

UNIVERSITY OF CALIFORNIA,
IRVINE

The Space Between: On the Emergence
of an International Legal Practice of Human Rights

DISSERTATION

submitted in partial satisfaction of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

in Philosophy

by

Amanda L. Trefethen

Dissertation Committee:
Professor Aaron James, Chair
Professor Bonnie Kent
Professor Martin Schwab
Professor of Law Carrie Menkel-Meadow
Assistant Professor Jeffrey Helmreich

2016

ABSTRACT OF THE DISSERTATION

The Space Between: On the Emergence
of an International Legal Practice of Human Rights

By

Amanda L. Trefethen

Doctor of Philosophy in Philosophy

University of California, Irvine, 2016

Professor Aaron James, Chair

There is a lacuna in our understanding of what it is to have legal human right. While moral philosophers frequently address what it is to have a human right, *qua* human, and legal philosophers discuss what it is that constitutes a legal right, it is not yet clear what it is to have a legal human right distinct from these pursuits. It is generally agreed that not all human rights in the international practice are legal rights for everyone. Legal effectiveness is largely dependent on treaty ratification and domestic commitments. However, this inequality in the effectiveness of legally claimable rights poses a crucial problem for the international practice of human rights, which takes universality and the demands for equitable treatment as central aims of that practice. This dissertation aims to examine this problem and to discuss the state of the emerging legal practice of human rights. It offers a measure, through a standard of adjudicability, for recognizing when legal human rights claims have become effective. The goal is to provide clarity on how this legal practice of human rights might properly emerge in keeping with its own founding principles.