

Thank you Madame Chairperson,

Human rights defenders play a critical role in making visible, preventing, mitigating and ensuring accountability for corporate human rights abuses. Despite this, around the world, there are increasing reports of human rights defenders who advocate for corporate accountability, being the subject of attacks, threats and harassment, including judicial harassment. This has recently been highlighted by the Special Rapporteurs on Human Rights Defenders and on Freedom of Assembly and Association.

The perpetrators are both state and non-state actors, and we all know that violations often involve businesses of different natures: including multinational corporations, national or local businesses, as well as private and State-owned enterprises.

As such, the treaty process must serve to expand not only the protection of human rights by affected communities and individual rights holders on the ground, but also to enhance their *capacity* - and that of those defending them - to claim those rights.

The protection of human rights defenders and the creation of an enabling environment for their work should therefore be a key principle at the core of any binding treaty on business and human rights.

A prospective treaty could guarantee this principle in various ways, including by:

- Firstly. Reaffirming the State obligation to **protect and support** human rights defenders who work on issues of corporate accountability, including from threats by State or non-State actors, and the State obligation to create a safe and enabling environment in which human rights defenders can operate free from hindrance or fear;
- Secondly. Reaffirming the obligation of the State to **investigate and ensure accountability** for any threats and attacks against defenders, victims and communities in connection with their work on business and human rights;
- Thirdly. Reaffirming the obligation of **companies to engage** with human rights defenders, particularly in the conduct of human rights impact assessments and the development of risk mitigation strategies and programs;
- Fourthly. Clearly setting out the **obligations of business to refrain from interfering** with the work of human rights defenders, and to contribute to the creation of a safe and enabling environment for defenders, as well as the business duty to act proactively to defenders if State conduct relates to their business and a failure to act would lead to avoidable harm;
- 5. Providing for accessible, affordable, prompt and effective judicial and non-judicial **remedies** for any violations, threats and attacks against human rights defenders and ensure guarantees of non-recurrence.

Of course, in order to ensure that the treaty enhances the capacity of civil society, it is imperative to guarantee that human rights defenders can fully and safely participate in the workings of this intergovernmental working group.

The resolution establishing the IGWG recognises the important and legitimate role of civil society actors. It is therefore critical that human rights defenders are transparently informed about, and effectively consulted on, the program and content of each session of the IGWG, as well as the timeline for negotiations.

We note the openness that the Chair has shown in recent weeks in meeting with civil society and listening to their concerns. We also note that important steps have been taken in flexibilising the norms around non-ECOSOC written submissions and in guaranteeing a webcast of the sessions, which both ensure that the process reaches civil society beyond Geneva and around the world.

Nonetheless, we urge that the Chair and other States take into account the following recommendations during the remainder of the week and throughout the following sessions, and would like to know what will be done to respond to these suggestions:

- 1. A concrete proposal for the Plan of Work must be circulated much earlier and more broadly if civil society – and particularly global South grassroots civil society – are to properly prepare attendance and submissions.
- 2. The interventions of different actors – States, NHRIs and civil society – should be interspersed with one another, rather than civil society intervening at the end of each panel. This was the case during the Human Rights Council’s institution-building process, and significantly enhanced the voice of civil society and the interactive nature of the discussion.
- 3. We urge the creation of more space through which non-ECOSOC accredited organisations can increase their participation
- 4. We propose that all States and groups of States in the case of the EU and others acting as a group hold inclusive national or regional level consultations with civil society in preparation of each session of the IGWG, so as to inform positions in a transparent manner.

Finally, it is vital that human rights defenders can participate safely in the work of the IGWG. The United Nations and member States have a moral and legal obligation to ensure that those who contribute to the work of the IGWG can do so safely, without hindrance or fear, and without negative consequences for themselves or their organisations.

We therefore call upon the Chair to put in place a clear process, together with the secretariat, to prevent acts of intimidation or reprisals against individuals participating, or seeking to participate, in any way in the IGWG. This process should include methods to address alleged cases of intimidation or reprisals directly with the concerned State or non-State actors, including business, in order to seek guarantees of no-repetition.

In this respect we also call upon *all* States to take preventative actions to prohibit any intimidation or reprisal against a person or organisation from their country in association with their cooperation with the IGWG.

Madame Chair, ISHR constantly hears testimonies that the *roots* of human rights violations in the context of business, are found in the lack of a free, prior, informed and safe consultation of communities, civil society and human rights defenders.

If this intergovernmental working group’s methods and outcome are to be emblematic of the hope and aspirations which exist for a future of greater respect for human rights in the context of business

enterprises, they must guarantee that this dynamic of the past is not replicated. Instead, civil society and human rights defenders must be central to both the working group's process and its outcome.

We draw attention to document number ten, circulated in this room, supported by 25 NGOs from all regions.