

Extraterritorial Application of Human Rights Treaties: Law, Principles, and Policy (Oxford Monographs in International Law)

By Marko Milanovic

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Questions as to when a state owes obligations under a human rights treaty towards an individual located outside its territory are being brought more and more frequently before both international and domestic courts. Victims of aerial bombardment, inhabitants of territories under military occupation, deposed dictators, suspected terrorists detained in Guantanamo by the United States, and the family of a former KGB spy who was assassinated in London through the use of a radioactive toxin, allegedly at the orders or with the collusion of the Russian government - all of these people have claimed protection from human rights law against a state affecting their lives while acting outside its territory. These matters are extremely politically and legally sensitive, leading to much confusion, ambiguity, and compromise in the existing case law.

This study attempts to clear up some of this confusion, and expose its real roots. It examines the notion of state jurisdiction in human rights treaties, and places it within the framework of international law. It is not limited to an inquiry into the semantic, ordinary meaning of the jurisdiction clauses in human rights treaties, nor even to their construction into workable legal concepts and rules. Rather, the interpretation of these treaties cannot be complete without examining their object and purpose, and the various policy considerations which influence states in their behaviour, and courts in their decision-making. The book thus exposes the tension between universality and effectiveness, which is itself the cause of methodological and conceptual inconsistency in the case law. Finally, the work elaborates on the several possible models of the treaties' extraterritorial application. It offers not only a critical analysis of the existing case law, but explains the various options that are before courts and states in addressing these issues, as well as their policy implications.

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
Questions as to when a state owes obligations under a human rights treaty towards an individual located outside its territory are being brought more and more frequently before both international and domestic courts. Victims of aerial bombardment, inhabitants of territories under military occupation, deposed dictators, suspected terrorists detained in Guantanamo by the United States, and the family of a former KGB spy who was assassinated in London through the use of a radioactive toxin, allegedly at the orders or with the collusion of the Russian government - all of these people have claimed protection from human rights law against a state affecting their lives while acting outside its territory. These matters are extremely politically and legally sensitive, leading to much confusion, ambiguity, and compromise in the existing case law.

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Review

... an excellent, well-researched and perceptive analysis of a highly relevant issue. Tobias Hofmann, German Yearbook of International Law [This] book provides an excellent account of the subject, bringing clarity to this particularly disputed area of current public international law. Karen da Costa, Human Rights Law Review ...well-argued, well-researched and well-written. I give the book my warm and sincere recommendations. Kjetil Mujezinovic Larsen (The Norwegian Centre for Human Rights, the University of Oslo) The Edinburgh Law Review Vol. 16 Issue 3

About the Author

Marko Milanovic is a lecturer in law at the University of Nottingham School of Law. He obtained his first degree in law from the University of Belgrade Faculty of Law, his LL.M from the University of Michigan Law School, and his PhD in international law from the University of Cambridge. He is a member of the Executive Board of the European Society of International Law, an Associate of the Belgrade Centre for Human Rights, and co-editor of EJIL: Talk!, the blog of the European Journal of International Law. He was Law Clerk to Judge Thomas Buergenthal of the International Court of Justice in 2006/2007. He has published in leading academic journals, including the *European Journal of International Law* and the *American Journal of International Law*; his work has been cited by the UK Supreme Court and by the International Law Commission. He was counsel or advisor in cases before the International Court of Justice, the European Court of Human Rights, and the Constitutional Court of Serbia.

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