Human Rights and the Dark Side of Globalisation: Transnational Law Enforcement and Migration Control

Call for papers

GLOTHRO workshop

Danish Institute for International Studies, Copenhagen
9-10 December 2013
Abstract

Globalisation and the promotion of human rights are often assumed to walk hand in hand as increased interdependence favours rights-based governance and global communication means that human rights abuses are reported in real time. Yet, there is a flip side to this relationship. States, and especially more resourceful States, are themselves making increasing use of the possibilities afforded by processes linked to globalisation. Hitherto public exercises of authority like policing, detention and other law enforcement activities are today increasingly exercised extraterritorially, delegated to non-state actors or outsourced to foreign governments. This workshop examines the continued viability of international human rights law in the face of e.g. offshore detention schemes, private military contractors and the exercise of migration control abroad.

Scientific contents

Guantanamo camp, Australian offshore asylum processing, Blackwater armed patrols, privately run migration detention centres, international police operations, rendition flights, drone attacks. If there is any connection between these seemingly very different cases it might be that none of them seem to fit easily the traditional dictum that a State’s executive power is to be exercised by its own officials and within its territory.

Phenomena such as outsourcing, offshoring, privatisation, and law enforcement tasks carried out by international organisations have prompted difficult questions about the territorial reach and applicability of human rights norms and the effectiveness of the protection system that was established in order to monitor contracting States’ compliance with such norms. Among those questions are: To what extent are States bound by human rights norms when acting extraterritorially, and how can they be held responsible for lack of compliance with the norms in such circumstances? How is responsibility for human rights violations distributed where two or more States cooperate? And how is human rights accountability ensured when traditionally governmental State functions like immigration control or administration of detention facilities are delegated to private actors, especially where such enforcement activities are simultaneously carried out beyond the territorial borders of the delegating State?

Several scholars have argued that globalisation may spell the end, or at least demise, of traditional State sovereignty as States are faced with increasingly uncontrollable flows of capital, information and people. At the same time, States hand over more and more power and regulatory competences to international institutions and perhaps even supranational organisations, and submit to a seemingly expanding set of international legal commitments. The evolving system of human rights protection is a prime example, illustrating not only how States have become bound by an increasing body of treaty norms, in themselves often being developed on a current basis by monitoring bodies established within the framework of international organisations. The human rights field also provides ample illustration of how States react to such international norms as they may be perceived as a straitjacket to certain governmental activities, not least in the context of various forms of law enforcement with transnational effects.

A sometimes overlooked aspect of this debate is the extent to which States, and especially more resourceful States, are themselves making increasing use of the possibilities afforded by processes linked to globalisation. State sovereignty and governance is not simply being challenged by globalisation, it also appears to be fundamentally reconfiguring. Hitherto public exercises of authority like policing, detention and other law enforcement activities are today increasingly delegated to non-state actors or outsourced to foreign governments. Likewise, the geographic boundaries for the exercise of sovereign functions are blurring as States engage in e.g. offshore detention schemes or move migration control to the high seas or foreign territorial waters or to the territory of the countries of exit and transit of prospective migrants.
This workshop invites in particular early-stage scholars to present papers dealing with aspects of migration control or law enforcement that relate to one or more of the following questions:

- To what extent does international human rights law, including refugee law, apply to situations where States exercise authority outside their territory? And how do shifting concepts of territory and international space under general international law impact human rights protection?
- Under what circumstances do human rights violations carried out by private actors give rise to corporate responsibility, directly or indirectly, or to State responsibility? And how does human rights law respond to the privatisation of migration control and law enforcement?
- How does international human rights law respond to inter-state cooperation in the areas of migration control and law enforcement? Under what circumstances do States have legal responsibilities when assisting or aiding other States, acting in concert or through international agencies and organisations in carrying out human rights violations?
- What are the features specific to migration control, military operations, and law enforcement in other circumstances that determine the legal aspects and the issues of responsibility pertaining to transnational State activities?
- How does general human rights law accommodate the specific legal characteristics of the protection of refugees and civilians in the context of migration control and armed conflict, respectively? What is the interrelation between human rights law, refugee law and international humanitarian law as regards the transnational aspects?
- What is the legal impact of actual or perceived State security issues in the context of transnational human rights obligations and State responsibility for non-compliance?
- Has international human rights law been able to respond to new governance practices, and how can we theorise the interplay between international law and politics in these areas particularly impacted by globalisation processes?

Thus, we invite contributors to present both studies on legal developments concerning concrete aspects or within concrete areas of migration control and law enforcement, and to reflect more generally on how these processes impact the human rights project at large. In this connection the potential implications for various types of human rights norms, and for the coherence of the system of human rights norms, will be of particular relevance.

**Workshop format**

This workshop is co-convened by Thomas Gammeltoft-Hansen, senior research fellow, Danish Institute for International Studies, and Jens Vedsted-Hansen, professor, Aarhus University. Funding is secured by grants from the European Science Foundation under the GLOTHRO Programme and the Danish Council for Independent Research – Social Sciences.

The workshop will take place on **9-10 December 2013** at the Danish Institute for International Studies, Copenhagen.

The workshop aims to bring together senior and junior academic experts with a shared interest in transnational aspects of human rights law in the context of various traditionally governmental activities that are increasingly carried out extraterritorially, in concert or delegated to non-state actors.

Travel and accommodation costs will be covered for participants whose papers are selected for presentation.
Provisional programme

Monday 9 December:

- Welcome and introduction
- Plenary session with keynote presentations by UN Special Rapporteur, professor Francois Crépeau, McGill University, professor André Nollkaemper, University of Amsterdam, and professor Elspeth Guild, University of Nijmegen
- Panels, presentation and discussion of papers (two afternoon panels)

Tuesday 10 December:

- Panels, presentations and discussion of papers (two morning panels)
- Plenary session with keynote presentations by professor Mark Gibney, University of North Carolina Asheville, professor Gregor Noll, Lund University, and Dr Marko Milanovic, University of Nottingham
- Publication plans
- Future research and other activities within and beyond GLOTHRO.

Call for papers

Participants are invited to submit abstracts (max. 500 words) by 1 September 2013 to the email addresses indicated below. On this basis the specific topics will be identified and prioritised, and the panels will be organised accordingly.

Papers selected for presentation will have to be submitted by 15 November 2013. For each paper one or two discussants will be appointed.

Output

Selected papers will be collected for publication in an edited book volume upon revision.

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