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Positioning the Social Worker

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# Public Service Professionals as Human Rights Actors: Positioning the Social Worker

Alicia Dibbets

## ABSTRACT

Daily decisions taken by public service professionals such as social workers may directly impact their client's rights, especially if they are working in a law and policy context that is questionable in human rights terms. This article takes a novel approach by exploring what human rights roles are attributed to public service professionals by United Nations (UN) Treaty Bodies and UN Special Rapporteurs. The analysis reveals that the narrow conceptualization of human rights roles offered by (interpretations of) international human rights law may in fact diminish the potential of public service professionals to make a real contribution to human rights realization.

## I. INTRODUCTION

In 1988 the International Federation of Social Workers (IFSW) declared that “social work has, from its conception, been a human rights profession.”<sup>1</sup> The Federation has held fast to this understanding and in 2014 the new definition of social work reaffirmed that “human rights [ . . . ] are central to social

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1. IFSW, *International Policy Papers*, INTERNATIONAL FEDERATION OF SOCIAL WORKERS (1988), via: Lynne Healy, *Exploring the History of Social Work as a Human Rights Profession*, 6 INT'L SOCIAL WORK 735 (2008).

work.”<sup>2</sup> In the meantime, social work scholars have extensively explored what role social workers (can) play in human rights realization. According to these studies, social workers can help clarify the meaning of certain rights at the local level,<sup>3</sup> use human rights to advocate for client’s rights,<sup>4</sup> and apply human rights to their daily work as social service providers.<sup>5</sup>

This social work interest in human rights does not seem entirely reciprocal. Very few human rights scholars have studied social work from a human rights perspective. In fact, research on social workers as human rights actors has been regarded as “a conscious effort to expand the remit” of who can be considered human rights practitioners.<sup>6</sup> In addition, social work as a profession has received little attention from within the international human rights system. At the beginning of the 1990s the IFSW collaborated with the (then) United Nations (UN) Centre for Human Rights to develop a training manual on human rights for social workers, but this did not lead to other joint ventures.<sup>7</sup> Subsequently, social workers have been mentioned only incidentally and briefly in General Comments of the Committee on the Rights of the Child and during the UN World Programme for Human Rights Education as part of a group of professionals relevant to human rights realization.<sup>8</sup>

The persistent attention to human rights from within the social work profession contrasted by the sporadic interest in social work from (legal) human rights scholars and the UN human rights system is simultaneously puzzling and understandable. It can be explained by the fact that international human rights law has from the outset been state centric.<sup>9</sup> Human rights conventions are concluded between states, which makes states the

2. IFSW, *Global Definition of Social Work*, INTERNATIONAL FEDERATION OF SOCIAL WORKERS (2014), <https://www.ifsw.org/what-is-social-work/global-definition-of-social-work/> [https://perma.cc/NSW7-BKPX].
3. JIM IFE, KAREN SOLDATIĆ & LINDA BRISKMAN, *HUMAN RIGHTS AND SOCIAL WORK: TOWARDS RIGHTS-BASED PRACTICE* 175 (4th ed. 2022).
4. ELIZABETH REICHERT, *SOCIAL WORK AND HUMAN RIGHTS: A FOUNDATION FOR POLICY AND PRACTICE* 195 (2nd ed. 2011).
5. MEGAN S. BERTHOLD, *HUMAN RIGHTS-BASED APPROACHES TO CLINICAL SOCIAL WORK* 5 (2015).
6. Ron Dudai, *The Study of Human Rights Practice: State of the Art*, 11 J. HUM. RTS. PRAC. 273, 278 (2019).
7. Ctr. for Hum. Rts., *Human Rights and Social Work: A Manual for Schools of Social Work and the Social Work Profession*, U.N. Doc. HR/P/PT/1 (1994).
8. CRC, *General Comment No. 13 The Right of the Child to Freedom From all Forms of Violence*, ¶ 44, U.N. Doc. CRC/C/GC/13 (Apr. 18, 2011); CRC, *General Comment No. 14: On the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration*, ¶ 100, U.N. Doc. CRC/C/GC/14 (May 29, 2013) [hereinafter CRC, *General Comment No. 14*]; CEDAW & CRC, *Joint General Recommendation No. 31 / General Comment No. 18 On Harmful Practices*, ¶¶ 70, 72, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18 (Nov. 14, 2014) [hereinafter CEDAW and CRC Joint General Comment No. 31&18]; U.N.H.C.H.R., *Draft Plan of Action for the Second Phase (2010–2014) of the World Programme for Human Rights Education*, ¶ 44(b)(i), U.N. Doc. A/HRC/15/28 (July 27, 2010).
9. Susan Marks, *State-Centrism, International Law, and the Anxieties of Influence*, 19 LEIDEN J. INT’ L. 339 (2006).

primary duty bearers responsible for human rights implementation. Within this context, social workers are perhaps only relevant to human rights realization as a type of civil servant or public service professional falling under the umbrella of the state. At the same time the state-centricity of human rights law is increasingly contested with numerous actors brought forward that are said to have a responsibility, or at least play a role in human rights protection and realization.<sup>10</sup>

This article explores the human rights roles of social workers in relation to the state considering the latter's socio-economic rights obligations for public service provision. To explain the relevance of this exploration it is necessary to look towards two bodies of socio-legal scholarship. First, the expanding scholarship on human rights localization has emphasized the different roles that local actors (can) play in closing the human rights compliance gap. This body of knowledge shows that the state should not be regarded as one entity, and that human rights realization takes place in spaces between this multifarious state and other local actors.<sup>11</sup> Secondly, socio-legal scholarship on public service provision has demonstrated that local public service professionals play a significant role in how state law and policy take effect in practice. According to this body of knowledge, public service professionals can be regarded as "street-level bureaucrats" or "frontline workers" who use their professional discretion to shape law and policy on the ground.<sup>12</sup> If social workers are both local human rights

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10. Julie Fraser, *Challenging State-Centricity and Legalism: Promoting the Role of Social Institutions in the Domestic Implementation of International Human Rights Law*, 23 INT'L J. HUM. RTS. 974 (2019); Stéphanie Lagoutte, *The Role of State Actors Within the National Human Rights System*, 37 NORDIC J. HUM. RTS. 177 (2019); Barbara Oomen & Elif Durmus, *Cities and Plural Understandings of Human Rights: Agents, Actors, Arenas*, 15 J. LEGAL PLURALISM & UNOFFICIAL L. 141 (2019); Mariana Olaizola Rosenblat, *Emancipating Human Rights Protection from the State's Stronghold: The Need for Multi-stakeholder Solutions*, 11 PENN. ST. J. L. & INT'L AFF. 145 (2023).
  11. Mark Goodale, *Locating Rights, Envisioning Law between the Global and the Local, in THE PRACTICE OF HUMAN RIGHTS: TRACKING LAW BETWEEN THE GLOBAL AND THE LOCAL* 1 (Mark Goodale & Sally E. Merry eds., 2007); THE LOCAL RELEVANCE OF HUMAN RIGHTS 11 (Koen De Feyter et al. eds., 2011); Tine Destrooper, *Uprooting the Curious Grapevine? The Transformative Potential of Reverse Standard-Setting in the Field of Human Rights*, 16 J. HUM. RTS. 1 (2016); Steven LB Jensen, Stéphanie Lagoutte & Sébastien Lorion, *The Domestic Institutionalisation of Human Rights: An Introduction*, 37 NORDIC J. HUM. RTS. 165 (2019). For a study on social work within the context of human rights localization see also: Alicia Dibbets & Quirine Eijkman, *Translators, Advocates or Practitioners?: Social Workers and Human Rights Localization* 10 J. HUM. RTS. PRAC. 212 (2018).
  12. MICHAEL LIPSKY, STREET-LEVEL BUREAUCRACY. DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICES (30<sup>th</sup> anniversary expanded ed. 2010); Steven Maynard-Moody & Michael Musheno, *Social Equities and Social Inequities in Practice: Street-level Workers as Agents and Pragmatists*, 72 AM. PUB. ADMIN. REV. 17 (2012); BERNARDO ZACKA, WHEN THE STATE MEETS THE STREET : PUBLIC SERVICE AND MORAL AGENCY (2017); Margo Trappenburg, Thomas Kampen & Evelien Tonkens, *Social Workers in a Modernising Welfare State: Professionals or Street-Level Bureaucrats?*, 50 BRIT. J. SOC. WORK 1669 (2020). The relationship between these theories and social workers as human rights actors is the subject of future research by this author.

actors and street-level bureaucrats their work becomes inherently linked to human rights realization. The daily decisions taken by social workers that are reflected in their response to law and policy as well as the way they interact with their clients can directly impact respect for human rights. This is especially the case if social workers are working in a law and policy context that is not entirely in line with human rights.<sup>13</sup> Thus, social workers (and other public service professionals) may be a missing link in addressing the human rights compliance gap.

In studying the human rights roles of social workers, this article takes an actor-oriented approach to human rights realization.<sup>14</sup> The premise is that many types of individual and institutional actors are necessary to realize human rights. The actor-oriented approach provides a more complete picture of what is necessary for human rights realization and which roles different actors may take on. As such, this article does not attempt to define the legal status of social workers in international human rights law.<sup>15</sup> Instead, it takes a novel approach by applying the actor-oriented perspective to existing interpretations of international human rights law. The typologies of human rights roles introduced in this article are therefore empirical categories (based on behavior) rather than legal classifications (rights holder and duty bearer).<sup>16</sup> Here, this actor-oriented analysis uncovers tensions that can exist between the state<sup>17</sup> and social workers as human rights actors. It reveals that the narrow conceptualization of human rights roles offered by (interpretations of) international human rights law may in fact diminish the potential of public service professionals to make a real contribution to human rights realization.

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13. Alicia Dibbets et al., *Social Workers as Local Human Rights Actors? Their Response to Barriers in Access to Care and Support in the Netherlands*, 13 J. HUM. RTS. PRAC. 105 (2021).
  14. This builds on existing scholarship studying human rights realization from the perspective of different actors: Ellen Desmet, *Analysing Users' Trajectories in Human Rights: A Conceptual Exploration and Research Agenda*, 8 HUM. RTS. & INT'L LEGAL DISCOURSE 121 (2014); Moritz Baumgartel, *Perspectives on the User: Unpacking a Concept for Human Rights Research*, 2 HUM. RTS. & INT'L LEGAL DISCOURSE 142 (2014); Destrooper, *supra* note 11, at 516.
  15. This would mean determining whether social workers are duty bearers with human rights obligations or responsibilities, and where they fall within the state actor versus non-state actor dichotomy. There is ample scholarship on public service organizations and human rights which pays attention to the legal status of these organizations. See for example: SOCIO-ECONOMIC HUMAN RIGHTS FOR ESSENTIAL PUBLIC SERVICES PROVISION (Marlies Hesselman, Antenor Hallo de Wolf & Birgit Toebes eds., 2017); Aoife Nolan, *Privatization and Economic and Social Rights*, 40 HUM. RTS. Q. 815 (2018). The proposition here is that this discussion is less relevant for the human rights roles of individual public service professionals.
  16. Desmet, *supra* note 14, at 127.
  17. To be able to position social workers in relation to the state, the "state" in this article is synonymous with the central and/or local government responsible for funding and regulating social care.

To gain clarity on the possible human rights roles of social workers this article studies what roles in human rights realization are attributed to public service professionals by different UN entities responsible for the interpretation of international human rights law. To contextualize this analysis, the article opens with a typology of human rights roles of social workers garnered from social work scholarship. Next, the article identifies human rights roles of public service professionals present in relevant human rights conventions, General Comments of treaty-monitoring bodies, and reports of UN special procedures. To remain on topic, only those interpretations that can also be related to social work are taken into consideration. This means the article covers public service provision in the area of socio-economic rights that is geared towards care and support for people in a vulnerable position. The article then brings together the analyses on social work scholarship and human rights law interpretation to gain further understanding on the position of social workers as actors in human rights realization at the local level.

## II. SOCIAL WORKERS AND HUMAN RIGHTS: WHAT CAN THEY DO?

The social work profession is very broad. It encompasses care and support services aimed at the social inclusion of people in a vulnerable position.<sup>18</sup> Amongst others, this covers support for unaccompanied child migrants, counseling for people living in poverty, long-term care for the elderly, mental health, and psychosocial support, and (re)habilitative care for people with disabilities.<sup>19</sup>

Social work scholarship on human rights is a separate field of knowledge from the human rights scholarship that is grounded in international and regional human rights law. Social workers are at the center of the equation and conceptualizations of human rights are inserted in current theories on the social work profession. The link between social work and human rights still exists mostly in theory and social work definitions and codes of ethics.<sup>20</sup> Explicit use of human rights is rare in daily professional practice.<sup>21</sup> Despite the shared conviction that social work and human rights are invariably linked there is no common understanding of what roles social workers can play in human rights realization. Nevertheless, three types of human rights roles can be identified from social work scholarship: translators, advocates, and

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18. IFSW, *supra* note 2.

19. *Id.*

20. IFSW, *supra* note 2; Annie J. Keeney et al., *Human Rights and Social Work Codes of Ethics: An International Analysis*, 2 J. SOC. WELFARE & HUM. RTS. 1 (2014).

21. "Despite the shared history, ethics, and professional commitments, human rights are an underused tool in social work practice." Susan Mapp et al., *Social Work Is a Human Rights Profession*, 64 SOC. WORK 259, 262 (2019).

practitioners.<sup>22</sup> Here, these roles are further explained with specific attention to the relationship with the state.

## A. Practitioners

The most common human rights role attributed to social workers is that of the “human rights practitioner.”<sup>23</sup> This refers to a social worker who possesses knowledge of human rights and is able to apply this knowledge in order to enhance their daily practice.<sup>24</sup> This role does not require social workers to step out of their professional role, but it changes the way in which they carry out their professional role. In social work scholarship this role is often referred to as rights-based social work practice.<sup>25</sup>

Rights-based social work practice is regarded as “a substantive paradigm shift that must permeate all aspects of practice.”<sup>26</sup> As such, it is introduced as a departure from the more traditional charity-based or needs-based perspectives in social work.<sup>27</sup> Rights-based practice is rooted in human rights principles such as human dignity, non-discrimination, participation, transparency, and accountability.<sup>28</sup> Social work scholars explain that these human rights principles can transform how social workers engage with their clients. Social workers as human rights practitioners empower their clients to make decisions for themselves, respect diversity, give people a voice in welfare issues that affect them, and facilitate access to redress mechanisms.<sup>29</sup> In addition to a “paradigm shift,” social work scholars also consider human rights to be a “unique discourse for strengthening and unifying the

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22. Dibbets & Eijkman, *supra* note 11. This section builds on that typology, which was first researched in 2016–2017. It therefore includes scholarship from the period 2011–2022. To identify new relevant publications a search was carried out using the combined terms “social work” and “human rights.” Publications were then selected using the following criteria: theoretical studies on social work human rights roles. Empirical studies were excluded because this exploration is focused on the human rights roles that are attributed to social workers in theory rather than the human rights roles they may fulfil in practice. Via this method four academic articles and five books were identified. Three additional articles were found by going through the issues of the *Journal of Human Rights and Social Work* established in 2016.

23. *Id.*

24. *Id.*

25. DAVID ANDROFF, PRACTICING RIGHTS: HUMAN RIGHTS-BASED APPROACHES TO SOCIAL WORK PRACTICE 33 (2016); Mapp et al., *supra* note 21; Jane McPherson, *Now Is the Time for a Rights-Based Approach to Social Work Practice*, 5 J. HUM. RTS. SOC. WORK 61 (2020).

26. Mapp et al., *supra* note 21, at 268.

27. Shirley Gatenio Gabel, *Foreword* to A RIGHTS-BASED APPROACH TO SOCIAL POLICY ANALYSIS v, xiv (Kathryn R. Libal & Scott Harding eds., Springer International Publishing Switzerland 2016); BERTHOLD, *supra* note 5, at 5.

28. *Id.* at viii; ANDROFF, *supra* note 25, at 34–45; Mapp et al., *supra* note 21, at 263–264; McPherson, *supra* note 25, at 61.

29. ANDROFF, *supra* note 25, at 34–45; Mapp et al., *supra* note 21, at 263–264.

profession.”<sup>30</sup> Here, human rights are regarded as a tool that can be used to reframe existing social work practice models and reground social work values.<sup>31</sup> The central goal is the same: social work practice that is in line with human rights principles.

The role of human rights practitioner, as portrayed in social work scholarship, seems to be independent from the state. Human rights are described as a tool that can be used to improve engagement with service users and strengthen social work professionals’ values when these are being undermined by “public policies” or the “socio-political climate.”<sup>32</sup> Social workers who are employed by welfare organizations that are either controlled or financed by the government run the risk of becoming “agents of the state” who “protect the best interests of the government rather than the population they serve.”<sup>33</sup> In these situations, social workers can use human rights to claim professional autonomy in the interest of their clients.<sup>34</sup> This is where the role of human rights practitioner shifts into the role of human rights advocate.

## B. Advocates

In the role of human rights advocate, social workers are expected to go beyond their traditional professional role, but, this role is derived from their daily work with clients.<sup>35</sup> Scholars explain that rights-based social work inevitably leads to advocacy because approaching clients as rights-holders also means recognizing that individual problems may have structural causes.<sup>36</sup> As advocates, social workers can, for instance, empower clients to claim their rights, draw attention to human rights abuse, or pressure governments to protect rights.<sup>37</sup> Scholars emphasize that social workers cannot take up the role of advocate on their own, but need to do this in collaboration with clients, communities, and other professionals.<sup>38</sup>

When describing the role of human rights advocate, scholars make it clear that social workers are acting in opposition to the state.<sup>39</sup> It appears that

30. María Inés Martínez Herrero & Jack Nicholls, *Beyond Legalism in Turbulent Times: Re-grounding UK Social Work in a Richer International Human Rights Perspective*, 2 J. HUM. RTS. SOC. WORK 74, 76, 82 (2017).

31. *Id.* at 82.

32. *Id.* at 83; McPherson, *supra* note 25, at 62.

33. Mapp et al., *supra* note 21, at 261.

34. Silvia Staub-Bernasconi, *Social Work and Human Rights—Linking Two Traditions of Human Rights in Social Work*, 1 J. HUM. RTS. SOC. WORK 40, 45 (2016).

35. Mapp et al., *supra* note 21, at 261.

36. *Id.* at 266.

37. REICHERT, *supra* note 4, at 200; ANDROFF, *supra* note 25, at 43; Mapp et al., *supra* note 21, at 264.

38. Mapp et al., *supra* note 21, at 266; McPherson, *supra* note 25, at 62.

39. *Id.*



while acting as a human rights advocate, social workers use human rights as a tool for advocacy against the state. Human rights can thus empower social workers to remain true to their professional values when these values are being challenged by public policies, and even go so far as to refuse mandates from the state if mandates are in violation of human rights.<sup>40</sup> In other words, human rights “obligate social workers to look beyond their own government’s responses to social issues [and] moves social workers away from being agents of the state to being change agents in keeping with the founding vision of social work.”<sup>41</sup> As with the role of human rights practitioner, the role of human rights advocate is clearly separate from the state.

### C. Translators

The third human rights role attributed to social workers is that of human rights translator. In this role social workers do not necessarily use human rights to transform their own work.<sup>42</sup> Instead, they use their professional knowledge and skills to transform the human rights discourse.<sup>43</sup> This role is derived almost entirely from the often-cited work of Jim Ife.<sup>44</sup> Here, the underlying idea is that “social work can actually make a contribution to the human rights field, currently so dominated by the legal profession.”<sup>45</sup> Since social workers generally work with people in a vulnerable or disadvantaged position, their work can inform the human rights discourse by articulating what human rights mean in a local context.<sup>46</sup> Therefore, as translators, social workers are translating human rights norms in order to make them applicable to their own work at the local level, and also introducing the lessons learned from these translations at the global level. Accordingly, this role requires social workers to establish links with the UN human rights system in order to make the voices of their clients heard at the global level.<sup>47</sup> To achieve this, social workers would need to collaborate with nongovernmental organizations, or their own international professional associations, which have consultative status through the UN Economic and Social Council.<sup>48</sup> The role of human rights translator seems to bypass the state and claim an independent role for social workers within the international human rights system.

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40. *Id.*; Staub-Bernasconi, *supra* note 34, at 45.

41. Gabel, *supra* note 27, at xiii.

42. Jim Ife, *Human Rights and Social Work: Beyond Conservative Law*, 1 J. HUM. RTS. SOC. WORK 3, 4 (2016).

43. *Id.*

44. *Id.*; Ife et al., *supra* note 3.

45. Ife, *supra* note 42, at 4.

46. Ife et al., *supra* note 3, at 159, 175.

47. *Id.* at 158.

48. Shirley Gatenio Gabel & Ningning Yang, *Transnational Advocacy at the United Nations for Social Workers*, 7 J. HUM. RTS. SOC. WORK 417 (2022).

The social work human rights roles of practitioner, advocate, and translator are, to a certain extent, aspirational. Social work scholars see the potential in social work as a human rights profession and admit that this potential often remains unfulfilled.<sup>49</sup> At the same time, it seems social work scholars have pinned their hopes on human rights as a tool that can be used by social workers to better support clients and assert their independence from the state. The following section explores how public service professionals related to social work are perceived by the international human rights system.

### III. PUBLIC SERVICE PROFESSIONALS AND SOCIO-ECONOMIC RIGHTS: WHO DOES WHAT?

There is no existing typology on what roles public service professionals can fulfill in human rights realization. Taking the above typology on social work human rights roles as a point of departure, this section identifies what roles are attributed to public service professionals in interpretations of international human rights law. The analysis is focused on socio-economic rights obligations related to social work, covering public service provision that involves care and support for people in a vulnerable position.

To identify the roles, a key word search for “professionals” and related terms “personnel,” “staff,” and “workers” was conducted in UN human rights documents relevant to public service provision concerning care and support in the area of socio-economic rights.<sup>50</sup> The search included the following sources: the Covenant on Economic, Social and Cultural Rights (CESCR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD), General Comments by the Committees responsible for monitoring these treaties, and four UN Special Rapporteurs and a UN independent expert who have paid attention to public service provision in their reports.<sup>51</sup> The search was carried out in January 2023 and covered all relevant UN Treaty Body General Comments and UN independent expert thematic reports since their inception. Reference to “professionals,” “personnel,” “staff,” or “workers” involved in care and support services was found: one time in the CRC; four times in the

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49. Mapp et al., *supra* note 21, at 262.

50. United Nations Human Rights Materials, UNITED NATIONS <https://www.ohchr.org/en/library/un-human-rights-materials/> [<https://perma.cc/Q9FC-6VEV>].

51. Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on violence against women and girls, its causes and consequences; Independent Expert on the enjoyment of all human rights by older persons.

CRPD; forty-three times in eleven General Comments, and fifty-six times in nine thematic reports of UN independent experts. Therefore, this analysis is based on a total of 104 references to “public service professionals” as found in the reports.

For each reference to “public service professionals” in these documents, the role of the professional in human rights realization was determined. Sometimes, these roles were formulated explicitly with direct reference to what certain professionals should or should not do. In other cases, these roles were implied in state obligations concerning public service provision. For example, a state obligation to educate public service professionals on the relevance of human rights to their work implies a role where professionals apply human rights in their work.<sup>52</sup> The identified roles were coded in accordance with the (expected) behavior inherent in the role. First, a match was sought with the typology from social work scholarship outlined above.<sup>53</sup> If the described or implied behavior did not match with any of the roles in that typology a new role was formulated. This resulted in the following typology of roles, further detailed below: qualified professionals, human rights practitioners, human rights violators, and human rights advocates. Once these roles were categorized, a second coding was carried out to determine the relationship to the state in terms of human rights realization. This entailed a close reading of the human rights obligations to determine the (expected) behavior of the state towards the public service professional. The different roles and the relationship to the state are explained in detail below.

## A. Qualified Professionals

According to the interpretations of human rights studied here, public services that fulfil human rights require a qualified, competent workforce. Within the context of healthcare, this has been made most clear by the UN Special Rapporteur on the Right to Health stating that health professionals “as providers of health-care services, [ . . . ] play an indispensable role in the realization of the right to health.”<sup>54</sup> This “indispensable role” of qualified professionals

52. See for example, CRC, *General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health*, ¶ 93, U.N. Doc. CRC/C/GC/15 (Apr. 17, 2013) [hereinafter CRC, *General Comment No. 15*].

53. Dibbets & Eijkman, *supra* note 11.

54. Paul Hunt (Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health), *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, ¶ 8, U.N. Doc. A/60/348 (Sept. 12, 2005) [hereinafter *Report of the Special Rapporteur on the Right to Health* Sept. 2005]. See also, UNGA, Human Rights Council, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, ¶ 41, U.N. Doc. A/HRC/4/28 (Jan. 17, 2007) [hereinafter *Report of the Special Rapporteur on the Right*

is also evident in other human rights documents, covering, amongst others, the best interests of the child, violence against women, and independent living for persons with disabilities.<sup>55</sup> It seems the most important human rights role attributed to public service professionals is that of the qualified professional. Apart from the UN Special Rapporteur on the right to health, this role is not made explicit but is reflected in state obligations to ensure competent staff for public services and obligations to ensure or provide specialized training for public service professionals.

The state obligation to ensure competent staff for public services is contained in the CRC and included in General Comments of the Committee on Economic, Social and Cultural Rights (CESCR Committee), the Committee on the Rights of the Child (CRC Committee), and the Committee on the Rights of Persons with Disabilities (CRPD Committee).<sup>56</sup> Article 3(3) of the CRC obligates states Parties to “ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities [ . . . ] in the number and suitability of their staff.”<sup>57</sup> In the General Comments, it becomes clear that different types of professionals are needed to provide specific services necessary for the realization of particular rights. For example, “specialized

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*to Health Jan. 2007*] (“Obviously, the realization of the right to the highest attainable standard of health depends upon health professionals enhancing public health and delivering medical care.”); Dainius Pūras (Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health), *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, ¶ 1, U.N. Doc. A/74/174 (July 16, 2019) [hereinafter *Report of the Special Rapporteur on the Right to Health July 2019*] (“Health-care workers are a vital component of healthy societies and functioning health systems without whom the right to the highest attainable standard of physical and mental health cannot be realized.”).

55. CRC, *General Comment No. 14*, *supra* note 8, ¶¶ 64, 92, 94; CEDAW, *General Recommendation No. 35 on Gender-based Violence Against Women, Updating General Recommendation No. 19*, ¶¶ 30(e), 32(b), U.N. Doc. CEDAW/C/GC/35 (July 26, 2017) [hereinafter CEDAW, *General Recommendation No. 35*]; Comm. on the Rts. of Pers. with Disabilities [CRPD], *General Comment No. 5 (2017) on Living Independently and Being Included in the Community*, ¶¶ 76, 94, U.N. Doc. CRPD/C/GC/5 (Oct. 27, 2017) [hereinafter CRPD, *General Comment No. 5*].

56. Article 3(3), CRC; Committee on the Rts. of the Child [CRC], *General Comment No. 9 (2006) The Rights of Children with Disabilities*, ¶ 9(c), U.N. Doc. CRC/C/GC/9 (Feb. 27, 2007) [hereinafter CRC, *General Comment No. 9*]; Committee on Econ., Soc. and Cultural Rts. [CESCR], *General Comment No. 22 on the Right to Sexual and Reproductive Health*, ¶¶ 13, 21, U.N. Doc. E/C.12/GC/22 (May 26, 2016) [hereinafter CESCR, *General Comment No. 22*]; U.N., Econ. & Soc. Council, Comm. on Econ., Soc. and Cultural Rts., *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights*, *General Comment No. 14*, ¶ 42, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000) [hereinafter CESCR, *General Comment No. 14*]; CRC, *General Comment No. 14*, *supra* note 8, ¶¶ 64, 79, 92, 94; CRC, *General Comment No. 15*, *supra* note 52, ¶ 31; CRPD, *General Comment No. 5*, *supra* note 55, ¶ 77.

57. Article 3(3), CRC.

professionals” need to be available to support the development of children with disabilities, and “trained medical and professional personnel and skilled providers” are needed for sexual and reproductive healthcare services.<sup>58</sup> In addition, the UN Special Rapporteur on the rights of persons with disabilities and the Independent Expert on the enjoyment of all human rights by older persons points out that shortages of specialized professionals undermines the accessibility and quality of services required by human rights law.<sup>59</sup>

To realize elements of various rights or address specific human rights issues, states have obligations to ensure specialized training for public service professionals. Such obligations can be found in the CRPD, General Comments of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee), the CRC Committee, and reports of the UN Special Rapporteurs on the right to health and violence against women and girls.<sup>60</sup> Article 26(2) CRPD obligates states Parties to “promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.”<sup>61</sup> According to the CEDAW Committee and the CRC Committee different professionals need to be trained in, for example: geriatric illnesses, the effects of trauma following intimate partner violence, or the identification of harmful practices.<sup>62</sup>

These different state obligations emphasize that qualified professionals are considered necessary for the realization of human rights. When public service practitioners carry out their professional role with competence and with various forms of expertise, they can help realize human rights in the process. In the human rights documents analyzed here, the “qualified professional” is most often presented as an instrument of the state or a necessity for

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58. CRC, *General Comment No. 9*, *supra* note 56, ¶ 9(c); CESCR, *General Comment No. 22*, *supra* note 56, ¶¶ 13, 21.

59. Catalina Devandas-Aguilar (Special Rapporteur on the Rights of Persons with Disabilities), *Report of the Special Rapporteur on the Rights of Persons with Disabilities*, ¶ 33, U.N. Doc. A/73/161 (July 16, 2018) [hereinafter *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*]; UN Gen. Assemb. H.R. Council, *Report of the Independent Expert on the Enjoyment of All Human Rights by Older Persons*, ¶ 76, U.N. Doc. A/HRC/30/43 (Aug. 13, 2015).

60. Article 26(2), CRPD; Committee on the Elimination of All Forms of Discrimination Against Women [CEDAW], *General Recommendation No. 27 on Older Women and Protection of Their Human Rights*, ¶ 45, U.N. Doc. CEDAW/C/GC/27 (Dec. 16, 2010) [hereinafter *CEDAW, General Recommendation No. 27*]; CEDAW, *General Recommendation No. 35*, *supra* note 55, ¶ 30(e)(ii); CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 72; CRC, *General Comment No. 9*, *supra* note 56, ¶¶ 20, 32; U.N. Gen. Assemb. Hum. Rts. Council, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, ¶ 106, U.N. Doc. A/HRC/35/30 (June 13, 2017) [hereinafter *Report of the Special Rapporteur on Violence Against Women June 2017*]; *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54.

61. Article 26(2), CRPD.

62. CEDAW, *General Recommendation No. 27*, *supra* note 60, ¶ 45; CEDAW, *General Recommendation No. 35*, *supra* note 55, ¶ 30(e)(ii); CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 72.

the fulfilment of human rights obligations. This does not mean these professionals are necessarily employed by the state. The relevant state obligations invariably require states to “ensure” (instead of “provide”) the availability of qualified professionals. In this context only two special rapporteurs pay attention to the governance of public service professionals. The UN Special Rapporteur on violence against women and girls makes it clear that the state plays a significant role in governing professionals responsible for addressing violence against women.<sup>63</sup> On the other hand, the UN Special Rapporteur on the right to health makes explicit that health workers need to be self-governed in order to prevent subordination to the state.<sup>64</sup> This tension is also relevant to the roles of “human rights practitioner,” “human rights violator,” and “human rights advocate” analyzed below.

## B. Human Rights Practitioners

Public service professionals who act as human rights practitioners know the relevance of human rights to their work and apply this knowledge to their daily practice. In the human rights documents, this role emerges from state obligations to promote or provide human rights training and awareness-raising for public service professionals. According to UN Treaty Bodies and UN Special Rapporteurs, human rights training and awareness-raising can teach professionals how to realize human rights through their daily work and change professional attitudes and behavior to conform with human rights.

The understanding that professionals need human rights knowledge to enable them to better realize human rights through their daily work is included in the CRPD, General Comments of the CESCR Committee, CEDAW Committee, and CRC Committee, and reports of the UN Special Rapporteur on the right to health.<sup>65</sup> The CRPD obligates states “to promote the training

63. “States need to establish a coherent legal framework of aligned laws addressing protection services such as shelters and protection measures, including protection orders, as well as effective mechanisms for cooperation and coordination between and across different mandates of the state system dealing with violence against women. These include the police, public prosecutors, the judiciary and social services, health-care professionals, NGOs and other relevant organizations providing frontline services and offering multi-agency cooperation for appropriate handling of cases.” *Report of the Special Rapporteur on Violence Against Women June 2017*, *supra* note 60, ¶ 101.

64. “Health-care workers should be self-governed. The independence of health professions from the state prevents subordination to the state.” *Report of the Special Rapporteur on the right to health Sept. 2005*, *supra* note 54, ¶ 61.

65. Article 4(1)(i) CRPD; Article 25(d) CRPD; CESCR, *CESCR Gen. Comment No. 5: Persons with Disabilities*, ¶ 34, U.N. Doc. E/1995/22 (Dec. 9, 1994); CEDAW, *Gen. Recommendation No. 24: Women and Health*, ¶ 31(f), U.N. Doc. A/54/38/Rev.1 (1999) [hereinafter CEDAW, *Gen. Recommendation No. 24*]; CRC, *General Comment No. 15*, *supra* note 52, ¶ 93; CRC, *General Comment No. 14*, *supra* note 8, ¶ 15(f); *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶¶ 11, 7, 30; *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 7.



of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.”<sup>66</sup> The CRC Committee, for instance, encourages states to educate “[ . . . ] professionals working with children about children’s right to health, and the contributions they can make to its realization.”<sup>67</sup> The Special Rapporteur(s) on the right to health has repeatedly promoted human rights education for health workers stating that “human rights education is an essential starting point for equipping health professionals with the knowledge and tools to empower them to promote and protect human rights.”<sup>68</sup>

The CEDAW Committee, the CRC Committee, the CRPD Committee, the UN Special Rapporteur on the Right to Health, and the Special Rapporteur on the rights of persons with disabilities indicate that human rights training and awareness-raising is also necessary to bring behavior and attitudes of professionals in line with human rights.<sup>69</sup> In a joint general recommendation on harmful practices, the CEDAW and CRC Committees explain that “as many relevant professional groups as possible, including health, education and social workers [ . . . ] need to be provided with accurate information about [ . . . ] applicable human rights norms and standards” to promote change in their attitudes and behavior.<sup>70</sup> The CRPD Committee, the CRC Committee, and the UN Special Rapporteur on the rights of persons with disabilities require awareness-raising for professionals in order to eradicate stereotypes and ableism.<sup>71</sup> The Special Rapporteur on the right to health underlines that “the integration of human rights in health education can help health-care workers overcome their own inherent discriminatory behaviors and attitudes.”<sup>72</sup>

In the role of human rights practitioner, professionals are carrying out their daily practice informed by human rights. As with the role of “qualified professional,” it seems the human rights practitioner is expected to act in service of the state. The human rights documents studied here obligate the state to design or conduct awareness-raising campaigns and training

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66. Article 4(1)(i), CRPD.

67. CRC, *Gen. Comment No. 15*, *supra* note 52, ¶ 93.

68. *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶ 11.

69. CEDAW, *General Recommendation No. 27*, *supra* note 60, ¶ 32(b); CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 70 and 73(a); CRC, *General Comment No. 9*, *supra* note 56, ¶ 9(c); CRPD, *General Comment No. 5*, *supra* note 55, ¶ 77; *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 5; *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*, *supra* note 59, ¶¶ 62, 67.

70. CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶¶ 70, 73(a).

71. CRPD, *General Comment No. 5*, *supra* note 55, ¶ 77; CRC, *General Comment No. 9*, *supra* note 56, ¶ 9(c); *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*, *supra* note 59, ¶¶ 62, 67.

72. *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 5.

programs on human rights for public service professionals. This implies the professionals are the subjects or students who are expected to learn and follow through. Again, it is only in the context of the right to health that a different perspective is offered. Both the Special Rapporteur on the right to health and the ESCR Committee have indicated that the state should also provide an environment which facilitates and supports professionals in the realization of the right to health.<sup>73</sup> Here, it is not the state teaching professionals how to behave in line with human rights, but it is the state providing professionals with the opportunity to carry out their own “responsibilities regarding the realization of the right to health.”<sup>74</sup>

### C. Human Rights Violators

According to several UN Treaty Bodies and UN Special Rapporteurs, public service professionals can undermine human rights realization when they violate rights. Indirectly, this (undesirable) role of “human rights violator” is also contained in the state obligation to change the attitudes and behavior of professionals through human rights training. However, the following UN Committees and UN Rapporteurs also make explicit reference to human rights violation by public service professionals: the CEDAW Committee, the CRC Committee, the UN Special Rapporteur on the right to health, the UN Special Rapporteur on the rights of persons with disabilities, the UN Special Rapporteur on contemporary forms of racism, and the UN Special Rapporteur on violence against women and girls.<sup>75</sup>

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73. *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 57, ¶ 16; CESCR, *General Comment No. 14*, *supra* note 56, ¶ 42.

74. CESCR, *General Comment No. 14*, *supra* note 56, ¶ 42. “While only States are parties to the Covenant and thus ultimately accountable for compliance with it, all members of society—individuals, including health professionals, families, local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector—have responsibilities regarding the realization of the right to health. States parties should therefore provide an environment which facilitates the discharge of these responsibilities.”

75. CEDAW, *General Recommendation No. 24*, *supra* note 65, ¶ 15(c); CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 50; CRC, *General Comment No. 14*, *supra* note 8, ¶ 34; *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶¶ 9, 11; *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*, *supra* note 59, ¶ 50; Mutuma Ruteere (Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance), *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, ¶¶ 35, 36, 51, U.N. Doc. A/68/333 (Aug. 19, 2013) [hereinafter *Report of the Special Rapporteur on Contemporary Forms of Racism July 2018*]; Dubravka Šimonović (Special Rapporteur on Violence Against Women, its Causes and Consequences), *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences on a Human Rights-Based Approach to Mistreatment and Violence Against Women in Reproductive Health Services with a Focus on Childbirth and Obstetric Violence*, ¶¶ 21, 39, 40, 72, U.N. Doc. A/74/137 (July 11, 2019) [hereinafter *Report of the Special Rapporteur on Violence Against Women July 2019*].



According to the CEDAW Committee, professionals may be “complicit in carrying out harmful practices” or “guilty of sexual abuse of women patients.”<sup>76</sup> UN Special Rapporteurs indicate that professionals have discriminated against racial and ethnic minority groups in healthcare settings, mistreated women during childbirth, or carried out forced sterilizations and forced abortions.<sup>77</sup>

UN Treaty Bodies and UN Special Rapporteurs point towards the relation between the state and the “human rights violator” in two different ways. On the one hand, the professionals are portrayed as misbehaving subordinates who need to be held to account by the state. The CEDAW and CRC Committee and the Special Rapporteur on violence against women and girls determine that professionals who violate human rights need to be sanctioned by the state or accountability bodies mandated by the state.<sup>78</sup>

On the other hand, UN Special Rapporteurs explain that states may also be complicit in human rights violations carried out by professionals. Professionals may have been instructed to implement “discriminatory legislation that allows [ . . . ] treatment of persons with disabilities without their free and informed consent.”<sup>79</sup> Or health system issues such as understaffing, and lack of infrastructure create “stressful environments that facilitate unprofessional behavior.”<sup>80</sup> As the Special Rapporteur on the right to health explains: “inadequate compliance by health professionals with human rights standards is often the result of complex and interrelated circumstances, including [ . . . ] political, legal, economic, social or cultural pressures.”<sup>81</sup> This illustrates that public service professionals who violate human rights may have been put in a difficult position where they are forced to decide between respect for service users’ rights and adherence to various external pressures. In the context of healthcare, this is known as a “dual-loyalty dilemma.”<sup>82</sup> For this reason, the Special Rapporteur on the right to health emphasizes that healthcare workers need to operate independently from the state.<sup>83</sup>

76. CEDAW, *General Recommendation No. 24*, *supra* note 65, ¶ 15(c).

77. *Report of the Special Rapporteur on Contemporary Forms of Racism July 2018*, *supra* note 75, ¶¶ 35, 36, 51; *Report of the Special Rapporteur on Violence Against Women*, *supra* note 75, ¶¶ 21, 39, 40, 72.

78. CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 50; CEDAW, *General Recommendation No. 24*, *supra* note 65, ¶ 15(c); *Report of the Special Rapporteur on Violence Against Women July 2019*, *supra* note 75, ¶ 80(j).

79. *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*, *supra* note 59, ¶ 50.

80. *Report of the Special Rapporteur on Violence Against Women July 2019*, *supra* note 75, ¶¶ 39, 40.

81. *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶¶ 9, 11.

82. *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 61.

83. *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54.

## D. Human Rights Advocates

The role of “human rights advocate” is largely absent in the human rights documents studied here. Only the UN Special Rapporteur on the right to health has suggested that health workers can also be human rights advocates: “when medical and health education is grounded in human rights, health-care workers are equipped to see challenges as human rights issues, and themselves as change agents and human rights advocates.”<sup>84</sup> As human rights advocates, these professionals can, for example, “help document and redress violations of human rights” and “frame a pressing health concern as a human rights issue [to] enhance its legitimacy and importance.”<sup>85</sup> When describing health workers as human rights advocates, the UN Special Rapporteur indicates they are advocating for the right to health within the national health system, seemingly independent from the state.<sup>86</sup>

The above analysis shows there is evidence in international human rights conventions, General Comments of UN Treaty Bodies, and reports of UN independent experts that public service professionals can have various roles in human rights realization. They can function as: qualified professionals implicitly contributing to human rights realization; human rights practitioners consciously realizing rights through their work; human rights violators (of their own volition or more likely pressured by external forces), and human rights advocates. The following section compares these roles to the human rights roles found in social work scholarship to gain further insight on the position of social workers as human rights actors in relation to the state.

## IV. SOCIAL WORKERS AS HUMAN RIGHTS ACTORS: STATE AGENTS OR CHANGE AGENTS?

Having established that social workers and public service professionals who provide care are purported to fulfil multiple roles in human rights realization, the question that remains is how these professionals can then be positioned in relation to the state. This section reflects on the identified human rights roles of public service professionals and social workers and uncovers the tensions that the differences between these roles reveal.

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84. *Report of the Special Rapporteur on the Right to Health July 2019, supra note 54, ¶¶ 2, 30; See also: Report of the Special Rapporteur on the Right to Health Sept. 2005, supra note 54, ¶¶ 8, 11, 14, 41, 44.*

85. *Report of the Special Rapporteur on the Right to Health Sept. 2005, supra note 54, ¶¶ 14; Report of the Special Rapporteur on the Right to Health Jan. 2007, supra note 54, ¶ 41.*

86. *Report of the Special Rapporteur on the Right to Health Jan. 2007, supra note 54, ¶ 91.*

## A. Comparing and Contrasting Human Rights Roles

Combining both sets of typologies results in five different human rights roles for social workers and public service providers: the qualified professional, the human rights practitioner, the human rights violator, the human rights advocate, and the human rights translator. When comparing the roles as described by social work scholars with the roles as identified from interpretations of human rights law, several fundamental differences become clear.

The first difference is that social work scholars regard human rights as tools that can be used by social workers, whereas interpretations of human rights law point towards public service professionals as instruments for human rights realization. This difference makes sense. Social work scholarship revolves around the social work profession in which human rights become an additional element. In interpretations of human rights law, public service professionals are one of many instruments needed for human rights realization. Interestingly, the UN Special Rapporteur on the right to health does both. In reports of this rapporteur health professionals are considered necessary for human rights realization, but human rights are also presented as a tool for health professionals.<sup>87</sup>

The second difference is that social work scholars consider human rights as a tool for social workers to be used against the state, or to assert independence from the state. Social workers are portrayed as potential change agents who can use human rights to improve the situation of the clients they serve when state law or policy gets in the way.<sup>88</sup> Interpretations of human rights law seem to regard public service providers as subjects or subordinates of the state. States need to ensure the availability of competent public service professionals, educate them on human rights, and sanction professionals who violate human rights.<sup>89</sup>

In this way, even the similar role of “human rights practitioner” becomes fundamentally different. In both typologies, the human rights practitioner is a professional who carries out their daily work with awareness of human rights. The end-goal of human rights realization is the same, but the way in which this is achieved is entirely different. The “human rights practitioner”

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87. *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54; *Report of the Special Rapporteur on the Right to Health Jan. 2007*, *supra* note 54, ¶ 41; *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 5.

88. McPherson, *supra* note 25, at 62; Staub-Bernasconi, *supra* note 34, at 45; Gabel, *supra* note 27, at xiv.

89. CRC, *General Comment No. 9*, *supra* note 56, ¶ 9(c); CESCR, *General Comment No. 22*, *supra* note 56, ¶¶ 13, 2; CRC, *General Comment No. 15*, *supra* note 52, ¶ 93; *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶ 11; CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 50; CEDAW, *General Recommendation No. 24*, *supra* note 65, ¶ 15(c); *Report of the Special Rapporteur on Violence Against Women July 2019*, *supra* note 75, ¶ 80(j).

in social work scholarship uses human rights to enhance and strengthen their profession to be able to oppose state policies that are detrimental to their clients. The “human rights practitioner” in General Comments and UN Special Rapporteur reports is a student who needs to be taught how to behave in line with human rights. Again, the UN Special Rapporteur on the right to health takes a different stance. Health professionals are also presented as students that need to learn how their daily work can conform with human rights. However, according to this UN Special Rapporteur, the state has an additional obligation to provide an environment in which health professionals are *able* to act in conformity with human rights.<sup>90</sup>

In social work scholarship, tensions between social workers and the state are present in the roles of “human rights practitioner” and “human rights advocate.” In both roles, social workers are expected to act in opposition to the state when law or policy proves detrimental to their client’s rights.<sup>91</sup> In human rights documents, these tensions only become visible in the role of “human rights violator.” Although UN Treaty Bodies approach public service professionals who violate human rights as misbehaving subordinates, UN Special Rapporteurs indicate that states may also be complicit in these violations.<sup>92</sup> State measures such as discriminatory policies or austerity measures can put public service professionals in difficult positions where they may have to choose between adherence to the state or protection of clients’ rights. For this reason, the UN Special Rapporteur on the right to health underlines that health professionals should act independently from the state.<sup>93</sup> This statement brings the role of “human rights violator” closer to the roles of “human rights practitioner” and “human rights advocate” found in social work scholarship where the necessity to act independently from the state is also included in these roles.

90. *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶ 16; This obligation is also included in the General Comment on the right to health: CESCR, *General Comment No. 14*, *supra* note 56, ¶ 42.

91. McPherson, *supra* note 25, at 62; Staub-Bernasconi, *supra* note 34, at 44, 45; Gabel, *supra* note 27, at xiv.

92. CEDAW and CRC Joint General Comment No. 31&18, *supra* note 8, ¶ 50; CEDAW, *General Recommendation No. 24*, *supra* note 65, ¶ 15(c); *Report of the Special Rapporteur on Violence Against Women*, *supra* note 75, ¶ 80(j); *Report of the Special Rapporteur on the Rights of Persons with Disabilities July 2018*, *supra* note 59, ¶ 50; *Report of the Special Rapporteur on the Right to Health Sept. 2005*, *supra* note 54, ¶¶ 9, 11 (Finding the reasons behind this difference between Treaty Bodies and Special Rapporteurs goes beyond the focus of this article, but it may have to do with the different roles that these instruments fulfill within the international human rights system); For a detailed account of the mechanism of UN special rapporteurs within the UN human rights system, see Surya P. Subedi, *Protection of Human Rights through the Mechanism of UN Special Rapporteurs*, 33 HUM. RTS. Q. 201 (2011).

93. *Report of the Special Rapporteur on the Right to Health July 2019*, *supra* note 54, ¶ 61.

The differences in the relationship with the state in these human rights roles make it unsurprising that amongst the human rights documents only the reports of the UN Special Rapporteur on the right to health make mention of public service professionals as “human rights advocates.”<sup>94</sup> Only public service professionals who are able to act independently from the state can fulfil the role of human rights advocate as this is undoubtedly the human rights role that goes against the state. The role of “human rights translator,” which completely bypasses the state, cannot be found in human rights documents.

## B. Inherent Tensions and the Pitfalls of State-Centricity

The differences between the roles outlined above reveal the inherent tension between the state and public service professionals as human rights actors. If social workers engage in human rights practice or advocacy, they may come face to face with the state that governs and funds the social care system in which they work. This already makes these roles complex, but it may be further complicated by the state-centricity of the international human rights system.

Within the international human rights system “the state is both the principal protagonist *and* antagonist.”<sup>95</sup> This creates a structural conflict of interest whereby the state is the sole actor in charge of human rights implementation while at the same time bearing responsibility for many of the reasons why human rights are not realized.<sup>96</sup> The human rights bodies studied here clearly adhere to this state-centric view. General Comments from UN Treaty Bodies are written from the perspective of state obligations and state accountability, thus presenting the state as the central actor.<sup>97</sup> With a few exceptions, most of the studied reports of UN independent experts are directed only at the state.<sup>98</sup> As a result, every other relevant actor becomes a supporting actor to the state’s starring role in human rights realization. In a twist of fate, international human rights law then seems to undermine the professional autonomy of public service professionals when it comes to their role in human rights realization.

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94. *Report of the Special Rapporteur on the Right to Health* Sept. 2005, *supra* note 54, ¶ 14; *Report of the Special Rapporteur on the Right to Health* Jan. 2007, *supra* note 54, ¶ 41; *Report of the Special Rapporteur on the Right to Health* July 2019, *supra* note 54, ¶ 2.

95. MARK GOODALE, *REINVENTING HUMAN RIGHTS* 44 (2022).

96. *Id.* at 44.

97. See for example, CRC, *General Comment No. 9*, *supra* note 56; CRPD, *General Comment No. 5*, *supra* note 55.

98. See for example, *Report of the Special Rapporteur on the Rights of Persons with Disabilities* July 2018, *supra* note 59.

Therefore, when positioning social workers as human rights actors it is more helpful to make a distinction between human rights *law* and human rights *realization*. Even if the international human rights legal system remains state-centric, with the state as primary duty bearer, human rights realization does not have to be state-centric.<sup>99</sup> Due to the state-centricity of international human rights law defining the human rights role of a public service professional means determining their role in relation to the state. However, this does not mean these public service professionals cannot fulfil human rights roles independent of the state. In fact, social work scholars and one UN Special Rapporteur underline that to be able to play a role in human rights realization it is essential that public service professionals act independently from the state.<sup>100</sup>

## V. CONCLUSION

Social work can be a human rights profession. According to social work scholars, social workers can act as human rights practitioners to realize human rights through their work, advocate for policy change in line with human rights, and even use their professional knowledge to inform human rights interpretation. Social workers are expected to take on these human rights roles as professionals independent from the state. Human rights treaty-monitoring bodies and UN special rapporteurs concur that public service professionals providing care and support can indeed play roles in the realization of socio-economic rights. However, most of these interpretations of human rights law imply that public service professionals as human rights actors are functioning as an instrument of the state.

From the perspective of international human rights law, the lack of independence in the human rights roles of public service professionals is predictable and understandable. After all, when the state is the central actor, any public service professional is but a cog in the wheel of human rights implementation by the state. But what if this interpretation of human rights law in the bubble of state-centricity and top-down implementation sidelines potentially valuable actors? What if social workers and other public service professionals can be much more than instruments of the state for the realization of human rights?

This article underlines the value and importance of exploring opportunities for human rights realization which is not state-centric, even if human rights law remains state-centric. Social workers are but one of an array of

99. JULIE FRASER, SOCIAL INSTITUTIONS AND INTERNATIONAL HUMAN RIGHTS LAW IMPLEMENTATION: EVERY ORGAN OF SOCIETY 162 (2020).

100. Staub-Bernasconi, *supra* note 34, at 45; Gabel, *supra* note 27, at xiv; *Report of the Special Rapporteur on the Right to Health* Sept. 2005, *supra* note 54, ¶ 61.

public service professionals who may have a role to play in human rights realization. For a start, other professionals such as doctors, nurses, psychologists, or even teachers may fulfil similar human rights roles. The more human rights actors come into focus the clearer it can become who does what and how it may contribute to human rights realization. In the resulting picture the state may not take center stage but the state obligation to facilitate an environment in which other important actors can embrace their human rights roles becomes of central importance.