'Embodied Universalism at the UN Human Rights Committee: Meeting the World at the Palais Wilson.' In *Palaces of Hope: Anthropology of the United Nations* (Eds. Niezen Ron & Sapignoli, Maria). Cambridge: Cambridge University Press, 127–151.

(2016). 'Toward a Lasting Anthropology of International Law / Governance.' *European Journal of International Law* ,27(1), 235-243.

(2013). 'Contested Representation: Exploring China's State Report.' *Journal of Legal Anthropology* 1(3), 333-359.

(2012) Miia 'Contested Representation: Exploring China's State Report,' Journal of Legal Anthropology 1/2013 No. 3, 333-359.

(2010). Human Rights in Action: Learning Expert Knowledge. Leiden: Brill Academic Publishers.

Keck, Margaret & Kathryn Sikkink: Activists beyond borders. Cornell University Press, Ithaca, 1998.
Keller, Helen, and Geir Ulfstein, eds. UN Human Rights Treaty Bodies: Law and Legitimacy. 1st ed. Cambridge University Press, 2012.

Kelly, T. (2011). *This side of silence: human rights, torture, and the recognition of cruelty*. Philadelphia,: University of Pennsylvania Press.

Kennedy, Duncan: 'The Critique of Rights.' In Left Legalism / Left Critique (Eds. Brown, Wendy & Halley, Janet). Duke

Leino-Sandberg, P. (2021). *The Politics of Legal Expertise in EU Policy Making*. Cambridge: Cambridge University Press.

Littoz-Monet, A. (2021). *Governing through Expertise: The Politics of Bioethics*. Cambridge: Cambridge University Press.

Merry, S. E. (2006). *Human Rights & Gender Violence: Translating International Law into Local Justice*. Chicago: University of Chicago Press.

Merry, Sally Engle. 2006. Human Rights & Gender Violence: Translating International Law into Local Justice. Chicago: University of Chicago Press.

Müller, B. (2013). Gloss of Harmony: The Politics of Policy Making in Multilateral Organizations. London: Pluto Press.

Niezen, R. & Sapignoli, M. (eds) (2017): *Palaces of Hope: The Anthropology of Global Organizations*. Cambridge: Cambridge University Press.

Piccone, Ted. Catalysts for Change: How the U.N.'s Independent Experts Promote Human Rights. Brookings Institution Press, 2012.

Reiners, N. (2021). *Transnational Law-making coalitions for Human Rights*. Cambridge: Cambridge University Press.

Riles, A. (2021). 'Introduction to the Symposium on the Anthropology of International Law'. *AJIL Unbound,* 115, 283-272.

(2017). 'Outputs: The Promises and Perils of Ethnographic Engagement After the Loss of Faith in Transnational Dialogue.' *Journal of the Royal Anthropological Institute,* 23(1), 192-197.

(ed) (2005). *Documents: Artefacts of Modern Knowledge*. Michigan: University of Michigan Press.

Sarfaty, G. (2012). *Values in Translation: Human Rights and the Culture of the World Bank*. Stanford: Stanford University Press.