

The ETO Consortium – its mission and vision

Who is the ETO-Consortium?

The ETO Consortium is a network of some 50 human rights related NGOs, universities and institution-based individuals including Abo Akademi University, Amnesty International, Brot für die Welt, CapeTown University, CIEL, COHRE, DeJusticia, FIAN International, HIC, Icco, the International Commission of Jurists, Maastricht University, Misereor, Lancaster University, Rights and Democracy, SERAC, U of Antwerp, U of North Carolina and many others. The Consortium was founded in 2007. ETOs is short for extraterritorial obligations, the human rights obligations of states towards persons outside their territories.

Why an ETO-Consortium?

States hold certain obligations to observe the human rights of persons outside of their territorial scope. These extraterritorial obligations (ETOs) have often gone unrecognized either in law, policy and practice of many states. States have tended to limit obligations to their own territory, which does justice neither to the regulatory needs of the international community nor to upholding the principle of universality of human rights. The problem is not merely academic: a state's actions or omissions can and frequently do have substantial and often adverse impact on persons abroad.

This reductionism to territorial obligations has led to a vacuum of human rights protection in a number of international political processes and a paucity of regulations based on human rights in order to promote their protection. The situation is particularly challenging in the field of economic, social and cultural rights (ESCR).

Human rights proponents, including from intergovernmental and non-governmental organisations, independent experts and academia have identified gaps in human rights protection which have become more severe in the context of globalisation during the past 20 years, including:

- the HR regulation and accountability of transnational corporations (TNCs)
- the HR accountability of Intergovernmental Organizations (IGOs), in particular international financial institutions (IFIs)
- the ineffectiveness in application of human rights law in the face of investment and trade law which has developed over the past 20 years
- the implementation of corresponding duties to protect and fulfil ESCR abroad [inter alia through international cooperation and assistance]
- clarity on the nature and scope of ETOs.

The purpose of the ETO Consortium is to address these shortcomings and mainstream extraterritorial obligations in the human rights community, at the UN and its human rights bodies, but also in policy fields such as investment, trade, development cooperation, the regulation of transnational corporations and the accountability of intergovernmental organisations.

How did the ETO-Consortium originate?

First steps have been taken ten years ago: Since 1999 the UN Committee on Economic, Social and Cultural Rights (CESCR) has consistently in its general comments referred to this dimension of human rights obligations in multilateral and bilateral context. Since 2001,

several civil society organizations (CSOs) have submitted parallel reports to the CESCR focusing exclusively on ETOs. In 2003 Maastricht University held an international expert conference on the extraterritorial scope of human rights treaties. Although this conference focused on CPR, ESCR were taken up in the context. At the same time Brot für die Welt, FIAN International and others screened German development cooperation on the basis of ETOs and came up with two reports exploring the context. In 2005 the UN Special Rapporteur on the Right to Food analysed ETOs in his report. In academia and in civil society, a number of papers and books have been elaborated on the subject. Nevertheless, there remains some lack of clarity and some hesitation among many states to meaningfully address ETOs. Many CSOs working in the field increasingly see the strengthening of ETOs as an essential human rights response to globalisation and to the evolving situation of international human rights law.

All of this points to a need for a concise systematic presentation and summary of standards on ETOs in ESCR to be made available to decision makers in governments and at the UN. Such an international expert-elaborated legal document would follow in the tradition of the 1986 Limburg Principles on the implementation of the Covenant on Economic, Social and Cultural Rights and the 1997 Maastricht Guidelines on Violations of ESCR. When Maastricht University, FIAN International and others came forward in early 2007 with the idea of mainstreaming ETOs on the basis of a Maastricht ETO Principles document, there was a highly positive response both from human rights experts, civil society and academia. In the summer of 2007, an “ETO-Consortium” was set up by 30 CSOs and universities and held its first meeting in Geneva, in November 2007. The Consortium started to study cases and conceptual issues concerning ETOs in ESCR. The Consortium continued to grow, and conferences in Heidelberg (September 2008) and Lancaster (September 2009) followed. An internet platform was set up for discussion. By September 2009 the Consortium comprised more than 50 members worldwide and continues to grow in number and diversity of membership.

The Consortium is led by a steering group consisting of persons from Åbo Akademi University, Amnesty International, Brot für die Welt, FIAN International, Human Rights Watch, ICJ, Lancaster University, Maastricht University, University of North Carolina. The secretariat of the steering group is at FIAN International (kuennemann@fian.org).

At its third conference in Lancaster in September 2009, the ETO-Consortium noted that a number of conceptual challenges remained, but that mainstreaming of ETOs could soon be started. The Consortium welcomed the initiative announced by Maastricht University, the ICJ and others to call for an expert meeting in order to issue the “Maastricht Principles on ETOs under ESCRs”.

The ETO Consortium 2011 and beyond

The ETO-Consortium in Lancaster saw the announced new document as a perspective for settling a number of conceptual challenges in the field. Moreover the ETO-Consortium expressed its interest to make the future Maastricht ETO Principles a key term of reference for its work in mainstreaming ETOs. The Consortium will be consulted in the drafting process which will start long before the Maastricht Conference of September 2011.

During 2010 the Consortium held regional ETO events in Brussels, Bogotá and Pretoria. It briefed the CESCR in Geneva and the African Commission in Banjul.

The ETO-Consortium will launch a promotional campaign in 2012 among civil society, academia and experts to draw attention to the Maastricht ETO Principles. The aim of this campaign will be to mainstream the document world wide. Most importantly the ETO Principles will be used in the day-to-day work of the consortium members individually and in cooperation, seeking new avenues to address some of the most pressing problems in the field of ESCR.