

<b>Institution: Lancaster University</b>
<b>Unit of Assessment: 20 (Law)</b>
<b>Title of case study: Case Study 1</b> <b>Human Rights Law in a Globalised World – Extraterritorial Human Rights Obligations (ETOs)</b>
<p><b>1. Summary of the impact</b> (indicative maximum 100 words)</p> <p>Skogly's research has significantly contributed to the understanding of how and to what extent states' human rights obligations go beyond the territorial borders of states. Increased globalisation has led to the need to address the human rights effects of states' international actions and operations, and Skogly's research in this area has directly influenced the development of authoritative principles regarding ETOs, and these are now actively used by NGOs and the United Nations. The case study focuses on how research findings have enabled NGOs and UN bodies to understand, articulate and apply states' extraterritorial human rights obligations.</p>
<p><b>2. Underpinning research</b> (indicative maximum 500 words)</p> <p>The research has been carried out from approximately 2000, and is located in international human rights law in the larger context of globalisation and its effect on human rights enjoyment. The research is situated in the debate amongst international human rights lawyers about the reach of human rights obligations generally. The traditional view has been that states have human rights obligations only towards their own citizens/residents, and that only states have such human rights obligations. The debate questioning this traditional view amongst academics and practitioners started in the late 1980s and addressed, <i>inter alia</i>, whether this narrow view of obligation-subjects represented a true picture of how human rights are violated and by whom. This led to significant discussion on human rights obligations of non-state actors, such as international organisations and multinational corporations, amongst others.</p> <p>After significant contribution to the debate described above through her work on the human rights obligations of international financial institutions, Skogly's research took a different path, and addressed whether states as the primary obligation subjects only have human rights obligations towards their own citizens/residence, or whether and if so how international human rights law provides for obligations for states outside their own borders. In other words, does a state have responsibility for the human rights effects of its international cooperation or foreign policy on individuals in foreign states? Part of the research was carried out through archival work in the United Nations in Geneva where the preparatory works for the two International Covenants on Human Rights was analysed in depth. Furthermore, other sources of international human rights law (including treaties, customary law) and case-law were studied, and Skogly systematically detailed the foundations for and scope of extraterritorial human rights obligations, particularly in the field of economic, social and cultural rights.</p> <p>The main findings of the research are threefold:</p> <ol style="list-style-type: none"> <li>1. The drafters of the Covenant on Economic, Social and Cultural Rights considered that States' human rights obligations go beyond national borders, and that states should not be able to commit actions (or refrain from necessary actions to protect human rights) abroad that they could not carry out at home.</li> <li>2. While this was clear for economic and social rights through an analysis of the drafting history of the relevant covenant, the extraterritorial reach of obligations for civil and political rights has been confirmed by international judicial bodies such as the European Court of Human Rights and the UN Committee on Human Rights.</li> <li>3. Very little attention has been given to these aspects of human rights obligations, by NGOs, the United Nations and national governments.</li> </ol> <p>Through the publication of journal articles and a monograph in 2006 (<i>Beyond National Borders: States' Human Rights Obligations in International Cooperation</i>), Skogly's work became known in</p>

non-academic circles, and in particular in non-governmental human rights organisations. The research has been carried out while Skogly has been in full time appointment at Lancaster University, and the impact has happened after 2008.

### 3. References to the research (indicative maximum of six references)

#### Main publication:

*Beyond National Borders: States' Human Rights Obligations in their International Cooperation* Antwerp, Intersentia, 2006, 222 pages. ISBN 90-5095-434-0 (According to Google Scholar – 40 citations) Rolf Künemann, Human Rights Director of FIAN International states: Her book “Beyond national borders” was path-breaking in this area for many readers from civil society and academia alike. (statement on file)

#### Related publications:

*Universal Human Rights and Extraterritorial Obligations*, Mark Gibney and Sigrun Skogly (eds.), University of Pennsylvania Press, 2010, 256 pp., ISBN: 978-0-8122-4215-7. Reviewed in *Human Rights Law Review* Vol. 11 (2011), no. 4: ‘The book is demanding, thought provoking and a fine example of international legal thinking at the beginning of the twenty-first century. The manner in which it is able to present the conceptual, practical, legal and political dimensions of extraterritorial obligations as they impact on various aspects of international human rights will appeal widely to researchers, professionals and policy makers in the fields of international law, human rights law and political science.’

‘Causality and Extra-territorial Human Rights Obligations’ in *Global Justice, State Duties: The Extra-Territorial Scope of Economic, Social and Cultural Rights in International Law*, Malcolm Langford, Martin Scheinin, Wouter Vandenhole and Willem van Genugten (eds.), Cambridge University Press, 2012, pp.233-258, ISBN: 9781107012776. This chapter was commissioned on the basis of the previous work done by Skogly on extraterritorial obligations.

‘Universal Human Rights without Universal Obligations?’, in Joseph, Sarah and Adam McBeth (eds.) *International Human Rights: A Research Handbook*, Edward Elgar, 2010, ISBN: 978-1-84720-168-7, pp. 71-96.

‘The Obligations of International Assistance and Cooperation in the International Covenant on Economic, Social and Cultural Rights’, in Bergsmo, Morten (ed.) *Human Rights and Criminal Justice for the Downtrodden: Essays in Honour of Asbjorn Eide*, Dordrecht, Kluwer Law International, 2003, pp. 403-420, ISBN: 9004136762. This was the first systematic analysis of the drafting history of article 2 (1) of the International Covenant on Economic, Social and Cultural Rights.

[‘Transnational Human Rights Obligations’](#), co-authored with Mark Gibney. *Human Rights Quarterly*, Vol.23, no.3, 2002, 781-798. Cited by 51 – Google Scholar.

### 4. Details of the impact (indicative maximum 750 words)

The research carried out by Skogly has resulted in a heightened attention to the legal foundations for extraterritorial human rights obligations amongst NGOs, the UN’s human rights bodies and human rights practitioners more generally. This attention has resulted in the question of extraterritorial obligations being incorporated into the work of such institutions, through submissions to the UN, questions to States about their international performance, and included in reports by NGOs. This is evidenced by activities detailed below.

Recognising that her research findings could affect the way human rights obligations are approached by states and non-state actors in the international human rights community, Skogly

took initiative (with FIAN International) to establish an international consortium on extraterritorial human rights obligations in 2008 (<http://www.etoconsortium.org/en/>). From the initial meeting of representatives of 7 NGOs and academic institutions, the Consortium now has 93 members, including Amnesty International, Human Rights Watch, Oxfam UK, and Greenpeace. Amnesty International, FIAN International and other members have included extraterritorial obligations as a focus in their work programme. (List of members is available at <http://www.etoconsortium.org/en/>). Skogly has played a key role in the research carried out by the Consortium, in particular addressing the challenges faced by extraterritorial obligations in terms of jurisdictional issues, remedies for human rights violations, causality and state responsibility. She has also taken part in case studies where actions or omissions of States have impacted on the enjoyment of human rights outside their territories (published in Coomans and Künnemann (eds.), *Cases and Concepts on Extraterritorial Obligations in the Area of Economic, Social and Cultural Rights*, 2012).

Since 2008 the Consortium has met at the following conferences: Heidelberg 2008; Lancaster 2009; Antwerp 2011; Geneva 2012, Vienna 2013. Regional meetings have been held in South America, Africa and North America.

The work of the Consortium (Skogly remains a steering group member), further led to the adoption by a group of 30 experts of the *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights* 28 September 2011. The group of experts came from the UN, Amnesty International and other NGOs, and highly respected international human rights lawyers from academic institutions. Skogly co-chaired the expert meeting. The Principles were adopted in the tradition of the *Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights* (1986) and the *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* (1998), both of which have had significant impact upon the understanding of current international human rights law. The Consortium actively disseminates the 2011 Principles and, after two years, it is clear that the Principles are actively used by UN human rights bodies and NGOs.

Following the adoption of the Principles, the UN Special Rapporteur on the Right to Food, Olivier de Schutter, sent the following unsolicited email to Skogly:

“I think everyone will agree with me that these principles would never have emerged without your own cutting edge work on this issue: you were the first, [...], to put an explicit emphasis on this emerging dimension of international human rights law”.

Likewise, the Human Rights Director of FIAN International stated that “Skogly’s various research articles contributed to the discussion within the Consortium. She has always had a clear vision of the Consortium as providing – among other benefits - a means for academic research to address the needs of human rights in practice... Professor Skogly’s continuing contribution to this field is a fine example for the relevance of academic research for practical human rights work.”

The Principles are actively being used by NGOs and the UN, *inter alia*, in the following contexts:

Through emerging use of the Principles in reports, submissions and statements within the UN and NGOs work, such as the Human Rights Council’s [Analytical study on the relationship between human rights and the environment, Report of the United Nations High Commissioner for Human Rights](#), December 2011; A/HRC/19/34, and in Amnesty International and Antwerp University’s submission to the UN Committee on the Rights of the Child, 30/4/12, the way these institutions approach human rights obligations has changed. The Principles and the work that led up to their adoption have provided a framework for a new direction in human rights obligation work by these institutions, and requires a new response from states regarding their effect on human rights enjoyment of individuals outside their own borders.

On 26.09.13, UN human rights experts held: “28 September 2011 was a significant moment in the development of international human rights law. [...]” “The Maastricht Principles filled a critical gap in the international legal framework, allowing human rights to effectively respond to the negative impacts of globalisation that cannot be regulated by one State alone.”

### 5. Sources to corroborate the impact (indicative maximum of 10 references)

Report of the Second Conference of the ETO-Consortium, Heidelberg 2008; available at: <http://www.fian.org/resources/documents/others/report-of-the-2nd-conference-of-the-eto-consortium/pdf>

Report of the Third Conference of the ETO-Consortium, Lancaster 2009; Available at: [http://www.lancs.ac.uk/fass/projects/humanrights/documents/Secker\\_10\\_eto\\_conference09\\_000.pdf](http://www.lancs.ac.uk/fass/projects/humanrights/documents/Secker_10_eto_conference09_000.pdf)

#### Organisational contacts:

- Human Rights Director, FIAN International, Heidelberg, Germany (can testify as to the impact of the research and work on extraterritorial human rights obligations (ETOs)).
- Deputy Director, German Institute for Human Rights, Berlin, Germany (can testify as to the impact of the research and work on ETOs).
- Head of the Economic, Social and Cultural Rights Team, Amnesty International, London, UK (can testify as to the impact of the research and work on ETOs).
- Director, Legal and Policy, International Commission of Jurists, Geneva, Switzerland (can testify as to the impact of the research and work on ETOs).
- Asheville Belk Distinguished Professor, University of North Carolina, Asheville, North Carolina, USA (can testify as to the impact of the research and work on ETOs).

#### Factual statements:

- Email from Human Rights Director, FIAN International, Heidelberg, Germany to corroborate Professor Skogly's foundational role regarding the ETO Consortium and the impact of her research.
- Email from UN Special Rapporteur on the right to food corroborating the key role that Professor Skogly played in the emergence of the *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*.
- UN Press release corroborating the significance of the *Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*.

Since 2008, Professor Skogly has received the following invitations related to this research:

- Invited to write a contribution to the International Bar Association's project on the Global Financial Crisis and its legal implications (2012-13).
- Invitation to serve on the drafting committee on the Principles on Extra-Territorial Obligations of States in the area of Economic, Social and Cultural Rights (2010-11). (Invitation declined due to other work-commitments).
- "Addressing the accountability gap: the role of states, international financial institutions and TNCs in light of human rights violations" Paper presented to Amnesty International hosted conference, Stockholm, November 2010.
- Hosted Consortium Conference at Lancaster University, September 2009.