

Extraterritorial Obligations in the Context of Eco-destruction and Climate Change



This Brochure was prepared by Greenpeace and CIEL as members of the ETO Consortium Focal Group 5 "ETOs, Eco-destruction and Climate Change".

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Greenpeace is an independent global campaigning organisation that acts to change attitudes and behaviour, to protect and conserve the environment and to promote peace. It comprises 28 independent national/regional offices in over 40 countries across Europe, the Americas, Africa, Asia and the Pacific, as well as a co-ordinating body, Greenpeace International. To maintain its independence, Greenpeace does not accept donations from governments or corporations but relies on contributions from individual supporters and foundation grants.

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“Governments must act together and take effective measures to halt climate change and to mitigate those effects which are now unavoidable. This is about our future and the human rights of all on our planet – the only home we have. We’re all in this together.”

**Ms. Navi Pillay,
United Nations High Commissioner for Human Rights**

“Climate change will become the biggest driver of population displacements, both inside and across national borders. Countries need to take immediate steps to limit the extent to which climate change acts as a driver of conflict and displacement.”

**Mr. António Guterres,
United Nations High Commissioner for Refugees**

“Illegal logging operations have involved murder, violence, threats and atrocities against indigenous peoples, posing risks to the human rights of local and indigenous stakeholders. The entire chain of wood products with illegal origin must be addressed: logging, trading, processing, manufacturing, exporting and importing. Strengthened international collaboration is not an option. It is indeed the only response to combat an organized international threat to natural resources, environmental sustainability and efforts to lift millions of people out of penury.”

Abstracts from the 2012 Interpol United National Environment Programme report, *Green Carbon – Black Trade*

1. Extraterritorial Obligations and the Maastricht Principles

Despite the universality of human rights, many States still interpret their human rights obligations as being applicable only within their own borders. This attempt to limit obligations territorially has led to gaps in human rights protection in various international political processes and a lack of adequate regulation for the protection of human rights.

Gaps in human rights protection have become more severe in the context of globalisation over the past 20 years. These gaps include:

- the lack of human rights regulation and accountability of transnational corporations (TNCs)
- the absence of human rights accountability of intergovernmental organizations (IGOs), in particular international financial institutions (IFIs)
- the ineffective application of human rights law to investment and trade law, policies and disputes
- the lack of implementation of duties to protect and fulfil Economic, Social and Cultural Rights (ESCR) abroad, inter alia through international cooperation and assistance

Extraterritorial obligations (ETOs) are a missing link in the universal human rights protection system. Without ETOs, human rights cannot assume their proper role as the legal basis for regulating globalization and ensuring universal protection of all people and groups. A consistent realization of ETOs can generate an enabling environment for Economic, Social and Cultural Rights and guarantee the primacy of human rights among competing sources of international law. ETOs provide for State regulation of transnational corporations, State accountability for the actions and omissions of intergovernmental organizations in which they participate, set standards for the human rights obligations of IGOs, and are a tool needed to ultimately stop the destruction of eco-systems and climate change.

As the challenges have grown in size and number, the human rights community has increasingly paid attention to these issues, as reflected for instance in the numerous pronouncements relating to ETOs in human rights law.¹

Efforts of international experts have focused on careful research on the underlying human rights law principles of ETOs and have resulted in the 'Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights' (Maastricht Principles).

The Maastricht Principles constitute an international expert opinion, restating human rights law on ETOs. They were issued on 28 September 2011 by 40 international law experts from all regions of the world, including current and former members of international human rights treaty bodies, regional human rights bodies, as well as former and current Special Rapporteurs of the United Nations Human Rights Council.

The Maastricht Principles do not purport to establish new elements of human rights law. Rather, the Maastricht Principles clarify extraterritorial obligations of States on the basis of standing international law. The legal sources that support the content of the Maastricht Principles are provided in the detailed commentary that accompanies the Principles.² The time has come for civil society including social movements, States, intergovernmental organisations, international and regional courts and human rights treaty bodies, to apply the Maastricht Principles as an integral part of any human rights analysis and policy making to ensure universal protection of human rights.

1 O De Schutter, A Eide, A Khalfan, M Orellana, M Salomon, I Seiderman, 'Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights' (2012) 34 Human Rights Quarterly 1084. Also available at www.icj.org/protecting-human-rights-beyond-borders

2 Ibid.

2. ETOs, Eco-destruction & Climate Change

The impacts of human activities are starting to interfere with vital planetary systems. Scientists around the world are calling on the international community to avoid crossing planetary boundaries.³ Environmental destruction, such as the loss of forest cover, the spread of dangerous chemicals, overfishing and climate change, is impairing the realization of human rights, particularly of people already marginalized and vulnerable.

A healthy planet is the infrastructure of human society and thus a precondition for the realization of human rights. At the same time, respecting, protecting, and fulfilling human rights is essential for overcoming the challenges presented by ecological destruction in general and climate change in particular. The Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) has recognized this important connection, agreeing in 2010 that “Parties should, in all climate change related actions, fully respect human rights.”⁴ Political boundaries must not stand in the way of effective remedies for those who suffer from global and transboundary environmental degradation.

The right to live in a healthy environment has emerged as a key legal tool in the preservation of the integrity of the planet and in the struggle for global environmental justice. Human rights obligations pertaining to the environment are well established and their extraterritorial dimensions increasingly recognized. Extraterritorial obligations (ETOs) are thus a critical legal tool in the effort to avoid environmental destruction and the impairment of planet earth, our common home.

Eco-destruction, including the impacts of climate change, causes the displacement of people, threatens international peace security, undermines the livelihoods of some of the world’s most vulnerable citizens, limits development opportunities, aggravates armed conflicts, reduces access to food and water, and places human life and health in peril. The entire human rights project, therefore, is threatened by eco-destruction.

National governments are frequently responsible for eco-destruction and climate change, and thus for the impairment or nullification of human rights that results from such eco-destruction. Governments often fail to enact sufficiently robust environmental regulation, or to conduct adequate environmental and social due diligence prior to allowing or supporting environmentally dangerous activities and projects. In some cases, governments participate directly in activities that are detrimental to ecosystems and climate, and thus to the enjoyment of ESCRs at home and abroad. In such cases, States are in non-compliance with their obligation to respect and protect ESCRs, and act in violation of the UN Charter and international law.

As set out in the 2011 Office of the High Commissioner on Human Rights report on human rights and the environment: “One country’s pollution can become another country’s environmental

and human rights problem, particularly where the polluting media, like air and water, are capable of easily crossing boundaries.... These issues are of particular importance in the environmental context, in the light of the number and intensity of transboundary and global environmental threats to the full enjoyment of human rights.” (A/HRC/19/34, para. 65). On 24 December 2012, the UN Human Rights Council received the preliminary report of John H. Knox, the UN Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Of particular relevance to ETOs in the environmental context is paragraph 48, which referred to the Maastricht Principles and stated:

“The application of human rights law to transboundary and global environmental harm requires consideration of questions regarding the extraterritorial reach of human rights norms.... Recent years have seen heightened attention to the extraterritoriality of human rights obligations, but there is still a need for more detailed clarification (see A/HRC/19/34, para. 64). These issues are of particular importance in the environmental context, in the light of the number and intensity of transboundary and global environmental threats to the full enjoyment of human rights.” (A/HRC/22/43)

2.1. The Maastricht Principles on ETOs and the Environment

The Maastricht Principles are directly relevant to addressing global and transboundary environmental issues that affect human rights. For example, the ‘Obligation to avoid causing harm’, as described in ETO Principle (ETOP) 13, confirms that States must desist from acts and omissions that create a real risk of nullifying or impairing the enjoyment of economic, social and cultural rights extraterritorially. The responsibility of States is engaged where such nullification or impairment is a foreseeable result of their conduct. Uncertainty about potential impacts does not constitute justification for such conduct.

The Maastricht Principles reiterate the obligations of States to take deliberate, concrete and targeted steps, separately and jointly through international cooperation, to create an international enabling environment conducive to the universal fulfillment of ESCRs, including in matters relating to environmental protection (ETOP 28 and 29 in relation to ETOP 30-35).

States must elaborate, interpret and apply relevant international agreements and standards in a manner consistent with their human rights obligations, including those pertaining to environmental protection (ETOP 17). Moreover, States have a duty to regulate to ensure that non-State actors do not nullify or impair the enjoyment of economic, social and cultural rights, inter alia by administrative, legislative, investigative and adjudicative measures (ETOPs 23-27). Without ETOs in relation to the environment, human rights cannot assume their proper role as the primary legal basis for addressing the challenges of globalization and ensuring universal protection for all.

³ Rockström, Johan et al. ‘Planetary Boundaries: Exploring the Safe Operating Space for Humanity’ 14(2) *Ecology and Society* 32. <http://www.ecologyandsociety.org/vol14/iss2/art32/> accessed 13 August 2012

⁴ UNFCCC Decision 1/CP.16, para 8; see: <http://unfccc.int/files/na/application/pdf/07a01-1.pdf>

2.2. *Non-State Actors*

ETOs reflect standards concerning both State actions and omissions and non-State actor regulation to close the current gap between acts, omissions, impacts, and corresponding accountability.

A specific number of Maastricht Principles (ETOP 12, ETOPs 24-27) apply to States' obligations in relation to the conduct of non-State actors, including businesses. The Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, in a review of the scope and pattern of more than 300 alleged corporate-related human rights abuses, stated in a 2008 report (A/HRC/8/5/Add.2, para. 27) that in nearly one third of the cases alleged environmental harms had corresponding impacts on human rights. "...In these cases, various forms of pollution, contamination, and degradation translated into alleged impacts on a number of rights, including on the right to health, the right to life, rights to adequate food and housing, minority rights to culture, and the right to benefit from scientific progress". The report noted that, "In principle, the obligations of States to protect human rights from infringement from private actors extends to infringement from environmental harm, as many human rights bodies have explained."

The report continues: "For example, States' fundamental obligations to refrain from arbitrary deprivation of life and to undertake due diligence to protect against the deprivation of life by non-State actors do not become inapplicable merely because the deprivation involves the environment. Similarly, States' obligations regarding freedom of expression and association apply fully to those seeking to exercise those freedoms for the purpose of improving environmental protection."

2.3. *Indigenous Peoples*

Indigenous peoples are at particular risk from many kinds of transboundary and global environmental damage because of their cultural and economic dependence on environmental resources. As the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people has explained in a report (A/HRC/15/37, para. 71):

"In recognition of the special ties that indigenous peoples maintain with the natural habitats of the territories in which they live, international standards widely acknowledge indigenous peoples' "right to the conservation and protection of the environment" and of the "productive capacity of their lands or territories and resources" (UN Declaration on the Rights of Indigenous Peoples, art. 29.1) and at the same time call for the adoption of "special measures ... for safeguarding their environment" (ILO Convention No. 169, art. 4.1).

Indigenous peoples' close connection with the environment means that they are frequently impacted by deforestation and forest degradation as well as by activities that promote forest conservation. The UNFCCC Conference of the Parties has explicitly recognized the importance of involving indigenous peoples in addressing deforestation and related issues (see "Climate Change and Forests" below).

In 2011, the Special Rapporteur concluded that "the implementation of natural resource extraction and other development projects on or near indigenous territories has become one of the foremost concerns of indigenous peoples worldwide, and possibly also the most pervasive source of the challenges to the full exercise of their rights" (A/HRC/18/35, para. 57). Mining companies are often transnational corporations. According to the Maastricht Principles, all States where these companies have their centres of activity, are registered, domiciled or carry out substantial business activities (ETOP 25c) are required to adopt effective regulation to protect the human rights of indigenous peoples.

2.4. *Environmental Defenders*

Environmental defenders play an essential role in democratic societies, acting to protect the rights of individuals and communities on the frontline of environmental destruction. In consequence, they are often the target of efforts to silence or undermine their work.

As the Special Rapporteur on human rights defenders, Mrs. Margaret Sekaggya, explained, environmental defenders seem to face extraordinary risks due to the work that they do and the contexts in which they operate, and may be particularly at risk for exercising their right to freedom of expression (A/HRC/19/55). To echo her words, States should recognize the important work carried out by human rights defenders working on land and environmental issues and should not tolerate their stigmatization. ETOs require that States – including the home States of businesses involved in action against environmental defenders – regulate corporations accordingly and ensure prompt and impartial investigations and remedy whenever the rights of environmental defenders are violated.

3. ETOs and Eco-destruction: Tropical forests and Chemicals & Shipbreaking as examples

3.1. *Tropical forests*

Forests are important to humans (locally) and humanity (as a whole) as they generate water supplies, foster biodiversity, provide food and pharmaceuticals, recycle nutrients for agriculture and play an important role in flood prevention. Close to 1.6 billion people depend on forests for their livelihood and three-fourths of our freshwater comes from forested catchment areas. Forests are central to the transition towards sustainable development and poverty eradication. Ecosystem benefits secured by forests are essential for the full realization of human rights.

Worldwide, lush tropical forests are being logged for timber and pulp, cleared to grow food, and destroyed by the impacts of climate change. Eighty percent of the forest that covered almost half of the Earth's land surface eight thousand years ago have already been irreplaceably degraded or destroyed.

Although causes vary from region to region, they all have one thing in common: human activity. As a result of agriculture, logging, mining and the impacts of climate change, human activity is wiping out forests - and the life that depends on them - at an alarming rate. States are involved in the international timber trade (logging, trade, end-products, and so forth). States therefore have an obligation to regulate where the respective timber trading corporation or its parent or controlling company has its centre of activities or is registered or domiciled in the State concerned. Involved States must provide remedies to the victims (ETOPs 37).

3.2. *Climate Change and Forests*

Today, forests face yet another threat: climate change. Rising global temperatures damage and kill trees on a global scale, and increase drought and forest fires. At the same time, loss of forests contributes to climate change. Dying trees release more carbon into the atmosphere, which further increases the planet's global temperature. This cycle of forest collapse represents a critical feedback loop that could drive warming for centuries, change life cycles on Earth, and usher in a sweeping transformation of human civilization. Deforestation and forest degradation, largely of tropical rainforests, is responsible for up to twenty percent of all man-made emissions and more than that from ships, aviation and land transport combined. Ending deforestation is therefore one of the most critical steps in addressing the climate change threat.

In the UNFCCC, countries are addressing issues related to climate change and forests in developing countries through a process called Reducing Emissions from Deforestation and Forest Degradation (REDD+).⁵ UNFCCC Decision 1/CP.16 provides the foundational elements of REDD+ and in Appendix I to that decision, Parties agreed to promote and support seven social, environmental and governance safeguards. These safeguards require respect for the "knowledge and rights of indigenous peoples and members of local communities" and provide for the "full and effective participation of relevant stakeholders." They also require that actions "are consistent with the conservation of natural forests and biological diversity." In the same decision, Parties agreed that actions pertaining to REDD+ should be "supported by adequate and predictable financial and technology support." Accordingly, strong and consistent support from developed countries to implement safeguards will be critical to ensuring the success of REDD+.

3.3. *Illegal Logging*

The 2012 UNEP Interpol report, "Green Carbon, Black Trade", focuses on illegal logging. It documents the environmental damage and impact on the lives and livelihoods of often some of the poorest people in the world. The report refers to recent studies which estimate that illegal logging accounts for 50-90 percent of the volume of all forestry in key producer tropical countries and underlines how criminals combine old fashioned methods such as bribes

with high-tech methods such as computer hacking of government websites to obtain transportation and other permits. The report acknowledges that environmental crime and the illegal harvesting of natural resources is becoming an ever more sophisticated activity requiring national authorities and law enforcement agencies to develop responses commensurate with the scale and the complexity of the challenge to keep one step ahead.

UNEP and Interpol conclude in the report that corruption could undermine the effectiveness of REDD+ as a climate change mitigation instrument, because, in the face of corruption, strategies to address the drivers of deforestation are likely to fail. Failing to address illegal logging and the corruption it involves will reduce the efficiency with which emission reductions are achieved, as limited financial resources are lost to illegal activities. It will also result in inequitable sharing of benefits, and could pose risks to the human rights of local communities and indigenous stakeholders.

Interpol and UNEP conclude that: i) illegal logging and black-market trade in illegally harvested wood products has continued due in large part to a lack of coordinated international law enforcement efforts to combat the organized transnational nature of the criminal groups involved, ii) considering the scale of the existing illegal logging business, it is clear that there may be an increase in international criminal cartels if these activities are not counteracted in the near future, and iii) strengthened international collaboration on environmental laws and their enforcement is the necessary response to combat an organized international threat to natural resources, environmental sustainability and efforts to lift millions of people out of penury. International cooperation to this effect is an extraterritorial obligation, and States failing to engage in meaningful cooperation also fail to uphold their international human rights obligations.

3.4. *Chemicals and Shipbreaking*

The issue of shipbreaking – which refers to the process by which end-of-life ships are dismantled so that their parts can be recycled – is posing a global human rights and environmental threat. Shipbreaking activities have been externalized from developed countries to developing countries, particularly to Bangladesh, India, and Pakistan. Ships destined to be dismantled contain numerous hazardous substances (asbestos, PCBs, heavy metals such as lead, cadmium, mercury and arsenic, etc.). These chemicals are dangerous to human health and the environment and dangerous to the workers and the communities surrounding shipbreaking facilities or sites. Furthermore, none of the shipbreaking sites in the Indian sub-continent provide for environmentally sound management of end-of-life ships.

Shipbreaking in the region is mostly done through the process known as "beaching", whereby ships are run up onto sandy beaches during high tide. The ships are disassembled by unprotected migrant workers, who are exposed to the dangerous chemicals found on the vessels. Since 2004, more than 80% of the end-of-life ships of 500GT and above have been dismantled using this process. Furthermore, the ships are rarely cleaned prior to dismantling and the oil-contaminated tanks and other parts are therefore washed out into the sea, releasing toxic and hazardous substances directly into local communities and the marine environment. UNEP has found that shipbreaking industries in the region are one of the major

5 REDD+ activities include: reducing emissions from deforestation, reducing emissions from forest degradation conservation of forest carbon stocks; sustainable management of forests; and enhancement of forest carbon stocks. UNFCCC Decision 1/CP.16, para 70, see <http://unfccc.int/files/na/application/pdf/07a01-1.pdf>.

land-based sources of marine pollution. These are not only localized concerns: shipbreaking, based on beaching, results in the release of toxic chemicals that, in addition to their severe effects on local populations, migrate across borders via environmental transport, thus raising issues of global concern.

The pollution involved in shipbreaking occurring in States importing end-of-life vessels also raises concerns of global environmental justice. While the global economy rests on ship-borne trade, the negative costs and impacts of the functioning of the international trading system falls upon States importing these end-of-life vessels. In the absence of adequate controls on shipbreaking, disadvantaged workers and communities in developing States end up subsidizing international trade with their lives, health and environment.

States involved in such shipbreaking through their companies or their ship-owners in the sense described above are under an extraterritorial obligation to regulate such deals to ensure that the respective human rights abroad are protected. The EU, however, has adopted a regulation that fails to control the export of vessels, in breach of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and human rights treaties. This obligation is independent of the question whether or not the State that provides the beaches for shipbreaking has taken such regulatory measures or not.

4. Climate Change and ETOs

Climate change has brought about severe and possibly permanent alterations to our planet's biological and ecological systems. The Intergovernmental Panel on Climate Change (IPCC) contends that most of the warming observed over the last 50 years is attributable to human activities. The supra-national character of the climate change challenge means that ETOs are particularly relevant; greenhouse gas emitting activities by State and non-State actors are causing harm to the global climatic system which then results in impacts on every individual, community, and country.

4.1. Impact on Humans

Climate change has led to the emergence of large-scale environmental hazards to humans, such as stresses to food-producing systems and water resources, loss of biodiversity, salinization due to rising sea levels and the global spread of infectious diseases. According to the World Health Organization, "Climatic changes already are estimated to cause over 150,000 deaths annually".⁶ Many believe this to be a very conservative estimate: a 2012 report by the independent non-profit organization DARA shows climate change is responsible for the deaths of 1,000 children each day and up to 400,000 people per year.⁷

6 The Health and Environment Linkages Initiative website; see: www.who.int/heli/risks/climate/climatechange/en

7 DARA Climate Vulnerability Monitor, Second Edition (2012), p 17, see: www.daraint.org/wp-content/uploads/2012/10/CVM2-Low.pdf

4.2. Security and Peace

Climate change has been recognized as a security issue and a potential threat to regional peace. For example, it is believed that one of the main causes of conflict in Darfur, Sudan lies in environmental changes due to climate change. Droughts, desertification and water scarcity assumingly have pushed existing tensions to a boiling point and might have tipped the scale from low intensity competition to full scale violent confrontation.⁸ On 3 June 2009, the United Nations General Assembly, "deeply concerned about the possible security implications of climate change", invited the major organs of the United Nations, including the Security Council, to intensify their efforts to address the challenge of climate change.⁹ In 2011, the Security Council expressed concern that the possible adverse effects of climate change could, in the long-run, "aggravate certain existing threats to international peace and security" and that the loss of territory in some States due to sea-level rise, particularly in small low-lying island States, could have possible security implications.¹⁰ In June 2013, climate change was cited in Security Council discussions on conflict prevention and natural resources.¹¹

Furthermore, it is not only international bodies that are becoming increasingly conscious of the security implications of climate change; the US Department of Defense's 2010 Quadrennial Defense Review Report noted that "climate change and energy are two key issues that will play a significant role in shaping the future security environment."¹²

The UN Development Programme in 2008 stated that large scale population displacement will redraw the ethnic map of many countries, bringing previously separate groups into close proximity with each other and in competition for the same resources. In the context of poor governance, poverty and easy access to small arms these situations can easily become violent.

4.3. Human Rights and Climate Change

As technology and societal awareness increase regarding the deleterious impacts of fossil fuels on the climate system, international law will be increasingly confronted with demands for accountability for harm to vital planetary functions and the resulting impairment of human rights. Climate change is already impairing the right to food, the right to water and the right to a healthy environment, among other rights. Aggravating the inequity between developed and developing countries, the people who suffer most are usually those who least contributed to causing the problem. They under-

8 See 'Warming increases the risk of civil war in Africa', Marshall Burkea, Edward Miguelc, Shanker Satyanathd, John Dykema and David Lobell, PNAS, 8 December 2009, see: www.pnas.org/content/early/2009/11/20/0907998106.full.pdf

9 United Nations General Assembly, GA/10830, Sixty-third General Assembly Plenary, 85th Meeting (AM), 3 June 2009, see: www.un.org/News/Press/docs/2009/ga10830.doc.htm

10 S/PRST/2011/15; see: www.un.org/ga/search/view_doc.asp?symbol=S/PRST/2011/15

11 S/PV.6982, (19 June 2013) see: www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_6982.pdf

12 US Department of Defense, 2010 Quadrennial Defense Review Report, p 84-88 see: www.defense.gov/qdr/qdr%20as%20of%2029jan10%201600.PDF

standably demand global environmental and human rights justice across borders.

The Human Rights Council (HRC), in its 2009 resolution “Human rights and climate change”(10/4) recognized “...that climate change is a global problem requiring a global solution, and that effective international cooperation to enable the full, effective and sustained implementation of the United Nations Framework Convention on Climate Change in accordance with the provisions and principles of the Convention is important in order to support national efforts for the realization of human rights implicated by climate change-related impacts.” It also affirmed “... that human rights obligations and commitments have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.” The Conference of the Parties to the UNFCCC subsequently referred to resolution 10/4 in the Preamble to UNFCCC Decision 1/CP.16, the same decision in which it agreed that “Parties should, in all climate change related actions, fully respect human rights.”¹³ Efforts to implement these provisions in the climate regime, both in the overall architecture and within specific mechanisms, are ongoing.

In its 17 October 2011 HRC Resolution 18/22 on human rights and climate change, the HRC repeats the previously mentioned statements from resolution 10/4 and also “reiterates its concern that climate change poses an immediate and far-reaching threat to people and communities around the world and has adverse implications for the full enjoyment of human rights”. In the climate change context, the UN Human Rights Bodies support the commitments that are enshrined in the Maastricht Principles on ETOs.

It is obvious that human rights instruments impose comprehensive internal and extraterritorial obligations upon State parties. A human rights-based approach to climate change means active application by States of the principles of non-discrimination and equality, recognized as core principles and rights in human rights covenants.

States have a duty to take all available measures to protect the right to life, health, housing, food, water and sanitation, etc., both in the prevention as well as in the response stages of addressing climate change.

A human rights-based approach to climate change will be critical in ensuring effective and equitable implementation of climate change policy; that is, it will lead to action that is successful in achieving long-term success in mitigating eco-destruction, without endangering the rights of the world’s most vulnerable citizens. Indeed, in many cases, coordinated transnational cooperation to address eco-destruction and climate change will go beyond doing no harm, and result in net positive outcomes for human rights and quality of life amongst these vulnerable populations, both now and in the future.

Conclusion

ETOs are of vital importance in addressing the various human rights challenges arising from and contributing to eco-destruction and climate change. The transboundary and global dimensions of eco-destruction and climate change require an equally transboundary and global response to the problem. The Maastricht Principles provide an excellent tool for holding governments accountable for extraterritorial violations of human rights on the basis of their existing obligations under international law. They underline that the human rights obligations of States do not end at their national borders but extend to their entire sphere of influence, whether they act individually or through intergovernmental organizations. In addition to ensuring that their decisions, actions and omissions do not cause, directly or indirectly, infringements of human rights beyond their boundaries, they must regulate and hold private corporations accountable for human rights violations resulting from their activities abroad and provide remedies for the victims. Moreover, they must use their influence in international policy fora to create an enabling environment for the realization of human rights, including those relating to the right to a healthy environment, and cooperate internationally to mitigate the negative effects of eco-destruction and climate change.

¹³ UNFCCC Decision 1/CP.16, para 8; see: <http://unfccc.int/files/na/application/pdf/07a01-1.pdf>

ETO Consortium

The ETO Consortium is a member-led network, comprised by a large number of CSOs and academics interested in human rights promotion and protection.

Established in Geneva in 2007, the purpose of the ETO Consortium is to address the gaps in human rights protection that have opened up through the neglect of extraterritorial obligations (ETOs).

The ETO Consortium mainstreams and applies ETOs, using as a key term of reference the Maastricht Principles on Extraterritorial Obligations in the Area of Economic, Social and Cultural Rights. The Consortium is continuously working to advance ETOs in multiple contexts and on various occasions, for instance by virtue of international and regional conferences and capacity building, case-work, research and advocacy.

The ETO Consortium organizes its work in focal groups according to thematic issues and to geographical

regions. In addition to the focal groups, there is an academic support group, with a separate mandate to assist the focal groups and members. The ETO Consortium members use the Maastricht Principles in their day-to-day work, individually and in cooperation, with a view to seeking new avenues for addressing some of the most urgent problems related to the protection of economic, social and cultural human rights.

The ETO Consortium is led by an elected Steering Committee with academics and representatives of CSOs from various regions of the world. The Consortium appoints one of its member CSOs to host the ETO Consortium Secretariat for a certain period of time.

CSOs and academics interested in cooperation or membership are invited to contact the ETO Consortium's Secretariat.

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