Advocating for the right to science: An interview with Prof. Helle Porsdam

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Darshika

In your academic career, you have moved from literary studies to history, only to end up in the interdisciplinary field of humanities and law. What motivated you to work in this interdisciplinary field?

Helle Porsdam

When I was a graduate student of American Studies at Yale University in the mid-1980s, I quickly noticed – maybe because my father was a lawyer and we talked a great deal about law at home – that the role of law in the U.S. was somewhat different from the one that I knew from Denmark. As a graduate student, I had to teach undergraduate students and I observed that a large number of these students wanted to go to law school to study law. In the U.S., you do a bachelor's degree first, and then you enter law school after four years of undergraduate study. When I asked my students why they wanted to study law the replies from one group of students really stuck with me. This group of students wanted to study law in order to change the world for the better, and they found that the country's courts offered the best place to start societal change. To me, this view of – and belief in – law and the legal system, not as a top-down instrument for regulation and control only, but also as a bottom-up, even grassroots-like movement through which change can be originated was highly interesting. In the U.S., moreover, the federal legal system is one of the few things that all Americans have in common, and it has consequently become an important forum for people to meet and settle disputes, big and small. Whether political, economic, social, or cultural, discussions typically either start or are settled in a court of law. Popular culture prominently displays this link between law, culture, and politics and this was interesting to me as an American Studies student.

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Alexis de Tocqueville – the French aristocrat who visited the U.S. in the 1830-40s and wrote about American democracy – was one of the first people to notice that:

"There is hardly a political question in the United States which does not sooner or later turn into a judicial one. Consequently, the language of everyday party-political controversy has to be borrowed from legal phraseology and conceptions. As most public men are or have been lawyers, they apply their legal habits and turn of mind to the conduct of affairs. Juries make all classes familiar with this. So legal language is pretty well adopted into common speech; the spirit of the law infiltrates through society right down to the lowest ranks, till finally the whole people have contracted some of the ways and tastes of a magistrate."

Darshika

Why is it that law plays this role in the U.S. and how does your experience from law in the U.S. link to your interest in international human rights?

Helle Porsdam

A number of historians and political scientists have tried to explain why law, lawyers, and the legal system have played such an important role in American history, culture, and politics. As I see it, one of the major reasons is that the U.S. is a totally multicultural society. In a society where nobody agrees on anything and where there are all these different groups and cultural backgrounds, law and the legal system have become a means to solving problems. In the American context, as Tocqueville noticed, law has become a discourse, if you will, a forum in which to voice and negotiate different points of view. And from there, the jump to international human rights wasn't very big for me since international human rights law is one of the few global ethical discourses we have today. Human rights are not fantastic – indeed, many scholars and activists have criticized 'human rights talk' from different perspectives – but I find that these rights provide a language that we can use to solve global conflicts. It is there, so let's use it!

An added advantage, as I see it, is that the human rights discourse highlights the various stakeholder interests involved. One person's or one group's rights may well clash with those of other persons and groups, and the human rights discourse allows all these various interests to be heard and to be balanced against each other – hopefully in a respectful way.

So my interest in American law and its central role in American history and culture naturally led to an interest in international human right law. For the past few years, not least in connection with my UNESCO Chair, I have especially looked at that part of human rights which deals with cultural rights. There are four core cultural rights – the right to education, the right to participate in cultural life, the right to benefit from scientific progress and its products (or just the right to science), and author's rights (the moral and material interests that you may have in a work if you are the author of such a work). I'm currently working on the third of these core cultural rights, the right to science. Science and technology play such an important role in our lives today. Indeed, one of the clear messages to emerge around the world during the COVID-19 crisis is how important it is to understand the ways that science can assist society; but just as crucially, how society can engage with and shape science.

The pandemic has highlighted the importance of international cooperation to solve problems that are global in scope. Such cooperation is essential when attempting to prevent the

harms of 'dual use' of science and technology for both peaceful and military aims and to ensure that science is viewed as a public good that benefits everyone. 'Science diplomacy', the use of scientific collaborations among nations to address common problems and to build international partnerships, has accordingly become increasingly important.

Darshika

That the right to benefit from science in fact constitutes a core human cultural right might come as a surprise to many. It seems like a cultural right we do not hear so much about. What does the right to science entail and how has it developed over time?

Helle Porsdam

Yes, the right to science is a little known and overlooked human right. Most people do not know that there is such a thing as a human right to science. This is surprising at a time where the value of science is under attack, with some raising alarm at the emergence of 'post-truth' societies. The fact is that this right was included in the Universal Declaration of Human Rights, published in 1948. As a declaration, the Universal Declaration is not a legally binding instrument. From the very beginning, the idea was to have one instrument drawn up in the United Nations that would make all the rights mentioned in the Universal Declaration legally binding. But for geopolitical reasons having to with e.g. the Cold War and decolonization processes, this did not happen.

In the end, in 1966, the United Nations succeeded in drafting not one, but two international treaties, called covenants. One is called the International Covenant on Civil and Political Rights. The other one is called the Covenant on Economic, Social and Cultural Rights. It took another ten years until enough countries had ratified these covenants, so it was only in 1976 that they became legally binding and could be used in practice. The division of human rights into civil and political rights, on the one hand, and economic, social and cultural rights, on the other, was unfortunate. Human rights scholars have since been unable to agree on which set of rights is the more important. Whereas some would say that civil and political rights such as the right to vote or the right not to be tortured constitute the core of human rights, others claim that economic, social and cultural rights – the right to earn a fair living, the right to education and so on – are just as, if not more important. What is the use, the latter would say, of having freedom of speech if one is starving?

The official United Nations view, as stated in the 1993 Vienna Declaration, is that all of these rights are equally important; they are interrelated and interdependent. But the division into two Covenants of the human rights that were mentioned side by side in the Universal Declaration of Human Rights has always meant that those of us who are interested in economic, social and cultural rights have been at a disadvantage. In many parts of the world – the U.S. is a good example – civil and political rights are not only viewed as being more important than economic, social and cultural rights, as previously mentioned; the latter are also considered to be of a political or, as lawyers put it, non-justiciable nature. And those scholars who are interested in economic, social and cultural rights have always primarily talked about economic and social rights. So cultural rights have always been neglected.

Darshika

And the right to science is one of these cultural rights?

Helle Porsdam

Yes. Three of the four core cultural rights are outlined in Article 15 of the Covenant on Economic, Social and Cultural Rights. This article, which repeats almost word for word Article 27 of the Universal Declaration of Human Rights, has four parts. The first part mentions these rights. The second part requires States to develop and disseminate science and culture – as the drafters of these human rights instruments knew, without dissemination there can be no right to science as people will not know and have access to what is going on in the world of science and therefore cannot benefit from it. The third part is about the obligation of States to respect scientific and artistic freedom. Finally, the fourth part concerns the importance of openness and international cooperation, when it comes to both artistic and scientific work.

Darshika

So in Article 15 culture and artistic work appear side by side with science?

Helle Porsdam

Indeed. One of the interesting things is that culture and science are mentioned side by side throughout Article 15 as well as also in the Universal Declaration of Human Rights. The drafters viewed science as a cultural human right, that is, as a part of culture. Just like culture, science is a public good that should be shared. As the drafters saw it, the purpose of cultural rights is to further creativity and learning. In my book, *Science as a Cultural Human Right* (University of Pennsylvania Press, 2022, forthcoming), I discuss science as a human right. Human rights, it is worth remembering, are not just a set of legal norms; they also embody ethical and human-centered principles such as dignity, non-discrimination, inclusion, and equality. With regard to the human right to science, this means that certain restrictions to scientific freedom apply. It also means that scientific responsibility is an alternate aspect of scientific freedom, and that prior-informed consent, confidentiality of data, and other kinds of protection from dual-use research are necessary.

Darshika

So there is actually two dimensions, as you said – there is not just the right but also responsibility. How can we actually, how can we enforce that responsibility?

Helle Porsdam

That is a good question. As I see it, with rights comes responsibility, especially since populations around the world are very afraid of what I have already referred to as 'dual-use science' – that is, science that can used both for good, but also for bad things. Atomic energy is one obvious early example. It can be used as a source of energy, but can also be turned into nuclear weapons in armed conflict – just think of Hiroshima and Nagasaki in 1945. A more recent example is genome editing with CRISPR/Cas9, a unique technology that enables geneticists to edit parts of the genome by removing or altering sections of the DNA sequence. Ostensibly about saving lives, this technology can also, many fear, be used to manipulate our genes in order to create designer babies, for example.

This is where scientific responsibility comes in. But can we actually ask each scientist to think that far ahead – to consider whether what they are doing right now can one day be turned into something bad? Most scientists simply want to do their research and to stay out of politics as

far as possible. Another approach to the issue of holding science and scientists responsible involves regulation. A current PhD fellow of mine investigates the role of regulation by both public and private authorities to prevent bad science, for example. Of interest here is also the role of peer review, ethical codes of scholarship, and the scientific method in general. One problem during the COVID crisis has been what some have called 'fast science' – that is, science that has not been thoroughly tested and has not been as good as it should be. There was enormous pressure to - and prestige in - coming up with scientific results that could be published and could lead to vaccines here and now.

So there are many different issues at stake here.

Darshika

While the right to science in this manner is one of the four core cultural human rights how is it you think it can be turned into a powerful instrument for solving some of the global problems we are facing today – e.g. climate change and sustainable development?

Helle Porsdam

So far, scholars, including myself, have tried to draw people's attention to the fact that the right to science is outlined in the Universal Declaration of Human Rights as well as in the International Covenant on Economic, Social and Cultural Rights. We have also written about the normative content of the right to science. The next step is moving from theory to practice. We need to make this right actionable and justiciable (to turn it into an instrument or tool that you can use in a court of law). For example, over the past couple of decades we have seen a number of climate cases where young people sue their governments. These young people claim that their governments are basically ruining their future as they have neither listened to available scientific evidence nor lived up to the 2015 Paris Agreement, the first-ever legally binding global framework to avoid dangerous climate change by limiting global warming.

Some of these climate cases could be conducted on a right-to-science basis, I think. So we are now moving into the next phase in which we turn the right to science into a tool we can use in practice and not just in theory.

Darshika

In your co-edited volume from 2021, *The Right to Science: Then and Now*, you are cooperating with a big group of scientists from many different disciplines. What are the challenges you face in such a cooperative effort?

Helle Porsdam

I very much enjoy having such discussions across scientific disciplines. Sometimes the reaction I get from natural scientists when I talk to them about the right to science is amazement that this right was classified by the drafters of the major human rights instruments as a *cultural* human right. Some are skeptical and fear that what they see as cultural relativism in the humanities will come their way since culture and science are mentioned together in these instruments. They are also not too keen on being reminded by their colleagues in the humanities that their research may involve ethical issues and may possibly lead to bad results for humanity for which they carry some responsibility.

But people in the humanities also often view interdisciplinary research activities with suspicion – at least when it involves cooperation with natural scientists. They consider what is going on in the world of science and technology to be so far removed from their own scholarly concerns in the humanities that they cannot really learn anything from their colleagues in the sciences.

Both positions are bad. Neither furthers the kind of scholarly exchange across disciplines and faculties that is needed today if we want to solve fundamental global problems such as climate change. Unless scholars are open to the kinds of questions asked and approaches taken by their colleagues in other faculties and trust that these colleagues have valuable contributions to make, we will get nowhere. Knowledge and experience from ALL disciplines are sorely needed at this point, and we should try to be open and to learn from what others say.

Understanding each other across disciplines and faculties is not always easy, though. Sometimes, the words we use in our various disciplines are the same, but they may have totally different connotations. Take the word 'translation,' for example. In the humanities translation means translating from one language to another. In medicine, it means turning (translating) scientific results into clinical practice by medical doctors. Once we have figured out what we actually mean by particular words, we can overcome our initial distrust and engage in conversation. I have often had people from other disciplines ask me questions or take up issues after one of my talks, for example, that I have never thought of before. Typically, my initial reaction is to think that this is a strange, if not directly stupid, question to ask. But then, my second thought is that maybe it isn't all that stupid. These kinds of questions show you the different kinds of things people are curious about. Listening to and learning from such questions once you have overcome that initial distrust, enables you to learn from all corners of the world.

Darshika

So trust is the key word?

Helle Porsdam

Openness and trust, yes. We ought to be good at that in academia, but we tend sometimes to be reluctant about leaving our respective little academic comfort zones. We gravitate toward thinking that we have all the answers in our part of the academy – and that only we know how to ask the right questions. In truth, others may have something to offer that is just as, if indeed not even more, relevant.

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