



**Open-ended Inter-Governmental Working Group on transnational corporations
and other business enterprises with respect to human rights**

Oral statement

Panel VII

**Legal liability of TNCs and other business enterprises: What standard for corporate legal liability and
for what conduct?**

Thank you Madam Chairperson.

Taking into account and joining in those interventions by NGOs in support of corporate liability including for complicity, I take the floor to address a specific issue raised by States, namely regulation of private security and military contractors and access to remedy for victims of human rights violations by this sector of corporate actors.

For more than a decade, the Center for Constitutional Rights—a member league of FIDH—has represented Iraqis bringing claims of war crimes and torture in litigation against PMSCs, including Blackwater, CACI and Titan/L-3, in US courts. Although two cases have resulted in financial settlements, this litigation has not been easy. One case, *Al Shimari v CACI*, brought on behalf of four Iraqi alleged torture victims at the "hard site" of Abu Ghriab, has just entered the eighth year of litigation. The plaintiffs' claims have been found to satisfy the *Kiobel* "touch and concern" test, and satisfied the threshold questions of corporate liability and extra-territorial jurisdiction, but is now on appeal, again, following dismissal two weeks ago under the political question doctrine.

We urge this Intergovernmental Working Group to clarify, and indeed, affirm the liability of companies, including PMSCs, for their participation in human rights violations. That the corporations are hired by States—or the United Nations—must not serve as a shield to liability. Any immunities States—or the UN—might enjoy must not be imputed to these for-profit actors and must not be permitted to serve as a barrier to victims of human rights violations right to a remedy, particularly in circumstances where the violations in question have been affirmed in treaty and customary law as unlawful, and thus cannot be considered as official State acts.