

**OEWG ON A LEGALLY BINDING INSTRUMENT ON TNCs AND OBE AND HUMAN RIGHTS**

**6TH SESSION, 2020**

**ICJ Oral intervention on Articles 3 and 4**

27 October, 2020

Mr Chairperson-Rapporteur,

The ICJ supports the statement of scope laid out in article 3 that satisfactorily addresses both businesses with activities of transnational nature as well purely national business enterprises. But, the scope in relation to the covered human rights should be adjusted to include the ILO 1999 Declaration on Fundamental Principles and Rights at Work which all States Members of the ILO should respect by virtue of their membership in the organization, although it is not a treaty subject to ratification. In this regard, the expression “shall cover all internationally recognized human rights law and fundamental freedoms **binding on the State Party…”**  may better serve the purpose of inclusiveness in relation to covered rights.

Article 4 on the right of victims is generally welcome. To improve and strengthen the purview of this article, the ICJ proposes to add “individual or collective reparation” after “access to justice” and reference to the “right to truth” as a form of reparation, in article 4 (2) (c).

These and other provisions should also explicitly capture some child-specific elements to ensure that critical child protections will not go unaddressed. For instance, in article 4 (2) (e) the words “**and child sensitive”** could be added together with further reference to the requirement that achild victims’ identity not be revealed publicly without their express consent or, where this is not possible, without the consent of their legal representatives who shall be guided by the principle of the best interests of the child concerned.