



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Extraterritorial Obligations and ESCR

Extraterritorial Obligations (ETOs) refer to the obligations of States to respect, protect and fulfill human rights outside their territorial jurisdiction. These obligations especially apply to economic, social and cultural rights (ESCRs), as made evident in numerous cases in the light of current globalization processes. All human rights obligations of States have extraterritorial dimensions such that they take into account in policy making and regulating legal and natural persons. Nevertheless, decision makers still tend to restrict rules and policies to the domestic level and neglect to avoid or prevent human rights violations in other countries through acts of commission and/or omission.

The resulting lack of accountability for such actions and omissions that affect ESCR beyond national boundaries is the subject of the ETO Consortium, which is comprised of representatives from local communities, NGOs, academia and other entities, including HIC-HLRN. The ETO Consortium has amply documented and raised awareness within their own constituencies and the wider public about the potential adverse impacts on ESCR of internationally acting institutions, such as transnational corporations, intergovernmental organizations and international financial institutions.

ETOs and the UN Committee on ESCR

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a binding legal instrument for implementing ESCR universally. It requires states "to take steps, individually and through international assistance and cooperation, especially economic and technical" toward the full realization of the rights under the Covenant (article 2[1]). The UN Committee on ESCR (CESCR), which monitors states' compliance under the Covenant, has reaffirmed the international dimension of State parties' obligations in several of its General Comments and reviews of specific countries.¹

These legal findings affirm that States must respect, protect and—where possible—fulfill ESCRs. The Covenant and its corresponding obligations requires States and their agents to respect ESCRs in their own performance, as well as prevent ESCR violations by other parties operating from their national territories. These extraterritorial dimensions of the conduct of States should contribute to the realization of all ESCRs, such as the rights to health, food, water, adequate housing, descent work, education and social security.

CESCR has raised ESCR obligations in its dialog with States parties in such fields as development cooperation, privatization schemes, trade and investment, and

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urged governments to take into account the provisions of ICESCR when concluding bilateral agreements with other countries, whether as aid recipients or aid donors.

Within the CESCR reporting mechanism, civil society participation, including HIC-HLRN parallel reports and testimonies, have also contributed to address States' ETOs in all regions. HIC-HLRN and its Members are particularly active in raising ETOs in reports on housing rights especially in cases of forced eviction, displacement and land grabbing. ETOs are particularly relevant to cases of debt, conflict and occupation, and abetting certain forms of corruption with cross-border consequences. HIC-HLRN also addresses the obligations of State nonparties to ICESCR when they and their agents operate in, or affect the ESCRs of people in the territories of ICESCR State parties (e.g., Afghan housing rights affected by agents of the United States). Thus, ETOs are also relevant to other international legal regimes such as humanitarian law, criminal law, commercial and environmental law, as well as such processes as transitional justice.

Guidelines on ETOs related to ESCR

The ETO Consortium seeks to proffer solutions to the implementation gaps of ETOs related to ESCR and works toward developing corresponding international norms and guidelines. After four years of study and deliberation, the ETO Consortium's expert members adopted a set of 30 principles at an international conference at Maastricht, Netherlands in 2011. This standard-setting document provides an authoritatively reference for all actors involved in the monitoring of human rights at the national, regional and international levels. The Maastricht ETO Guidelines are also intended to mainstream ETOs among decision makers within governments and multilateral institutions.

The Maastricht ETO Principles follow in the spirit of the 1986 Limburg Principles on the implementation of the Covenant on ESCR² and the 1997 Maastricht Guidelines on Violations of ESCR.³

HIC-HLRN's work on ESCR

HIC-HLRN sees States' extraterritorial ESCR obligations as important as their territorial obligations. Many current economic, political and military processes violating people's housing and land rights are international in scope. HIC-HLRN seeks to raise States' ETOs in such processes, especially as they affect the bundle of ESCR, as well as certain civil and political rights.

States must take into account their extraterritorial human rights obligations when formulating bilateral and/or multilateral rules and policies in the fields of trade, investment and development cooperation, as well as in eradicating corruption, post-disaster reconstruction and participation in mega-events and projects. This should be done, for example, by conducting both environmental and ESCR impact assessments before taking and implementing decisions. HIC-HLRN promotes, develops and applies methodologies for such necessary measures. Among these tools are Eviction Impact Assessments, applying quantification methods, based on the UN Basic Principles and Guidelines for Development-induced Evictions and Displacement.

Within the Consortium, HIC-HLRN will take the lead in coordinating further efforts to address ETOs in conflict, occupation and war situations, as well as cases of corruption and cross-border asset recovery. From its specialization, HIC-HLRN sees ETOs—and, in particular, the Maastricht ETO Principles—as tools that are compatible with the rights and responsibilities to ensure that everyone everywhere can attain and sustain adequate housing and a human community in to live in peace and dignity. That is a prerequisite for people to enjoy all of their human rights.

Download the [Maastricht Principles on Extraterritorial Obligations of States](#)

¹ General Comments of the Committee on Economic, Social and Cultural Rights, at:

<http://www2.ohchr.org/english/bodies/cescr/comments.htm>.

² Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, at:

<http://shr.aaas.org/thesaurus/instrument.php?insid=94>.

³ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22–26, 1997, at:

http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html.