

ActInCourts Workshop Discussion Brief

16 November 2018

University of British Columbia



On November 16, 2018, our emerging network of scholars and human rights NGO practitioners met at University of British Columbia for a one-day workshop on activists in international courts, to discuss research themes that connect us, and to identify research topics that would be valuable to the practitioners and scholars alike. We identified themes and gaps in existing research, possible additional scholars and collaborators to invite into the network, and some next steps when moving forwards. What follows is a summarized overview of the discussion topics covered at our inaugural workshop meeting.

Participants

Lisa McIntosh Sundstrom
Associate Professor, Department of Political Science, University of British Columbia

Rachel Cichowski
Professor, Department of Political Science, University of Washington

Lisa Conant
Professor, Department of Political Science, University of Denver

Heidi Nichols Haddad
Assistant Professor of Politics, Pomona College

Courtney Hillebrecht
Associate Professor, Department of Political Science, University of Nebraska

Filiz Kahraman
Assistant Professor, Political Science, University of Toronto

Freek van der Vet
Postdoctoral Fellow, Erik Castrén Institute of International Law and Human Rights, University of Helsinki

Vanessa Kogan
Director, Justice Initiative, Moscow, Russia

Elsa Meany
Senior Attorney, Center for Justice and International Law (CEJIL), Washington DC

Convergent Themes of Participants' Interest and Research Expertise

Many of the participants grapple with overlapping questions; thus, a number of themes among the interests and research expertise of participants can be distilled from the workshop. Areas of overlap generated from individual presentations on their personal research include:

- Regressive politics
- Backlash against international courts and activists
- Feedback loops and repeat players
- Litigation not producing meaningful change without broader mobilization
- Activist learning and state learning through dissemination and spread of expertise
- Differentiating actors in 'civil society' and the access or influence they have
- Use of NGOs to litigate courts' organizational and strategic gaps

- Varying forms of NGO participation and action, their drivers and consequences
- Roles of funding and training in explaining clusters of NGO activity
- NGO gatekeeping and NGO effectiveness
- Gender rights
- Need for data and methods sharing

Practitioner Insights

The human rights practitioners present, Elsa Meany of the Center for Justice and International Law (CEJIL), and Vanessa Kogan of Stichting Justice Initiative, gave a variety of insights into potential research areas where there is a current deficiency of information. It was emphasized that interactions with academics allow practitioners to relay ideas and preferences, which is crucial to the court systems because academics' perspectives are valued in a different way than lawyers'. Ethical considerations the practitioners mentioned were the need to demonstrate the relevance of the research questions being asked by academics, having a clear end point that will inform the practitioners' work, the need to build a relationship of trust with those the questions are being asked of, and having clear attribution protocols that continually consult participants. The network can maximize its benefits for practitioners by asking NGOs what data they need and how it can best be presented. This could include allocating resources for NGOs to make their materials and knowledge more accessible through more effective methods of data visualization and short articles or policy briefs. Areas of potential network research that would benefit practitioners include studies that focus on better understanding impact, compliance, and backlash related to court judgments, as this would give practitioners a language with which they can address these issues. In addition, research that on the views of victims on how international court rulings will affect them would be very beneficial to NGOs working with victims. These include the intergenerational effects of enforced disappearances, how international court rulings actually impact the families of enforced disappearance victims, how they use their compensation funds, and whether clients would go to the particular international court again. Exploring whether international court processes can serve as transitional justice mechanisms would be welcomed. Additional topics that were highlighted by the participants included investigating NGO funding, donor preferences, and the effectiveness of third-party interventions.

This research would be complemented by similar research into cross-fertilization of ideas between different international courts and domestic vs. international courts specifically, if and how courts are learning, borrowing reasoning, and/or borrowing frameworks of NGO inclusion and consultation. Determining public and governmental attitudes towards international tribunals would also be valuable for practitioners, as well as questioning if greater access to courts by NGOs/activists is beneficial or not. Furthermore, specific research in areas such as victims' experiences in Georgia and Ukraine, public attitudes towards the ECtHR in Turkey, Russia, and Ukraine, patterns of attacks on international activists, and the roles of gatekeeper NGOs and their "brand recognition" privileges would be welcomed.

Scope of Network Moving Forward

The network discussed a variety of potential directions to take moving forward. If we are successful in having our SSHRC Partnership Development Grant application funded, we will have sufficient resources for the next three years to develop research projects and new participants in the network. The possibility of moving beyond human rights courts and creating platforms for scholars and practitioners who work in the realms of labour, gender, migration, and environmental advocacy was brought up. Additionally, participants suggested

developing links with other international academic and practitioner networks working on human rights law and courts.

Crucial theoretical discussions to continue refining are how we conceptualize and define “advocacy” and “activism,” while keeping in mind how practitioners understand their role as advocates, activists, and human rights defenders. Questions to explore include: what role grassroots activists play in compliance; whether or not litigation is a sustainable strategy given government backlash and the current period of retrenchment; how cases involving NGOs differ from those without NGO involvement; how activists and lawyers are learning from one another across courts and cross-nationally; and how governments, donors and activists interact to influence volume and types of cases flowing into international human rights courts.