The Edges of Extraterritorial Jurisdiction:
The Integration of Economic, Social and Cultural Rights into Peace Support Operations

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Abstract
The failure to deliver the goods and services that advance economic, social and cultural rights can have economic, social and political consequences. The failure to provide an effective legal avenue of redress can have repercussions across the full spectrum of human rights both for the individual and the State. Moreover, as the rising number of increasingly complex peace support operations testifies, the impact of the State’s failure to deliver basic goods and services that satisfy immediate physical needs and serve as a conduit for accessing the full spectrum of human rights is not always confined to its own borders. Thus, (re)establishment of human rights standards is now increasingly a matter for peace support operations. Peace support personnel and their States are also increasingly scrutinised to ensure that their own behaviour accords with human rights standards. Consideration of the extraterritorial effect of sending States’ human rights obligations is one mechanism by which such scrutiny is served. This article seeks to establish that international law’s evolving jurisprudence on human rights and peace support, as well as the discourse surrounding this evolution, can and should extend to matters of economic, social and cultural rights.

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No other operation must set and enforce the law, establish customs services and regulations, set and collect business and personal taxes, attract foreign investment, adjudicate property disputes and liabilities for war damage, reconstruct and operate all public utilities, create a banking system, run schools and pay teachers and collect the garbage—in a war damaged society…In addition to such tasks, these missions must also try to rebuild civil society and promote respect for human rights, in places where grievance is widespread and grudges run deep.¹

1. Introduction

The link between peace and security and human rights is now well understood.² Increasingly, human rights considerations permeate Security Council resolutions that establish peace support mandates.³ Individual criminal responsibility has been attached to peace support personnel who have violated international human rights law and international humanitarian law in the course of peace support operations. In addition, there is an evolving jurisprudence at the local, regional and international level that considers the issue of States’ human rights obligations arising from its peace support operations. Such considerations are based on the recognition that States contributing to peace support operations must observe their own human rights obligations and give extraterritorial effect to those obligations where required as a failure to do so could undermine the perceived legitimacy of their presence. Although such developments are to be welcomed, these strands of jurisprudence deal almost exclusively with violations of civil and political rights. The extent of State Parties’ obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) arising from their contributions to

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