

EXTRA-TERRITORIAL APPLICATION OF THE RIGHT TO DEVELOPMENT UNDER THE AFRICAN CHARTER

By

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Abstract

The African Charter on Human and Peoples Rights guarantees the Right to Development (RTD) but also imposes a duty on the African States to individually or collectively ensure the enjoyment of the RTD. Thus, a State or its agents may impede the realization of RTD in another State through its actions or failure to take actions. The enjoyment of the RTD will be significantly impeded if it lacks extra-territorial reach. This paper examines the extra-territorial reach of the RTD under the African Charter by probing the meaning of ‘collectively’ as provided in Article 22(2) in light of similar provisions under the UN Charter and the International Covenant on Economic Social and Cultural Rights (ICESCR).

Keywords: *Right to Development, Extra-territorial Human Rights obligations, African Commission, African Charter, international cooperation.*

I. Introduction

In the Vienna Declaration and Program of Action adopted in 1993, human rights is recognized as being universal and interrelated¹ yet the protection of those rights as well as responsibility for the commission of human rights violations has been severely limited by physical territorial considerations.² In our globalized world, acts and omissions of a State can have consequences beyond its physical territory. However, the legal recognition of State’s extra-territorial human rights obligations has not been given due consideration. One of the rights that requires extra-territorial obligation is the Right to Development (RTD).

The RTD is an inalienable right to participate in a process in which all human rights and fundamental freedoms can be realized, which would lead to the continuous enhancement of the welfare of individuals, based on their effective participation in development and distribution of

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¹ See para 5 of the Vienna Declaration and Program of Action adopted in 1993.

² I. S Sigrun and M. Gibney, ‘Economic Rights and Extraterritorial Obligations’ in: H. S Shareen and M. Lanse. (eds), *Economic Rights conceptual, measurement, and policy issues* Cambridge (University Press, 2007), 267.

benefits resulting therefrom.³ But to fully realize the RTD, States must act collectively and even be held accountable for their acts or omissions that affect the realization of RTD in other States.

Although the RTD is a soft law in the international community, the African Charter on Human and Peoples Rights (African Charter) guarantees RTD under article 22, which apply only to the African States. Its extra-territorial application among the African States is the focus of this paper.

This article has four sections. Section one introduces the discussion, while the next section highlights the conceptual framework towards an understanding of extra-territorial human rights obligations globally, and then in section three, it provides a synopsis and the extra-territorial reach of the RTD under the African Charter.

II. Understanding Extra-Territorial Human Rights Obligations

Extra-territorial human rights obligation includes among others, States' obligation to respect human rights beyond their borders by refraining from actions, whether by the State or its agents, which can hinder the enjoyment of human rights in another State. Under the Maastricht Principles on Extra-territorial Obligations of States in the Area of Economic, Social and Cultural Rights, extra-territorial obligations encompass:

- a) obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory; and
- b) obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally.⁴

Extra-territorial human rights obligations of the States could arise separately or jointly under the two Maastricht principles outlined above. For example, principle 8 (a) and (b) could arise under the obligation of the State to ensure that a corporate organization domiciled within its territory does not provide funds for projects that could lead to the violation of human rights such as forced

³ Art 2(3) of the Declaration on the Right to Development adopted by General Assembly resolution 41/128 of 4 December 1986. Art 8 further explains this point by stating that: "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices."

⁴ Principle 8 of the Maastricht Principles on Extra-territorial Obligations of States in the Area of Economic, Social and Cultural Rights, extra-territorial 2011.

evictions in another State.⁵ This obligation arises under principle 8 (a) and (b) because the State legally possesses the power to control the conduct of corporate organizations domiciled within its territory and also because of the obligation to take separate and joint action to realize human rights internationally.⁶

Although the Maastricht Principles on Extra-territorial Obligations of States in the Area of Economic, Social and Cultural Rights are just soft law instrument adopted by a group of academics and civil society activists, it summarize the human rights obligations, which States could have regarding people living in third countries. These principles focus on economic, social and cultural rights but can to a large extent also be applied to civil and political rights and to some extent also apply to most human right Treaties. States have extra-territorial obligations whenever they exercise authority or effective control over a territory and/or an individual. They also have extra-territorial obligations whenever their actions or omissions have a foreseeable effect on socio economic rights in third countries as well as if they are in a position to exercise decisive influence or take measures to realize socio economic rights in third countries subject to international law.

States' extra-territorial obligations include respecting socio economic rights abroad. In this regard, States must take steps to avoid actions that could impede the enjoyment of socio economic rights in third countries. This can be, for example, by carrying out human rights impact assessments of laws, policies and practices. Furthermore, where their actions or policies impede socio economic rights in third countries they should ensure access to effective remedies for those affected. States have extra-territorial obligations when engaging and executing international agreements, they must confirm that the agreements are in line with their human rights obligations and not impede the enjoyment of socio economic rights in the country of the other party. For example, trade and investment agreements should not limit the policy space of the other party to implement measures, such as public health regulations or food security policies intended for the enjoyment of human rights.

States' extra-territorial obligations also includes due diligence to ensure that transnational corporations (TNCs) domiciled in their territory that are under their regulatory powers do not undermine the enjoyment of socio economic rights in third countries where they operate. Another important aspect highlighted by the Maastricht Principles 8 is that States have an obligation to individually and jointly develop international policies conducive to the realization of socio

⁵ O. De Schutter, 'Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights' [2012] (34)(4) Human Rights Quarterly; 1101.

⁶ Id.

economic rights and are accountable for their own conduct when acting through international organisations.

Under the draft articles on Responsibility of States for internationally wrongful acts, certain extra-territorial actions by a State can be attributed to it. According to Article 4(1) of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts “the conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions ...” The mention of a State organ under Article 4 is envisioned to apply generally. It is not restricted to the organs of the central government or to individuals that is charged with the external relations of the State. It applies to State organs of any classification, exercising any functions, and at any level as far as they are “in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”⁷

A State is considered to be an intangible entity; it exists in thought but lacks a physical existence. It is incapable of undertaking any physical act itself. Similar to domestic corporation law where the companies act through their officers and agents, under international law the State ordinarily acts through its agents and officials. The acts or conduct of a private entity or TNC that is exercising public or governmental functions can be attributed to the relevant State.⁸ Such attribution is now even more necessary with the increase in privatization of State organs that still hold some public functions. Consequently, the Draft Articles express its opinion in this regard as follows:

The conduct of a person or entity which is not an organ of the State... but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law provided the person or entity is acting in that capacity in the particular instance.⁹

Therefore, the extra-territorial acts of a TNC vested with a State’s authority and, which violate international human rights law can be attributed to the State and give rise to international responsibility including even when “it exceeds its authority or contravenes instructions.”¹⁰

⁷ Article 8 of the Responsibility of States for Internationally Wrongful Acts 2001.

⁸ the decision of the International arbitral tribunal in *Técnicas Medioambientales Tecmed S.A. v United Mexican States* Case No ARB (AF)/00/2, award, 29 May 2003, para 120 where the arbitral tribunal constituted to hear this matter made reference to the text of article 4 to support its finding that the actions by the National Ecology Institute of Mexico, an entity of the United Mexican States in charge of designing Mexican ecological and environmental policy, were attributable to Mexico. See also *Noble Ventures, Inc. v Romania* Case No ARB/01/11, award, 12 October 2005, para 69.

⁹ Article 5 ILC Articles on State responsibility.

¹⁰ Article 7 of the Responsibility of States for Internationally Wrongful Acts 2001.

Some scholars have contextualized extra-territorial human rights obligation, although in different forms. According to Nowak, “extra-territorial jurisdiction [is] in the sense of a broader definition of territory than a state’s own territory... whenever the authorities of a state partly exercise effective control over territory or persons outside the states own territory in the narrow sense.”¹¹ In Milanovic’s opinion, extra-territorial application of human rights implies that at the time of the purported abuse of an individual’s rights “the individual concerned is not physically located in the territory of the State party in question or a geographical area over which the State has sovereignty or title.”¹² What all these forms have in common is that a State seeks to influence the conduct of individual and to protect human rights outside its national territory. Traditionally, it is assumed that most of the human rights treaty obligations apply to a State’s physical territory,¹³ but the exact scope of its territorial application is a subject of debate. The Vienna Convention on the Law of Treaties (VCLT) of 1969 provides little or no clue to the exact scope of territorial application of human rights treaty. Article 29 VCLT is silent on the application of treaty provisions outside State party’s territory, and this creates a supposition against extra-territoriality.¹⁴ In the International Law Commission’s (ILC) commentaries to the draft Articles on the VCLT, the ILC stated that “it is by looking at the subject matter of a treaty – the content of the rights and obligations that it creates – that we can tell whether and how those rights and obligations apply territorially”.¹⁵

The traditional view that human rights only apply within the physical territory of a State has been increasingly challenged. In reality, it is clear that States and other actors have the ability to impact human rights outside their physical territory. Economic globalization has underscored socio-economic inequalities across the world,¹⁶ and the increased power and impact of corporations,

¹¹ M. Nowak, ‘Obligations of states to prevent and prohibit torture in an extraterritorial perspective’ in: Mark Gibney and I. Sigrun, Skogly *Universal human rights and extraterritorial obligations* (Pennsylvania studies in human rights, 2010), at 14.

¹² M. Milanovic, *Extraterritorial application of human rights treaties Law, Principle, and Policy* (Oxford Monographs in international law, 2011), 8.

¹³ See United Nations Human Rights office of the High Commissioner “Monitoring the core international human rights Treaties” <https://www.ohchr.org/EN/HRBodies/Pages/Overview.aspx> (last visited July 29, 2020) which states “Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty.”

¹⁴ Although, the VCLT regulates the making of, not only human rights treaty, but also of other types of treaty. It is not expected that the VCLT will address extra-territorial application of human rights treaties, however, reference to the VCLT here, shows that we cannot turn to it for a solution to this issue even as it regulates the making of treaties.

¹⁵ ILC, Draft Articles on the Law of Treaties with Comments 2 Yearbook of the International Law Commission (1996), 187.

¹⁶ W. Vandenhoe, and Willem van Genugten, Introduction: an emerging multi-duty-bearer human rights regime? In: W. Vandenhoe, (ed), *Challenging Territoriality in Human Rights Law: Building blocks for a Plural and diverse duty-bearer regime* (Routledge, 2015), 1

international organizations and other non-State actors constitutes a major challenge to human rights law.¹⁷

Concerning the language used in some treaties, particularly the jurisdictional clause, the broad and liberal interpretation given to it by international bodies, signify that their application is not restricted only to State's physical territory¹⁸. The understanding of jurisdiction under public international law is not exactly the same under human rights treaties. According to Costa, "Jurisdiction in public international law presupposes legality (it is related to the sovereignty of equal states) and it has been referred to as the authority to affect legal interests."¹⁹ However, jurisdiction in human rights law echoes the exercise of State power or authority.²⁰ This notion has been supported in some judgments of the European Court on Human Rights (ECtHR), Inter-American Commission and some views of the Human Rights Committee (HRC). See for example, *Al-Jedda v United Kingdom*²¹ where the Court held that the detention of the applicant in a British facility in Basrah on the suspicion of recruiting terrorist abroad with the intent of committing atrocities in Iraq was in breach of art 5(1) of the ECHR. Thereby, affirming the extra-territorial application of the ECHR. The HRC has, in many cases, interpreted the term jurisdiction in art 2(1) to imply the extra-territorial application of the ICCPR. One of such cases is in *Sergio Euben Lopez Burgos v Uruguay*²² in which Lopez Burgos, a Uruguayan trade-union leader, who fled to Argentina to avoid persecution from the authorities, got kidnapped by Uruguayan agents with the help of Argentina, tortured him, and brought him back to Uruguay where he was further abused. In its advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ observed that "While the jurisdiction of States is primarily territorial, it may sometimes be exercised outside the national territory." Similarly, In *Victor Saldano v Argentina*²³ the Inter-American Commission observed that it did not agree that the word jurisdiction as contained in art 1(1) of the American Charter on Human Rights is restricted to national territory.

¹⁷ Id.

¹⁸ For example, in the Human Rights Committee General Comment number 31 titled: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, under paragraph 10, the committee states: "States Parties are required by art 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory and to all persons subject to their jurisdiction. This means that a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party..."

¹⁹ K. Da Costa, *The Extraterritorial Application of Selected Human Rights Treaties* Leiden (NL: Brill | Nijhoff 2012), 13.

²⁰ Id.

²¹ Appl. No. 27021/08 (2011) ECtHR.

²² 52/1979 CCPR/C/13/D/52/1979 1981.

²³ REPORT N° 38/99 Petition Victor Saldaño Argentina March 11, 1999.

There are some texts in the African Charter that point to the extra-territorial obligation of States parties to the Charter. For example, article 23 of the African Charter requires international cooperation and assistance from States parties to ensure national and international peace and security. For this purpose, the African Charter requires States parties to ensure that their territories shall not be used as bases for traitorous activities against the people of another State party. There are noticeable dispositions in the jurisprudence of the African Charter as well as in the African Commission's rulings in favor of the extra-territorial scope of States' human rights duties, which could further bolster the extra-territorial scope of RTD.

IV. The Extra-Territorial Reach of the Right to Development under the African Charter

Under the African human rights system, RTD is legally binding on all State parties. Article 22 of the African Charter on Human and Peoples' Rights provides thus:

- 1 All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
- 2 States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Paragraph one of article 22 highlights the multidimensional nature of RTD, it accentuates that RTD consists of economic, social and cultural development. Although it does not mention civil and political rights, it did mention freedom, which is a component of civil and political rights. Additionally, the preamble to the African Charter, under paragraph 8, shows that article 22 could not have neglected civil and political rights.

Article 22(1) also presents the RTD as peoples' rights; however, it does not repudiate the point that the RTD is also an individual right. Regarding this, the African Commission confirms the individual and collective dimension of the RTD in *Open Society Justice Initiative v Côte d'Ivoire*.²⁴ The Commission considers in the *Open Society* case that:

There is indeed a fundamental convergence to comprehend the right to development as an inalienable, individual or collective right, to participate in all forms of development, through the full realization of all fundamental rights, and to enjoy them without unjustifiable restrictions.²⁵

²⁴ Communication 318/06 African Commission on Human and Peoples Right para 183.

²⁵ *Id.*

The provision of article 22(2) of the African Charter requiring State parties to individually or collectively, ensure the exercise of the RTD is similar to the provision in article 1(3) of the UN Charter and article 2(1) of the ICESCR which also requires State parties to ensure human rights through international co-operation. As we will see, the requirements in the UN Charter and the ICESCR have been suggested by the Committee on Economic, Social and Cultural Rights (CESCR) to impose extra-territorial obligation on the States. Although, the African Charter used the wording “collectively” under article 22(2), it also used the wording “international cooperation” to imply the extra-territorial reach of the provisions in the African Charter in its Preamble. Thus, the terms “collectively”, “jointly” and “international cooperation” are wordings used by some treaties to imply their extra-territorial reach. The UN Charter and the ICESCR could be an inspirational source that could possibly provide guidance to the understanding of the extra-territorial reach of the RTD.

In order to help us understand the nature of the word “collectively” provided under Article 22(2) of the African Charter and which assign duties to Member States, we have to examine it in light of similar provisions under the UN Charter and the ICESCR. The UN Charter provides for more than territorial human rights obligations under article 1 of the Charter where it establishes the purpose of the United Nations as to achieve international co-operation in, among others, “promoting and encouraging respect for human rights and for fundamental freedoms for all”. The inclusion of the passage international co-operation in article 1 is significant in relation to the issue of extra-territorial human rights obligations. If the UN Member States claim that human rights obligations are territorial, this would disregard the principle of international cooperation in article 1.

Furthermore, article 56 of the UN Charter calls on all Member States to “take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in article 55”. The purpose outlined in article 55 includes “universal respect for, and observance of, human rights and fundamental freedoms for all”. In McBeth’s opinion, all human rights treaties should thus be given interpretation in line with article 56 of the UN Charter, signifying that achieving human rights is not only a national concern but also a global concern.²⁶ The term “joint and separate action” has a clear extra-territorial component to it. This is clearly so since only one of the Member State acting separately can only achieve the promotion of human rights domestically, while all the other States taking joint action will possibly address respect for human rights in another state.

In reference to the scope of the obligation of the State Parties, the ICESCR provides that:

²⁶McBeth, A. *International economic actors and human rights* (Routledge, 2009), 51.

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant.²⁷

The expression “individually and through international cooperation” suggests that a State’s action to realize ESCR can both be exercised by an individual State to realize ESCR within its territory and by a number of States acting cooperatively to realize ESCR extra-territorially, for example, the UN, EU or AU. Article 2(1) ICESCR did not limit its scope with the words territory or jurisdiction, but referred to the international facet of the realization of ESCR through “assistance and co-operation... to achieving progressively the full realization of the rights”. It can therefore be rightly assumed that the drafters envisioned a level of extra-territorial application of the treaty.²⁸ Some States do however agree that the ICESCR impose some amount of extra-territorial obligations. This is shown in the resolution of the UN General Assembly on the right to food, which requires that States adopt policies locally and internationally aimed at eradicating poverty and to fulfill human rights for everyone, it also requires that they endeavor to safeguard the right to food in their international policies as well as in trade agreements.²⁹ Additionally, the CESCR consider that international cooperation for enjoyment of ESCR is a responsibility of all States and that it is essential that those States who are able to assist others to do so regarding this.³⁰ Similarly, in the CESCR General Comment No. 14 on the right to the maximum achievable standard of health, the Committee observed that States parties should promote the realization of the right to health outside their borders in harmony with the UN Charter and relevant international law, as well as prevent the violation of rights by third parties in foreign land if they have the means of influencing the actions of these third parties through legal and political means.³¹ A related comment can be seen in the CESCR General Comment No. 15 on the right to water, which enjoins Member States to respect the right to water in other countries.³² And that cooperating internationally includes that Member States should abstain from deeds that can obstruct achieving the right to water in other nations.³³ The Committee also stated that whatever action embarked

²⁷ Art 2(1) of ICESCR.

²⁸ Coomans, F. Application of the International Convention on Economic, Social and Cultural Rights in the framework of International Organizations 11 Max Planck Yearbook of United Nations Law (2007), 362.

²⁹ See The Right to Food, G.A. Resolution 59/202, U.N. GAOR, 59th Session, 32, 20, U.N. Doc. A/RES/59/202 2005.

³⁰ General Comment No 3 on the Nature of States Parties Obligations 1990.

³¹ U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 14 2000, the right to the highest attainable standard of health U.N. Doc. E/C.12/2000/4 para 39.

³² See para 31 of U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 15: The right to water that says: “To comply with their international obligations in relation to the right to water, States parties have to respect the enjoyment of the right in other countries.”

³³ Para 31 of U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 15: The right to water, which says: “international cooperation requires States parties to refrain from actions that

inside a State's jurisdiction should not prevent another State from realizing the right to water in its territory.³⁴ In 2007, the Committee also maintained this concept in the CESCR General Comment No. 19 on the right to social security where it stressed the importance of international cooperation³⁵ and said that in line with States' external obligations regarding right to social security, they should avoid actions that interfere in anyway with attaining the right to social security in another State and should stop their own nationals from violating this right abroad.³⁶

Similarly, in para 66 of the General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), the Committee on Economic, Social and Cultural Rights (the Committee on ESCR) again stressed the importance of international cooperation thus:

All States must take steps individually and through international assistance and cooperation, especially economic and technical, with a view to achieving progressively the full realization of the right to just and favourable conditions of work.

There are some precise conditions in which States can act to ensure the RTD extra-territorially. For example, Member States of an international finance corporation should exercise due diligence when financing extractive industries. This is possible where a mining project may result to displacement of households without compensation or a dam project resulting to lost of drinking water and water for irrigation or result to threat of water-born disease due to stagnant water or result to communities being cut off from accessing roads thereby compelling them to walk long distances so as to access their land, markets and connect to other communities. The international

interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party's jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction." (Arts 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) UN doc. E/C.12/2002/11 states: "To comply with their international obligations in relation to the right to water, States parties have to respect the enjoyment of the right in other countries. International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party's jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction..."

³⁴ U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 15 2002, the right to water U.N. Doc. E/C.12/2002/11.

³⁵ U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 19 2007 on the Right to Social Security para 52.

³⁶ Ibid., para 53.

finance corporations have over 187 Member States who are shareholders. The Board of Governors in which each of the Member States have a representative (Member States ministers of finance) is the final policy making body. States decisions within the international finance corporations can have far reaching implications on the RTD of people living in countries of extreme level of vulnerability.

Another precise condition in which States can act to ensure the RTD extra-territorially is for the Home States of TNCs to cooperate with the host State to safeguard labor rights and the right to work. For example, where a TNC arbitrarily dismisses its employees due to their participation in strike or where it breaches the labor laws of its host State in any way. The Home State is required to comply with its international obligation to promote the right to work in the host State of the TNC where it can influence the TNC through legal or political means. The National Human Rights Institution of the Home State can also investigate human rights abuses of a TNC and report to its Home State for appropriate action.

A military conflict where a portion or all of a third State's territory is occupied presents another area where States may ensure the RTD extra-territorially. The occupying State must respect the RTD of individuals within the area they occupy. The occupying State should not impede the self-determination of the people, the wanton destruction and confiscation of land and property must be prohibited. The occupying State should apply the provisions of the Geneva Conventions relative to civilian persons in time of war.

V. Conclusion

Right to Development is a right which, when realized would lead to the continuous improvement of the wellbeing of all peoples and individuals. This right is guaranteed under the African Charter and to a large extent, its realization is dependent on the actions of third States. Therefore, State's human rights obligations have to be applied in such a manner that States can be held accountable for their actions that affects the enjoyment of RTD in other States. As we have seen above, there is no textual basis for limiting the provisions under the African Charter to only within the State parties' territory, rather, there are texts in the Charter that suggest that its provisions can also apply to extra-territorial acts that inhibits the realization of human rights. The African Commission has demonstrated its readiness to hold States accountable for their actions, which violates human rights in other States. The requirement under article 22(2), that the States should collectively ensure the exercise of the RTD should be understood in light of similar provisions in the ICESCR that have been interpreted by the CESCR to impose extra-territorial obligation, this is because human rights is not only a national concern but also a global concern. The African Commission may draw inspiration from CESCR while interpreting and applying the provision under the African Charter.