



**Openended InterGovernmental Working Group on transnational corporations and other business enterprises with respect to human rights Oral Statement**

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Second session - OEIGWG: Scope

Tuesday, 24 October 2017

Thank you Mister Chairman and thank you to the panelists,

I am delivering this statment on behalf of FIDH, ICJ, Amnesty International, Franciscans International, Lawyers for Human Rights, Dominicans for Justice and CCJ.

First of all, our organisations welcome the efforts of the Chair to open up the discussion on the scope of the future binding instrument beyond transnational companies and Other Business enterprises with transnational character.

We welcome that the draft elements consider that a future binding instrument applies in relation to all internationally recongized human rights as reflected in **all human rights treaties and instruments** taking into account their indivisible, interrelated and interdependent nature.

We firmly believe that a legally binding instrument should reaffirm the existing duty of States to protect human rights against third parties, including businesses.

It should also recall that all companies have the complementary and independent responsibility to respect human rights as reaffirmed by the General Comment No. 16 of the Committee on the Rights of the Child, by the General Comments n. 23 and 24 of the Committee on ESCR and the UN Guiding Principles on Business and Human Rights.

Our experience in documenting business related human rights abuses and working with affected communities in all regions of the world points to the necessity of an international instrument reaffirming that all business enterprises must respect human rights. Situations we investigate are often complex and involve both domestic and transnational corporations. In the past years we have investigated countless cases of corporate involvement in violations of International Humanitarian Law, in human rights abuses, armed conflict, land grabbing, illegal resource extraction and environmental destruction, and found that the transnational and local companies involved often operate in and benefit from a regulatory and enforcement void leaving the victims of this abuse without access to effective remedy.

We recognise that transnational corporations pose particular and complex challenges in relation to accountability for business related human rights abuses. These challenges are created by the complexity of their structure, which include subsidiary companies, contractors, subcontractors and many other business enterprises associated with their operations, products, services, sourcing or with their business relationships, and the fact that they operate across borders in different jurisdictions with, many times, very divergent legal systems and levels of enforcement.

We believe that while the instrument should include specific measures to address the particular human rights challenges related to the transnational nature of business operations, it should primarily create an international legal framework that is applicable to all business enterprises. In this way it will not allow regulatory loopholes to continue for the benefit of companies that cause or contribute to human rights abuses. This would moreover ensure equal levels of protection, in line

with the rule of law, between individuals and communities affected by the activities of TNCs abroad and in their home country and those affected by the activities of purely domestic corporations.

The Elements proposed by the Chair suggest a focus on « activities of transnational character ». The future instrument should provide more clarity and ensure consistency across the range of corporate activities that can be considered having a « transnational character » and on which the instrument will apply. The elements also seem to suggest that the human rights abuses must be the direct result of this activity. If this was intended, not many human rights abuses would be captured. Most corporate human rights abuses are the result of highly localised activities, for example, the unlawful displacement of a community by local law enforcement to make way for an industrial development. These issues must be looked at carefully and clarified going forward.

Finally, we would like to call on all States in the room to work for the establishment of a constructive dialogue that moves this process forward without delay in order to provide affected individuals and communities with access to justice.

Thank you.