

Welcome to Turning Conscience Into Action, the Earth Charter podcast. Join Mirian Vilela, Earth Charter International Executive Director, in her fascinating conversations with great thinkers, scholars and activists from around the world who are working in the fields of sustainability, ethics, education and social transformation. Our purpose is to generate new insights on how to face current global challenges and inspire informed action.

In this podcast episode, we are having a conversation with Tineke Lambooy, who is Professor of Corporate Law at Nairoder University in the Netherlands.

So Tineke, ten years ago you published this wonderful book that brings together the Universal Declaration of Human Rights and Earth Charter, and you make a comparison of both documents. And ten years ago you looked at that as two documents that can form a useful instrument for global ethics nowadays. And if you can please comment a little bit more on the vision you have had, ten years ago in the vision you have now with regards to these both documents being complementary to each other. Okay, Mirian, thank you very much for this opportunity.

Indeed, together with Rude Leverst and Willem van Konurte, ten years ago we made an analysis about possible complementarity and differences between the Universal Declaration of Human Rights issued in 1948 and Earth Charter, which was published in the year 2000. And we came to a number of complementarities. The first one is that the Universal Declaration was published after the Second World War. And of course at that moment people were really focused on the freedom of speech, on the freedom of the physical integrity, freedom of religion, freedom to vote for whomever you want to vote.

So it was very much focusing on the basic human rights, both political and also social human rights, whereas these were further developed in nine subsequent human rights treaties. And whereas the Earth Charter, the product is of a long discussion which started in Rio 1992, where the natural environment and integrity was at one of the topics that was heavily discussed.

When you read the Earth Charter it becomes clear that the integrity of the nature is something that is added to those fundamental rights that are in the Universal Declaration and that everybody not only has freedom to speak and to vote, but that people also have a right to live in a clean and healthy environment, that they are entitled to breathe clean air and to drink clean water and to eat products that are not polluted with chemicals, for instance, poisoned with chemicals.

So the element of nature, the right to clean and healthy environment is really well explained in the Earth Charter. Another thing that is really well explained in the Earth Charter is the right to peace and that everybody not only has a right to peace, but also has an obligation or a duty to help peace being established everywhere in the world. In this context it is also important what the Earth Charter in their lines is cultural diversity. So that is one of the main challenges now, that special cultures, indigenous people, but also certain religions are always being pushed at the side by the mainstream communities and the people in power.

And that really is a challenge, it is a very tricky challenge for all of us, because we need nature, but also the people that live in that nature and the wisdom keepers of ancient wisdom. And the Earth Charter in the lines that well by explaining that there is not only biological diversity that must be treasured, but also cultural diversity. Well, and then another complementary issue is that the Universal Declaration for most addresses nations and the leaders of states, whereas the Earth Charter is a peoples document that has been developed in seven years time.

I think 15,000 people and NGOs and organizations and governments and companies and people from different backgrounds have been brought together in different groups and talked about the basic values of humankind. So it's the basic values, so it's not only about what are your rights, but it also adds what are your responsibilities and obligations. And those responsibilities and obligations are not only put on a state level or a company level, but on everybody, him or herself. So everybody can contribute to a healthy and clean environment and a peaceful environment and also an environment in which social justice has emerged and has been given in place.

So that's the second category of complementarities. The third category is that the Earth Charter really addresses all those different actors. So where the Universal Declaration is a nice statement and also the human rights treaties contain nice statements, the Earth Charter in a more clear way explains that it's you and I who have that responsibility that together we live on this planet, it's our house, the planet is our house and together we have to do it. So we have to work together. The rest of the individuals.

Yes, individuals and groups. And stimulates the cooperation between people and between groups. So you talked about how both documents reinforce each other, the complementarity and linkages. All the Universal Declaration values can be found in the Earth Charter and on top of that we also find other values based on natural science, based on the values communicated to us by wisdom keepers, indigenous people. Wow. Yeah. Okay. Thank you. Now, 70 years. So 70 years since the Universal Declaration of Human Rights, since it was launched.

We are in 2018, we are celebrating 70 years since the launch of the Universal Declaration of Human Rights and 18 years since the launch of the Earth Charter. So all this time. So given this, what do you think is the relevance or the current relevance you see of these two instruments for the current times? And what are the most fundamental challenges humanity faces to actually implement these instruments at its fullest? Yes. Going with your last question about the most feared challenges that we face, I think the first is destruction of nature.

It happens everywhere and every day in the soil, in the water courses and in the air. And I think that that is I think number one of most severe challenges because if we don't take care of our house, of the earth, it will be difficult for future generations and maybe for ourselves too already to live in this house and to benefit from all the fruits or the ecosystem services that it provides to us. So many people don't see it. They think science or technology will find a solution for climate change or for chemical pollution of rivers.

I think we have to start today with thinking about this and doing what we can to prevent further degradation of ecosystems and the biological diversity. This is also pointed out by Rockström who has published the article on the planetary boundaries in which he explains what is the safe operating space for humanity. So when the nine planetary boundaries are crossed, there will not be a safe operating space for humanity. So that's number one. And then number two is also inspired by Kate Raward, the social foundation.

She wrote about the donuts inside of the planetary boundaries with all the most important values that we can also find in the Earth Charter about social equality. So when the social equality is diverging, it's increasing. If the inequalities are increasing, like also Piccati is writing about, the earth will be a more dangerous place because you will have rich people in small towns with lots of security around it and then you will have a mass of people who are really poor and who have difficulties with surviving in their daily course of life.

And that will be a second challenge. We also see that in Europe with the immigration from Africa, it's massive, this immigration. And why is that? Because the fortress of Europe is perceived by African people as a deep place to live with clean water, clean air, food, income, jobs and safety. Yeah, safety, whereas in their own townships, they are being killed for telephone, you know, 80 bucks or so. So that will be a second challenge. So we have to take care of this equality, social equality to adhere to the social foundation as also explained in the Earth Charter.

And the third major challenge that I see is war, war, massive destruction of people and communities by chemical weapons, nuclear weapons, old fashioned weapons, but then used, yeah, in a weird way by people who are sitting thousands of kilometers further in the US or in Europe, and pushing on buttons and drones that are sending out all those missiles. And look at Syria, for instance, it's a destroyed community, whereas 10 years ago it was quite a beautiful country with treasures, with very empty treasures too.

People were reasonably happy, not happy with the regime, of course, because they had no freedom of speech. But now it's dramatic. The country is not there anymore, and there's not one family that is complete anymore. I think so many families lost family members. They were killed or they died or they fled. So I think that that's also a responsibility that we have to prevent wars and prevent the use of weapons. So how about the relevance you see on these both documents to the current times? Yeah, so when you see those three challenges and the role everybody has to play as a government or politician or policymaker in the government or as a company director or employee or entrepreneur or academics, NGOs.

It's very important to have one clear framework. And I think this global ethical framework of the Universal Declaration that has been here for 70 years and the Earth Charter which has been here for almost 20 years is a very beautiful summary for people to understand what it is, what we want, where we need to go to. And both documents are very easy reading, so everybody can read them. It's only five pages Universal Declaration and five pages Earth Charter. So I think that that's also one of the key benefits of these two documents that people can read them and understand them.

They've been translated in many languages, both of them, probably in all languages of the world. They harmonize values. Condense, no? Yeah, they are in a condensed way. They present all those values from all those different backgrounds so people can relate to them. So I think that that also helps you in the education center of the Earth Charter here in San Jose. And they can help then address the current challenges and give guidance in how to address the current challenges. I think so. Yes, because for instance the Sustainable Development Calls are goals.

Where do we want to be in 2030? What is the ultimate goal? But the way towards that goal requires a framework, a normative framework, and I think these two documents really provide that. That's good. Let's look at one specific sector that you are very used to think about, which has to do with private sector, the role of private sector in CSR, corporate social responsibility. So how would you recommend the business sector in the field of CSR? How would you recommend them to see the value of their charter?

How they could use their charter? Yes, I think since the year 2000 it has become clear in all sorts of international documents that what we need is a complementary governance. It's not only states that can solve all the problems that we see around us. I already said everybody has a role to play. And big companies, but also small companies, have a lot of power to play that role, a lot of capabilities to play that role, especially multinational companies. They are in almost all countries of the world active.

So whatever they do has local impact. They are also very forceful in their communication through advertisements and so, so anything they say reaches a lot of people. At the same time, don't neglect small companies like social entrepreneurs who are really change agents. They're very flexible. They can start a new project tomorrow if they see a challenge like the plastic in the oceans. There are a lot of social enterprises that have been focusing on that problem and have translated the problem into action by doing something themselves.

It could be selling a plastic bottle like the dopper, which really raises awareness about plastic in the ocean. It could be building technology for solving plastic in the ocean. It could be through education that you are educating people about not throwing away plastic in nature that goes to the ocean ultimately or from ships. So that is important. And so big companies have a role to play and can play that role. Small companies have a role to play and can play that role and are actively taking that role.

But for all companies, it's very good to have a clear mission and that mission could be helped or the earth yard could contribute to that. So as a company, you need to have a clear statement. This is what we stand for. And then of course you can translate that in policies that are relevant for your sector or for the type of work that you do for your employees, for your management. You can agree on confidence with other companies on a certain way to go. And because we're talking about a global economy, it's very important that we all use similar values as our basic values.

So that is how I see the role of the Earth Charter that they can help companies to define their mission statement or they can adopt the Earth Charter as their mission statement to become purposeful entrepreneurs. So not only to make a profit but also to leave something behind that will be valued by next generations. Do you see any special role there is in

playing for social enterprises? Yes, I think so. Social enterprises are hybrid organizations. They want to create an answer to global or local challenges, challenges that are social or ecological or humanitarian.

So social enterprises are quite innovative. Usually bottom up organizations could be bottom up entrepreneurs could also be bottom up NGOs or NGOs that are transforming into social enterprise. In Europe we have a clear definition by the European Commission and it reads that a social enterprise is characterized by having a social purpose in its constitutional documents involving stakeholders in its decision making models. So it's a participatory organization. Thirdly, it has capital restraints which means that it cannot distribute any capital or dividend to the incorporators or directors.

It's not 100% capital restrained or dividend restrained. Of course you can pay the directors a salary but not as profit distribution. So it could also be a capital lock for a certain percentage, 70% or 50% something like that. But at least the idea is that the capital and the profits that are being earned is applied for the social or ecological or humanitarian cause that the social enterprise has as its social purpose. And then the fourth characteristic of social enterprises is transparency. That they show that they can show how they impact the beneficiaries or the call that they are striving for.

So they have to publish information about what they do and how they create impact and if possible also to measure that impact and give information about that and that could be in their annual reports or on their website or in newsletters to the community. And the interesting thing is that the European Commission has formulated these four characteristics and at the same time there is not one European law that has created the legal form for social entities, social enterprises, but in 16 out of the 28 plus Switzerland 29 European member states, a company law already created special legal forms, tailor-made legal forms for social enterprises.

So in Greece, in England, in Belgium, in many countries you can find a special legal form which can be used by social enterprises. In which those four characteristics all can be retraced. So when you look at the community interest company in England, for instance, legal form, when you look at the characteristics thereof you will see that they align with those characteristics mentioned by the European Commission. However, there is a lot of discussion always, what does social mean in social purpose or societal purpose?

What does it mean? In any company, small or big say, oh, I'm a social purpose and then use that in advertisements, so also for remorging sometimes, or is there a clear definition what is social or not? So what we did is we, with our research team in the Netherlands, we assessed 200 English community interest companies and 200 Dutch social enterprises and we looked at their social purpose. So we looked at their constitutional documents, what they write about their social purpose in their annual reports, what they write on their websites, what they tell consumers about their products or services, what they do in their reports and we categorized all the social purposes and societal purposes that we came across.

So some are really about protecting nature, otherwise they are about animal welfare, some are about many are about work integration and by discrimination. There are also many

about social cohesion in the community. There are a lot about improving international supply chains to make them more sustainable. When you categorize the different types of social purpose and compare these with the values of the Earth Charter, you can see that all of those values of the Earth Charter come back in the societal purposes that we analyzed in those 400 social enterprise companies.

So when people say you cannot define societal in societal purpose, we usually point at the Earth Charter, well this is a clear document that you can use to decide whether or not this is a social enterprise. So yeah, we recommended that to legislators who are writing laws and so to make a liaison between, yeah a link for defining societal purpose with the Earth Charter plus the sustainable development goals because that's also a very clear mechanism for businesses. Okay, the last one and it's good.

So Toka, can you share with us a little bit about the experience you have had in addressing a conflict between the Netherlands and India on G-STAR. When it happened, what was the context and what did you do and how you used the Earth Charter in that situation? Okay, yeah, ten years ago a serious conflict had arisen between the government of the Netherlands and the government of India about some disputes between NGOs, unions, companies all relating to corporate social responsibility. It was unclear what the facts were, it was unclear which rules had to apply to these organizations because states have different rules to abide by and NGOs.

In the Netherlands and unions in India have different rules that they follow or want other people to follow them and then their international norms like the ILO norms when we talk about labor standards. So it was quite difficult in this group of actors that had a conflict among themselves to find a common way to solve the problem, to find a common goal. And Guit Luger, the former prime minister of the Netherlands, who was requested by this group of people to become the mediator in this group, and who had asked me to assist him in one, yeah, because the conflict had related to corporate social responsibility norms.

So together for a year, one year we were working on solving this conflict. When it became clear that all the norms were, that the multiplicity of norms was the cause of conflict and made it difficult for the parties to reunite, Guit Luger suggested to have a look at the Earth Charter and take that as the common ground. The common ground on which all parties could find each other. Plus he could involve the Earth Charter people in India, especially Ashok Koshla, to become part of the mediator, mediating team, which he agreed to.

And moreover we could also use the Earth Charter as the guidance for the ombudsman whom we appointed in India to take care of the disputes and to prevent a discussion about which norms would apply. He could use the Earth Charter because the Earth Charter would give the ombudsman a tool in his hand to decide what would be fair and just. And the ombudsman was a very senior former Supreme Court judge of India and he accepted that challenge and he was ombudsman for I don't know almost five to seven years and he succeeded in his task because in that period everything was very peacefully and easy.

So it helped, it helped overcoming different norms because different jurisdictions have different norms. So different jurisdictions, different norms. Was the union in India? Different actors. The company in the Netherlands that had business in India, right? Yeah,

companies in India. And what were the unions, what were they demanding or what was the issue for them? They wanted, there were some new unions, they wanted a place at the negotiation table with the local company directors to negotiate about labor conditions, labor standards.

However, Indian laws prescribe very precisely that only unions that have at least representation with 10% of the workforce or 100 employees are allowed to sit at the table with the board with the directors. Otherwise, if you have 3000 employees, there could be 3000 unions that want to have a discussion with you and you have no time anymore for your work. These laws have been implemented in India already under British rule. So that is the law in India. Of course, ILO norms, the International Labor Organization, promote involvement of unions.

And in the ILO norms, it doesn't state that you need to have 10% representation because ILO norms are more overarching. It's more the principle that they advocate. In the Netherlands, we have different laws. We don't have this 100% representation. We have 10% representation requirement. So in the Netherlands, even when a union represents only one employee, you can still ask admission to the board. So here was a difficulty because the Dutch NGOs required something from the Indian company that it was not allowed to do under Indian law.

That was the reason why all the norms were conflicting with each other and why the Earth Charter offered an answer to that. So what was the outcome of this conflict? Was it positive and how did you get there? The outcome was that ultimately all the parties agreed to have an ombudsman appointed in the local setting. In India, where both the company and its employees and NGOs and unions could knock on the door if there would emerge a new problem. And then the ombudsman with the Earth Charter in his hand could decide what would be the best way to solve such a new dispute or conflict.

And after five years, I've been asked to do an evaluation of this process and of the outcome. So I went again to all the parties in India and in the Netherlands and the government in the Netherlands and NGOs to ask how did you see this solution? Did it work for you? And actually everybody was positive. They were very happy that this had become the outcome and it had worked perfectly over all those years. And I think now there's no conflict anymore there. The interesting thing was that people with hindsight said, yeah, we were too much aggressive towards each other and we were too much in the conflict that we couldn't see clearly anymore what is a decent way to discuss differences of opinion.

So it was very good to, how do you say this? To play down? To pause? Yeah. To start. To take a new start. Yes. Well done. Okay. Thank you very much and congratulations for the good work you have been doing. Not only on this one but also in the research at the University of the Netherlands. Thank you.

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