

Legal Mobilization and International Courts: NGO and Lawyer Activism in Regional Human Rights Courts

May 17, 2017

8:30 – 16:30

Liu Institute for Global Issues, UBC

8:30 – 9:15 **Continental breakfast**

9:15-9:30 **Opening remarks: Lisa Sundstrom**

9:30 – 11:00 **Panel I: Lawyers and NGOs at Regional Courts**

Discussant: Sergei Golubok

The Hidden Hands of Justice: NGOs and International Human Rights Courts

Heidi Haddad, Pomona College, USA

International human rights courts are potential sites of legal clarification, expansion, and enforcement of human rights standards. As such, these courts constitute important instruments for civil society actors, including human rights NGOs. Previous scholarship has examined the formal roles NGOs play in trials, but generally overlooks the full range of participatory channels available to NGOs. NGO participation can also consist of shaping court governance and administration as well as providing critical information or institutional support that aids the court's functionality. This project maps all forms of NGO participation---roles, frequency, and impact---at two international human rights courts: The European Court of Human Rights and the Inter-American Human Rights System (commission and court). Using data from fieldwork and archival research, it then analyzes why NGO participatory roles, engagement, and influence differ at these courts through the factors of historical interaction with NGOs, NGO motivation and funding, and court deficiencies of resources and legitimacy.

Lawyers Mobilizing for Human Rights: Regional Courts Compared

Mikael Madsen, iCourts, University of Copenhagen, Denmark

The objective of this paper is to conduct a comparative analysis of differences and similarities in the mobilization of lawyers for human rights before regional courts. The paper will present findings from a series of field studies of international courts, which have been conducted over the past years. The study will therefore not only consider the three well-known regional human rights courts but

also explore the mobilization of lawyers before regional economic courts, where particularly the case of Africa stands out.

11:00-11:15 Coffee Break

11:15-12:00 Panel I: Continued

Discussant: Alison Brysk

Amicus Curiae and the European Court of Human Rights

Rachel Cichowski, University of Washington, USA

Amicus curiae participation by interest and advocacy groups is on the rise in courts around the globe. These interventions by third parties can supply critical information, from comparative research to analysis of legal principles, enhancing the judicial. Yet beyond the United States context, we know very little about amicus curiae patterns and effects, especially in international regimes that are traditionally restrictive to non-state actors. This paper examines amicus curiae before the European Court of Human Rights relying on an innovative new database that identifies all amicus included in judgments from the first in 1979 to 2014 for a total of 1,233 briefs. Why do amicus briefs vary across legal domain, what role do they play in the decision and what effect do they have for the development and enforcement of human rights? The findings highlight the powerful effects of non-state actors in international litigation.

12:00 – 12:45 Lunch Break

12:45 – 14:15 Panel II: Money and Backlash

Discussant: Stephen Hopgood

Following the Money or the Violations? The Impact of Donor Funding on NGOs' International Human Rights Litigation

Lisa Sundstrom, University of British Columbia, Canada

Are the types of cases represented by NGOs in international human rights courts significantly shaped by the target groups and issues that international organizations select to emphasize in local contexts? We know that donor organizations (both state and non state) and groups of experts that support training lawyers in human rights litigation in various states by necessity focus only on some lawyers and organizations, and certain areas types of human rights violations. Yet we know little about the extent to which this actually influences the flow of applications leading to successful cases

at international human rights courts. Based on qualitative field interviews with NGO activists and human rights lawyers in Russia, as well as more comparative ECtHR case records data and information about donor organizations funding training of lawyers in international human rights litigation, this paper will provide an initial exploration of this question.

Justice on the Edge: The Shrinking Space for Civil Society and Its Effect on Regional Human Rights Jurisprudence

Courtney Hillebrecht, University of Nebraska at Lincoln, USA

Over the last few years, scholars, academics and practitioners have noted the increased pressure civil society organizations face from their governments and funders. Concurrently, these same communities also have noted a trend of "backlash" against regional human rights tribunals by member states. The human rights organizations that drive petitions to regional human rights tribunals are often the same civil society organizations that are facing increased pressure at home and a less open judicial environment internationally. This paper asks if and how the shrinking space for civil society and backlash to international human rights adjudication has affected these organizations' ability to bring petitions to the regional tribunals and relatedly, the nature of the case law that results. To answer these questions, this paper examines two issue areas, forced disappearances and minority rights, across both the Inter-American and European Courts of Human Rights, with particular emphasis on Mexico, Honduras, Austria and Russia.

14:15 – 14:30 Coffee

14:30 – 16:00 Panel III: Violent Conflict and Strategic Litigation

Discussant: Diana Kostina

From the Grassroots to the Transnational: Kurdish Legal Mobilization before the ECtHR

Dilek Kurban, Hertie School of Governance, Berlin, Germany

Research on legal mobilization by Kurdish human rights lawyers at the ECtHR is surprisingly dearth. The existing studies are temporally limited to the 'Golden Age' of Kurdish litigation, materially restricted to the role of transnational actors, methodologically biased in their exclusive focus on judgments and oversight of decisions, and unduly positive on the ECtHR's receptivity to Kurdish claims. Drawing on legal mobilization, transnational networks and post-authoritarian transition studies, and adopting a "bottom up" view of Kurdish legal mobilization, I account how a group of lawyers at the Diyarbakir branch of Human Rights Association used the ECtHR's individual petition mechanism to resist state violence within the emergency context. Tracing processes of political developments in Strasbourg and in Turkey during 1987-2012, I discuss how Turkey's recognition of

the right of individual petition, its efforts to accede to the EU and the ECtHR's post-enlargement reforms have affected and been affected by Kurdish legal mobilization.

Brokers of Justice: Building an International Litigation Network for Victims of Armed Conflict

Freek van der Vet, Liu Institute for Global Issues, University of British Columbia, Canada

Based on multi-sited research and interviews, this paper examines how an international network of lawyers represents victims of armed conflict in Georgia, Chechnya, and Eastern Ukraine before the European Court of Human Rights and the International Criminal Court. Lawyers giving legal aid to relatives of the disappeared from the conflict in Chechnya and internally displaced people from the 2008 Russian-Georgian war have shaped how the European Court interprets human rights violations in armed conflict and have lobbied diplomats for the domestic implementation of international judgments. The paper argues that these lawyers must move their services from one conflict zone to another to keep their work attractive to funders and to continuously set new precedents before the Court. This urgency to expand the scope of human rights is sometimes at odds with victims' demands and needs.

16:00-16:15 Concluding Remarks