Islandness in human rights, human rights in islandness: Missing voices

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Abstract: Island Studies literature has rarely engaged with human rights law to scrutinise how the development of human rights standards and/or their (in)efficient implementation on islands contour the lives of islanders and islandness itself. Along similar lines, human rights research and practice do not systematically take into account islandness and Island Studies research. The present article explores the mutual reticence between human rights law and Island Studies, suggesting, though, that both fields can offer each other important opportunities for development. It advocates, in particular, that it is high time for a cohesive human rights and islands approach which is based on the human rights-based approach of islandness and the islandness-based approach in human rights. A potential cross-fertilisation between human rights law and Island Studies can be very promising not only for the advancement of the respective fields from a scholarly point of view, but also for a more efficient understanding of islandness and protection of human rights in practice.

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Island Studies prospers. Through the debates on its conceptualisation and the versatile explorations in social sciences, Island Studies not only has emerged (Grydehøj, 2017, p. 12), but also stands out as a multidisciplinary and interdisciplinary field of study (Grydehøj, 2017, p. 5). Anthropology, archaeology, economics, geography, history, linguistics, politics, psychology, and sociology have graciously offered their scientific tools for the development of Island Studies. Island Studies has reciprocated this generosity by embracing a number of studies coming from these disciplines.

There is, however, one field of social sciences that has shown more resistance to the allures of Island Studies. This field is law. Legal studies have contributed to the island-related discourse but not to its fullest potential. While constitutional (Jones, 2021), public (Boumpa & Paralikas, 2021), or parts of general international (Murphy, 2017) law research have explored islands and/or islandness to a certain extent, the dimension of the island does not necessarily permeate legal research in a

comprehensive manner. Human rights law, for example, has to date demonstrated limited interest in islandness. In a similar fashion, Island Studies has until this day paid little heed to the benefits of human rights law for its development.

The present contribution will map this mutual reticence between human rights law and Island Studies to indicate how the literature in both fields has considered each other in a rather incidental fashion. It will then accordingly illustrate that both fields can offer important opportunities for development to each other. The final part of the paper will wrap up by addressing the feasibility and the necessity of the junction between islandness and human rights.

Before proceeding with this threefold elaboration, some conceptual/terminological disclaimers are in order. From an Island Studies perspective, the present paper will not delve into the discussion of fundamental terms such as 'island' or 'islandness'. Without disregarding the pertinence of the relevant conceptual debates (Baldacchino, 2008; Bonnemaison, 1990; Campbell, 2009; Grydehøj, 2017; Nimführ & Otto, 2020; Ronström, 2021; Royle, 2001; Selwyn, 1980; Stratford, 2008; Taglioni, 2010) or even the pertinence of this debate for human rights law, this study will be using the term 'islandness' in its broad sense to refer to qualities of islands that distinguish them from the continent. As far as 'human rights law' is concerned, the present study will mostly refer to the human rights law from an international perspective. This implies that it will be mostly global and regional human rights law, rather than national/local law, that will be used for the purposes of this article. 'Human rights' refer, in the present context, to the universal legal guarantees protecting individuals and groups against actions and omissions, as codified in a series of international human rights treaties ratified by States.

A mutual doctrinal reticence

It is not an exaggeration to assert that Island Studies does not engage with human rights and that human rights does not consider islandness and Island Studies. This is not, of course, to disregard the studies and initiatives that link the two. However, even these occasions remind us of the untapped potentials of the intersection between islandness and human rights.

While human rights have a role to play in island life, the nexus between the two has not been addressed in publications specialising in Island Studies. *Island Studies Journal* (*ISJ*), a renowned specialised peer-reviewed academic journal "dedicated to the interdisciplinary study of islands, archipelagos, and the waters that surround and connect them" has hosted an impressive amount of research on islandness the past fifteen years. It comes, thus, as a huge surprise to discover that no human rights law-based paper has ever featured in the rich publication list of the *ISJ*. Given that "*ISJ* encourages cross-disciplinarity for the sake of providing more comprehensive and holistic assessments of the conditions and issues impacting on islands and island life" (*Island Studies Journal*, 2022), the absence of human rights legal research is indeed striking.

The same goes for other specialised journals, too. In its twenty-year life cycle (1992-2012), *INSULA: International Journal of Island Affairs* never hosted any human rights-related study, even though topics like island governance (d'Ayala, 2000) or resilience and vulnerability (d'Ayala, 2005) have been themes of some of its special volumes.

Certainly, Island Studies literature may occasionally refer to rights in research topics that are indeed human rights-related, such as island detentions for asylum seekers and migrants (Mountz & Briskman, 2012). The international human rights law framework that is highly pertinent in such topics is not, however, discussed therein. The same goes for research that revolves around the human rights discourse such as the one pertaining to the "right to have rights" (Coddington et al., 2012) in the case of island detentions.

With a comparable reticence, human rights literature does not comprehensively consider islandness as a relevant factor for its development. Of course, there is interesting research undertaken on a number of human rights topics. One such example is the scholarly work on islands and human rights from a legal anthropology perspective (Sermet, 2009). Such explorations, though, do not revolve around international human rights law.

Furthermore, there is important research/discourse that scrutinises the implementation of a number of human rights in certain islands such as the right to private life of LGBT people in the Bermudas (Barker, 2016) and environmental rights in Small Island Developing States (SIDS) (Shameem Khan, 2021). Along the same lines, scholarly work has also focused on the territorial scope of regional human rights treaties, like the European Convention of Human Rights with respect to the British Crown Dependencies and Overseas Territories (CDOTs) (Farran, 2007).

Beyond scholarly work, the implementation of international human rights obligations in certain islands has also been the subject of reports drafted by civil society organisations and National Human Rights Institutions (NHRIs). Special mention can be made to the extensive study on the effectiveness of human rights in French Oversea Territories (OT), published in 2018 by *La Commission nationale consultative des droits de l'homme*, the NHRI of the French Republic. This monitoring work focused, among others, on the prohibition of torture or inhuman or degrading treatment, the right to access to justice, the right to asylum and the rights of foreigners, sexual and reproductive rights, environmental rights and the rights of Indigenous peoples, as well as on the right to education and other social rights pertaining to poverty and social exclusion, and the right to health (Commission nationale consultative des droits de l'homme, 2018). The State's human rights obligations were also central to the mapping of the UK's Responsibilities in CDOTs, which was undertaken by the Island Rights Initiative and which pertinently observed that "there is a lack of coherent research to identify problems relating to human rights in the OTs" (Alegre & Island Rights Initiative, 2018, p. 22). The Island Rights Initiative (https://islandrights.org/about-us/) is, after all, a promising think tank that conducts research and advocacy on human rights issues

facing small islands to "support small island communities and their governments to find their place in the global human rights landscape of the 21st Century."

With no prejudice to the relevance of the aforementioned research and reporting and the links it establishes between human rights and islands, one can observe that its scope comes with certain limitations. First, its restricted geographical scope is coupled with the focus on a specific typology of islands, such as SIDS, (CD)OTs, and other small islands. As indicated, though, in the Island Studies discourse, islands are not just about smallness and remoteness; "islands are different" (Ronström, 2009, p. 171). Island cities or larger islands and island States are also to be considered. Issues of concern that one usually associates with small islands within a State might be even more pronounced in the case of an island State to use one of the examples Island Studies literature reveals. As noted, for example, in the case of Malta and Cyprus, "these small island states experience island sustainability issues to an even higher degree than other islands due to lack of support, particularly of an economic nature, from a 'mainland'" (Moncada et al., p. 66). Second, most of the research focuses on the monitoring of the human rights situation in a specific island context. It does not envisage a cohesive conceptualisation of how islandness in general has an impact on the way we understand international human rights law. Third, the perspective under scrutiny is located in the domestic sphere as it pertains to the implementation of international human rights obligations at a national level. The perspective of the international human rights bodies is missing. How are the international human rights bodies themselves contemplating islandness? Is that perspective cohesive enough and, if yes, what are its implications? How is islandness perceived by other human rights actors (civil society, national human rights institutions)? Fourth, existing research emphasises the human rights deficiencies in an island setting and not the opportunities this setting can offer for the advancement of human rights. All in all, further research is required for the scholarly work to comprehensively capture both the human rights framework and the condition of 'islandness' in their entirety. As far as the latter is concerned in particular, it is noteworthy that Island Studies has nowadays moved away from the negativism implied by the concept of 'insularity' which "has unwittingly come along with a semantic baggage of separation and backwardness" (Baldacchino, 2004, p. 272).

Mutual opportunities for development

As it has already been implied in the previous section, many of the issues addressed in Island Studies literature are also human rights issues and, reversely, many human rights issues are islandness-related. The following lines will use examples from Island Studies and human rights sources to illustrate the opportunities of development that each of the two can offer to the other. Indeed, the intersection between islandness and human rights can encourage: 1) a human rights-based approach in studies of islandness; 2) human rights research/practice on island contexts that applies an Island Studies perspective. The analysis of this second point will rely on the use of cases both

from a global and regional perspective. As such, that section will be lengthier than the first, without this implying a disproportion in their respective significance or potential.

A human rights-based approach in islandness

The delineation and analysis of islandness materialised through the discussion of a number of issues in Island Studies literature. Scholars have identified in different Island Studies papers a number of issues that they connect to islandness and island life; they can be points that raise both concerns and opportunities.

Climate change and other environmental issues; economic, social, and cultural development; migration; detention and people trafficking; land hunger; religious fundamentalism; separatism; domestic violence, non-discrimination and stereotypes; and water scarcity (d'Ayala, 2001; Hoad, 2015; Karides, 2017; Warrington & Milne, 2018, p. 193) are only some of the issues that Island Studies literature has been turning its attention to with a view to address the particular concerns they raise in the island context. To use one clear-cut example that reflects how certain issues are particular in the island context, one can refer to the problem of addressing domestic violence in insular communities and the struggle to guarantee the efficient operation of domestic violence shelters. As observed in literature, "[i]n continental contexts, most domestic violence shelters remain hidden but this has proven to be a much greater challenge and an unlikely occurrence in smaller or more rural islands" (Karides, 2017, p. 34).

The discussion of islandness-related concerns can also be found in island governance literature. Such literature argues that "islandness can conceal problematic governance and political practices" (Grydehøj, 2017, p. 11).

Notwithstanding the aforementioned, islandness does not come only with concerns. This is true despite the fact that, as mentioned at the outset, the condition of 'island' was initially linked to the negativism of insularity, and despite the fact that modern policies by international organisations, such as the European Union, may still be "grounded in the idea that islandness implies 'backwardness' and 'severe and permanent handicap'; and that 'peripherality' imposes permanent costs" (Warrington & Milne, 2018, p. 179).

Islandness comes with opportunities, too. To briefly highlight some examples from Island Studies literature: small islands qualify as thoughtful and purposeful political actors that design their political institutions to reflect their particular needs (Anckar, 2012); Anckar (2006) also found that islands are in general more prone than the mainland to pursuing democracy, plurality elections, and direct democracy; small island countries are "a welcome antidote and contrast to the anarchy, autocracy, internal warfare, militarism, violence and state collapse which is a feature of all too many larger, mainland states" (Srebrnik, 2004, p. 339); island States (and SIDS in particular) have been enthusiastic and conscientious contributors to the global efforts against climate change (Hoad, 2015).

The enumeration of the aforementioned examples of concerns and opportunities that come with islandness is not an aim in itself. Its purpose is to show that all these factors that shape life on islands are human rights–related. They pertain to the most

pressing human rights issues of our times and they are tied to all generations of rights: a) civil and political rights such as the right to liberty and security, freedom from torture or ill treatment, and freedom from discrimination; b) economic, social, and cultural rights such as the right to water and the right to adequate housing; and c) collective rights such as the right to development and the right to a healthy environment.

A human-rights based approach in Island Studies can offer new perspectives to the field by exploring how threats and opportunities or, in other words, life on islands and between islands are shaped by human rights. How are island societies constructed and shaped by human rights? How are the island locals (islanders, natives, settlers, tourists, second homeowners) as well as outsiders (mainlanders, continental dwellers) perceiving human rights on islands? How are the implementation of human rights norms, human rights advocacy, and human rights education forming island life? How are human rights perceptions influencing islandness?

An islandness-based approach in human rights

It is not just human rights that can contribute to the advancement of Island Studies. It is also the other way round. The study of islandness can offer new opportunities for the development of human rights discourse and practice.

As clarified in Island Studies, space and territory are not identical and the divergence between these two notions is connected to the distinction between 'islandness' and 'insularity':

> The difference between islandness and insularity is reminiscent of the distinction made by geographers between space and territory: Space is a physical reality that is mainly shaped by production dynamics. […] Researchers, working outside the space of the world system, have found its opposite: territory. Territory can be defined as the opposite of space: it is conceptual and often even ideal, whereas space is material. (Bonnemaison, 2000, cited in Taglioni, 2011, p. 47)

Unlike islandness, which revolves around the idea of space, international human rights law revolves around the notion of 'territory' or 'jurisdiction'. The 'locus' in human rights pertains to the territorial application of international human rights obligations. A State owes obligations under a human rights treaty towards a person located within its territorial jurisdiction or in a territory effectively controlled by it. While the notions of territory and jurisdiction have been dealt with in human rights discourse through extensive literature, the notion of space still needs to be further explored. Such an exploration will shed more light on how islandness itself can shape human rights.

The study of islandness can also offer more perspectives in the understanding of fundamental human rights principles such as the principle of universality and the principle of equality/non-discrimination. The principle of universality of human rights is the cornerstone of international human rights law and implies that human beings

are all equally entitled to their human rights. This principle, which is now repeated in many international human rights instruments, was first emphasized in the Universal Declaration of Human Rights (UDHR). Its Article 1 states, "All human beings are born free and equal in dignity and rights." Freedom from discrimination, set out in Article 2 UDHR, is what ensures this equality. Non-discrimination cuts across all international human rights law and is enshrined in all major human rights instruments. As proclaimed in Article 2 of the UDHR, "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." What about islandness, then? Can it possibly fall within the notion of 'other status'? And how can islandness be accommodated in human rights that revolve around the principles of universality and equality? As noted in Island Studies, islands claim for differentiation in a world that requires homogenisation (Taglioni, 2010).

So far, as also suggested in the previous section, literature has not scrutinised how islandness shapes human rights. This does not, however, imply that there is no space for such research. Primary human rights law sources constitute a fertile field for such exploration. The dimension of island is present in a number of human rights documents produced by international human rights bodies, only that its pertinence still needs to be defined. To show the extent to which the existing human rights documents provide for opportunities on the exploration of an islandness-based approach in human rights, two big categories of such documents will be indicatively discussed here: first, the Concluding Observations and the General Comments of the United Nations Human Rights Treaty Bodies, and second, the case-law of the European Court of Human Rights.

The first category of documents pertain to the mechanisms established for the monitoring of every UN core human rights treaty, namely the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities. The human rights treaty bodies are committees of independent experts that monitor the implementation of these treaties. Each committee issues 'concluding observations' based on its review of each State party's reports regarding its implementation of the treaty's provisions, which generally must be submitted every few years. They also publish 'general comments' that provide authoritative interpretations of the scope of each treaty's provisions.

With time, the UN human rights treaty bodies have addressed a number of human rights issues that are linked to different island spaces, assessing the situation of human rights therein. Some indicative, yet representative, examples include: the situation of same-sex couples in maritime provinces like Prince Edward Island in Canada as

assessed by the Human Rights Committee (2015, para. 3b); the development of basic infrastructure programmes in order to improve access to basic services, including for those living on less developed islands or the recruitment of more specialized physicians, including on the less populated islands of archipelagic States like the Committee on Economic, Social and Cultural Rights did in the case of Cabo Verde (Committee on Economic, Social and Cultural Rights, 2018, para. 11, para. 59); the use of customary or 'island' courts in particular in rural and remote areas of the archipelagic Vanuatu noted by the Committee on the Elimination of Discrimination Against Women (Committee on the Elimination of Discrimination, 2007, para. 38); intersectional discrimination against women with disabilities living on rural and dispersed outer islands of archipelagic States, like the Committee on Persons with Disabilities did in the case of Seychelles (Committee on the Rights of Persons with Disabilities, 2018, para. 14); the absence of a national human rights institution in the self-governing archipelago part of a non-island State, like the Faroe Islands are to Denmark (Human Rights Committee, 2016, paras. 9–10); secret island detention facilities like in the case of Guinea addressed by the Committee against Torture (Committee Against Torture, 2014, para. 15).

To what extent islandness is a condition relevant to the monitoring and interpretation of UN human rights treaties is a question that needs further exploration. The general comments of some treaty bodies seem to take islandness into account when providing interpretative guidance on the content of their respective treaties. For example, in its General Comment No. 15 on the right to water (Committee on Economic, Social and Cultural Rights, 2003, para. 16[h]), the Committee on Economic Social and Cultural Rights regards people living on small islands as one of the groups that face difficulties with physical access to water. The Committee on the Elimination of Discrimination against Women in its General Recommendation No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change (Committee on the Elimination of Discrimination against Women, 2018, para. 17) referred to the 1992 Rio Declaration on Environment and Development, and reiterated in the 2012 outcome document of the United Nations Conference on Sustainable Development, entitled *The future we want*, the particularly vulnerable situation of Small Island Developing States. In a rather straightforward way, the Committee on Migrant Workers explicitly recognised in its Concluding Observations on the State Report of Philippines (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2009, para. 12) that the geography of the State party in question, consisting of thousands of islands, is a factor that makes it challenging to effectively monitor the movement of people and control borders to prevent irregular migration and to safeguard the rights of all migrant workers.

Islandness is a condition that needs further consideration in human rights law also at a regional level. Reference will be made here to the European human rights system of the Council of Europe. The European Court of Human Rights (ECtHR/Court) is the regional/international court that monitors the implementation of the European Convention of Human Rights. The ECtHR decides, among others, on the basis of an

individual application lodged before it whether a violation of the Convention has occurred or not. This Court is considered one of the most influential judicial bodies in human rights as the impact of its rich case-law on the European legal order is constantly growing. The Court's case-law has been under extensive scholarly scrutiny but the dimension of islandness has not attracted the attention of scholars to this date. A number of cases brought before the Court pertain to islandness and this comes as no surprise as Europe fairly qualifies as an "island's neighbourhood" (Warrington & Milne, 2018, p. 181).

The cases where islandness is an issue are of a certain versatility. Some pertain to the condition of migrant and refugees. The year 2011 was marked by a major migration crisis and the arrival *en masse* of North African migrants on Italian islands such as Lampedusa. One of the cases the ECtHR had to decide pertained, among others, to the conditions under which migrants were held on the island. To decide the case, the Court considered the special characteristic of islands as first stops for migrants along with the dependency of the island on the mainland for provision of almost all basic goods and services (*Khlaifia and others*, 2016). The characteristics of the island in the migration context were also considered in a case against Malta. There the Court had to decide whether the applicant's detention following the determination of his asylum claim had been arbitrary and unlawful. The Court found it:

> hard to conceive that in a small island like Malta, where escape by sea without endangering one's life is unlikely and fleeing by air is subject to strict control, the authorities could not have had at their disposal measures other than the applicant's protracted detention to secure an eventual removal in the absence of any immediate prospect of his expulsion. (*Louled Massoud*, 2010, para. 68)

Apart from the migration context, there are more detention cases in which islandness is relevant. In the case of *Guzzardi v Italy* (1980), the Court had to decide whether forcing the applicant to live on an island within an unfenced area of 2.5 km^2 entailed a deprivation of his liberty. Furthermore, island detention may create more human rights issues given the limited resources of islands. In *Öcalan v Turkey* (2005), for example, what was as stake was the inadequacy of means of transportations and its implications on the human rights obligations of the Turkish State as the applicant was held on an island. In the case of *Mathew v Netherlands* (2005), it was the availability of facilities suitable for long-term detention itself that was at stake.

Interestingly enough, there are more human rights cases relevant to islandness that were brought before the ECtHR and offer themselves for further scrutiny. They pertain to issues connected to the cultural, economic, and political life of the islands at stake. In the case, for example, of the permits issued for the letting off of fireworks for two village feasts per year in Malta, the Court had to reach a "balance between the right to home and private life of the applicants and the traditional, cultural, religious and touristic needs of Maltese society, bearing in mind the size of the island" (*Zammit Maempel*, 2011, para. 20). In another case against the United Kingdom, the Court had

to decide whether the refusal by the authorities of South Georgia and the South Sandwich Islands to grant the applicant, a fishing company, a licence to catch a particular species of fish was compatible with the right to the peaceful enjoyment of property. In a more recent case against Greece, the Court had to decide whether the refusal to grant wine growers licence to produce wine owing to exclusive rights of union of wine producing cooperatives on the island of Samos was in violation of the right to freedom of association (*Mytilinaios and Kostakis*, 2015). On the political rights front, one should mention the case of *Sevinger and Eman v the Netherlands* (2007). This case concerned the inability of the residents of the island of Aruba, which enjoys a certain autonomy, to vote in elections to the Dutch Parliament.

All the cases presented both from the UN and the European context reveal the potential of an islandness-based approach to human rights. Literature can advance and answer a number of relevant questions. How is islandness perceived by international human rights bodies? Is islandness a relevant factor in the monitoring function of international human rights bodies? What dimensions of islandness are relevant for the interpretation and implementation of human rights standards? Is islandness simply a feature of the factual landscape in a case or a contextual factor that affects the way human rights should be perceived? Does islandness create any particularities in the way human rights are implemented? Is islandness implying differentiated human rights obligations on island settings? This is not just about human rights issues that are island-specific and thus require a specialised attention. This is about human rights law in general and how it can further develop through the islandness lens.

Human rights and islandness: A missing junction worth developing indeed?

Notwithstanding the aforementioned observations, one can still legitimately wonder whether the junction between human rights and island studies/islandness — as proposed in this paper — is indeed a missing one that deserves to and can be further developed. In the same spirit, it could be argued that the synthesis of these two is artificial and the vision for a cohesive approach over-optimistic. Aren't the fundamental features of the two bodies of literature in tension? And after all, aren't there reasons explaining why they have not been routinely associated before? What would possibly qualify as an example of how these two bodies can be brought together? These questions cannot be necessarily addressed in an exhaustive fashion in the current paper, but it is crucial to provide some first seeds of answer.

It comes as no surprise that the connection between human rights and island studies is not a widespread one. As clarified from the outset, human rights discourse is premised on the idea of universality. Thus, differentiations on the basis of space do not sit well with it. On the contrary, islandness builds on the idea of this differentiation; islands are different and island studies revolve around this premise. *Prima facie*, it could be argued that this divergence undermines the potential opportunities of drawing the two bodies closer. There are good reasons, though, to be more optimistic than this. Examples that one can draw even from existing literature illustrate the

existing potential. This literature does not necessarily rely on a general narrative on islandness and human rights, but it alludes in one way or another to both of them, illustrating the feasibility and the necessity of bringing human rights and islandness together.

From a human rights law perspective, focusing on islandness can allow for a more efficient protection of rights on islands. Even though a universalizing doctrine, human rights do not imply that differentiations on the basis of space cannot be accommodated on legitimate grounds. In light of the principle of equality, different circumstances require difference in treatment. Equality is not about treating everyone in the same way, but it recognizes that individuals' needs are sometimes best met on the basis of differentiated treatment. The consideration of the teachings of Island Studies by human rights lawyers will better equip them to address the challenges islandness imply and find measures tailored to the needs of islanders. In a study on small jurisdictions as international financial centres, Susie Alegre (2018, pp. 209–210) highlighted the value of the human rights impact assessment (HRIA) of their fiscal policies. The study did not specifically focus on island settings, but islands were no stranger to her analysis. The paper alluded to the general idea this article wishes to convey, namely that the junction between human rights and islandness is not merely possible but essential. The use of HRIAs can significantly contribute to the advancement of human rights on islands. And, of course, for these HRIAs to be truly efficient they need to rely on the accurate depiction of islandness. In this respect, the teachings of Island Studies are indeed crucial. Research that has already drawn connections between human rights — even though not with extensive analysis of international human rights law — and islandness are particularly relevant (see, indicatively, Monson, 2010, suggesting that the law in Peri-Urban Settlements on Guadalcanal, Solomon Islands predominantly allows men, to the detriment of women, to solidify their control over customary land).

The consideration of islandness is not only crucial for encouraging legitimate differentiated human rights policies on island settings. It is also crucial in avoiding the imposition of illegitimate double standards in human rights protection. An example one can use from existing literature — with its focus being the UK — relates to treaty law that regulates the territorial application of certain human rights standards (Alegre, 2018, pp. 210–211). The example of Article 56 of the European Convention on Human Rights (ECHR) is telling. Under this provision, a State party to the ECHR is free to decide whether it will extend the application of ECHR "to all or any of the territories for whose international relations it is responsible" (ECHR, Article 56 para. 1). In that case, the ECHR "shall be applied in such territories with due regard, however, to local requirements" (ECHR, Article 56 para. 3). Considering that most, if not the entirety, of the "territories for whose international relations [a State] is responsible", are islands, this colonial clause generates a human rights framework of double standards on the basis of a colonial perception of "local requirements" (ECHR, Article 56 paras. 1 and 3). Instead, the lessons learned from Island Studies would significantly assist human rights law to understand what the local requirements stemming from islandness are to the benefit of an efficient human rights protection.

This example also brings into the fray the tension between the 'international' and the 'local'. This tension is not unknown to literature focusing on island settings. Scholarly works on cultural relativism or "hybridisation" (Dinnen & Allen, 2018) in island settings testify to this. Human rights are no strangers to this discourse. The explorations, however, between the two sets of literature are not extensively or exclusively explored. Human rights literature on cultural relativism can be of significance in this exploration of islandness.

The proposition for a coherent human rights/islandness approach specifically aims at this point, namely the advancement of a wider narrative on human rights and islandness without disregarding the findings of existing literature. Such a proposition is not about reinventing the wheel but encouraging its wider use in the modern context of human rights and Island Studies on the basis of a joint narrative.

Conclusion: The human rights and islands approach

Building on the existing incidental links between islandness and human rights, the moment is ripe for a cohesive human rights and islands approach which is based on the human rights-based approach of islandness and the islandness-based approach in human rights. The cross-fertilisation between human rights law and Island Studies can be very promising not only for the advancement of the respective fields from a scholarly point of view but also for a more efficient understanding of islandness and a more efficient protection of human rights in practice.

In her study introducing Island Feminism, Karides (2017, p. 36) opined:

> Having sculpted its own spatial frame of analysis, with a mounting mass of case studies, Island Studies is poised to critically explore social relations and the inequalities rendered and obstructed by island place, and support the forward movement of islands and islanders as they contend with tourism, climate change, and the retention of populations and identities.

The same can be held for the human rights and island approach suggested here. Having sculpted its own spatial frame of analysis, with a mounting mass of case studies, Island Studies is poised to critically explore human rights rendered and obstructed by island place. Human rights law, on its part, has the potential to account for the very different experience of islanders and offer them a more efficient protection of their rights especially through its potent systems and mechanisms of implementation.

References

Alegre, S. (2018). Small state international financial centres: A chance to reclaim the high ground on human rights? In P. Butler, E. Lein, & R. Salim (Eds.), *Integration and international dispute resolution in small states* (pp. 203–218). Springer. https://doi.org/10.1007/978-3-319-74573-2_9

Alegre, S., & Island Rights Initiative. (2018, December 15). *Mapping the UK's responsibilities for human rights in Crown Dependencies and Overseas Territories (CDOTS)*. Island Rights Initiative. https://www.islandrights.org/wp-content/uploads/2018/12/Mapping-UK-constitutional-responsibilities-for-human-rights-in-CDOTS-December-2018.pdf

Anckar, D. (2012). Constitutional amendment methods in twenty-one small island democracies. *Island Studies Journal*, *7*(2), 259–270. https://islandstudiesjournal.org/files/ISJ-7-2-2012-Anckar.pdf

Anckar, D. (2006). Islandness or smallness? A comparative look at political institutions in small island states. *Island Studies Journal*, *1*(1), 43–54. https://islandstudiesjournal.org/files/ISJ-1-1-2006-Anckar-pp43-54.pdf

Baldacchino, G. (2008). Studying islands: On whose terms? Some epistemological and methodological challenges to the pursuit of Island Studies. *Island Studies Journal*, *3*(1), 37–56. https://islandstudiesjournal.org/files/ISJ-3-1-2008-Baldacchino-FINAL.pdf

Baldacchino, G. (2004). The coming of age of Island Studies. *Tijdschrift voor Economische en Sociale Geografie*, *95*(3), 272–283. https://doi.org/10.1111/j.1467-9663.2004.00307.x

Barker, N. (2016). "I wouldn't get unduly excited about it": The impact of the European Convention on Human Rights on the British Overseas Territories. A case study on LGBT rights in Bermuda. *Public Law*, *4*, 595–612.

Bonnemaison, J. (1990). L'espace réticulé. In B. Antheaume, C. Blanc-Pamard, J.-L. Chaléard, A. Dubresson, V. Lassailly-Jacob, J.-V. Marchal, A.-M. Pillet-Schwartz, R., Pourtier, J.-P. Raison, & O. Sevin (Eds.), *Tropiques: Lieux et liens* (pp. 500–510). ORSTOM.

Boumpa, A., & Paralikas A. (2021). The Greek archipelago: A unique representative case-study of differential legal status and of double insularity. *Liverpool Law Review*, *42*, 99–109. https://doi.org/10.1007/s10991-020-09265-w

Campbell, J. (2009). Islandness: Vulnerability and resilience in Oceania. *Shima*, *3*(1), 85-97. https://www.shimajournal.org/issues/v3n1/i.-Campbell-Shima-v3n1-85-97.pdf

Coddington, K., Catania, R. T., Loyd, J., Mitchell-Eaton, E., & Mountz, A. (2012). Embodied possibilities, sovereign geographies, and island detention: Negotiating the 'right to have rights' on Guam, Lampedusa, and Christmas Island. *Shima*, *6*(2), 27–48. https://www.shimajournal.org/issues/v6n2/f.-Coddington-et-al.-Shima-v6-n2-27-48.pdf

Commission nationale consultative des droits de l'homme. (2018, July 10). *L'effectivité des droits dans les Outre-mer*. https://www.cncdh.fr/fr/travaux-en-cours/etude-outre-mer

Committee Against Torture. (2014, June 20). *Concluding observations on Guinea in the absence of its initial report – CAT/C/GIN/CO/1*. https://tbinternet.ohchr.org/ layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GIN/CO/1&Lang=En

Committee on Economic, Social and Cultural Rights. (2018, November 27). *Concluding observations on the initial report of Cabo Verde – E/C.12/CPV/CO/1ECE*. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/CPV/CO/1&Lang=En

Committee on Economic, Social and Cultural Rights. (2003, January 20). *General Comment No. 15 (2002): The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) – E/C.12/2002/11*. https://digitallibrary.un.org/record/486454?ln=en

Committee on the Elimination of Discrimination Against Women. (2018, February 7). *General Recommendation No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change – CEDAW/C/GC/37*. https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_37_8642_E.pdf

Committee on the Elimination of Discrimination Against Women. (2007, July 11). *Concluding comments of the Committee on the Elimination of Discrimination Against Women: Vanuatu – CEDAW/C/VUT/CO/3*. https://undocs.org/CEDAW/C/VUT/CO/3

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. (2009, May 22). *Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: The Philippines – CMW/C/PHL/CO/1.* https://www2.ohchr.org/english/bodies/cmw/cmws10.htm

Committee on the Rights of Persons with Disabilities. (2018, April 16). *Concluding observations on the initial report of Seychelles – CRPD/C/SYC/CO/1*. https://undocs.org/en/CRPD/C/SYC/CO/1

d'Ayala, F. G. (Ed.). (2005). Resilience and vulnerability. *INSULA: International Journal of Island Affairs*, *14*(2). http://www.islandvulnerability.org/docs/insula17.pdf

d'Ayala, F. G. (Ed.). (2001). The water-energy binomial. *INSULA: International Journal of Island Affairs*, *10*(1). http://www.islandvulnerability.org/docs/insula13.pdf

d'Ayala, F. G. (Ed.). (2000). Island governance. *INSULA: International Journal of Island Affairs*, *9*(1). http://www.islandvulnerability.org/docs/insula12.pdf

Dinnen, S., & Allen, M. (2018). Reflections on hybridity as an analytical lens on state formation: The case of Solomon Islands. In J. Wallis, L. Kent, M. Forsyth, S. Dinnen, & S. Bose (Eds.), *Hybridity on the ground in peacebuilding and development: Critical conversations* (pp. 129–144). ANU Press. https://www.jstor.org/stable/j.ctvgd1g9.13

Farran, S. (2007). Prerogative rights, human rights and island people: The Pitcairn and Chagos Island cases. *Public Law*, *50*, 414–424.

Grydehøj, A. (2017). A future of Island Studies. *Island Studies Journal*, *12*(1), 3–16. https://islandstudiesjournal.org/files/ISJGrydehojFutureIslandStudies.pdf

Guzzardi v. Italy App No 7367/76 (European Court of Human Rights, 6 November 1980). http://hudoc.echr.coe.int/eng?i=001-57498

Hoad, D. (2015). Reflections on small island states and the international climate change negotiations (COP21, Paris, 2015). *Island Studies Journal*, *10*(2), 259–262. https://islandstudiesjournal.org/files/ISJ-10-2-Hoad.pdf

Human Rights Committee. (2016, August 15). *Concluding observations on the sixth periodic report of Denmark – CCPR/C/DNK/CO/6*. https://tbinternet.ohchr.org/ layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/DNK/CO/6&Lang=En

Human Rights Committee. (2015, August 13). *Concluding observations on the sixth periodic report of Canada – CCPR/C/CAN/CO/6*. https://tbinternet.ohchr.org/ layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CAN/CO/6&Lang=En

Island Studies Journal. (2022). https://islandstudiesjournal.org/

Jones, C. (2021). The islands that ate the constitution. *Liverpool Law Review*, *42*, 51–69. https://doi.org/10.1007/s10991-020-09262-z

Karides, M. (2017). Why island feminism? *Shima*, *11*(1), 30–39. https://doi.org/10.21463/shima.11.1.06

Khlaifia and others v. Italy App No 16483/12 (European Court of Human Rights, 15 December 2016). http://hudoc.echr.coe.int/eng?i=001-170054

Louled Massoud v. Malta App No 24340/08 (European Court of Human Rights, 27 July 2010). http://hudoc.echr.coe.int/eng?i=001-100143

Mathew v. The Netherlands App No 24919/03 (European Court of Human Rights, 29 September 2005). http://hudoc.echr.coe.int/eng?i=001-70377

Moncada, S., Camilleri, M., Formosa, S., & Galea, R. (2010). From incremental to comprehensive: Towards island-friendly European Union policymaking. *Island Studies Journal*, *5*(1), 61–88. https://www.islandstudies.ca/sites/default/files/ISJ-5-1-2010-Moncada-etal.pdf

Monson, R. (2010). Women, state law and land in peri-urban settlements on Guadalcanal, Solomon Islands. *Justice for the Poor*, *4*(3). http://hdl.handle.net/10986/10933

Mountz, A., & Briskman, L. (2012). Introducing island detentions: The placement of asylum seekers and migrants on islands. *Shima*, *6*(2), 21–26. http://shimajournal.org/issues/v6n2/e.-Mountz-Briskman-Shima-v6n2-21-26.pdf

Murphy, S. D. (2017). *International law relating to islands*. Brill.

Mytilinaios and Kostakis v. Greece App No 29389/11 (European Court of Human Rights, 3 December 2015). http://hudoc.echr.coe.int/eng?i=001-158962

Nimführ, S., & Otto, L. (2020). Doing research on, with and about the island: Reflections on islandscape. *Island Studies Journal*, *15*(1), 185–204. https://doi.org/10.24043/isj.107

Öcalan v. Turkey App No 46221/99 (European Court of Human Rights, 12 May 2005). http://hudoc.echr.coe.int/eng?i=001-69022

Ronström, O. (2021). Remoteness, islands and islandness. *Island Studies Journal*, 16(2), 270–297. https://doi.org/10.24043/isj.162

Ronström, O. (2009). Island words, island worlds: The origins and meanings of words for 'islands' in North-West Europe. *Island Studies Journal*, *4*(2), 163–182. https://islandstudiesjournal.org/files/ISJ-4-2-2009-Ronstrom.pdf

Royle, S. A. (2001). *A geography of islands: Small island insularity*. Routledge.

Selwyn, P. (1980). Smallness and islandness. *World Development*, *8*(12), 945–951.

Sermet, L. (2009). *Une anthropologie juridique des droits de l'homme: Les chemins de l'océan Indien.* Editions des archives contemporaines.

Sevinger and Eman v. The Netherlands App Nos 17173/07 & 17180/07 (European Court of Human Rights, 6 September 2007. http://hudoc.echr.coe.int/eng?i=001-82404

Shameem Khan, N. (2021, April 8). *Climate change and security: Human rights challenges and opportunities in small island developing states - Statement by H.E. Ms. Nazhat Shameem Khan, President of the Human Rights Council*. https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26977&LangID=E

Srebrnik, H. (2004). Small island nations and democratic values. *World Development*, *32*(2), 329–341. https://doi.org/10.1016/j.worlddev.2003.08.005

Stratford, E. (2008). Islandness and struggles over development: A Tasmanian case study. *Political Geography*, *27*(2), 160–175. http://dx.doi.org/10.1016/j.polgeo.2007.07.007

Taglioni, F. (2011). Insularity, political status and small insular spaces. *Shima*, *5*(2), 45-67.

Taglioni, F. (2010). L'insularisme: Une rhétorique bien huilée dans les petits espaces insulaires. In O. Sevin, J.-L. Chaléard, & D. Guillaud (Eds.), *Comme un parfum d'île...: Florilège offert à Christian Huetz de Lemps* (pp. 421–435). Presse Universitaire Paris-Sorbonne.

Warrington, E., & Milne, D. (2015). Governance. In G. Baldacchino (Ed.), *The Routledge International Handbook of Island Studies. A World of Islands* (pp. 173–201). Routledge.

Zammit Maempel v. Malta App No 24202/10 (European Court of Human Rights, 22 November 2011). http://hudoc.echr.coe.int/eng?i=001-107514