

**Open-ended intergovernmental working group on transnational corporations and other
business enterprises with respect to human rights**

Seventh session (25-29 October 2021)

Item 4: Article 7

Thank you Mister Chairperson. I speak on behalf of the Feminists for a Binding Treaty.

- In Article 7.1: We recommend adding the qualifier “if appropriate” after “and”. While state-based non-judicial mechanisms can play an important role in access to remedy, they are not appropriate in all cases. For example, where they do not meet sufficient standards of independence. We also recommend, after “women,” adding “and other individuals and groups in vulnerable and marginalized situations”
- In Article 7.2: we recommend adding after “domestic law and”, the terms “court proceedings”. After “information”, we suggest adding “in a gender-sensitive manner” and to delete the final phrase “and enable courts to allow proceedings in appropriate cases.”
- In article 7.3, we recommend adding after “adequate”, “gender-responsive”.
- At the end of article 7.3(b) we recommend adding “including prior to irreparable harm for purposes of injunctive relief”. We welcome Peru’s proposal to add “avoiding gender and age stereotyping” at the end of this paragraph. We think that it should be complemented with the addition of a reference to “discrimination”, which is broader than “stereotyping”.
- We recommend adding a new 7.3(e): “Providing assistance to initiate proceedings in the courts of another State Party in appropriate cases of human rights abuses and violations resulting from business activities of a transnational character.”
- At the end of article 7.4, we recommend adding “particularly for those facing heightened barriers in accessing remedy, such as women, children, persons with disabilities, indigenous peoples, migrants, refugees, internally displaced persons and protected populations in conflict- affected areas, among other groups, paying particular attention to the multiple or intersectional forms of discrimination faced by persons belonging to more than one of these groups.”
- In Article 7.5, we suggest removing the phrase “where consistent with international law and its domestic constitutional law” and substituting it with the following sentence: “Where the reversal of the burden of proof is not provided for in certain legal regimes, State parties shall, to the extent possible, enact and amend laws to reverse the burden of proof and ensure that it lies with the defendant.”
- Finally, we support adding the term “violations” in 7.3 d).

At a time when there is growing violence against affected communities and continued rights violations including of Free, Prior and Informed Consent and while access to justice and to

remedy is still weak, this session is a key moment to contribute to the global effort for a legally binding instrument. We will remain vigilant that the content really makes a difference for affected communities. As feminists we won't let go of our demands and will continue working to contribute substantively to this process.

Thank you Mr. Chair.