The current orthodoxy in human rights law is still firmly rooted in a domestic state-centric model: in principle, the primary and only duty-bearer is the domestic or territorial state. This myopic understanding of the duty-bearer side of human rights law is more and more under strain. In many real life contexts, human rights enjoyment is impacted upon by several states, and often also by so-called non-state actors (companies, armed groups, international organizations). Examples include the exploitation of natural resources; the imposition of austerity measures; peace operations; or responses to migration flows.

I therefore argue that we need to go beyond the territorial state as the only or the primary duty-bearer in human rights law, if we envisage a role at all for human rights law in fostering global justice. A new imaginary that invites us to look beyond the territorial state, and beyond the state in fostering global justice is the notion of transnational human rights obligations. Transnational human rights obligations encapsulate both extra-territorial obligations of states and obligations of non-state actors.

Expanding the duty-bearer side of human rights law beyond the (domestic) state may make human rights law more apt to contribute to global justice. But it also create tensions and challenges. For one, it challenges the international law fiction of the sovereign equality of states, and even the whole notion of state sovereignty. Other questions include whether the notion of transnational human rights obligations does not let too much the domestic state off the hook; whether it may be used as an excuse for imperialist ambitions (political interference; military invasion). And so the ultimate question may be whether one should rather seek to reinforce the (domestic) state so that it is again in control of what is happening (and therefore also fully responsible), than to expand the duty-bearer side of human rights law.

Whereas the debate on the duty-bearers under human rights law is not only relevant to the global South, it may have a particular relevance there in light of extreme power inequalities in the present and the past.