



A comparison of Universal Jurisdiction and International Assistance in light of States' Extraterritorial Obligations

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ARTICLE INFO	ABSTRACT
Submission: April 19, 2026 Revised: May 03, 2026 Accepted: May 16, 2026 Available Online: May 30, 2026 Keywords: <i>Human Rights Obligations, Extraterritorial Jurisdiction, Universal Jurisdiction, Jus Cogens, Erga Omnes Obligations, International Assistance and Cooperation, Civil and Political Rights, Economic, Social and Cultural Rights</i> Corresponding author: Hareem Hilal Email: hareem.hilal@nls.nust.edu.pk	The universal character of human rights law is reflected in multilateral human rights treaties and in the concepts of erga omnes obligations and jus cogens principles, which raise the question of whether states' human rights obligations extend beyond their national territory. This paper evaluates the extraterritorial obligations of states with respect to human rights law by first establishing the basis of the rule of extraterritorial approach in light of international human rights treaties, jus cogens norms and erga omnes obligations, and by discussing the scenarios in which this approach is applied. It then analyzes the application of states' extraterritorial approach in terms of the exercise of universal jurisdiction, with particular reference to the prevailing state practice under regarding the prohibition of torture, and evaluates the challenges to and disadvantages of this approach given the concerns of state sovereignty, immunity and varied jurisprudence across jurisdictions. The paper also considers the possible added value of extraterritorial application from the perspective of states' obligations of international assistance and cooperation, particularly with regard to economic, social and cultural rights, and highlights the need for extension of international assistance in light of current global challenges. It finds that while universal jurisdiction remains a useful but controversial tool for protecting human rights beyond national territory, the extraterritorial approach in terms of international assistance is of greater importance in addressing the world's prevailing civil, political, economic, cultural and social rights challenges. Although state cooperation in this regard exists, current indicators suggest that more frequent international assistance is still required, and despite challenges such as the availability of resources, this approach holds greater prospect for the sustainable and meaningful realization of human rights.

Abbreviations

- **ACHR**- American Convention on Human Rights
- **CEDAW** - Convention on Elimination of All Forms of Discrimination Against Women
- **ICERD**- International Convention on the Elimination of All Forms of Racial Discrimination

- **ICRMW** - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- **CRC** - Convention on the Rights of the Child
- **CRPD** - Convention on the Rights of Persons with Disabilities
- **ECHR**- European Convention on Human Rights
- **ECOSOC**- Economic and Social Council
- **FAO**- Food and Agriculture Organization
- **GC**- Geneva Convention
- **HRC**- Human Rights Committee
- **IACHR** - Inter-American Court of Human Rights
- **ICC**- International Criminal Court
- **ICCPR** - International Covenant on Civil and Political Rights
- **ICERD** - International Convention on Elimination of All Forms of Racial Discrimination
- **ICESCR** - International Covenant on Economic, Social and Cultural Rights
- **ICPPED**- International Convention for the Protection of All Persons from Enforced Disappearance
- **ICJ**- International Court of Justice
- **ICTY**- International Criminal Tribunal for Former Yugoslavia
- **IHL**- International Humanitarian Law
- **IHRL**- International Human Rights Law
- **UDHR** - Universal Declaration of Human Rights
- **UNCAT**- United Nations Convention Against Torture
- **UNHCR**- United Nations High Commissioner for Refugees
- **UNICEF**- United Nations International Children's Emergency Fund
- **WFP**- World Food Program
- **WHO** - World Health Organization

Introduction

Human rights law is universal in its character as reflected in the multilateral human rights treaties and in the concepts of “*jus cogens*” principles and “*erga omnes*” obligations. The human rights treaties expressly lay down the states’ obligations in terms of provision and protection of various human rights and mostly provide for scope of application as well. The concepts of *jus cogens* principles and *erga omnes* obligations are on one hand incorporated in such treaties in the substantive sense but on the other hand these concepts may supersede and extend their scope in the procedural sense particularly with respect to extraterritorial application of human rights law.

The extraterritorial approach faces certain legal and practical challenges in the context of state’s sovereignty, responsibility and jurisdiction. Besides the gravity of the human rights violation, the nature of the involved parties also acts a determining factor for the purpose of application and extent of extraterritorial approach.

This paper will first focus on the foundation of extraterritorial application in light of international treaties, the principles of *jus cogens* and the *erga omnes* obligations. It will discuss extent to which the human rights obligations of states may apply beyond their national territories by evaluating the relevant scenarios.

The second part of the paper will analyze the extension of state responsibility for human rights protection to areas outside national boundaries in terms of the exercise of universal jurisdiction. The paper will evaluate the challenges to and disadvantages of extraterritorial approach in the context of this prevailing state practice. The possible added value of the applying human rights law extraterritorially will be discussed from the perspective of states' obligations in terms of international assistance and cooperation. Furthermore, the need for extension of international assistance will be highlighted with reference to current global challenges.

Human Rights Law and Extraterritorial Application

Human rights are addressed through numerous multilateral treaties, and the UN Charter designates "human rights and fundamental freedoms" as one of its principal purposes.¹ To achieve this aim of the UN charter, the task of cataloguing the human rights was carried out under the ECOSOC by the Commission on Human Rights.² Consequently, the General Assembly of the UN adopted the UDHR in 1948 and even though it was a non-binding resolution, it paved way for the subsequent covenants i.e. ICCPR and ICESCR in 1966.³ The primary obligation of states is providing and protecting human rights of individuals living in their territory as provided by most treaties. However, the obligations of states may extend to extraterritorial application which may require, from the state, an action beyond its territory so as to fulfill its obligation with respect to human rights.

Basis of the principle

Being incorporated and adopted internationally, the International Human Rights Law (IHRL) has a universal character which is expounded by multilateral treaties and declarations.⁴ The multilateral treaties either may not provide for the scope of application e.g. ICESCR, or may extend application of the provisions to individuals under the jurisdiction of the states which may be beyond the states' national territory e.g. ICCPR⁵. The interpretation of the rights provided under these treaties by courts and treaty bodies has developed a jurisprudence elaborating the application of extraterritorial obligations.⁶ The extraterritorial application thus stems as a concept from the universal nature of human rights obligations and is interpreted through state practice and jurisprudence developed by the international and national judicial platforms and UN treaty bodies.⁷

Multilateral treaties of human rights

Human rights as propounded by the UDHR have been incorporated in a number of treaties. The nine treaties including ICERD, ICESCR, ICCPR, CEDAW, CRC, UNCAT, ICRMW, CRPD and ICPPED are the main treaties of human rights based on UDHR.⁸ Most of these treaties refer to jurisdiction for the purpose of their application. The ICJ has held in its advisory opinion that while states' jurisdiction is primarily territorial in nature, it may extend beyond the national territory keeping in view the purpose of the instrument which, in that particular case was ICCPR.⁹ The ICJ has ruled that human rights instruments apply extraterritorially and in the *Armed Activities Case* it found various human right instruments applicable including ICCPR and CRC etc.¹⁰

Several regional human rights instruments e.g. the European Convention on Human Rights (ECHR)¹¹ and American Convention on Human Rights (ACHR)¹² also extend states obligations to persons within states' jurisdiction. The European Court of Human Rights also affirmed the concept of extraterritorial application of convention in *Loizidou v Turkey*.¹³

¹ United Nations, 1945, Preamble.

² De Schutter, 2014, p. 16.

³ De Schutter, 2014, p. 18.

⁴ Milanovic, 2011, p. 56.

⁵ International Covenant on Civil and Political Rights [ICCPR], 1966, art. 2(1).

⁶ Heupel, 2018, p. 529.

⁷ Van Schaack, 2014, pp. 12–14.

⁸ De Schutter, 2014, p. 19.

⁹ Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 2004, para. 109.

¹⁰ Armed Activities on the Territory of the Congo, 2005, paras. 243–244.

¹¹ European Convention on Human Rights [ECHR], 1950, art. 1.

¹² American Convention on Human Rights [ACHR], 1969, art. 1(1).

Jus Cogens principles

While referring to referring to the *jus cogens* nature of the rights of equality before law and non-discrimination, The Inter-American Court of Human Rights explained *jus cogens* principles as rules of peremptory nature under general international law.¹⁴ It held that such principles cannot be derogated from by states both domestically and internationally irrespective of their membership of the treaties providing such rights.¹⁵ This suggests that certain human rights bind the states with certain obligations independent of any treaty obligations and by virtue of their nature they extend to extraterritorial application.

Erga omnes obligations

Obligations *erga omnes* are basic human rights owed to the international community as a whole.¹⁶ State responsibility for the breach of such obligations may be invoked by any state besides the injured state itself, as such obligations are owed to the whole of international community.¹⁷ The entitled state may also claim, the cessation of the internationally wrongful act and assurance of non-repetition, from the responsible state.¹⁸ By virtue of being a member of the international community, every state has a legal interest in the protection of certain basic rights and the fulfillment of certain essential obligations.¹⁹ The *erga omnes* obligations may therefore form a basis for the application of human rights obligations extraterritorially.

Scope of extraterritorial obligation of human rights law

States' extraterritorial obligations may arise in the following three circumstances:²⁰

Responsibility for state agents' activities outside the national border

The acts of the state agents beyond the national territory may be attributed to the state as its own conduct and if such acts violate human rights law, the respective state may be held responsible for such violation.²¹ This has been elaborated by the HRC in *Segio Euben Lopez Burgos v. Uruguay*, concluding that the term "individuals subject to its jurisdiction" reflects the state-individual relationship in the context of an ICCPR rights violation, no matter where it took place.²² States' obligations thus may extend under human rights law beyond its national territory based on the conduct of its agents.

States' obligations for human rights protection to areas outside national boundaries

States may resort to extraterritorial approach to protect human rights beyond their own territory. This may be either prescriptive, where the states may adopt legislation with extraterritorial effect, or adjudicative, where the states may extend their courts to have jurisdiction over matters occurring in foreign territory.²³ States have applied this approach in exercising universal jurisdiction on individuals for violation of human rights of *jus cogens* character.²⁴

International assistance and cooperation as an obligation of states

This aspect of extraterritorial approach focuses more on states' obligation to fulfill, which requires the state to take adequate action regarding the human rights' realization.²⁵ This extraterritorial obligation is referred to in the ICESCR for the purpose of realizing the rights provided in the covenant.²⁶ It will be further discussed from the perspective of added value of the extraterritorial approach in the second part of this paper.

¹³ Loizidou v. Turkey, 1996, para. 52.

¹⁴ Juridical Condition and Rights of Undocumented Migrants, 2003, para. 100.

¹⁵ Juridical Condition and Rights of Undocumented Migrants, 2003, para. 100.

¹⁶ Barcelona Traction, Light and Power Company, Limited, 1970, paras. 33–34.

¹⁷ International Law Commission, 2001, Art. 48(1)(b).

¹⁸ International Law Commission, 2001, Art. 48(1)(b).

¹⁹ International Law Commission [ILC], 2001, p. 33, para. 4.

²⁰ De Schutter, 2014, p. 163.

²¹ ILC, 2001, ch. II.

²² López Burgos v. Uruguay, 1981, para. 12.2.

²³ De Schutter, 2014, p. 187.

²⁴ The Pinochet case as explained in detail in the second part of this paper.

²⁵ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 1997, para. 6.

²⁶ International Covenant on Economic, Social and Cultural Rights [ICESCR], 1966, Art. 2(1).

Extraterritorial Approach Employed as a Rule for the Exercise of Universal Jurisdiction

Universal jurisdiction is a principle enabling states to prosecute the offenders of the human rights of *jus cogens* character regardless of the territory where the crime occurs or what the nationality of the offender or the victim is.²⁷

The state is the primary guarantor of rights under the human rights law therefore the state will bear the responsibility for the breach of such rights and it may be called for taking appropriate measure to put an end to the infringement.²⁸ There are certain prohibitions formulated under human rights law particularly against torture, slave trade, and genocide that amount to *jus cogens* norms.²⁹ For example, torture is prohibited under human rights law instruments including UDHR (Art. 5.), ICCPR (Art. 7), CAT etc, and under international humanitarian law instruments as well including the four Geneva Conventions of 1949, GC I (Art. 12), GC II (Art. 12), GC III (Arts 13, 17 and 87), GC IV (Arts 27 and 32), and GC I-IV common article 3. Similarly, prohibition of slavery is a norm of *jus cogens* in international customary law and slavery constitutes an international crime whether committed by a state or private individuals.³⁰ The *jus cogens* status of these prohibitions is also confirmed by case law.³¹

Applying universal jurisdiction to crimes of torture

For the purpose of this paper the application of universal jurisdiction is evaluated with particular reference to the prosecution of offenders for the crime of torture. The UNCAT, which is a human rights instrument, defines torture³² and allows state parties to exercise jurisdiction over a torture offender regardless of where the offense occurred.³³ Sexual violence and rape also fall within the scope of article 1 of UNCAT, under the meaning of “discrimination”.³⁴ In the *ex parte Pinochet Case*, the Lords observed in the Universal Jurisdiction section of the leading judgment, “that it is clear that in all circumstances, if the Article 5(1) states do not choose to seek extradition or to prosecute offender, other states must do so.”³⁵

The provisions of IHRL in relation to International Humanitarian Law (IHL)

IHRL has also been evaluated in order to determine the nature of IHL provisions due to resemblance of their objectives and values such that with respect to certain aspects both these regimes can be deemed to have been fused together.³⁶

In the *Prosecutor v. Anto Furundžija*, the ICTY, refers to individual liability of those involved in the crime of torture abroad and the ability of every state of prosecuting and punishing the authors of these crimes based on the *jus cogens* character of such norms and the decisions of courts in *Eichmann* and *Demjanjuk v. Petrovsky*.³⁷ The judgment also establishes that torture, as a crime, is not amenable to any statute of limitations and cannot be excluded from extradition obligations.³⁸

Challenges in the application of universal jurisdiction

States face different challenges regarding the application of universal jurisdiction. Some of these challenges are as follows:

The principle of non-retroactivity

The ICCPR in its article 15(1) lays down the principle of non-retroactivity which prohibits prosecution or punishment for an act or omission which was not an offence at the time it was committed. However, article 15(2) of the same covenant provides that this principle “shall [not] prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations”.

²⁷ Ryngaert, 2005, p. 571.

²⁸ *Prosecutor v. Kunarac*, 2001, para. 470(i).

²⁹ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)*, 2006, para. 64.

³⁰ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)*, 2006, para. 28.

³¹ *Prosecutor v. Furundžija*, 1998, para. 156.

³² United Nations Convention Against Torture [UNCAT], 1984, Art. 1.

³³ UNCAT, 1984, Art. 5(2).

³⁴ United Nations Commission on Human Rights, 1998, para. 55

³⁵ *R v. Bow Street Metropolitan Stipendiary Magistrate and Others, ex parte Pinochet Ugarte* (No. 3), 1999.

³⁶ *Prosecutor v. Kunarac*, 2001, para. 467.

³⁷ *Prosecutor v. Furundžija*, 1998, para. 156.

³⁸ *Prosecutor v. Furundžija*, 1998, para. 157.

The national courts in various cases have been reluctant to apply universal jurisdiction over the crime of torture in light of article 15(2) of ICCPR despite the fact that it is within the ambit of this article. The *Pinochet Case* involved a request by Spain to the UK to extradite the former Chilean President Augusto Pinochet for the crimes of torture during his tenure from 1973 to 1990.³⁹ The House of Lords held that Mr. Pinochet was not extraditable by the UK for those crimes during the period of 1973-1990 for the reason that torture committed abroad was not punishable by UK before 29 September 1988, the date article 5(2) of CAT was incorporated as section 134 of Criminal Justice Act 1988.⁴⁰ Therefore, the principle of non-retroactivity may act as bar to the application of extraterritorial approach with respect to universal jurisdiction.

Immunity

The immunities held by the heads of the states, heads of the governments and certain ministers such as the minister for foreign affairs also acts as a bar in the application of universal jurisdiction in the context of extraterritorial approach on them. The ICJ, in *Djibouti v. France*, held that a head of the state is covered by full immunity against any act or authority of another state which would extend application of criminal jurisdiction over them.⁴¹ In the *Arrest Warrant* case, the ICJ held that the issuance of international warrant for the arrest of Foreign Minister of Congo by Belgium for the alleged breach of provisions of Geneva Conventions and crimes against humanity was in violation of the incumbent foreign ministers' immunity from criminal prosecution.⁴²

Extending of universal jurisdiction to “third-party” states

The number of member states of UNCAT is 176⁴³ which means that there are still several states on which the provisions of UNCAT including the principle of universal jurisdiction as expounded by article 5(2) are not binding as they are on the member states.⁴⁴ In the absence of binding obligation under treaties, the application of universal jurisdiction by member states on non-member states has to be determined under customary international law.

The ICJ, in *Congo v France* faced the same question. The case was brought to ICJ by Congo against France for the annulment of proceedings that France had initiated against the President, Interior Minister and other individuals of Congo for torture and crimes against humanity.⁴⁵ Congo contended that since it had not become a party to UNCAT, article 5(2) of the UNCAT did not apply on it in this case.⁴⁶ While the case would have been an opportunity to determine the prospects of application of universal jurisdiction in such situation, the question could not be settled by ICJ as The Congo, withdrew and discontinued the case in November 2010.⁴⁷ Therefore, due to lack of sufficient jurisprudence the extension of universal jurisdiction to non-party states may face legal challenges.

Principle of subsidiarity

The principle of subsidiarity refers to the application of jurisdiction by a state which has stronger nexus to the case. This may be understood in the meaning of the complementarity principle that the Rome Statute provides, which provides that a case is to be subject to the national jurisdiction in the first instance and may only be admissible in the ICC “if the state is unable or unwilling” to prosecute such matter.⁴⁸ The UNCAT in article 5 does provide for the application of universal jurisdiction but it does not give a hierarchy for the exercise of such jurisdiction. However, when the offender of the crime of torture is on the state's territory, the state may extend universal jurisdiction over him if it is not willing to extradite him.⁴⁹ The situation becomes different when the offender is on another state's territory and that state is willing to prosecute him.

The issue of subsidiarity was also raised by The Congo in *Congo v. France* under the meaning of article 5(1) and article 5(2) of the UNCAT. The Congo contended that article 5(2) provides for subsidiary jurisdiction by implying territorial jurisdiction under

³⁹ Regina v. Bartle and the Commissioner of Police for the Metropolis and Others, ex parte Pinochet, 1999, p. 582.

⁴⁰ Regina v. Bartle and the Commissioner of Police for the Metropolis and Others, ex parte Pinochet, 1999, p. 588.

⁴¹ Certain Questions of Mutual Assistance in Criminal Matters (Djibouti v. France), 2008, paras. 170, 174.

⁴² Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), 2002, p. 33.

⁴³ United Nations Treaty Collection, n.d.

⁴⁴ Vienna Convention on the Law of Treaties[VCLT], 1969, Art. 34.

⁴⁵ Certain Criminal Proceedings in France (Republic of the Congo v. France), 2003, p. 3.

⁴⁶ Certain Criminal Proceedings in France (Republic of the Congo v. France), 2003, p. 9.

⁴⁷ Certain Criminal Proceedings in France (Republic of the Congo v. France), 2010, pp. 5–6.

⁴⁸ Rome Statute of the International Criminal Court, 1998, Art. 17.

⁴⁹ United Nations Convention Against Torture [UNCAT], 1984, Art. 5(2).

article 5(1) of the UNCAT. It further contended that since The Congo has started prosecution for some of the cases, France has no right to apply universal jurisdiction in respect of those cases.⁵⁰ The principle of subsidiarity, therefore, acts as a bar to the exercise of extraterritorial approach.

Disadvantages of employing the rule of universal jurisdiction

The application of universal jurisdiction by state in pursuance of extraterritorial protection of human rights has some of the following disadvantages:

Hindrance in the way of more effective settlement

In regard to the extraterritorial approach of exercising universal jurisdiction the state may choose to prosecute the offenders or waive off this right. There may be a number of other effective options that the state could adopt besides prosecution or waiver which may include making the offender leave the office, to lay down arms or to participate in truth and conciliation process.⁵¹ The exercise of universal jurisdiction may therefore rule out the possibilities of reaching an effective settlement.

Increasing political and social instability

Where the location of the crimes or violation of obligations of human rights is a state that has been subject to civil war and has managed to put an end to it through amnesty, the exercise of the universal jurisdiction in the light of extraterritorial approach may prove to be more harmful. When The Hague war crimes tribunal's prosecutor asserted jurisdiction to have investigation regarding mass graves, it almost broke down the Macedonian amnesty which was extended to the Albanian rebels and had been an important factor in ending the civil war.⁵² The amnesty was provided by the government to unsuccessful rebels as opposed to a self-serving amnesty, for the sole purpose of ending the civil war.⁵³ In the environment of such politically and social instability, the universal jurisdiction can spark the restart of civil war.

Focusing on low-cost defendants

The exercise of extraterritorial approach by application of the universal jurisdiction tends to focus on such defendants against whom the international community has a general agreement or who cannot impact considerably the international political and economic relations with the prosecuting state in particular.⁵⁴ The cases discussed in this paper including the *Arrest Warrant* case, the *Pinochet* Case etc could be deemed as examples of such approach.

The Extraterritorial Obligation of International Assistance and Cooperation

The UN charter in article 56 requires the states to take action both jointly and separately for the achievement of universal respect for rights and ensuring their observance along with provision of fundamental freedoms for all. This obligation is of vast spectrum and may be evaluated for any human rights instrument, but this paper will focus on the international assistance and cooperation with regard to rights provided by ICESCR.

The emphasis on international assistance by states in the context of economic, social and cultural rights has been laid down by article 2(1) of the ICESCR requiring states to take action through international assistance and cooperation to ensure the realization of the covenant rights.

The obligation under article 2(1) of the ICESCR does not impose on the states a specified level to which they have to perform this obligation.⁵⁵ However, while taking into consideration the availability of resources and state ability to perform this obligation, several general comments adopted by its committee requires the state to extend international cooperation.

International assistance is elaborated in the General Comment No. 2 of ICESCR article 22 in a broad sense regarding the rights provided by the covenant. While it focuses on the role of the UN bodies and the committee itself, it does provide the states to identify their need for technical assistance and cooperation.⁵⁶

⁵⁰ Certain Criminal Proceedings in France (Republic of the Congo v. France), 2010, p. 9.

⁵¹ Kontorovich, 2008, p. 396.

⁵² J Snyder & Vinjamuri, 2006, p. 9.

⁵³ Kontorovich, 2008, p. 399.

⁵⁴ Langer, 2011, p. 5.

⁵⁵ De Schutter, 2014, p. 199.

Instances of human rights requiring international assistance

Some of the more specific examples of human rights in which state is required provide international assistance are as follows:

International assistance in health facilities

The ICESCR in its article 12 provide for the right to health. The ECOSOC committee while elaborating this right emphasizes upon states to extend their assistance, subject to their resources, to other countries to facilitate the access to health facilities wherever and whenever such assistance and is required.⁵⁷ The constitution of WHO, 1946,⁵⁸ also embodies the obligation of states in terms of international assistance and cooperation in the field of health.⁵⁹

International assistance to refugees and internally displaced persons

States, depending on their ability to contribute, have a responsibility, individually and jointly, to cooperate in providing relief to the refugees and internally displaced persons.⁶⁰ They also have the responsibility to strengthen the role of the offices of the UN concerned with this field including the WFP, the UNHCR, UNICEF and FAO.⁶¹

International assistance to realize the right to water

The economically developed states that are parties to the ICESCR have the responsibility to provide financial and technical assistance and, depending on availability, water resources to the developing countries.⁶² They are also under the obligation to consider the right of water and give it due regard in international agreements and to develop further legal instruments.⁶³

The need of international assistance and cooperation

The extraterritorial obligation in this aspect is of utmost importance keeping in view the current situation around the world. The social, cultural and economic problems faced by many developing countries make it more essential to extend international assistance and cooperation.

This paper will focus on the some of these important issues:

Food deprivation and undernourishment

One of the biggest issues that requires states cooperation and assistance is famine. Globally, the number of people suffering from hunger has been on the rise.⁶⁴ In 2025, an estimated 645 million people, representing 7.8 per cent of the global population, faced hunger, demonstrating that chronic undernourishment remains a significant global challenge despite recent improvements.⁶⁵ Although hunger declined across the major regions in 2025, progress remains uneven, with Africa continuing to bear a particularly severe burden of undernourishment.⁶⁶ The extraterritorial obligation of international assistance is direly required to cope with this issue.

Hosting of refugees by developing countries

Supporting refugees proves to be a difficulty particularly for developing countries due to economic challenges and therefore may require for responsibility-sharing by other states by extending financial assistance to the host countries.⁶⁷ The most common way of sharing responsibility practiced usually by developed states is indeed the financial assistance extended through donations to

⁵⁶ Committee on Economic, Social and Cultural Rights [CESCR], 1990, para. 10.

⁵⁷ Committee on Economic, Social and Cultural Rights [CESCR], 2000, para. 39.

⁵⁸ World Health Organization [WHO], 2014, p. 1.

⁵⁹ World Health Organization [WHO], 1946, Art. 2.

⁶⁰ Committee on Economic, Social and Cultural Rights [CESCR], 1999, para. 38.

⁶¹ CESCR, 1999, para. 38.

⁶² Committee on Economic, Social and Cultural Rights [CESCR], 2003, para. 34.

⁶³ CESCR, 2003, para. 35.

⁶⁴ Food and Agriculture Organization of the United Nations [FAO], 2018, p. xiii.

⁶⁵ Food and Agriculture Organization of the United Nations [FAO], 2026

⁶⁶ FAO, 2026.

⁶⁷ Dowd & McAdam, 2017, p. 875.

UNHCR.⁶⁸ At the end of 2025, there were 41.6 million refugees globally, while 68% of refugees and other people requiring international protection were hosted by countries with low and middle income⁶⁹, a situation that demands for continued international assistance not only in financial terms but also in term of resettlement of the refugees.

Added value of the extraterritorial approach in the context of international assistance

While the exercise of extra-territorial application of human rights obligation may have its challenges and disadvantages when it is applied as explained in the section of universal jurisdiction, it has more value when it is applied in the form of international assistance. The importance of economic social and cultural rights is the same as that of the civil and political rights because human rights are interdependent, indivisible and interrelated and call for equal emphasis from the states.⁷⁰ The SDG Agenda relies upon international assistance and cooperation of states to achieve the sustainable development in a variety of areas including human rights of civil and political as well as social, economic and cultural.⁷¹ The SDG Agenda, declares the eradication of poverty to be the biggest global challenge and this can only be dealt with effectively by international assistance and cooperation by states and other stakeholders.

Conclusion

This paper evaluated states' extraterritorial obligations with respect to human rights legal regime. It examined the circumstances in which extraterritorial application arises, focusing particularly on states' duties to safeguard human rights outside their own territory and their obligations concerning international assistance. The common state practice of invoking universal jurisdiction for violations of international human rights obligations, particularly under UNCAT, was assessed against the backdrop of the duty to protect human rights beyond a state's own territory. Extraterritorial obligations of states regarding international assistance and cooperation were discussed with particular emphasis on economic, social and cultural rights.

The disadvantages and challenges of extraterritorial approach were discussed in detail with respect to applying universal jurisdiction. While the added value and requirement of the extra territorial approach of states was evaluated regarding international assistance and cooperation.

The extraterritorial approach of states in the protecting the human rights beyond its national territories may prove to be useful however it is not without controversy on the basis of various factors including state sovereignty, immunity and varied jurisprudence. Despite the controversies that surround it, this approach still prevails among states. This paper does not entirely undermine or rule out the prospects of extraterritorial approach in terms of universal jurisdiction. However, it finds that extraterritorial approach in terms of international assistance is more important to deal with the current challenges of the world relating to a number of human rights of civil, political, economic, cultural and social rights.

Even though there is state cooperation in this regard, the current indicators still require a lot more and frequent international assistance from the states. International assistance may have challenges including availability of resources; it still has more prospect of impacting a sustainable and meaningful achievement in realization of human rights.

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⁶⁸ Dowd & McAdam, 2017, p. 875.

⁶⁹ United Nations High Commissioner for Refugees [UNHCR], 2026

⁷⁰ Vienna Declaration and Programme of Action, 1993, para. 5.

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