

Oral statement by Amnesty International

Fifth session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG)

Tuesday, 15 October 2019 - **Article 4 - Rights of Victims**
Delivered by **Gabriela Quijano**

Thank you, Mr Chairperson-Rapporteur,

Firstly, Amnesty International would like to congratulate the Chair and the OEIGWG for a much improved draft treaty this year.

Article 4 addresses many critical substantive and procedural entitlements regarding the right to remedy and seeks to tackle many critical barriers to justice. These provisions are indispensable for effectively guaranteeing the right to remedy in cases of corporate abuse and, as such, should be preserved in future drafts. I wish to make three points to further improve this article:

Many of the rights and protections laid out in Article 4 are rights that we all have as rights-holders, whether we are victims or not. The right to fair, effective, prompt and non-discriminatory access to justice is not a right of victims, but a right we all have as rights-holders. In addition, people affected by corporate abuse often do not like to see themselves as, or be called, victims. This chapter could be entitled Access to Justice or Right to Remedy instead.

Remedy is often denied because of a lack of essential information affecting people's ability to defend their rights in court or other remedial mechanisms. This is a point many civil society organisations have been stressing from the beginning of this process. The few provisions on access to information currently in the draft are dispersed and are either unclear or very weak. The treaty should introduce strong provisions, or improve existing provisions, on:

- mandatory disclosure of information;
- reporting;
- burden of proof, and;
- discovery rules or procedural rules on evidence

which should work as a coherent whole to make corporate operations more transparent and facilitate access to critical information by individuals and communities at risk of harm or who have already suffered harm in the hands of corporations.

Finally, as with any enumeration, there is a risk of leaving some obstacles and means of reducing them out. To address this challenge, we recommend inserting a general duty of the state to continuously seek to identify and address barriers to justice, including barriers that only affect, or disproportionately affect, specific individuals or groups, as part of its general duty to protect.

Thank you Mr Chair.