

Thank you Mr Chairperson. I am Alys Samson and I'm speaking on behalf of the Transnational Institute and as part of the Global Campaign to Reclaim People's Sovereignty, Dismantle Corporate Power and Stop Impunity.

We reiterate support for the point raised already in the general comments on the draft elements: there is a need for a clear reference to situations of armed conflict, occupation and war, and with this a mention on the relevant international instruments, including the four Geneva Conventions and Additional Protocols as well as the Rome Statute and the crimes to which they refer, including genocide, crimes against humanity, apartheid and war crimes. This has implications as well for the chapter on legal liability as well as others.

All across the war torn countries and occupied territories an ever growing number of corporations - security and military corporations as well as extractive corporations and a plethora of other TNCs - exploit the inexistence or weakness of state and civil society institutions to profit from the overall situation of denial of rights and injustice.

The above mentioned human rights violations and circumstances highlight that it is not enough to define the legal liability of TNCs as including 'participating in the planning, preparation, direction of or benefit from human rights violations or abuses' caused by the TNCs themselves or by states.

The existing state duty not to aid and assist the maintenance of such situations necessarily has to extend to TNCs. It is fundamental that liability exists as well in cases in which TNCs render aid and assistance in maintaining the situation created by these violations or profit from such situations and elevate their status from mere moral complicity to legal complicity.

In an effort to avoid state's assistance to TNC involvement in human rights violations, we suggest to expand the definition of adequate and effective remedies mentioned in the chapter on legal liability from [quote] 'denial of awarding of public contracts to companies that have engaged in a conduct leading to a violation of a human right' [unquote] to the more inclusive wording, already agreed upon in the Guiding Principles, to [quote] 'deny access to public support and services for a business enterprise [unquote] involved in human rights abuses.

Finally, it is fundamental that states may not adopt laws and rules that outlaw or create obstacles for human rights defenders to engage in research, advocacy and campaigning to hold corporations accountable but rather that states are held to create a favorable environment of public policies and obligatory transparency that facilitate such efforts.

Thank you very much