

**PANEL V - Obligations of States to guarantee the Respect of Human Rights  
by TNCs and other business enterprise**

Thank you Ms. President.

Franciscans International would like to reiterate that the primary responsibility to promote and protect human rights lies with the State. States must protect against human rights abuses by third parties, including TNCs and other business enterprises.

International law, and especially international human rights law, has traditionally had States as the only treaty parties and duty-bearers. The implementation of an international treaty requires the power, authority, and regulation that are inherent to States. Under this treaty, States will be responsible to ensure that business enterprises respect human rights through national legislations and policies.

It follows that the Treaty should set out clear obligations for States to enact appropriate policies and regulations to prevent, investigate, punish, and remedy corporate abuses, including reparation victims.

In this intervention, I will focus specifically on the obligations to prevent against human right abuses by all business enterprises and in particular:

- States should require companies of a certain size and impact to adopt and periodically report on their policies and procedures and other standards of conduct aimed at preventing, mitigating, monitoring, and accounting for actual or potential adverse human rights impacts they cause or they are complicit with, wherever they operate or cooperate.
- Mandatory due diligence process should apply to the complexity of structure of the TNCs and other companies, in particular to parent companies<sup>1</sup> in relation to the activities of their subsidiaries. Mandatory due diligence should also apply to major retailers in their entire supply chain process.
- States should ensure monitoring and compliance mechanisms for due diligence processes and ensure that those companies that do not observe these standards are judicially compelled to do so.
- For business enterprises of a certain size, considering the scale of impact of their operations, an independent human rights and environmental impact assessment should always be required prior to a proposed activity. Special attention should be placed on the impact on women and children and to challenges faced by specific groups such as indigenous peoples, minorities, and religious minorities, persons with disabilities, migrant workers, and human rights defenders.

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<sup>1</sup> Parent companies are those corporations that own and entirely or partly control another company.

- States should ensure mandatory and meaningful consultation and participation of potentially affected communities in decision making, which is critical to prevent harm, abuses, and conflict. In specific sectors, such as extractive industries, States should ensure that companies do not undertake activities before obtaining the free, prior, and informed consent of the local community.
- States should imperatively protect human rights defenders resisting or denouncing the impact of business activities from any kind of criminalisation, intimidation, harassment, or killings.
- In order to prevent the root causes of human rights abuses, States should ensure respect of human rights in all trade, investment, and other business-related bilateral or multilateral agreements, treaties, and contracts with other states. A human rights based approach should be explicitly mentioned in such agreements and must prevail in case of conflict.

Thank you

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**Franciscans International** (FI) is an international non-governmental organization with general ECOSOC consultative status, working for the promotion, protection, and respect of human rights, as well as social and environmental justice. Since its establishment in 1989, FI has used advocacy as a tool to combat and curb human rights abuses. FI relies on the expertise and first-hand information of a large network of partners working with the most vulnerable strata of society in approximately 160 countries. From our offices in Geneva and New York, FI works together with grassroots movements and national and international civil-society organizations to advocate at the United Nations for structural changes addressing the root causes of injustice.