

## Summary

Since the 1990s, demands are increasingly made for greater normative accountability within development cooperation, especially accountability based on human rights. Several different perspectives have emerged as to the systematic linkage of the human rights framework and the development discourse. These perspectives that have come to be known as *human rights-based approaches to development* (HRBADs) differ slightly in their emphasis and detail but typically advocate an approach to development that is both structurally and in terms of objectives based on human rights. In parallel, in human rights scholarship and jurisprudence, territorial limitations of states' human rights obligations are being increasingly challenged. As a result, it is being gradually acknowledged that human rights also give rise to what have come to be known as *extraterritorial obligations* (ETOs), i.e. human rights obligations that a state owes to individuals beyond its boundaries. Yet, in actual state practice, the conceptual and operational implications of extraterritorial human rights accountability within development cooperation have proved challenging to grasp and to operationalise. This is due not least to the inherently diagonal relationship between states and non-resident individuals that the development cooperation context typically gives rise to in terms of human rights obligations.

This intersection between the ETOs and the HRBADs is something that this thesis sets out to problematise and to address. With a focus on bilateral development cooperation, it studies extraterritorial human rights accountability as a structural element of development efforts. It asks, in essence, what it is that we mean when we speak of states' human rights accountability within development cooperation and how this should guide states' conduct. Further attention to these questions is necessary in the interest of the predictability and claimability of the legal rights and obligations, and, indeed, the viability of the accountability element that the human rights-based approaches are perceived to add to the development context.

To this end, the thesis adopts a threefold structure. *First*, after the introductory Chapters 1 and 2, Chapter 3 reflects upon the specific role of accountability as a means of empowerment within development efforts and presents a working paradigm of extraterritorial human rights accountability. *Second*, against this background, the ensuing Chapters 4 and 5 clarify and analyse whether, and in which ways, human rights accountability functions in a relationship between an individual and a state other than the one the individual finds themselves in. To this end, the thesis is faced with two overarching research questions. Can human rights law be seen as a set of legitimate standards against which extraterritorial accountability can be assessed? Further, if such extraterritorial rights and obligations can be identified, how are they allocated among duty and rights holders in a situation where territory does not define the jurisdictional scope of states' duties towards individuals? *Third*, drawing on the analysis in the preceding chapters, Chapter 6 discusses and problematises the accountability paradigm in a development cooperation context, exploring how human rights accountability is or should be integrated and operationalised within the structures of development cooperation. Finally, in the concluding Chapter 7, a synthesis of the findings is provided, together with a set of recommendations for further reinforcing the understanding of extraterritorial accountability within the development cooperation context.

Guided by a modern legal dogmatic method and the tools of discourse analysis, the thesis arrives at three main conclusions. First, it argues that the international and regional human rights regimes provide a relatively established – be it yet developing – normative framework that should guide states in development cooperation, against which states' conduct can be judged and through which states can be called into account for their policies affecting the realisation of human rights

in other countries. Second, despite good efforts, however, as a forum for claiming accountability, both the international human rights and most of the development cooperation regimes still largely fall short of providing truly viable and accessible tools for individuals to hold donor states accountable for their conduct. Third, at the policy level, within the structures of bilateral development cooperation policies, the concept of extraterritorial human rights accountability generally remains vague, making its operationalisation challenging and frustrating some of its inherent rationales. As a result, the accountability narrative within the HRBADs often materialises in one-way accounting, whereby partner states are accountable to donor states but the accountability of the donor states to the individuals in partner countries is largely absent, both at the conceptual and at the operational levels.

Drawing on these findings, the thesis argues that much of the accountability requirement in the development cooperation context may remain at the level of 'rights-washing' of the development policies, whereby the rhetoric of rights-based accountability seemingly guides the interventions but often without clear plans for its operationalisation. As such, the promises of accountability within the HRBADs may not be paying much more than lip service to the rights holders in developing countries. The thesis cautions against such use of the legal accountability narrative as a mere rhetorical tool, arguing that it may undermine or weaken the legitimacy of the HRBADs and the rights project at large. To bring the human rights accountability within the development cooperation context beyond the level of rhetoric, states need to recognise the changing landscape of human rights obligations. Through the increasing recognition of extraterritorial obligations, this landscape responds to the realities of global interaction and to the rising calls for accountability that challenge the existing global and local power asymmetries.