

Shape-Changers: Embracing Cross-Cultural Business Metaphors in International Human Rights

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In this paper, I review scholarship on recent significant metaphorical conceptualizations of international human rights law and enforcement. I then extend and re-direct the debate on normative metaphors in the U.N.'s international human rights corpus to introduce business metaphors. I argue that the utilization of traditional business concepts and the metaphorical language of business provide a practical avenue for improving knowledge asymmetries that currently block both understanding and acceptance of human rights violations and compliance processes in both Western and non-Western cultures.

Makau Mutua argues in the *Harvard International Law Journal* that international human rights norms target a "deviant state," "attacking the normative cultural fabric or variant expressed by that state."¹ His analysis of the metaphors of *savage*, *savior* and *victim* illustrate ways the U.N.'s international human rights corpus stigmatizes non-Western cultures. The "new crusade," which began as an effort to contain excessive and abusive exercises of State power following WWII, has become a demonizer of non-Western cultural values, albeit for worthy goals. Indeed, one of the most difficult aspects of achieving compliance with international human rights instruments, from a cultural perspective, lies in the metaphorical victimization at its core. As Mutua notes hotly, "The metaphor of the victim drives the human rights movement,"² thus creating a representational knowledge asymmetry.

In a related discussion, Roderick Macdonald discusses ways in which the regime of global legal norms rests on two strong metaphors: harmonization and transplantation, along with a third metaphor, newly arrived, of "viral propagation."³ Norm creation and migration continue to lag behind perceived need, a communicative as well as a representational knowledge asymmetry, also a question of the relative priority of the scope and scale of legal orders within different cultures. Macdonald argues that these metaphors resonate with equal portions of naivety and vulgarity, while the viral transmission metaphor emphasizes the existence of – and impact of – knowledge asymmetry on global respect for and compliance with international human rights. In truth, "The 'us-and-them' dichotomy has a familiar ring and logic in the history of the West and of international law,"⁴ a logic at the core of the language and process of U.N. human rights instruments.

I propose the introduction of metaphors successfully utilized in the world of business as an avenue to reduce knowledge asymmetries in international human rights law application and compliance. Several examples will be included utilizing research by John Clancy on effective metaphors in the world of business.⁵ Clancy examines how both words and images have shaped the way business leaders think about their purpose and performance over time. Business metaphors - such as those inherent in the concepts of game, war, organism, society, and voyage - hold the potential to redirect the international human rights experiment, reducing what Mutua calls "the violence of positivist language."⁶ Surely, "[o]urs is the age of rights. Human rights is the idea of our time, the only political-moral idea that has received universal acceptance."⁷ This makes their effective implementation as a 'global project' worthy of greater critical conceptual analysis and debate.

¹ "Savages, Victims, and Saviors: The Metaphor of Human Rights," Makau Mutua, 42 Harv. Int'l L.J. 201, 221 (Winter, 2001).

² Id. at 228.

³ "Three Metaphors of Norm Migration in International Context," Roderick A. Macdonald, 34 Brook. J. Int'l L. 603, 603 (2009).

⁴ "Terrorism and Human Rights: Power, Culture, and Subordination," Makau Mutua, 8 Buff. Hum. Rts. L. Rev. 1, 1-2 (2002).

⁵ *The Invisible Powers: The Language of Business*, John J. Clancy, Lexington Books, Lanham, Boulder, New York, Oxford (1989).

⁶ Mutua, "Savages, Victims, Saviors," 236.

⁷ Id. at 237.