

Article 1 – 26 October 2021

This is a joint statement by Franciscans International, FIAN, WILPF, CIDSE, CCFD, LHR, and FIDH

We reject Brazil's proposal to delete the references to "collectively" or "group of persons" in article 1.1 and 1.2 respectively. This proposal would go against the vast jurisprudence and international human rights law recognizing the collective exercise of human rights. Among others, it would go against the many precedents that we can find in international agreements such as the Optional protocols to the ICESCR, to CEDAW, and to the CRC. Collective rights are also enshrined in the UN declarations on the rights of Indigenous Peoples and on the rights of peasants and other people working in rural areas (UNDRIP and UNDROP).

In sub paragraph 1, in the definition of victims, we suggest adding “human rights violation” to the text, so that victims include those that “have suffered harm that constitute human rights abuse **or violation.**”

We also note that we, alongside our partners, have documented and advocated on cases of environmental damage and toxic waste, where the impacts have taken years to manifest, and/or continue to impact local populations for generations. In that sense we would like to propose that the definition of Victims in Article 1

- recognise not only people who have suffered harm but also those who are under impending threat of harm
- includes those impacted by transgenerational harm.
- We also note that relatives of victims should not be narrowed. In line with international and regional jurisprudence, this definition should include all family members and relatives including caregivers’ and others in familial relationships.
- The definition should also make explicit reference to human rights defenders as potential victims

The definition would state in part:

“The term “victim” shall also include all family members or dependents of the direct victim, **including instances of latent, enduring, or trans-generational harm.**”

This language had been supported by judgements from the International Criminal Court, which has recognized the “phenomenon” of harm from transgenerational trauma.¹ The Committee on the Rights of the Child has also underscored “transgenerational consequences” in the context of

business activities and operations, and the need for States to provide remedies in cases of business violations.² The suggested language will be sent to the Secretariat in our statement.

In relation to the definition of “human rights abuse” in sub paragraph 2, we support the addition of language, in line with HRC Resolution 48/13, on the right to a healthy environment. This right is recognized in a number of constitutions worldwide and has been recognized in the jurisprudence of regional human rights bodies, such as the InterAmerican Human Rights Court. Furthermore, the Special Rapporteur on Human Rights and the Environment has also developed standards in this regard.

In relation to the definition of “business activity” (art 1.3), “business activities of transnational character” (art. 1.4) and “business relationship” (art 1.5) the exclusion of the references to “for-profit” activities only in art. 1.3. and explicit reference to “state entities” in art. 1.5 are welcomed, as it goes in the direction of avoiding any gap that would allow State-owned enterprises and the State to escape from the application of the treaty

We disagree with Iran’s proposal (1.5 bis) because even businesses with activities of a transnational character need to be registered under domestic law.