


Research Networking Programme

Beyond Territoriality: Globalisation and Transnational Human Rights Obligations (GLOTHRO)

Standing Committee for the Social Sciences (SCSS)
Standing Committee for the Humanities (SCH)



Human rights violations occur daily, all over the world. Sovereign states legally bear the primary responsibility for human rights violations. But what happens when these states are not able to live up to their human rights obligations? Do other states have extraterritorial obligations to help them out? What role should other actors (such as companies or international organisations) play? This Programme starts from the assumption that human rights obligations, in particular in the field of economic, social and cultural rights, need to be re-thought in the present era of globalisation.

The decentred position of the state and the increased power and impact of corporations and international organisations pose major practical and conceptual challenges to human rights law. In practice, human rights law faces a serious risk of marginalisation if it fails to adapt to this changing reality. Conceptually, the decentred place of the territorial state necessitates a fundamental re-thinking of a basic tenet of human rights law, *i.e.* that human rights obligations are primarily if not exclusively incumbent on the territorial state. The Programme intends to address a dual challenge, *i.e.* to deepen the understanding of human rights obligations of foreign states, and to bring together sub-fields of human rights study, *i.e.* on the human rights obligations of transnational corporations, international organisations and foreign states.

Until now, research on the topic has mostly been done by individual researchers, and sometimes by relatively small research groups. Moreover, as this is a new field, most researchers are relatively young scientists. There has been insufficient critical mass and expertise available in any individual country of Europe to study transnational human rights obligations in all their complexity. The Programme will be instrumental in creating a real research community on the issue, in attracting new scholars to the field, and in bringing the topic into the mainstream of human rights scholarship.

The running period of the ESF GLOTHRO Research Networking Programme is for four years, from May 2010 to May 2014.

Status of the Field

The impact of (predominantly economic) globalisation on human rights issues has been mapped out in inter alia ethics and international relations, in particular with regard to the decentred position of the territorial state that ensues from globalisation. In many instances, in particular when it comes to issues of global poverty and the lack of realisation of economic, social and cultural rights in the global South, the territorial/sovereign state is seldom in the driving seat: decisions of other, more powerful actors, such as international (financial) organisations, transnational corporations and/or other states, have a much larger and profound impact on the realisation of socio-economic human rights than the territorial state has.

These new realities need to be addressed by the legal institutions and human rights law in particular, as they pose major practical and conceptual challenges to human rights law. In practice, human rights law faces a serious risk of marginalisation if it fails to adapt to a changing reality and to address current challenges, *i.e.* the decentred position of the territorial state and the concomitant

increasing impact of other actors on human rights. Conceptually, the decentred place of the territorial state forces us to fundamentally re-think a basic tenet of human rights law, that human rights obligations are primarily if not exclusively incumbent on the territorial/sovereign state. First of all, besides the territorial state other 'foreign' states hold human rights obligations too (**extraterritorial** human rights obligations). Moreover, and more fundamentally, other non-states should be held to have human rights responsibilities. Under current human rights law, this is only indirectly possible by, for example, holding states responsible as members of international organisations or as the home state of transnational corporations. Direct human rights obligations incumbent on transnational corporations and international organisations seem a logical consequence of their growing impact. The overarching term of **transnational** human rights obligations denotes extraterritorial human rights obligations of foreign states as well as the direct human rights obligations of transnational corporations and international organisations.



Figure 1.

Poverty struck village in Uttar Pradesh, India

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Aims and Objectives



In recent years, the above-mentioned practical and conceptual challenges to human rights law have been flagged, both from within and outside the legal discipline. As far as extraterritorial human rights obligations are concerned, mainly relatively young researchers have started promising new research lines on the issue, albeit usually as individual researchers or in relatively small research groups. Initiatives have also been taken to bring together the expertise available. Reference can be made here to, for example, the International Human Rights Obligations Network (InthRON), based at Lancaster University in the UK, the consortium of non-governmental organisations and academia on extraterritorial human rights obligations (ETO Consortium), and an ESF Exploratory Workshop on extraterritorial human rights obligations (see below). However, research efforts on extraterritorial human rights obligations need to be scaled up and intensified in order to be able to really meet the practical and conceptual challenge to human rights law posed by economic globalisation.

The direct human rights obligations of transnational corporations have been studied in some detail, but they remain highly contentious. The same can be said for the direct human rights obligations of international organisations, in particular the World Bank and the International Monetary Fund. In March 2007, a landmark international conference on Accountability for Human Rights Violations by International Organisations was organised in Brussels by the editorial board of Human Rights & International Legal Discourse. There are certainly European pockets of expertise on the direct human rights obligations of these actors, but a strong research tradition on transnational human rights obligations is still to be developed.

A dual challenge stands out. First, there needs to be a deepening of the understanding of conceptual issues, particularly regarding extraterritorial human rights obligations, *i.e.* obligations incumbent on states other than the territorial state. In addition, the respective fields of study of extraterritorial human rights obligations, and the direct human rights obligations of other actors, in particular international organisations and transnational corporations, have remained so far separate fields of study. Secondly there needs to be a **widening** of the understanding of human rights responsibilities, so that these fields of study interact more and better and that common principles can be identified, *e.g.* on the issues of causation, responsibility and accountability.

1. Deepening the Understanding of Extraterritorial Human Rights Obligations

As to extraterritorial human rights obligations, work has been initiated to move beyond flagging the issues and challenges, in order to explore and examine with a considerable degree of detail the more specific implications and required conceptual innovations. In January 2003, the Maastricht Centre for Human Rights convened an expert seminar on the extraterritorial application of human rights treaties. This seminar took place in the aftermath of the famous Bankovic case of the European Court of Human Rights on the human rights responsibility of NATO member states for the killing of civilians during the bombing of Belgrade, and therefore mainly focused on civil and political rights. In January 2008, an ESF Exploratory Workshop was organised in Tilburg by the current applicants to make an in-depth analysis of cross-cutting conceptual challenges in the field



of extraterritorial economic, social and cultural rights obligations in particular (ESF/ SCH-SCSS Exploratory Workshop 07-129: Transnational Human Rights Obligations in the Field of Economic, Social and Cultural Rights).

GLOTHRO focuses on a deepening of the understanding of conceptual issues regarding extraterritorial human rights obligations, *i.e.* obligations incumbent on other states than the territorial state, based on current and future substantive research at the national level. Through the organisation of European scientific meetings with a global dimension, the exchange of insights and the identification of gaps in national and European research is greatly facilitated, and applications for new research are stimulated.

2. Widening the Understanding of Human Rights Responsibilities

In addition, as globalisation challenges the state-bias in human rights law, GLOTHRO also looks beyond the state, and includes the direct human rights obligations of other actors, in particular international organisations and transnational corporations. The direct human rights obligations of these non-

Figure 2. Homeless boy in Djakarta, Indonesia

© D. Mahendra

state actors have been studied already, but predominantly as separate fields. Time has come to bring together these fields of study, as it is only through an integrated approach that the complex realities of globalisation can adequately be grasped and accommodated from a human rights perspective. GLOTHRO largely facilitates this encounter of the different fields of study, contributes to the identification of research gaps in this area, and triggers new research projects.

3. Towards a European Interdisciplinary Research Community with a Global Dimension

At the end of the 2008 ESF Exploratory Workshop, whose participants included, among others, experts in the field of extraterritorial human rights obligations, social scientists, public international lawyers and international environmental lawyer, it was concluded that continued interdisciplinary, substantive and in-depth academic research on transnational human rights obligations was needed. The need



Figure 3. Slum in Port-au-Prince

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was also felt to establish European-wide academic cooperation so as to be able to build up a real research community on the issue. Work done at the national level still very much depends on personal interest and some institutional interest.

European-wide cooperation contributes to the topic's penetration into mainstream human rights scholarship and to the attraction of new scholars to the field. In addition, given the intrinsic global dimension of the issue, expertise available in the United States and in some countries in the global South is actively sought, to add a global dimension to this European research community.

Programme Activities

The Research Networking Programme GLOTHRO facilitates in particular scientific meetings (both smaller-scale expert workshops and conferences), mobility of researchers, and the production of joint publications.

Conferences

Conferences are organised to take stock and boost nationally or otherwise funded research on particular aspects or dimensions of transnational human rights obligations. The conferences also allow the existing embryonic network to meet regularly and to consolidate into a research community.

Workshops

Workshops are planned to deepen the understanding of extraterritorial human rights obligations, mainly by reaching out to other fields of study and disciplines, such as human rights obligations of transnational corporations; public international law; international criminal law; humanitarian law; and environmental law.

Doctoral school

A doctoral school is organised, targeting postgraduate and PhD students, to bring the topic of transnational human rights obligations to the attention of new generations of scholars, and to allow junior researchers working on the topic to develop their own network and research community.

Joint publication

In the fourth and final year, primary attention will go to the final conference and the production of a major joint publication on the topic.

Figure 4. Food waiting to be distributed in Saadani, Tanzania, 2008

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Research Networking Programme
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Cover picture: Young child working in local store,
Golden rock, Myanmar/Burma, 2009
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