



**Check against delivery!**

**Seventh session of the Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights**

**Item 4: “Article 4 – Rights of Victim (Wednesday AM)”  
October 27, 2021**

- Thank you Chair
- Many states have called for alignment with the UNGPs, and business has made this urgent call as well.
- States in the room have also pointed out that this unclear text contains concepts which are not universally recognized, risking further confusion and lack of consensus.
- As was explained earlier, paragraph 4.2.c inappropriately seeks to guarantee access to justice, while the UNGPs positions access to judicial and/or non-judicial remedy as foremost. Justice encompasses specific national-level legal mechanisms. Therefore, this LBI should seek to provide access to remedy first.
- Moreover, the list of potential remedies should be explicitly described as examples.
- The right to legal aid is very important in ensuring alleged victims of human rights abuses have access to remedy and justice. However, there must be clearly defined pre-conditions that must be met in order to receive legal aid. Without such necessary factors, this LBI may actually facilitate



frivolous or bad faith claims, further delaying remedy and justice for actual victims

- Additionally, Article 4.2.f should recognize that certain information is confidential and must be protected from public disclosure
- We propose an additional provision within this article that articulates the rights of a business or person, should a claim be brought against them. Defendants are themselves entitled to due process, the presumption of innocence, equality, etc.
- Finally, and most importantly, this Article and the LBI as a whole, provides no guidance on instances in which the state cannot fulfill its duty to protect victims from human rights abuses, nor when the state is itself a perpetrator of harm.