

*Statement day 3, panel 1 – International Service for Human Rights*

*Re: obligations of States to guarantee the respect of HR by TNCs and other business enterprises, including extraterritorial obligations*

Thankyou Madame Chair,

Given the capacity of human rights defenders to prevent mitigate and ensure accountability for human rights abuses, it is crucial that States do more to ensure that business, both at home and abroad, do not threaten a safe and enabling environment for human rights defenders, but rather contribute to and protect it. A treaty should enshrine this obligation.

For example States should regulate the work on private security firms and ensure that it is adequately trained civilian authorities who police protests, rather than private entities. States should also fully investigate and sanction any attack against human rights defenders, in order to prevent a climate of impunity.

States have a duty to ensure that businesses – plus their subsidiaries and those who they contract – understand what a safe and enabling environment is and how they can contribute to that.

When threats against defenders occur, States must implement protective measures, commensurate with the nature of the threat. Some of these measures may require implementation by business and could include – for example – the facilitation of dialogue with an affected community, or the suspension of a project if that is where the roots of the threat lie.

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. The roots of threats against those actors are therefore to be found in the same.

Consequently it is vital that States make and implement laws which guarantee the free, prior and informed consultation of communities, which respect traditional decision-making processes. This is a crucial preventative measure which could ensure that the seeds of conflict, abuse and risks for human rights defenders, do not even begin to grow.

Regarding extraterritoriality, Madame Chair.

It is clear that States must also ensure that their businesses and investments protect defenders in other countries where they have a presence too.

At the outset we celebrate the existence of Guidelines for the protection of human rights defenders – such as those developed by the EU, Norway, Switzerland and the OSCE – which outline how their missions abroad can protect human rights defenders at risk.

However, many of the activists who we work with on the ground have complained that the implementation of these guidelines is often weaker when the defender in question is working on alleged abuses in the context of international investment. There is little evidence of embassies working with businesses to ensure the protection of activists. The research of Peace Brigades International around the tenth anniversary of the EU Guidelines back up these affirmations.

Third States arguably actually have a greater duty to protect human rights defenders when projects with investment from their country are involved in the context which has provoked a risk.

Whether States have guidelines on defenders or not then, they must develop policies and implement actions to protect those communities and human rights defenders working on business and human rights.

These policies and actions must include engaging with businesses, on the one hand, and host States on the other, to ensure that more is done to contribute to a safe and enabling environment and also to consult civil society and work avoid the root causes of a conflict. This preventative approach is often lacking.

Finally. A Treaty therefore, should be clear on the obligation of States to encourage actions by business, at home and abroad, to not interfere with – but to rather contribute to – a safe and enabling environment for human rights defenders, for example through the kinds of initiatives I have mentioned.

Whilst the treaty process is ongoing, National Action Plans on business and human rights provide an immediate platform through which States can develop these policies and actions.

Thankyou Madame Chair