

Global Trust Project Postdoctoral fellowship
‘International counterterrorism and sovereignty – issues of responsibility’
Summary of Research
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My research focuses on the concept of State sovereignty in the context of international counterterrorism and its implication for issues of responsibility. The existence of various counterterrorism regimes and the conflicts of sovereignty they create inevitably raise questions of attribution of responsibility, which might lead to a lacuna in the protection of people’s rights.

In practice, States now face parallel obligations imposed by different organisations, which has raised issue of responsibility when these obligations violate human rights. In addition, courts are increasingly shaping the response to terrorism by insisting on the protection of human rights, where deference to the executive traditionally prevailed. Therefore, not only are various (and competing) trustees of sovereignty adopting different measures against terrorism, but also various branches of these trustees will focus on different needs. This begs the question of the exact attributability of responsibility. For instance, sanctions targeting terrorist suspects constitute a multi-level and complex type of measures, which involve both international organisations and State conduct (are States responsible when implementing UN sanctions or should the UN itself be held responsible?). In the same manner, detention of terrorist suspects on the basis of UN resolutions also raises the question of the responsibility of States implementing the UN measures. Finally, many regional cases only apply to States that are parties to these specific regional organisations and cannot address the question of the responsibility of States that do not have to abide by regional human rights. This potentially leads to inconsistency in standards of responsibility or absence of responsibility altogether.

Thus, I aim to examine how the various sources of responsibility in international law apply to international counterterrorism. I will examine the various counterterrorism measures adopted since September 11, 2001 (counterterrorism conventions, terrorist sanctions) but also other actions taken by States in order to address terrorist threats (extraordinary renditions, detention, etc) and analyse them in light of attribution of responsibility: I will map the possible overlaps of responsibility and contrast them with justifications by actors for avoiding any responsibility.

I will extend the scope of previous research, which focused on the EU, in order to include States that do not belong to European organisations, yet have to abide by international human rights obligations (in particular the United States and Israel). This will allow me to evaluate how they balance their various international obligations in comparison with European States.

I will ask whether this fragmentation of international law can only lead to a lacuna in human rights protection or whether this is actually a positive development because it provides checks and balances between the various actors, and more accountability as a consequence. These issues of responsibility and accountability are crucial in areas where both security concerns and the executive branch traditionally prevail. More generally, issues of State sovereignty and responsibility contribute to shaping a fairer response to international counterterrorism.