



## ETO CONSORTIUM NEWSLETTER

### December 2014

Dear reader,

We are pleased to share with you the sixth edition of our ETOs Newsletter.

Much has happened over the past couple of months. Civil society and academia from different parts of the world have gathered in Geneva, Kampala, Bangkok, and Bogota to discuss ETOs in relation to a wide range of issues, including corporate control over food systems, access to natural resources, trade and investment, development cooperation, international financial institutions and regulation of TNCs. Over 140 participants took part in the public conference and strategizing meeting entitled "*Human rights-based governance beyond borders and the role of Extraterritorial Human Rights Obligations (ETOs)*", which took place from September 2-3 in Bangkok, Thailand.

In June, the UN Human Rights Council, in a historic decision, adopted a resolution for establishing an open-ended working group on a binding international instrument for holding transnational corporations and other business enterprises accountable for human rights violations. Several of the ETO Consortium's members have, through the Treaty Alliance, actively participated in the advocacy efforts surrounding this decision and have recently met in Geneva at a Treaty Alliance meeting on November 30 / December 1 and at the Forum on Business and Human Rights, December 1-3.

The ETO Consortium Secretariat sends you its best wishes for the last weeks of 2014 and looks forward to be in touch again in 2015.

*December-09-2014*

#### **[Bangkok Declaration on Extraterritorial Human Rights Obligations](#)**

In recent months, Bangkok has not only been the venue for the 7th International Conference of the ETO Consortium and a related public conference on rights-based governance beyond borders, which both took place early September, but also saw an important Roundtable on Extraterritorial Human Rights Obligations of States, held on 10 and 11 October 2014. The Round Table was organized by the Asia Pacific Forum on Women, Law and Development (APWLD), which had also been one of the conveners of the September conference.

The Round Table brought together representatives of National Human Rights Institutions (NHRIs) from the Philippines, Indonesia, Malaysia and Thailand, observers from the governments of the Philippines and Indonesia, a representative of the ASEAN Commission on Women and Children, and civil society from the region. The UN Independent Expert on Human

Rights and International Solidarity, a member of the UN Committee on Economic, Social and Cultural Rights, and a member of the UN Committee on Elimination of all Forms of Discrimination against Women were also present in their personal capacity as resource persons.

The Roundtable aimed at strengthening the implementation of extraterritorial human rights obligations and resulted in the adoption of the "[Bangkok Declaration on Extraterritorial Human Rights Obligations](#)". The statement outlines important demands in relation to ETOs and has been endorsed by a growing number of organisations from Asia and the Pacific.

Read the Bangkok Declaration in our [library](#)

*November-27-2014*

### **[Hearing before the IACHR puts spotlight on Canada's ETOs in relation to its mining companies](#)**

At a public hearing before the Inter-American Commission on Human Rights (IACHR) in Washington D.C., on October 28, member organizations of the Canadian Network on Corporate Accountability (CNCA) called on the Canadian State to put into place an effective framework for preventing and addressing human rights violations caused by Canadian mining companies operating in Latin America and the Caribbean.

In their submission, the petitioners focused on the ways that the Canadian government, through its actions and omissions, not only played a central role in promoting large-scale mining abroad, but also tolerated and contributed to the systematic violations of human rights that were taking place. The government supported mining companies, among others, through loans, insurance, diplomatic assistance, and through its development aid.

To illustrate the State's relationship with mining companies, an example from Mexico was given, in which the Canadian embassy had put pressure on the State of Chiapas to permit mining operations without clear community consent. Later on, when protests started, the embassy backed the company and ignored threats to local activists. Even after one of the activists was murdered and the mine closed for environmental violations, the embassy continued to defend the company's interests.

In its submission, the Canadian government went into lengthy descriptions of the country's voluntary corporate social responsibility standards for addressing human rights and environmental issues in the mining sector. No reference was made to any guidelines for the government's own involvement in mining, for example through its embassies. The State representative made it clear that Canada was not prepared to assume any legal responsibility for the actions of its companies abroad.

The report entitled "Human Rights, Indigenous Rights and Canada's Extraterritorial Obligations" which was submitted by the CNCA to the IACHR can be read in our [library](#).

The IACHR hearing on the impact of Canadian mining companies on human rights in Latin America can be watched [here](#).

*November-05-2014*

### **[Study highlights potential adverse impacts of seed protection laws on right to food](#)**

A recent study "[Owning Seeds, Accessing Food](#)", published by various civil society organisations, points to the adverse impacts plant variety protection (PVP) laws based on the 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV 91) could have on small-scale farmers' and particularly women's enjoyment of their right to food. Based on research in three countries – Kenya, Peru and the Philippines – the study shows how PVP laws that restrict and prohibit the saving, replanting, exchange and selling of seeds can undermine small-scale farmers' access to seeds, which is a key element of their right to food.

The report highlights the extraterritorial obligations of States when encouraging or pressurizing governments in the Global South to enact more stringent plant variety protection regimes. It recommends that governments carry out human rights-impact assessments before agreeing to or introducing intellectual property provisions in trade and investment agreements; ensure the effective participation of potentially affected groups in the development, amendment, and implementation of PVP laws; put into place monitoring mechanisms; and ensure that governmental agencies and others involved in seed policy are informed of their obligations in relation to the right to food. It also makes recommendations to the UPOV secretariat and its members to review the UPOV rules with regard to their impacts on the informal seed sector.

The report can be found in our [library](#).

*November-05-2014*

### **[Practitioners' guide on ETOs in the context of corporate human rights violations](#)**

The ESCR-Net Corporate Accountability Working Group has published a new resource entitled "[Global Economy, Global Rights – A Practitioners' Guide for interpreting human rights obligations in the global economy](#)" to support the interpretation and application of ETOs in the context of corporate human rights abuses. Launched at a gathering of outgoing and incoming UN Special Procedure Mandate Holders in Geneva, on September 2, the resource is designed to support the work of human rights practitioners; in particular UN special procedures mandate holders, treaty bodies and other agencies. It synthesizes and provides an analysis of the UN treaty body pronouncements – concluding observations and general comments – in relation to corporate human rights violations.

Download the guide in [English](#) or [Spanish](#).

*October-08-2014*

### **[Right to Food and Nutrition Watch 2014 assesses progress made in implementing the Right to Food Guidelines](#)**

The right to adequate food and nutrition remains deeply threatened by corporate and economic interests as agribusiness and financial investors gain more influence and control over natural resources and multinational food and beverage corporations are allocated increasing decision-making power over what ends up on the consumer's plate. The seventh edition of the [Right to Food and Nutrition Watch 2014, titled Ten Years of the Right to Food Guidelines: Gains, Concerns and Struggle](#) makes a call for democratic food systems by demanding governments to

exercise the political will in addressing the inequities throughout food supply chains, recommending the right to food to be 'mainstreamed' in coherent food, nutrition, energy and trade policies.

As a contribution to the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (hereinafter Right to Food Guidelines), this year's launch of the annual Right to Food and Nutrition Watch, taking place in Rome, Italy evaluates the successes and shortfalls in the fight for the right food in the past decade, reflects on the emerging trends and debates, and identifies key challenges. The dimension of **extraterritorial obligations (ETOs)** has been a recurring issue in all the editions of the Right to Food and Nutrition publication. This is particularly evident in cases of land grabbing, forced evictions, the marginalization of indigenous peoples and human rights violations that undermine the food sovereignty of communities.

The Watch 2014 provides an extension of this ongoing discussion and coverage of right to adequate food violations that are linked to the failures of states' to meet their **extraterritorial obligations**. The first article that brings the ETOs dimension into focus takes the reader to Mali, with a critical analysis of land grabbing in one of the most affected areas, Office du Niger and the people's resistance against evictions and land expropriation. To date, the people of Mali have lost about a million hectares of land across urban, peri-urban and rural areas to individual, public investors and national or foreign companies. In the name of development the government of Mali has been actively encouraging and facilitating the acquisition of land.

A second article that raises concern of **ETOs** violations focuses on how sovereign pension funds in Sweden and Norway contribute to human rights violations in Guatemala. Both the Norwegian Government Pension Fund Global and Swedish AP1-AP4 are minority investors in the Canadian company Goldcorp Inc. that owns the Marlin mine in San Miguel and Sipacapa in Guatemala. Goldcorp Inc. has been accused of human rights abuses such as the lack of transparent consultation with local indigenous communities, adverse health impacts and land grabbing. The authors of the article call on Norway and Sweden to reconsider their interpretation of their ETOs under the ICESCR, modify the sovereign wealth funds by making human rights impact assessment mandatory, and exclude Goldcorp from their investment pool.

*The Watch is a product of a collaborative effort by the Right to Food and Nutrition Watch Consortium, which comprises about 20 civil society organizations and social movements. The Watch serves as the main monitoring tool of the newly established Global Network for the Right to Food and Nutrition.*

Read these and other articles in the [Right to Food and Nutrition Watch](#)

*October-01-2014*

### **[Regional workshop in Kampala explores ETOs and access to natural resources in Africa](#)**

Civil society organizations and academics gathered from August 18 to 19 in Kampala, Uganda to discuss States extraterritorial obligations in relation to access to natural resources in Africa and East Africa in particular. Convened by the ETO Consortium and the Public Interest Law Clinic (PILAC) of Makerere University, the workshop brought together participants from Uganda, Kenya, Tanzania, Rwanda, Ethiopia, Zambia and South Africa. Objectives of the conference were

to raise awareness on ETOs among civil society and academia in (East) Africa, discuss regional ETO cases, and come up with a strategy for promoting ETOs in the region. While the focus of the conference was on access to natural resources it also looked at other related issues such as the privatization of education.

The first part of the seminar aimed to introduce participants to the concept of and recent developments in the field of ETOs, the Maastricht Principles, and the work of the ETO Consortium. Panelists then explored the role of diverse foreign actors, including development agencies, transnational corporations, and multi-stakeholder initiatives in undermining access to natural resources in the region. Case studies were presented on land grabbing in Uganda and seed privatization in Kenya. Participants then split into working groups in which they shared and analysed cases from the region with an extraterritorial dimension. This exercise not only served to get participants (more) familiar with ETOs and the relevance for their work, but also paved the way for the strategy discussion, as participants were asked to come up with suggestions for regional and international strategies for tackling the cases presented and holding duty bearers accountable.

Several ideas came up on how to move forward with the promotion of ETOs in the region. Participants agreed to form a sub-regional network on ETOs which would reach out to other civil society organizations and academics in the region and would provide space for continued dialogue and joint activities on ETOs. Moreover, a fact finding mission that would look into and document ETO cases in the region was suggested. Other proposals included the development of a joint parallel report to the Committee on Economic, Social and Cultural Rights and the incorporation of ETOs into human rights curricula of East African universities.

The workshop was concluded with three presentations on chapters of an upcoming book on ETOs in Africa, which looked at the extraterritorial reach of the African Human Rights System, the Mubende case in Uganda, and the ETOs applicable to indigenous communities in Africa displaced by climate change.

For more information on the conference, please contact [Laura Michéle](#).

The workshop programme can be found [here](#).

*September-25-2014*

### **[Conference in Bangkok explores significance of ETOs in Asia](#)**

Over 140 participants from civil society organizations, social movements and academia took part of the "*Human rights-based governance beyond borders and the role of Extraterritorial Human Rights Obligations (ETOs)*" conference which took place from September 2-3 in Bangkok, Thailand. The event was convened by Chulalongkorn University, the Asia Pacific Forum on Women, Law and Development (APWLD), the ETO Consortium (ETOC), Focus on the Global South, and the Stockholm Environment Institute (SEI).

The conference took place in the beautiful Chumpot Pantip conference room at Chulalongkorn University with keynote speakers Sriprapha Petcharamesree, former Thai representative to the ASEAN Intergovernmental Commission on Human Rights (AICHR), and Cephias Lumina, former UN Independent Expert on the effects of foreign debt. Further speakers included Seree

Nonthasoot (AICHR), Charles Santiago (Malaysian MP), Lidy Nacpil (Jubilee South), and Ansori Sinungan (Indonesian National Human Rights Commission).

Some key questions discussed in the event included the relevance of ETOs for South and South East Asia and the expectations on non-Asian states for implementing ETOs in their interactions with Asian countries. The significance of ETOs was explored in more detail in relation to financial regulation, investment and trade, stopping of regional resource grabs, accountability of transnational corporations (TNCs), institutional governance (including post-2015), corporate capture and multistakeholderism.

On the second day of the conference, civil society organizations discussed regional strategies for promoting ETOs. Thematic working groups looked at finance and international financial institutions (IFIs), corporate accountability and the work towards a binding treaty for TNCs, resource rights, and trade and investment. Outcomes from the working groups included the creation of an Asian platform on resources grabs, an Asian regional network of the International Treaty Alliance, and the establishment of a regional focal point in the campaign against the Transpacific Partnership Agreement (TPP).

Prior to the public conference, on the 1<sup>st</sup> of September, the ETO Consortium convened its 7<sup>th</sup> global conference. Held for the first time in Asia, the meeting took stock of progress and challenges in the promotion of ETOs, and discussed the new strategic plan of the Consortium for 2015-17. It also provided space for exchange between members on specific issues and processes, including the promotion of ETOs with human rights bodies, the treaty alliance process, and accountability of multi-lateral development banks (MDBs).

*August-01-2014*

### **[Africa Regional Seminar on ETOs and Access to Natural Resources](#)**

The ETO Consortium together with the Public Interest Law Clinic, Makerere University will be holding a regional seminar on ETOs and access to natural resources in Kampala, Uganda. The workshop, which will take place from August 18 to 19, brings together human rights organisations, academics and social movements to discuss the impact of trade and investment policies, development aid and transnational corporations on access to natural resources in Africa and East Africa in particular.

The seminar aims to raise awareness on ETOs and the Maastricht Principles and apply these to specific cases from the region, with a focus on access to resources. Moreover, the workshop will discuss chapters of a book project on ETOs in the Africa context.

For more information, please contact [Laura Michéle](#)

*August-01-2014*

### **[CEDAW Committee urges India to comply with its extraterritorial obligations](#)**

The UN Committee on the Elimination of Discrimination against Women (CEDAW) has called on the Indian State to ensure that its own actions and those of private actors under its effective control, including national corporations operating abroad, do not result in human rights violations of women in other countries.

In its Concluding Observations on the fourth and fifth periodic reports of India, adopted at its 58th session in July, the Committee expressed concern over the lack of gender perspective and consultation in the India Housing Project in the North East of Sri Lanka. Moreover, it was worried about the impact of Indian infrastructure projects on women living in other countries, such as the Lakshmanpur dam project, which through subsequent floods had led to displacement, loss of livelihoods, food security and housing of women in Nepal.

The Committee recommends the Indian State to immediately review the impact of the India Housing Project and apply a “consultative and gender-sensitive approach in implementing the ongoing and future phases of the project and address the needs and concerns of the most disadvantaged and marginalised groups of women” (par. 15a). In relation to the Lakshmanpur dam project, it calls on the State to adopt “all necessary measures including an impact assessment” and ensure that preventive and remedial measures are taken and, in cases where rights have been violated, compensation provided (par.15b).

Read the Concluding Observations in our [library](#)

Read the Parallel Report submitted by FIAN on the right to food of women [here](#)

*July-31-2014*

### **[World Bank turns its back on rights protections for the poor](#)**

#### **[Global civil society response gathers momentum](#)**

(New York, London, New Delhi, July 29, 2014) - Civil society organisations around the world are decrying a [leaked draft of the World Bank's proposed new policies](#) to avoid harmful impacts from the development projects that it finances. Despite earlier commitments by Bank President Jim Yong Kim that the policies would not be diluted and that [safeguards on land rights would be strengthened](#), the proposed changes have gutted essential requirements that are necessary to prevent displacement, impoverishment, and environmental damage. The draft policies are up for discussion by the Bank's board on July 30 ahead of public consultations.

“This draft effectively winds back the clock to the 1970s, before the Bank had binding policies in place to protect the poor and the environment. We see nothing more than a naked attempt by the Bank to shield itself from accountability for the destructive impacts of the mega-projects it is planning.” said Madhuresh Kumar, National Organizer of the National Alliance of People's Movements in India.

Most shockingly, the draft policies provide an opt-out option for governments that do not wish to provide essential land and natural resource rights protections to Indigenous Peoples.

Joji Carino, Director of the Forest Peoples Programme, said “we have engaged with social and environmental safeguard development with the World Bank for over twenty years and have never seen a proposal with potential for such widespread negative impacts for indigenous peoples around the world. The proposed ‘opt-out’ for protections for indigenous peoples, in particular, would undermine existing international human rights law and the significant advances seen in respect for indigenous peoples rights in national laws.”

The draft also weakens protections for people who will be evicted from their homes, land and livelihoods, increasing the risk that Bank-financed projects will impoverish people, exacerbate

inequality and cause human rights violations. The proposal scraps critical rules that have been in place for thirty years requiring the Bank to take concerted measures to avoid and minimise displacement and for resettlement action plans capable of restoring the livelihoods of the displaced to be in place before committing funds to projects. It provides multiple opportunities for borrower governments, or even private “intermediary” banks, to use their own standards for impact assessment, compensation and resettlement, without clear criteria on when and how this would be acceptable.

Theodore Downing, President of the International Network on Displacement and Resettlement, a 14-year old network of involuntary resettlement professionals, said “the proposed changes eviscerate existing international standards - knowingly placing millions of people at risks of impoverishment.”

“The Bank is trying to exonerate itself from all responsibility for the devastating effects of the displacement it finances, while giving private equity funds and some of the world’s most abusive governments unfettered discretion to uproot the poor as they fit,” said David Pred, Managing Director of Inclusive Development International.

Land titling projects are exempted from the coverage of the draft resettlement policy. This will leave affected communities completely unprotected from forced eviction by their government, as happened in the case of Cambodia’s Boeung Kak Lake community whose homes were demolished after they were deemed not to have ownership rights under a Bank-titling project.

“If this policy is adopted, many communities around the world will be forcibly evicted like mine was, and they will not be able to seek any recourse from the Bank,” said Tep Vanny, a community leader from Boeung Kak Lake. After filing a complaint with the World Bank’s Inspection Panel about the controversial project, Tep Vanny and local organisations finally secured title for hundreds of families that were previously threatened with eviction. With the proposed changes to the Bank’s policy, that would not have been possible.

Despite the growing land-grabbing crisis displacing countless indigenous communities, small farmers, fisher-folk and pastoralists throughout the global south, the draft policy fails to incorporate any serious protections to prevent Bank funds from supporting land-grabs.

“In Ethiopia, World Bank funds have been used to facilitate one the world’s biggest land grabs, with the indigenous populations of entire regions being uprooted to make way for agro-industrial investments. We had hoped that the new safeguards would include strong requirements to prevent governments like Ethiopia from abusing its people with Bank funds, but we are shocked to see the Bank instead opening the flood-gates for more abuses,” said Obang Metho, Executive Director of the Solidarity Movement for a New Ethiopia.

Not only is the current draft an unconscionable weakening, it is a complete misrepresentation of two years of consultations with civil society. The Bank’s Board must not endorse this draft, and at a minimum must insist that these fundamental loopholes be addressed before the next round of consultations,” said Sasanka Thilakasiri, Policy Advisor for Oxfam International.

97 non-governmental organizations and civil society networks and 17 distinguished individuals from Asia-Pacific, Africa, Latin America, North America and Europe sent a statement to the World Bank’s Board yesterday, demanding that the draft be sent back to the drawing board and re-written with serious safeguards to respect and protect the land, housing and livelihood rights of the poor.

The joint statement is available [here](#).

The World Bank draft safeguards framework is available [here](#).

*[Original Source: Inclusive Development International](#)*

*July-28-2014*

### **[The role of ETOs in creating rights-based and sustainable food systems](#)**

FIAN International together with other members of the Global Network for the Right to Food and Nutrition (GNRTFN) held a three-day workshop, from June 24 to 26, in Geneva to discuss the challenges related to corporate control over food systems and how to unify social struggles to overcome these. The seminar brought together a wide diversity of participants from across the globe, including social movements representing small-scale food producers, indigenous peoples, and workers; human rights organizations (including several members of the ETO Consortium); nutritionists and health professionals; and academics.

The conference highlighted the central role of ETOs in creating rights-based and sustainable food systems that are capable of responding to the needs and rights of small-scale food producers and consumers alike. Issues discussed included how to regulate and hold transnational corporations accountable for human rights abuses in the light of corporate capture of international food and nutrition governance structures; progress made in the negotiations towards a binding treaty for TNCs within the UN Human Rights Council (HRC); how to bring trade and investment regimes in line with human rights and rectify existing imbalances in the international protection of private investors vis-à-vis that of human rights; as well as gaps in the international regulation of financial markets and accountability of international financial institutions (IFIs).

The seminar took place during the last week of the 26th session of UN Human Rights Council (HRC) and was concluded just as the Council adopted a resolution for establishing an open-ended working group to elaborate a binding treaty to hold transnational corporations accountable for human rights abuses.

*July-28-2014*

### **[States decide to elaborate a treaty linked to extraterritorial obligations to protect against HR abuses by TNCs](#)**

In a landmark decision on June 26, the UN Human Rights Council decided to establish an open-ended intergovernmental working group with the mandate to elaborate a legally-binding instrument on transnational corporations and other business enterprises with transnational character. While the working group is likely to use its first sessions to delineate the content, scope, nature and form of this document, it already seems clear that States' extraterritorial obligations (ETOs) will be an important issue in this context.

The Maastricht ETO Principles summarize substantial international law standards on the issue that must be made operational in the upcoming negotiations. In particular Principle 24, on the obligation to regulate, and Principle 25, on the bases for regulation, have to be fully applied. Moreover Principle 37, on the obligation to provide effective remedy, and related Principles

have to be implemented. Accompanying this process could be an important task for the Treaty Alliance (representing more than 600 CSOs), which was formed in the past months, as well as for the ETO Consortium's Academic Group.

The new intergovernmental working group will have its first session (5 working days) in 2015. Its task is a historic one: Developing an area of international law in which States jointly regulate the human rights performance of TNCs.

Web: [www.etoconsortium.org](http://www.etoconsortium.org)  
E-mail: [secretariat@etoconsortium.org](mailto:secretariat@etoconsortium.org)

