WHAT DO HUMAN RIGHTS LAWYERS DO?
EXAMINING PRACTICE AND EXPERTISE IN THE FIELD

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I. INTRODUCTION: HUMANITARIAN INTERVENTION AND THE HUMAN RIGHTS LAWYER

Human rights, peacekeeping, and humanitarian intervention have emerged in the past decades as major components of international law and practice, at least in part as a response to public outcry in the face of massive violations. Although these responses have their roots in World War II and the post-war period, each gained momentum in the 1990s as the Cold War ended and forces of globalization began to reconfigure both geo-political dynamics and popular interest in issues such as the rule of law, human rights and civil society.

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2. Hurst Hannum, Peace Versus Justice: Creating Rights as well as Order out of Chaos, in PEACE OPERATIONS AND HUMAN RIGHTS 130-32 (Murphy & Mansson eds., 2008) (discussing the role of human rights in peace agreements); ORFORD, supra note 1. The United States, Canada, and other western nations in particular have played foundational and significant roles in the development of these aspects of international law and
The law and practice of human rights began to shift from its more marginal (and controversial) status in the 1970s and 1980s to a mainstream subject of discussion and policy. Human rights lawyers and advocates and military and political “hawks” suddenly had much to say to one another and, increasingly, found themselves on the same side of issues, calling for military intervention. Law schools began expanding their offerings on international law, human rights, and the rule of law, and professional organizations expanded their work in these areas. That time (and those conversations) launched a new era of “humanitarian intervention” and human rights field work that continues in the present day.

This Essay examines the everyday work of human rights lawyers in projects of humanitarian intervention, the inter-governmental organization (“IGO”) missions in conflict or post-conflict “field” situations. Interventions occur far from home and headquarters for the “international” staff sent practice and in ongoing efforts to implement human rights laws and policies around the globe. Jonathan Graubart, R2P and Pragmatic Liberal Interventionism: Values in the Service of Interests, 35 Hum. Rts. Q. 69 (2013); Nariman, supra note 1.


6. Kennedy, supra note 3; Chandler, Military, supra note 4; Pease & Forsythe, supra note 4. As an aspiring human rights lawyer in the United States, I began my professional career in 1989 on the cusp of this moment of historical transformation, when the Berlin wall “came down” and the possibilities for advancing global human rights seemed to be opening up correspondingly. I first worked as a human rights professional with a non-governmental organization (NGO) in the early 1990s, and I then worked as part of the “international community” in post-war Bosnia. See Elizabeth M. Bruch, Hybrid Courts: Examining Hybridity through a Post-Colonial Lens, 28 B.U. Int’l L.J. 1 (2010).

7. The operations that comprise humanitarian interventions vary in scope, duration, mandate, and structure. They are collective endeavors conducted under the auspices of IGOs—most commonly under the United Nations, but they are also led by regional and specialty IGOs. Rogers, supra note 1 (elaborating a definition of humanita-
to work on behalf of inter-governmental organizations. Humanitarian intervention is largely justified in the name of human rights and the rule of law, and these missions often include the deployment of human rights staff in the “field” in conjunction with peacekeeping or peace-building forces. Although the involvement of human rights staff in field missions initially occurred on a largely case-by-case basis, in the past decade, it has become a more standard practice to include human rights officers, usually lawyers, in IGO peace missions. The everyday work of these human rights field officers offers important insights into humanitarian intervention as an emerging form of global governance.

Humanitarian interventions often result in the importation of comprehensive, new, and foreign legal frameworks under the guidance and encouragement of humanitarian intervention); Sloan, supra note 1 (discussing contemporary practices of humanitarian intervention).

8. The presence of human rights observers in the United Nations Observer Mission in El Salvador (ONUSAL) in 1991 is usually cited as the start of this phenomenon, and, though this presence was small, it began a process of both increasing and enduring involvement. Michael O’Flaherty & George Ulrich, The Professional Identity and Development of Human Rights Field Workers, in The Professional Identity of the Human Rights Field Officer 24 (O’Flaherty & Ulrich eds., 2010) [hereinafter O’Flaherty & Ulrich, Professional Identity].

9. In the past two decades, IGO peace missions have typically included an explicit human rights component, with such components established in missions in Cambodia, Haiti, Guatemala, the former Yugoslavia, Rwanda, Burundi, Georgia, Liberia, Angola, Sierra Leone, Guinea-Bissau, Democratic Republic of Congo, Ethiopia and Eritrea, Kosovo, and East Timor. O’Flaherty & Ulrich, Professional Identity, supra note 8; OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, PEACE MISSIONS HOMEPAGE (2009), http://www.ohchr.org/EN/Countries/Pages/ [hereinafter PEACE MISSIONS].

10. Although “field” missions differ in size and mandate, there has been an apparent trend towards increasing the scope and power of such missions. Graubart, supra note 2; Sloan, supra note 1 (discussing contemporary practices of humanitarian intervention). In recent years, several mission mandates have broadened to the point of displacing existing domestic sovereignty, replacing it through “transitional” governance by the United Nations or other inter-governmental organization. Such “transitional” government by the UN or other IGO has occurred or is occurring in East Timor (United Nations, 1999–2002), Kosovo (United Nations, 1999–present), and Bosnia and Herzegovina (Office of the High Representative, 1995–present). See S.C. Res. 1270, U.N. Doc. S/RES/1270 (1999); S.C. Res. 1244, U.N. Doc. S/RES/1244 (1999); S.C. Res. 1035, U.N. Doc. S/RES/1035 (1995). This transitional authority, like intervention itself, is justified, in part, as necessary to protect human rights and (re)establish the rule of law, and, as a result, human rights lawyers often have substantial responsibilities in the field.
agement of international experts. Concerns about international enforcement of human rights sharpen when interventions are made in settings of ongoing national conflict or social transition. Although domestic institutions and populations are perhaps most in need in these situations, they are also most vulnerable to overreach by international authorities.

To the extent this work is a primary site of human rights lawyering, it is important for those interested in that practice to understand and appreciate the complexities of the work. Yet there has been little academic study of the deployment of human rights lawyers and their work on the ground.

11. Kennedy, supra note 3; Orford, supra note 1. The level of domestic cooperation with these efforts varies, but it seldom rises to a level of democratic participation as would be expected in efforts to restore the rule of law. For example, in Bosnia, the international “transitional” authority, the High Representative (an ad-hoc representative of the international community), was given power by the international community to impose laws by decree and remove elected public officials, despite the existence of domestic Bosnian government. The Mandate of the High Representative, Office of the High Representative (Feb. 16, 2012), http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38612.


13. Although human rights work is motivated, at least in part, by humanitarian goals and a commitment to universal rights, distinctions in status—between “international” interveners and “local” beneficiaries—permeate the activities and structure the relationships in the field and otherwise. Graubart, supra note 2. The number of human rights officers deployed in each mission fluctuates significantly from mission to mission and over time. In 2009, the number of human rights officers in peace missions ranged from one (in Central Asia) to more than 100 (in the Democratic Republic of the Congo). Peace Missions, supra note 9. It is difficult to find information on the levels of involvement of “international” and “local” staff in human rights field work, but one commentator notes that in the early years of human rights participation in field missions all human rights staff was “international,” and in recent years “local” human rights staff still is less that twenty percent of field personnel. See O’Flaherty & Ulrich, Professional Identity, supra note 8.

14. Legal scholarship, which has dominated the field of human rights, has centered largely on substantive rights issues or international procedures, with limited examination of larger theoretical concerns. See, e.g., M.C. Bassiouni, Appraising UN justice-related reporting missions, 5 Wash. U. J.L. & Pol’y 35–49 (2001); Orentlicher, supra note 3, at 83–135. The empirical research that has been done tends to focus on social movements, grass roots activism, and non-governmental work. See, e.g., M. E. Keck & K. Sikkink, Activists Beyond Borders, Advocacy Networks in International Politics (1998); The Practice of Human Rights: Tracking Law between the Global and Local (Goodale & Merry eds., 2007) [hereinafter Practice of Human Rights]. There are few projects that examine inter-governmental organizations, such as the United Nations, and their personnel. Kennedy, supra note 3; Spencer Zifca, United Nations Reform: Heading North or South? (2009); O’Flaherty & Ulrich, Professional Identity, supra note 8.
This Essay examines human rights lawyering in the specific context of fieldwork in United Nations and other IGO missions in nations undergoing transition or in a post-conflict situation. It draws upon a larger empirical investigation of humanitarian intervention and offers insights into the day-to-day work of human rights lawyers, especially the ways they use and redefine law as they negotiate, entrench, and subvert existing axes of power within field missions and across boundaries between international experts and those intended to benefit from their expertise and assistance.

II. THE HUMAN RIGHTS LAWYER: WHY DOES LOCATION MATTER?

As a starting point, it is useful to consider that the everyday work of human rights lawyers in humanitarian intervention is field-based in two important respects—first, the “field” of law or the juridical field, and second, the “field” as distinguished from home. Both dimensions are foundational for the “expertise” they bring to their work in humanitarian intervention. To
begin, human rights field officers are typically trained as lawyers in their home countries or in relevant issues of human rights law. 19 In addition, human rights lawyers in humanitarian intervention work out of and away from the confines of “home,” in terms of home country and community, and in this case also “headquarters,” the main centers of power for IGOs. 20

A. The Human Rights Lawyer as Impartial Professional

In law and in the juridical field, expertise is formalized, “disciplined” and professionalized. 21 Participation in the field requires the “establishment of properly professional competence” and “the technical mastery of a so-

19. See Bourdieu, supra note 17, at 817 (explaining that the juridical field is a social field in which specialized actors compete for the “right to determine the law.” These actors include the familiar judges and lawyers, but also other professionals connected to and through law, including in this context human rights field officers. In this project, all but two of the field officers I interviewed were formally trained as lawyers in either North America or Europe, and the other two had related professional training. Of the field officers trained as lawyers, six had advanced training in law or human rights, and five had actual experience practicing law before they became field officers. All of the participants worked on issues of international human rights in their fieldwork and had some training (either initially or subsequently) in human rights law).

20. This sense is familiar to anthropologists and other social science researchers. Hyndman, supra note 18. The participants in my research also work or worked in the field in the sense of being away from the confines of “home” and “headquarters.” Working outside of one’s own country of origin as “international” staff was one of the criteria I used for selecting participants for this project because that has become a defining feature of human rights field work (and, perhaps, identity). O’Flaherty & Ulrich, Professional Identity, supra note 8. In fact, several participants also had previous non-legal work experience in a field location—through NGO work, Peace Corps, or similar.

phisticated body of knowledge that often runs contrary to common sense.”

Professionalism confers a form of expertise and grants the decision-making power of the specialist. As an extension of the juridical field, human rights field officers hold and wield forms of that decision-making power. However, human rights field officers are also relative newcomers with uncertain status within the juridical field.

Although the professional field of human rights work—and human rights field officers in particular—is comparatively new, it aspires to the (expert) identity of other professional fields. In fact, beginning in 2004, former human rights field officers undertook a consultation project on human right field work, with an eye towards the professionalization of the field. Adopting traditional definitions of “profession,”—a set of shared values, a body of scientific knowledge, and systems to apply that knowledge—the project traces a “professional identity” for human rights field officers.

Law is foundational to this professional expertise, but the impartiality and objectivity of the “outsider” are equally so. The professionalization project’s Statement of Ethical Commitments provides that: “Human rights professionals are committed to be impartial in the promotion and protection of human rights irrespective of the identity or status of perpetrators and victims. They shall endeavor to ensure that their impartiality is evident to

22. Bourdieu, supra note 17, at 828.
23. Id. at 831.
24. The work itself is comparatively new—with the first such field presence generally considered to be the United Nation’s El Salvador mission in 1991—and human rights field officers have an uncertain status both within the larger humanitarian mission and in the wider juridical field. O’Flaherty & Ulrich, Professionalization, supra note 21.
25. See O’Flaherty & Ulrich, Professional Identity, supra note 8; O’Flaherty & Ulrich, Professionalization, supra note 21.
26. Outcomes of the professionalization project include Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments (Guiding Principles), together with a Statement of Ethical Commitments of Human Rights Professionals (Statement of Ethical Commitments). Both are included in the Annexes to The Professional Identity of the Human Rights Field Officer, supra note 8.
28. Guiding Principle 1 is “The Law”—“[i]nternational human rights law is the basis for the work of human rights field officers”—followed shortly thereafter by the “Mandate” in Principle 3—field officers “use their mandate, which identifies objectives and tasks and enables special authority to access places and persons, to protect and promote human rights.” Id.
all relevant actors.”29 Impartiality is linked to the end of goal of promoting and protecting human rights, and it must be on display for others in the field.

This sense of expertise appeared in human rights field officers’ descriptions of their everyday work as well. As a starting point, their expertise is grounded in being “outside” the environment of conflict that necessitated the intervention:

Paul:30 When you end up in a [post-conflict] situation like that basically everybody sees themselves as a victim, and everybody, more particularly, everybody on both sides sees themselves as a victim. So I think they’re all really—I don’t mean this critically—but I really think that they’re not capable at an emotional level of protecting the rights of the other, any more than I’m capable of protecting the rights of some criminal who would assault me.

Author: And that’s why you need sort of someone else, an outsider to come in?

Paul: And in the environments like that, the outsiders really have to be outsiders.31

This exchange invokes the expertise of the human rights field officer in both senses of the “field”—as outsiders to the conflict environment rather than victims (real or self-perceived), and as professionals capable of protecting the rights of actual victims. Other field officers characterized their work along this duality as well. Cristina commented that field officers “should be perceived as impartial or, if anything, partial towards the weakest, towards the most vulnerable.”32 And Gwen expanded on a similar point:


30. All interview participant names used in this Essay are pseudonyms to protect confidentiality. Ellipses within the quotations indicate that intervening text has been removed for clarity and conciseness; brackets reflect editorial clarifications, where language in the quote may not be clear without the surrounding context.


32. Interview with Cristina, former field officer, Human Rights Fieldwork Project (July 2010).
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Gwen: I think it’s, in post conflict situations, it’s very difficult to disentangle emotions and to be impartial in the distribution of assistance or in deciding who’s guilty, who’s not guilty. It’s much easier from the outside, emotionally neutral, usually, hopefully, to decide who is deserving of assistance, for instance . . . just the being a neutral eye, having a neutral approach to aid and support.33

Cristina and Gwen use the language of impartiality, but also qualify it with their understanding that such impartiality is always in service of a broader professional obligation to the shared values and normative commitments of human rights. That neutrality and impartiality is always unstable, however, and selective, embedded within relations of power and exercised in the ability to decide on behalf of law and human rights. In the context of humanitarian intervention, that instability and unevenness is magnified by the unequal dualities of the not-home/not-headquarters “field” of the post-conflict environment.

B. The Human Rights Lawyer as International Expert

The idea of expertise, including legal expertise, takes on particular significance in the context of the “field” or “field work,” where location itself becomes partially constitutive (and transformative) of expertise. The expert becomes the “international expert.”34 Place and location are significant in human rights work, especially work in the field. Indeed, where you are may define who you are, as much as who you are defines where you are.35 Human rights lawyers, like anthropologists and other ethnographers, must grapple with the idea of doing work in the “field” in this sense, as “the spatialization of difference.”36 In fact, the relationships that develop or are

33. Interview with Gwen, former field officer, Human Rights Fieldwork Project (Mar. 2010).
34. Early social theorist Georg Simmel first connected this question of “location” with the “distant” standpoint that is often embedded in notions of objectivity and impartiality in expertise. Simmel, supra note 21.
36. Akhil Gupta & James Ferguson, Discipline and Practice: “The Field” as Site, Method, and Location in Anthropology, in ANTHROPOLOGICAL LOCATIONS: BOUNDARIES AND GROUNDS OF A FIELD SCIENCE 32 (Gupta & Ferguson eds., 1997). Jennifer Hyndman, a critical geographer, discusses the significance of the “field” in various forms of transnational work:

Just as there is tension between discourses of universality and particularity—the shared language and entitlements of human rights versus distinguishing cultural practices—a discursive distance between “here” and “there,” “us” and “them,” confounds any singular understanding of culture. “The field” is a diffuse and
constructed across boundaries of home and field in transnational work often evolve into distinctions between global "sub-citizens" and "supra-citizens." This sense of citizenship reflects the hierarchy and status distinctions in international work, including consequences to mobility and authority within and across national borders, the asymmetrical relationships of "international" experts and "local" non-experts in the field.

Of course, human rights field officers are expected to bring a "professional competence [and] the technical mastery of a sophisticated body of knowledge" to their work in order to replace local capacity and assist with rebuilding that capacity. However, the "field" dramatically reshapes this sense of expertise. Time after time in the interviews, field officers recounted stories of their own and other officers' lack of this basic professional foundation. At times, they were self-critical of their own limitations, particularly upon initially embarking on field work or when given a level of authority in the field that they would never attain so easily at home:

Kevin: I was suddenly expected to weigh in on big picture issues that were extremely politically charged. I was expected to suddenly be an expert on many different forms of legislation from everything from, you know, minority rights issues and the extent to which language rights were respected or minority access to institutions and services was respected, to issues of basic criminal justice. . . . I go in cold turkey and am expected to be a policy advisor, expected to comment on legislation, expected to develop, you know, human rights aspects of policy or strategy, even down to me being included in negotiations for prisoner exchanges. . . . It was, it was just a dizzying array of issues that I was not prepared for at all.

problematic term for geographers, anthropologists, and other researchers who travel in a privileged way across cultures.

HYNDMAN, supra note 18, at 88–89.

37. Id. at 110–11.
39. Bourdieu, supra note 17, at 828. The professionalization project identifies five key areas of work for field officers—monitoring, reporting, advocacy, capacity building, and partnership—and in each area, the officer’s competence and knowledge are expected to be grounded in international human rights law. See O’Flaherty & Ulrich, Professional Identity, supra note 8, at 23. This list of functions was originally more extensive, with nine work areas suggested: “monitoring, reporting, advocacy/intervention, capacity building, engaging with humanitarian and development partners, support to peace processes and for transitional justice, in-mission sensitization, and participation in UN governance of transitional territories.” Id.

40. Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).
Kevin, in fact, was an experienced (and apparently highly competent) field officer at that point, but he also described a similar expectation of immediate professional expertise from his first job in the field through his most recent posting. This phenomenon has been so common that it is mentioned in a commentary on the Statement of Ethical Commitments.41

Jessica noted a similar phenomenon where international status becomes conflated with professional expertise:

Jessica: I was talking to one woman, and I mean, it’s not her fault, basically she’s brought in to be an expert on something and then [mission leadership] decided [it] should take over education. So having been doing a very good job on monitoring court processes and analyzing outcome, which I think [it] did very well, they suddenly dropped most of that and they had to go work on education. She told me, she said, “what the hell do I know about education?” And overnight, we’ve got to take it. And so I’m supposed to now be the expert focal point because I’m an international. . . . It’s just ridiculous . . . . You’d have people who were under-qualified, overpaid, but because they were international having greater authority than a [local] high court judge.42

The lack of meaningful professional competence was indicated by many field officers as actually equally (or more) characteristic of international mission staff—including human rights field officers—than the sort of professional competence usually associated with expertise.43

41. The Statement of Ethical Commitments notes:

A characteristic aspect of international field operations is a tendency to assign an exceptional level of responsibility to the individuals involved. This is in part a function of the general isolation or marginalisation of conflict zones from mainstream professional working environments. Human rights professionals working in such settings are often assigned responsibilities beyond their ordinary capacity or at a level that they would only attain in their home environments through a gradual process of advancements, subject to ongoing tests and controls.

O’Flaherty & Ulrich, Professional Identity, supra note 8, at 77.

42. Interview with Jessica, former field officer, Human Rights Fieldwork Project (Jan. 2010).

43. However, the relations of power embedded in this lack of capacity even among the so-called experts are seldom problematized or acknowledged more formally. The Statement of Ethical Commitments does allude to the issues of “power and privilege” that inhere in the position of human rights field officer but is satisfied with a requirement that officers “be aware of any power or privilege that their position commands and refrain from abusing their status, especially in relations with members of the local community.” See O’Flaherty & Ulrich, Professional Identity, supra note 8, at 77.
Despite their concerns, field officers often expressed in the interviews their sense of the uniqueness and importance of the field and human rights fieldwork.\textsuperscript{44} As much as they were at times disillusioned by the everyday realities, many were drawn to the excitement and urgency of work in the post-conflict setting. Gwen, who returned to fieldwork after leaving for advanced studies, explained:

\begin{quote}
Gwen: I had thought of leaving and of doing something else [after further education], but I was really missing the fieldwork in the end. . . . I think it’s just the feeling of being involved in such an intense area of work. It was the only thing that could really keep my attention, the field. I find it very difficult to come back to rather France, England, or the U.S. I guess I didn’t feel that was where the urgency was. I felt pulled back to working in emergency. Still bitten by the bug.\textsuperscript{45}
\end{quote}

Other field officers expressed similar sentiments. Kevin framed it as the “uncertainty” that drew him:\textsuperscript{46}

\begin{quote}
Kevin: I decided that the uncertainty of it all was something that I was very well adapted to . . . [I started] learning that I responded very well in a crisis situation. . . . Whenever I went back and tried to be a more traditional lawyer and to do more forms of traditional legal research, I kind of decided that I found it tedious and boring . . . . The action environment was much more preferable to the . . . inaction of research.\textsuperscript{47}
\end{quote}

The uncertainty and action of crisis lawyering in the field are juxtaposed to the inaction of traditional legal practice. That action and urgency, and the sense of uniqueness, are constitutive parts of the “field” that critical scholars problematize—the distinction from home and headquarters, from routine, from the mundane.\textsuperscript{48} The sense of urgency and importance to fieldwork extends beyond the actualities of the post-conflict setting and con-


\textsuperscript{45} Interview with Gwen, former field officer, Human Rights Fieldwork Project (Mar. 2010).

\textsuperscript{46} This echoes the uncertainty that characterizes expertise in Latour’s theoretical approach to research. See \textit{Latour}, supra note 21.

\textsuperscript{47} Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).

\textsuperscript{48} See generally \textit{Hyndman}, supra note 18.
nects to the rationales underlying intervention in the first place. Orford suggests that the international community constitutes itself through the texts of humanitarian intervention as “a designer of new worlds, a solver of problems, and a saviour of suffering peoples.”

To some extent, the experts of humanitarian intervention, including human rights lawyers, do the same through their everyday work in the field. The professional expertise of the human rights lawyer becomes magnified as “international” expertise in the context of distant, not-home “field” work. This “international” expertise is relational; it requires local “demand” for and beneficiaries of that expertise. Like all expert relationships, including traditional lawyering, it is an unequal relation of power. There are many aspects to and consequences of the power differential between international staff and local staff or inhabitants in a humanitarian intervention. Some are basic and material, such as differences in levels of pay and levels of protection in case of conflict escalation. These are important indicators of professional status and obvious markers between “international” and “local” in the field. However, there are also more subtle but equally significant markers embedded in the idea of expert and complicated by the field context.

The experiences of the field officer participants in this project, together with the professionalization project discussed above, suggest that such “international” experts are as grounded in their own locations, perspectives, interests, and customs as “local” others. Nonetheless, the expert human rights lawyer is constructed as existing outside of the underlying conflict and therefore impartial, neutral, objective, and rational. At the same time, the human rights officer is imbued with an expected level of competence by virtue of this same location: outside the conflict and in the world of the “international.” The duality of “field” and “field experience” then frames the everyday work of human rights lawyers as experts, translators, reporters and lawmakers. From their location of impartial professional expertise, human rights field officers are positioned to serve as translators of the law.

49. Orford, supra note 1, at 142.

50. Despite embracing their status as “outsiders,” field officers were, of course, located and embedded in the local environment. They live there, they eat there, and some of them have their families with them. This was not a topic explored at length in the interviews, but it did emerge from time to time in ways that further complicated the notion of the “field” as away from “home” and the expert as distant and detached.

(and of the international), diagnosticians of the situation in the field, and authors of the new legal framework.

III. The Human Rights Lawyer as Translator

Translation and interpretation are common metaphors in discussing professional expert interactions with non-experts, and they are particularly useful in considering the work of human rights lawyers. Bourdieu describes lawyers as “interpreters of texts,”52 and Merry frames the circulation and proliferation of human rights discourses and institutions within and across “local” contexts as both “translation” and “vernacularization.”53 These concepts are also relevant here because they are (both literally in terms of language and figuratively in regards to law) ubiquitous in the daily work of an international mission, and the field officers in this project frequently invoked them.

In humanitarian intervention, the translator is in a powerful position.54 The process of translation is integral to the larger project of governance—(re)building capacity and the nation—and the human rights officer serves as translator (and, at times, defender) of the law in the field. The field officer mediates relations of power among components of the field mission, as well as between the mission and local individuals and governmental partners, through law and expertise. These translations and interpretations are inevitably partial, contingent, uneven, and subject to various (mis)understandings.


53. SALLY ENGLE MERRY, HUMAN RIGHTS AND GENDER VIOLENCE (2005); Sally Engle Merry, Transnational Human Rights and Local Activism: Mapping the Middle, 108 AM. ANTHROPOLOGIST 38–51 (2006). Post-colonial scholars have also employed the language of translation and interpretation to characterize relationships of power across various cultural and racial boundaries, including those dividing colonizer and colonized. HOMI BHABHA, THE LOCATION OF CULTURE (1994); FRANZ FANON, BLACK SKIN WHITE MINDS (1967); John Hutnyk, Hybridity, 28 ETHNIC & RACIAL STUD. 79–102 (2005).

54. Hutnyk suggests that the role of translator is often “assumed by those who can enforce their way.” Hutnyk, supra note 53, at 86–87. The objective of many of these translations in humanitarian intervention is the creation of a new “class of interpreters,” conversant in the language and norms of international law, among the local population. See Bhabha, supra note 53, at 124–25.
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A. Translating Law

One objective of international missions is to re-establish the “rule of law”—to translate the purportedly universal international law to the particular local context of the mission—and the human rights components of field missions, including the work of human rights officers, are intended to play a significant role in this process. Often in a post-conflict situation, the familiar institutions of domestic law have been badly damaged or undermined—buildings and records destroyed, professionals politicized or exiled, laws and regulations suspended or ignored. Certainly, these circumstances suggest a lack of capacity in the post-conflict environment and a need to replace and rebuild that capacity. However, this capacity gap is frequently compounded by humanitarian intervention itself. Peace agreements increasingly include the sweeping importation of a new legal framework as formative of the new nation. This legal framework displaces (or radically transforms) existing domestic law and replaces it with an international human rights legal regime. Any remaining domestic “capacity” is rendered inadequate and in need of “international” assistance.

Law itself is an interpretive endeavor. Legal texts both demand and reinforce the interpretive power of the legal expert. This defining feature of the juridical field is, again, magnified in the distant, not-home “field” context of humanitarian intervention. Knowledge of international human rights law is an essential feature of the professional expertise of the human rights field officer. This knowledge provides the foundation for the work of monitoring, reporting, advocating, and capacity building. In that work, human rights field officers are continually translating and interpreting law for local contacts and for colleagues in other areas of the mission. They operate as a “broker between cultural forms,” although the translation process is typically one-sided. Field officers speak for law and human rights,


56. ORFORD, supra note 1, at 72; Hannum, supra note 2, at 130–32.

57. Interpretation is “aimed at a practical object and is designed to determine practical effects”—supporting an argument, establishing a rule, deciding a conflict. Bourdieu, supra note 17, at 818. Words of “ordinary usage [are] made to deviate from their usual meaning by learned usage,” and the layperson must rely on the expert translator. See Bourdieu, supra note 17, at 829.

58. See O’Flaherty & Ulrich, Professional Identity, supra note 8, at 24.

59. Hutnyk, supra note 53, at 79, 86.
but at times, they also must defend the importance—even relevance—of both.

Human rights officers frequently discussed their “translation” work in the context of training local authorities and practitioners. For example, Stephen spent a majority of his time in the field mission conducting training on various aspects of human rights law. When I asked whether local participants ever offered resistance to the law or to the notion of human rights in the training, he explained:

Stephen: No, not when I explained it to them. I mean it was my goal to make it the law for non-lawyers, so I was taking what I knew was like very advanced legal concepts, and I’d say you know, I’d go through them kind of the legal aspect,. . . when you understand the concepts yourself and then you think it through as to how to, how, to translate it, you know. You basically translate it legally into practical ideas and concepts . . . I think that’s where human rights is doing such a international human rights is really progressing in that we are really starting to translate this to the ordinary person with no human rights knowledge.60

The expert translation is essential here as prevention—a counter to potential resistance to law and human rights. It moves from the legal to the practical, from the advanced to the ordinary.

Although translation of the law and human rights to local participants was a common part of the everyday work of field officers, several officers also discussed the need to translate human rights law within the field mission itself.61 At times, the language of “human rights” was particularly problematic. For example, Anthony noted the tensions between human rights professionals and police officers in response to human rights language:

Anthony: You can tell a police officer that you’re working on human rights and they freak out. But when you start to talk about what they’re doing, good government, proper policing, it’s all human rights. They just don’t like those. Police officers cringe. It’s like human rights officers in Geneva when they heard I was working for the police division were just like, Oh, how could you? . . . Yes, this is difficult but ideally that’s what police reform should be about. . . . You talk about international standards instead of saying human rights

60. Interview with Stephen, former field officer, Human Rights Fieldwork Project (Feb. 2010).

standards. It’s the same thing. You’re citing the same documents and it’s just they don’t, their backs don’t go up when you say it.\textsuperscript{62}

The issue becomes one of translation, where human rights become good government and proper policing, and human rights standards become international standards, all within the general framework of the rule of law.\textsuperscript{63}

As they translate, field officers grapple with uneven understandings even among those sympathetic to—and tasked with promoting and protecting—human rights. One significant axis of contestation is the extent of overlap between human rights and human rights law, an issue also significant to the foundations of field officer expertise.\textsuperscript{64} Particularly in the early days of field missions, human rights fieldwork did not necessarily mean use of law. Nathan, a field officer trained as a lawyer, explained:

Nathan: Virtually no one in the human rights division had a background in human rights law. And so there wasn’t really any understanding of what human rights were in the legal sense. It was sort of, I guess this was at the time when they first, when the notion of a human rights professional really started emerging. . . . There was very little international law capacity of any sort anywhere in the mission, there’s really no training. . . .

Author: . . . Did you find yourself drawn into a role of being the voice of the law?

Nathan: Well, a little bit, except most people didn’t care [laughter]. So I was the voice of the law talking to myself. Occasionally I would get an audience, and occasionally my senior human rights officer would latch on to something where he realized that the legal arguments were helpful to advancing a particular goal, political goal.\textsuperscript{65}

As with local authorities, translation within the mission, even among human rights personnel, required a connection between the law and the practical or political. Legal expertise may be limited in value if the role of law is not appreciated or embraced by other participants in the mission.

Over time, this legal dimension of human rights—and of the expertise of the field officer—has become more pronounced. Several field officers

\textsuperscript{62} Interview with Anthony, former field officer, Human Rights Fieldwork Project (Mar. 2010).

\textsuperscript{63} See Chandler, Military, supra note 4.

\textsuperscript{64} See O’Flaherty & Ulrich, Professional Identity, supra note 8, at 77; O’Flaherty & Ulrich, Professionalization, supra note 21.

\textsuperscript{65} Interview with Nathan, former field officer, Human Rights Fieldwork Project (July 2010).
specifically distinguished more general understandings of human rights from legal understandings of human rights—or human rights as law-based. They also distinguished human rights practice and the work of human rights officers along similar lines, with law and legal experience bringing more certainty and rigor to the work and augmenting expertise. For example, Suzanne, who was trained and experienced as a lawyer, explains:

*Suzanne:* I think a lot of people who go on to do human rights don’t really appreciate the fact that human rights are law . . . and it’s a body of law that should be treated like a body of law, with respect and rigor. Maybe it’s sounding a bit too lofty here, but I certainly see as a danger here that people either come into rights a) without a law degree or b) with a law degree and never having practiced . . . . I find that the people who don’t have a law degree and the people who didn’t practice don’t understand the rigor necessary. And they make accusations and rely on misinformation or un-sourced information, um, that, makes them lose credibility . . .

Human rights officers sometimes struggle in the geographical “field” to make sense of the contours of their professional “field.” Mastery of legal language is foundational for expertise, and translation or interpretation of legal concepts is essential to the everyday work of field officers. This translation is conveyed in training, reporting, and other capacity-building efforts. At times, it is a defensive and strategic endeavor, engaged in demonstrating and solidifying the relevance of law, human rights, the work of human rights field officers, and the project of international intervention. Expertise in the geographical field then requires the connection to the established authority, rigor and credibility of the juridical field.

### B. Lost in Translation

Language—metaphorically and literally—is significant in humanitarian intervention. In its literal sense, language becomes another mandatory import of the international intervention—where the language of the mission is the language of governance. Metaphorically, language and translation

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67. Interview with Suzanne, former field officer, Human Rights Fieldwork Project (Mar. 2010).

68. In their discussions, however, human rights officers seldom engaged with issues of literal translation of language. The metaphorical translation of law is, however, also dependent in many cases upon the actual translation of language in the field. This was not a subject that came up often in the interviews, but it did appear on the margins
illuminate the operations of law and expertise in the field. Translation of law, and more generally of the “international,” may be a preoccupation of the field officers and the broader mission. However, it is rarely a smooth or seamless process, and human rights officers also tell stories of mistranslations and failed interpretations in the field.

Law is effective—and its expert interpreters are able to accomplish its work—“only to the extent that it is socially recognized and meets with agreement, even if only tacit and partial, because it corresponds, at least apparently, to real needs and interests.”69 The field officers interviewed related numerous challenges, points of resistance, and counter-interpretations they encountered in the course of their work. Some of these occurred in relation to their efforts to translate the normative content of the law, and others reflected uneven terrain between the legal and the “practical” or “real.”

Kevin identifies several points of disconnect in his efforts as a new human rights lawyer to interpret and apply the law in the everyday context of the field:

Kevin: Well, I think that in the field at the time, of course, it was extremely difficult wherever you were . . . first of all, you had the very difficult challenge of, in essence, seeming to be a, an academic in nature, and having to be an interviewer . . . interviewing people, in some cases, people that had been traumatized by their experiences. Suddenly having to try and get them to talk about their experiences, to get them to open up to you, to trust you, those are things that simply the law did, of course, did not teach you those sorts of skills.70

Interestingly, Kevin first frames the law as an active participant—or, rather, inactive in this example—where the law fails to teach the necessary skills. It is academic when it needs to be practical and relational. He continues:

Kevin: And, then of course, there were always some real conflicts there, you would get people to open up and be quickly leaving them. There were some ethical issues that I found to the work at the time occasionally. One field officer had previously been a professional interpreter, and others noted issues of language that arose from time to time. The ability to translate culture, language, and process—either literally or figuratively—confers its own form of power. In the context of local interpreters in the field, it offers a conditional power, a form of “honorary citizenship” for those subject to “international” authority. FANON, supra note 53.

69. Bourdieu, supra note 17, at 840.
70. Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).
that were unsettling. . . . not to mention that sort of basic disconnect you have whenever you’re talking to someone about a violent incident that had just occurred to them or that had happened years before and then you’re taking their statements, you’re trying to confirm and reconfirm the information they have given you, and then suddenly you go from what is a very, you know, factual yet very emotional accounting of real world events, and then suddenly you try to bring the very sterile law into that discussion. It sometimes seemed very non sequitur. . . . It seemed to question the relevance of your work. 71

Law is not only impractical in the field, it is also sterile when it faces the emotional. Where it is supposed to offer solutions, to decide, instead law manifests as inadequate, perhaps even irrelevant, when it encounters the “real world events” of the field.

Kevin’s comments reveal a frustration that other field officers also expressed about the efficacy of law and its usefulness in achieving practical ends even when translated for the local audience. Cristina ties the difficulties of translation to larger problems of effectiveness, usefulness, and even belief:

Cristina: Law would not be very often the most effective way to achieve your goals because people do not believe in it. . . . They just don’t see the utility of it, you know. . . . The work needs to be done, but I think very often we go there, we meaning international go there, with the idea that this is the law and this is the way it has to be. But it’s much more complex than that. It’s not just an automatic translation. 72

Other field officers also suggested that the systems that work at “home” or “headquarters” simply might not translate in the field. In the end, translation often fails. It may, as Cristina indicates, fail for lack of belief—the “grant of faith” is missing to sustain law’s power 73—or it may fail for lack of practical usefulness.

The multiple practices of translation and interpretation in the field are exercises of power, whether they succeed or fail. In each situation, the field is constituted to locate power in the international expert, the human rights lawyer. The status of translator is linked to expertise; in turn, expertise itself is constructed through impartiality (not about normative standards, but about the conflict), knowledge (not about domestic law, but about international law and standards), and language (not domestic language, but profes-

71. Id.
72. Interview with Cristina, former field officer, Human Rights Fieldwork Project (July 2010).
73. Bourdieu, supra note 17.
sional language). Translation becomes a communication across the boundaries of unequal dualisms.

IV. THE HUMAN RIGHTS LAWYER AS REPORTER AND LAWMAKER

Law and language are central to the expertise of the human rights lawyer in the field, but that expertise must also produce, create, and expand knowledge, often, if not predominantly, in the form of written texts. Because law is often a “text-based practice,” human rights officers—as legal experts—are called upon to create myriad texts in the course of their everyday work, especially field reports and new legislation. Human rights officers may see these as “neutral, technical function[s]” of expertise, but these reading and writing practices of field work involve the reproduction of power relations.

The human rights field officer as observer, monitor, and reporter provides the record of human rights conditions and the progress of the mission in the form of field reports. In addition, the human rights lawyer often acts as a sort of de facto legislator, or at the least, a legislative consultant in the field. This role is less frequently acknowledged in the literature but appears significant in participants’ accounts of the work. Both forms of reading/writing practice reinforce and reconstitute expertise in the field.

A. Monitoring and Reporting

Monitoring and reporting figure prominently in the work of human rights field officers. The professionalization project lists them as “principal” work areas, functions and tools of field officers. Within the broad framework of monitoring, human rights officers may be expected to meet with a wide range of people, develop relationships, visit and assess specific places

74. ORFORD, supra note 1, at 50.

75. Id. at 78. Baxi frames these practices as a political undertaking—not disconnected from the practices of translation discussed earlier—where human rights languages (and texts) “construct institutional facts as a species of social facts.” Upendra Baxi, Politics of Reading Human Rights: Inclusion and Exclusion within the Production of Human Rights, in THE LEGALIZATION OF HUMAN RIGHTS: MULTIDISCIPLINARY PERSPECTIVES ON HUMAN RIGHTS AND HUMAN RIGHTS LAW 188 (Meckled-García & Çali eds., 2006).

76. O’Flaherty & Ulrich, Professional Identity, supra note 8, at 23. Monitoring is broadly defined as “gather[ing], analys[ing] and us[ing] information on the human rights situation” in the Guiding Principles for field officers, and it is considered “integral to all functions of the field officer. Id. at 23-24. The commentary on the project’s Guiding Principles outlines the contours of a human rights officer’s expertise with the description of these two key functions.
and events, communicate findings, follow up, and generally provide a “reassuring presence.” Monitoring almost necessarily leads to reporting on the results of all that observation and investigation. Like monitoring, reporting is “an essential tool for human rights work and protection.” Reporting requires a particular skill set or technical competence: “the ability to analyse information and to write clearly and concisely,” as well as “knowing applicable human rights law (including national laws and regional treaties) and current country conditions, national politics and regional issues.”

Both monitoring and reporting are characterized as “diagnostic,” further positioning the field officer as expert. The “impartiality” of the expert is particularly central to these tasks; it sets up the “one-sided relationship of observing and telling” that organizes the expert account. However, both impartiality and expertise remain contested. The human rights officer is engaged in an asymmetrical relationship with the subjects of the monitoring and reporting, where the officer has the privilege of speaking and writing. The human rights lawyer as expert re-

77. Id. at 425.
78. O’Flaherty & Ulrich, Professional Identity, supra note 8, at 24. The professionalization project identifies five principal functions of reporting:

recording a current human rights situation and its evolution over time, both negative and positive; informing State authorities and other relevant actors of their responsibilities and obligations regarding human rights problems and identifying solutions; providing an independent appraisal of the human rights situation that can inform the decisions of the international community and mobilise action; supporting the rights of victims and their families to know about the details of violations and their rights to justice, restitution, compensation or reparations; and use in criminal prosecutions and other accountability mechanisms.

Id.

80. Id. at 427. However, Smith, among other theorists, destabilizes the idea of the expert as holder and purveyor of objective knowledge; the expert is never really “outside” the relations being observed, analyzed, or interpreted. The texts produced by experts are particularly significant; these texts allow, or perhaps even lead, the expert to conceal his or her standpoint as embedded in the same everyday world they scrutinize.


81. SMITH, EVERYDAY WORLD, supra note 80, at 128. The expert takes for granted “the privileges of speaking for those who are not members of the discourses embedded in the relations of ruling in which she has a voice.” Id. at 116.
82. Id. at 118. The expert creates the “authoritative” version account of the empirical world that is both independent of the “partial and subjective perspectives” of those involved in the action and also transcends the accounts of others, particularly of those without expertise.
porter not only describes the realities of the social world but also constructs and shapes it through text. The authoritative account is integral to broader “systems of ‘communication,’ ‘knowledge,’ ‘information,’ ‘regulation,’ ‘control,’ and the like.”83 The reports live on beyond the moment of creation; they are read, cited, circulated and archived. They become an independent source of “knowledge” and provide a renewed foundation for expertise.

Human rights field officers describe the central role of reporting and reporting in their everyday work in the field. Characterizing reporting as “part of our basic work,” Andreas explains:

Andreas: I used to give a, the introduction or some trainings on particular, rather than the theory, something like a basic training on how to monitor human rights, how to write reports, report-writing, for instance. Yeah, these types of things just so they are not even touched at the university or even with masters degrees, but they are part of our basic work, especially when you are dealing with human rights monitoring. It is not only a matter of knowing the human rights conventions but also how to translate that to a report, or how to write a report.84

The written text is an integral part of the work of translation of law and links law to the other activities in the field. Kevin echoes this point on the centrality of the report: “every time I went to the field I tried to make sure I produced a report.”85 He continues with a description that tracks closely the outline of monitoring and reporting practices offered in the Guiding Principles86 for field officers:

Kevin: From a visit to the field, well, you tried to encapsulate all the places you, not just the places you visited but the categories of individuals that you spoke to. . . . You would write up a situation or report of what had happened when you were in the field, what were rumored activities. . . . You would, you know, clearly demarcate what can be confirmed and what was not confirmed um, then you would

84. Interview with Andreas, former field officer, Human Rights Fieldwork Project (Mar. 2010).
85. Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).
make a basic rights analysis. You would try to make a recommendation of how a given situation would be addressed or improved upon.\footnote{87}

These basic monitoring reports establish an “authoritative account” of what has happened in the field and an expert recommendation of possible responses by the international community and by domestic officials.

However, the human rights field report also becomes a building block for other reports and expert texts. The basic field report forms the first link in a chain of texts that coordinate practices in the field. Paul depicts the United Nations as “report heavy”\footnote{88} and Marcus describes an “avalanche of paper”\footnote{89} as part of everyday work in the field. Kevin enumerated the various reports he prepared in his work in addition to regular periodic reporting:

Kevin: And then at times you would do issue-specific or thematic reports where you try to put everything together about one specific category of violation you’d been encountering. There were also a couple times when we had to do specific investigations into an incident . . . I also was asked to develop a couple of training manuals for use by field officers and for use by NGOs at the time, so I was also trying to put my analytical skills to work in doing those sorts of written reports and materials.\footnote{90}

The field report begins as an official record of an event, which is used by the field officer and other parts of the mission; it is combined with other basic field reports to identify (“diagnose”) categories of violations; and these reports are then further used in training procedures that cultivate and reinforce the expertise of field officers. In this “report heavy” context, it can be difficult for field officers, and other institutional actors, to separate out and pay attention to the information that has value. The report itself becomes the objective, and reporting is the activity of the expert.\footnote{91}

Despite the proliferation of reports within the mission and in larger institutional context of the inter-governmental organization, field officers

\footnote{87. Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).}
\footnote{88. Interview with Paul, former field officer, Human Rights Fieldwork Project (Feb. 2010).}
\footnote{89. Interview with Marcus, former field officer, Human Rights Fieldwork Project (Feb. 2010).}
\footnote{90. Interview with Kevin, field officer, Human Rights Fieldwork Project (Feb. 2010).}
\footnote{91. Because of their extensive reach from the field back into the mission and the broader institutional setting, field reports and reporting practices also are shaped by and reflect the ruling relations of those broader contexts. See Kennedy, supra note 3; Chandler, Military, supra note 4; Pease & Forsythe, supra note 4.}
sometimes questioned the usefulness of reporting. The multitudes of reports and the myriad levels of institutional review serve as a sort of filter of information to and from the field. In that context, the reporting that seems essential to field officer daily work may barely register at headquarters in the “avalanche of paper:”

Marcus: We had to submit everything from weekly reports all the way down to, they went through an exercise to see what would happen, hourly reports, um, and then of course, there were quarterly reports, there were semi-annual reports, and there were annual reports . . . and ninety-nine percent of the time it was the same information regurgitated over and over and over again, and nobody ever read them or very few people ever read them . . . They went up, to the next level up . . . There were an inordinate number of levels and layers, and then all of that to get to the office that decides what information gets to New York. And I had a friend who sent code cables, so every once in a while he would tell me, oh, by the way, that report you wrote, you actually got a sentence in the code cable today.92

Other field officers articulated similar concerns. Reporting is a preoccupation of field officers and tangible outcome of their daily work—sometimes one of the few demonstrable results. These texts are active in the work of the intervention, and it is often field officers who both author and use them in the field.

B. Writing Law

Although reporting is a primary manifestation of human rights expertise, human rights officers also write other texts in the field. As lawyers, they may be called upon to draft, review, or revise “new” domestic legal texts, from basic regulations and legislation to more significant documents such as national constitutions.93 The idea of the rule of law has historically been linked to a democratic framework and self-governance, and in contemporary field missions, the development of such a framework has generally

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92. Interview with Marcus, former field officer, Human Rights Fieldwork Project (Feb. 2010).
been the goal if rarely the practice. Instead, the approach has more typically been one of “externally imposing a rights framework” outside the usual domestic political process. This is generally presented as unproblematic given the “universal” and “progressive” nature of human rights, and this practice has been facilitated through the work of human rights lawyers in the field.

The processes of setting policy priorities, negotiating and compromising on language and outcomes that are usually integral to domestic lawmaking instead occur primarily (at least initially) within the international mission. Those debates may occur, but they take place among international staff. Suzanne discusses interplay within the mission on drafting legislation:

Suzanne: We were drafting legislation on everything. I mean like the police institution law, the judicial service law, the legal aid, I mean everything, just very, very basic, because they had no legislation themselves, and so all of that, and the human rights department made a lot of comments on a lot of the draft legislation like for example, oh L.A. [Legal Affairs] would draft, make the original draft, and then we would provide additional input, and there was a lot of back and forth on making sure that human rights protections were integrated into the new, into the all the new pieces of legislation.

Suzanne’s experiences are not unique, and in some ways, they may reflect exactly the sort of legal expertise that is expected from field officers, by both domestic and international authorities. While she actually had significant experience as a lawyer and as a field officer (as well as advanced training), that is not always the case.

As with other expert practices in the field, at times the authority to draft legislation was grounded more in “international” status than in actual professional expertise. For example, Nathan discusses his observations as part of a transitional administration:

95. Id. at 128–29.
96. Interview with Suzanne, former field officer, Human Rights Fieldwork Project (Mar. 2010). Suzanne provided a copy of a memo she had participated in preparing as a member of the mission’s human rights department to another mission component regarding draft legislation related to the police. Although the memo makes clear that the domestic authorities will ultimately enact (or not) the legislation, it is the international authorities that are debating the contents and drafting the language. The memo makes general recommendations on content, proposes particular language for various provisions, and offers supporting analysis based in human rights law. Memorandum from human rights staff to mission leadership (May 2001) (on file with author).
Nathan: Part of what we were doing . . . was reviewing draft legislation, doing sort of a human rights compliance check on it, and we also occasionally originated draft legislation but that was kind of on our own initiative. There were lots of people around drafting legislation . . . People just out of law school. When I was first tasked with drafting some language I was very reluctant to do something, thinking back home they’d never let me do this (laughter). But then I looked around to see who else was doing it and the crap they were churning out, and I thought, well hell, you know, I may not be the best, but I certainly did a better job than they are.

Other field officers expressed similar reluctance to take on such authority, but in the context of the mission, it was typically considered a major part of the work of international staff.

Although these practices were common, however, that does not mean that local authorities played no role or that “international expertise” was accepted without question or complaint. For example, Stephen described his efforts to draft a comprehensive non-discrimination law that was largely rejected by local authorities. His efforts took place in the context of a contemporary movement within Europe, led by the European Union, on similar issues. That type of context has both persuasive and coercive value—“leverage”—as international and domestic authorities work to rationalize the domestic legal framework in accordance with international standards. However, as is often the case in the field, it is difficult to resist the temptation to advance human rights protection even further:

Stephen: And I, basically I drafted the law with consultations with the experts at Council of Europe, with European Roma rights, and with many internationals, governmental and non-governmental organization commentators. Put it out, basically the framework was easy because the framework was the [EU] racial equality directive, and then I hung all this other stuff on it, and we really fleshed it out and made it even more powerful than the racial equality directive.

This overreach turns out to be a strategic miscalculation, and perhaps a misunderstanding of the extent of “international” expertise, in this situation:

Stephen: I realize that was a mistake because we should have just sat down—instead of me drafting this thing and giving it to the govern-

97. Interview with Nathan, former field officer, Human Rights Fieldwork Project (July 2010).
98. Interview with Stephen, former field officer, Human Rights Fieldwork Project (Feb. 2010).
ment hoping you know, adopt a lot of it or some of it—we should have just sat down with the government, and done it in the first place, because now it looks like [my] law. . . . So finally the government had it for about a month or two, and they came out and they said . . . thank you and we’re going to do our own now. And I thought, that’s fine, good, you know, it’s better, at least they have something to go on and we can help them with it.¹⁰⁰

Stephen identifies a mistake in moving beyond expert advice and consultation, marking the legislation too overtly as an “international” product. He moves back to more familiar and acceptable ground, providing a model for local government to use supplemented with expert assistance.

Human rights lawyers draw from the texts of intervention—human rights laws and mission mandates—and produce other texts that reflect and extend the reach of those laws and mandates. Through reports, human rights officers position themselves as expert observers and diagnosticians. Through other legal texts, they continue the work begun in treaties, resolutions, and peace agreements to bring international law into the domestic realm. However, international expertise, in fact international authority, is not absolute, and this may become especially evident in the context of writing law, which is more unambiguously a domestic responsibility, than in other facets of human rights work, such as reporting and interpreting law.

V. CONCLUSION

Human rights lawyering is emerging as a significant dimension of international practice. However, little is known about the everyday contours of that work, especially in the context of IGO fieldwork. This Essay begins the investigation of the nature of the work, and the consequences of it for projects intended to advance human rights and promote the rule of law. In the field, human rights officers both reflect and re-inscribe existing relations of power across scales, at the international, national, and local levels. Human rights officers are endowed with expertise through law, and, in turn, they deploy law in projects of administration and governance. This expertise is magnified in the field as it becomes conflated with the “international,” and as it produces knowledge in the form of reports and (re)establishes the rule of law. However, these practices and productions are unstable and contested in operation, among various components of the international mission and by domestic authorities, when the promises of the “international” are not matched by professional competence, when transla-

¹⁰⁰ Interview with Stephen, former field officer, Human Rights Fieldwork Project (Feb. 2010).
tions are misconceived or misunderstood, and when expertise overreaches. Law and expertise must continually be reframed and renewed.

With this understanding, it is possible to consider alternative models of practice and conceive of more meaningful professional expertise. One obvious suggestion, as the professionalization project notes, is to continue efforts to train and develop the capabilities of human rights field officers, including lawyers, as well as other “international” mission staff. A general level of frustration with the competence of international staff and of opportunities for (and expectations of) training through the IGOs emerged from the interviews. It has been encouraging to see the trend in recent Security Council resolutions calling for specific forms of training and expertise in international personnel deployed in field missions, particularly in missions charged with building capacity at the local level.

In addition, the distinction between international and national (or, more commonly, “local”) is pervasive in international work, and in the human rights field, but it is seldom seriously questioned. Although it is common to bemoan political influences and conflicts of interests by national authorities or personnel, little or no formal attention is given to the same possibilities among international staff. The international becomes stripped of personal and national affiliations, neutralized as expert, while the national is overly personalized and localized. It is clear that many field officers are aware of the power relations in the international-national dyad and have taken steps in their own work to ameliorate the more negative effects. However, this issue also remains something of a taboo. It is discussed only briefly (and somewhat opaquely) by the professionalization project, and a serious re-examination of the presumed distinctions between nationals and internationals would require a much more critical examination of intervention (and of much “international” human rights work) overall. This is a discussion that does occur in the scholarly literature (particularly in post-colonial, transnational feminist and other critical approaches), but much more rarely permeates practice. There should also be meaningful (and public) examination of differences in compensation and professional development opportunities, in status within and outside of the institution, in day-to-day institutional practices and procedures, and in the forms of expertise valued (including competencies in language, in domestic and international law, in local and regional history, and so forth).

A similar “practical” approach is also needed for law and lawyering. Too often, human rights professionals (and policymakers) endorse the whole-scale importation of international human rights law into a domestic context. This elides the important role of national authorities and their citizens in making domestic law (an important feature of the “rule of law”), and it often undermines the credibility of the new legal regime. This can, of
course, be counter-productive in numerous ways: it appears (and usually is) undemocratic, it may consequently lack validity and legitimacy, and it ignores the valid critiques that have emerged about existing human rights law. At a minimum, international missions and their staff should resist the temptation to require more from national authorities emerging from a conflict situation than they could reasonably expect in their own national contexts. This is not to say that increasing legal protection for human rights is not a worthy goal, but rather that greater care must be taken in how that goal is achieved. Human rights lawyers have the potential to be powerful agents for change—for human rights and the rule of law—in the context of the field. It is time to assess both the strengths and the limitations of current practice and to (re)conceive a model of human rights expertise.