Human Rights Beyond Borders:

Re-conceptualising Obligations, Anchoring Accountability, Aiming for Global Justice

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Abstract

Motivated by a concern about global injustice and convinced that the notion of extraterritorial human rights obligations (ETOs) constitutes a potentially powerful response, the present paper sets out to ‘crack the code’ of making the notion of ETOs come into its own and gain the strongest possible position to contribute to the long overdue realisation of global justice.

The paper operates with the hypotheses that success in achieving global justice ultimately depends on how ETOs are conceptualised; and that a minimalist, functional and local conceptualisation of ETOs can provide the necessary conceptual clarity for making the notion of ETOs come into its own and answer to the two gaps – a regime gap and a conceptual gap – of the present human rights protection.

Drawing from law, philosophy and politics, a ‘negative re-conceptualisation’ is proposed with a view to provide closure to these gaps and test the hypotheses at hand. Moreover, the proposed ‘negative re-conceptualisation’ serves the two-fold purpose of this paper. It contributes to the on-going theoretical debate and more importantly, on a broader meta-level, promotes the establishment and articulation of the significance of conceptualisation. This proves vital in the struggle for global justice and has the potential to remedy the mistaken propensity to rank the conceptual challenge as on par with other recognised challenges.
Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>CESCR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<tr>
<td>CPR</td>
<td>Civil and Political Rights</td>
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<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<td>ESCR</td>
<td>Economic, Social and Cultural Rights</td>
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<td>ETO</td>
<td>Extraterritorial human rights obligation</td>
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<tr>
<td>HRC</td>
<td>Human Rights Committee</td>
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<tr>
<td>IACHR</td>
<td>Inter-American Court of Human Rights</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>IEL</td>
<td>International Environmental Law</td>
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<td>IFI</td>
<td>International Financial Institutions</td>
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<td>IGO</td>
<td>Inter-Governmental Organisation</td>
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<td>IHL</td>
<td>International Humanitarian Law</td>
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<tr>
<td>IHRL</td>
<td>International Human Rights Law</td>
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<tr>
<td>IO</td>
<td>International Organisation</td>
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<td>MNC</td>
<td>Multinational Companies</td>
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<td>VCLT</td>
<td>Vienna Convention on the Law of Treaties</td>
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<td>UDHR</td>
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A wrap-up on the evolution of the ETO discourse

4 Key issues and jurisprudential practice

The ICCPR, ‘territory and jurisdiction’
   Ambiguous interpretations of ‘territory and jurisdiction’
   Implications of narrow interpretations
The ICESCR, ‘international assistance and cooperation’
   Inexpedient ‘development aid’ focus
   Indefinable notions
A wrap-up of the assessment of key issues

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State
Company
Individual
A wrap-up on the illustrative examples

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Bibliography

Comments on the references
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