

SAFEGUARDING EDUCATION BEYOND BORDERS

MASTER THESIS

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ABSTRACT

The human right to education has been commonly regarded as a domestic matter of states. In this context, the present thesis proposes to focus on the question whether states have the obligation to realise the right to education beyond their territorial borders. More precisely, it explores whether, and if so, under which conditions, states can be held accountable for violations and denials of the right to education beyond their borders under the current international human rights law. To this aim the international and regional legal framework protecting the right to education are scrutinized with focus on the substance of the right, the corresponding states' obligations and the available remedies to rights – holders. Also, the extraterritorial obligations of states to respect, to protect and to fulfil the right to education are assessed in the light of the clarifications brought by the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights and by academics' interpretations. For a better illustration, a case – study is conducted exploring the obligations of states and the extent of their responsibility in realising the right to education in Transdnistria. The thesis' findings indicate that states' obligations to respect and to protect the right to education extraterritorially are clearer, better defined and can be claimed against the duty – bearers in case of violations. However, it cannot be concluded that the extraterritorial obligation to fulfil the right to education entails a legally binding obligation for states to provide the right to education in foreign territories. Hence, it is the task of the courts and human rights treaty bodies to clearly articulate in individual cases the scope and legal nature of extraterritorial obligations of states in relation to the right to education.

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TABLE OF ABBREVIATIONS

CESCR	Committee on Economic, Social and Cultural Rights
CoE	Council of Europe
ComRC	Committee on the Rights of the Child
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ESC	European Social Charter
ESCR	Economic, Social and Cultural Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
NGO	Non - Governmental Organisation
OP-ICESCR	Optional Protocol to the International Covenant on ESCR
OSCE	Organisation for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNGA	United Nations General Assembly

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