

Jailhouse Lawyers' Rebel Imaginations: Incarcerated Americans' Insurgent Constructions of International Human Rights Law

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Abstract : This paper examines the often-overlooked international law claims that jailhouse lawyers - incarcerated people who have self studied the law - bring, resisting against their conditions of incarceration, as a different perspective on and source of rebel imagination of the potential of international law, particularly as it pertains to prison conditions and racial mass incarceration. Although the dominant approaches to the U.S. criminal legal system and the international legal system serve white supremacist and capitalist interests, an anti-racist and third world approach to law requires an examination of alternative imaginations and possibilities of law, particularly formed by individuals most marginalized by current legal structures. Jailhouse lawyers' - who are predominantly racialized peoples - deployment of international law is a form of resistance against the U.S. criminal legal system that serves as a future facing project of dismantling and reshaping international law. Many jailhouse lawyers have brought pro se lawsuits against prisons, prison officials, and governments, and have included international law claims. Just a few examples of international treaties being invoked include the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights ("ICCPR"), the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"), and the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment ("CAT"). Jailhouse lawyers' international claims are understudied by scholars and practitioners because they are often dismissed in court due to the non-self-executing doctrine. However, jailhouse lawyers' deployment of their vision of international law serves as a form of resistance against the colonial and white supremacist U.S. legal system, and their interpretations and reimaginings of international law can serve as a roadmap for shaping a more equitable international legal framework. This paper will examine jailhouse lawyers' international law claims to provide insights to shape a radical imagination of an anti-racist future in both domestic criminal legal systems and international law as a whole.

Keywords : anti-racism, human rights, international law, jailhouse lawyers, prison conditions, third world approaches to international law

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