Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

*Second session (24-28 October 2016)*

Item 4: panel on “Lessons learned and challenges to access to remedy (selected cases from different sectors and regions)”

28 October 2016

Thank you Moderator.

We support the many speakers who have emphasized the fundamental importance of ensuring access to effective remedies, including through judicial mechanisms. A failure to include such provisions would undermine the intention to ensure full accountability.

The right to an effective remedy for violations and abuses is a core tenet of international human rights law, as recalled, for example, in the OHCHR report: “Improving accountability and access to remedy for victims of business-related human rights abuse”. The Treaty must reaffirm this and provide for measures aimed at ensuring the full enjoyment of the right to an effective remedy, which must include rights to reparation. For the Treaty to be practical and effective, it must include the extraterritorial dimension of states’ obligations to ensure remedy for abuses and violations that occur outside their territories.

We stress the importance of taking into account the gender dimensions of the issue, as remarked by Professor Robert McCorquodale, who drew attention to the recommendations in the OHCHR report I just mentioned to “take into account gender issues and the particular needs of individuals or groups at heightened risk of vulnerability or marginalization.”[[1]](#footnote-1) We welcome this reference. Yesterday, Angelica Choc, Indigenous *Q'eqchi* leader from Guatemala, gave compelling examples of the type of obstacles faced.[[2]](#footnote-2) This is exactly why there must be specific attention so as to develop provisions in the Treaty for effective redress.

To do this, we suggest, inter alia, drawing on the existing sources of analysis and recommendations on access to remedy and justice made by regional and international experts bodies, such as UN treaty bodies and UN Special Procedures, including the Special Rapporteur on Violence against Women, and the Special Rapporteur and Expert Mechanism on the Rights of Indigenous Peoples. WILPF submits that it is necessary to ensure that the national context is taken into account and addressed; in particular, laws that prevent women from accessing justice, which could undermine the aims and objectives of the Treaty.

Finally, an element that should be given close attention is the remedies appropriate to environmental destruction and the particular impact on wildlife at risk and on persons and populations who depend on that wildlife. Whilst this should reside absolutely in relation to prevention, failure to prevent must attract appropriate remedy.

1. Panel IV: <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session2/Pages/PanelIV.aspx> [↑](#footnote-ref-1)
2. Joint statement by HIVOS and the Plataforma internacional contra la impunidadPanel V, subtheme 2 <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session2/Pages/PanelV_2.aspx> [↑](#footnote-ref-2)