

Oral statement

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

(OEIGWG)

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*Seventh session - OEIGWG: Plenary discussions in accordance with the programme of work – Article 4
Monday 25 October 2021*

Thank you M. Chairperson,

I am delivering this statement on behalf of FIDH, Feminist for a Binding Treaty Coalition, ESCR-Net, Manushya Foundation, FI

Mister Chairperson,

This article refers to a broad range of rights and protections which already exist in international law and should be guaranteed not only to victims of corporate abuses but to all individuals. A change in title to Article 4 from “Rights of Victims” to “Right to Effective Remedy” and use of the term “rights-holders” instead of “victims” would clarify this point.

We also recommend adding in article 4.1 after the word “abuses”, “and violations.” This is essential with regard to the accountability of the State or its agents in the context of business activities. We would also like to oppose changes to the Article suggested by Brazil as it may limit the international standard of protection under this Article.

In Article 2.4. (b) we suggest to add “including” after be guaranteed, and add a reference to the right to a healthy, clean and sustainable environment.

We welcome the changes in Article 4.2. (c) in line with a broad understanding of the right to access to justice and to reparation, as outlined by the Inter-American Human Rights system, underlining that the listed forms of remedy are not limited. To fully align with this wording article 4.2 should also include that rights-holders shall “be covered of expenses for relocation of victims, replacement of community facilities, comprehensive emergency assistance and long-term health monitoring”. We also welcome the addition in Article 4.2. (c) the concept “gender-sensitive” access to justice.

Article 4.2.b

As such, to overcome specific barriers to access to justice, article 4 Art. 4.2.f on the right to access information should be further elaborated to include stronger requirements for the disclosure of information in order to facilitate legal proceedings. In particular, regarding the different legal entities linked to the parent company as to facilitate the determination of liability. along the lines of [rights holders shall]:

“be guaranteed, through mandatory disclosure laws, procedural rules on evidence and other appropriate measures, access to information necessary for the pursuit of truth and remedies. This shall include but not be limited to information on corporate structures and networks, including legal relationships and allocation of responsibilities among different entities within these structures and networks, key corporate decisions concerning or with an effect on human rights and their supporting documentation such as internal and external inspection reports, risk assessments and expert or scientific reports and advice and information relating to the nature, extent and scope of harm held by the accused or defendant business enterprise [...] . This information shall also include proposed reparations measures when these are being pursued or negotiated on victims' behalf”

Furthermore, specific references included in article 6, to the obligation to publish human rights, labour rights, environmental and climate change impact assessments Art. 6.4 (a)), and the obligation to report publicly and periodically on environmental and climate change standards (Art 6.4 (e)) would be better placed under article 4 instead of article 6, to complete clarifying these are primary obligations of the States as established by other international human rights instruments.

Thank you