



International Network for Economic,
Social and Cultural Rights (ESCR-Net)
Corporate Accountability Working Group

Intervention at the CSO meeting prior to the UN Regional Forum on Business & Human Rights

We, the Corporate Accountability Working Group of the International Network on Economic, Social and Cultural Rights (ESCR-Net) welcome this opportunity to provide our views to the UN Working Group on business and human rights at this meeting. ESCR-Net is a global network of civil society organizations, social movements and independent experts, the largest Network of its kind dealing with economic, social and cultural rights, which is led by the 250 members we have in over 70 countries. Seventy-five of our members make up the ESCR-Net Corporate Accountability Working Group.

We offer the following five reflections that stem from our collective perspective of nearly decade a of experience in this area of work, from the time we first began engaging in this dialogue during the establishment of the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.

Firstly, our Corporate Accountability Working Group believes the focus of the UN Working Group in executing their mandate has been too narrow. We would like to remind the Working Group of several features of its mandate contained in Human Rights Council Resolution 17/4. Contained in the preamble of the Resolution, the Council recognized “that proper regulation, including through national legislation, of transnational corporations and other business enterprises and their responsible operation can contribute to the promotion, protection and fulfillment of and respect for human rights”. In the text below the Resolution required that the Working Group “continue to explore options and make recommendations...for enhancing access to effective remedies”. Remedies in this context should also refer to judicial, as well as ‘experience sharing’ related to the proliferation of non-judicial remedy mechanisms. Furthermore Resolution 17/4 also called for the Working Group “to provide advice and recommendations regarding the development of domestic legislation and policies relating to business and human rights”.

In the Resolution these recommendations were contextualized by the understanding of the Human Rights Council that “the role of Guiding Principles for implementation of the [Respect, Protect and Remedy] Framework” should occur “without foreclosing any other long-term development, including further enhancement of standards”. We are concerned that these broader issues, exploration of means to enhance access to effective remedies, including judicial remedies, advice and recommendations regarding development of relevant policies and domestic legislation, both in the broader understanding of the Working Group’s mandate to promote long-term developments, including further enhancement of standards, has to date been ignored, perhaps willfully, by the Working Group. We affirm here that we expect the UN

Working Group to facilitate broad leadership on these challenging issues, in close collaboration with representatives of peoples' affected by corporate human rights abuse, together with amply experienced human rights civil society organisations.

Secondly, we are of the view that the UN Working Group unduly emphasizes the needs identified by corporations in their challenges with adhering to the Guiding Principles, at the expense of the needs and assistance required by groups impacted by corporate human rights violations in the process of overcoming severe obstacles to obtaining effective remedies.

Thirdly, the UN Working Group has shown a complete lack of leadership in addressing the root causes of corporate human rights violations. For example, the UN Working Group has not offered recommendations, or sought to facilitate critical dialogue at the international level, to find ways to prevent corporations using international arbitration to avoid accountability for severe human rights and environmental abuses in countries such as Ecuador. Similarly, the UN Working Group has not sought to consider commissioning research or facilitate dialogue between learned experts to begin to examine the human rights impacts that emanate from the scarcity of effective extra-territorial regulation, or close relationships between corporations, such as banks or extractive businesses, and state regulators and politicians. Furthermore, similar analysis is required to examine the impacts of such relationships between former and current corporate employees and multi-lateral banks, development organizations and UN agencies. All of these areas of analysis provides some answers to the root causes of corporate human rights violations.

Fourthly, with a view to the forthcoming consideration by the Human Rights Council of a renewal of the mandate of the UN Working Group, we urge the UN Working Group to consider including reference to these important issues in their report to the Council reflecting their recommendations for the future. In this way, we hope that in the coming years we can together make the kind of progress that will deliver sustainable solutions to the persistent existence of widespread corporate human rights violations.

Fifthly, to ensure faith in the institutions of the United Nations, we ask the Human Rights Council to ensure that the appointment of future special procedure mandate holders be based in part on complete independence of appointees from corporate entities.

Finally, our formal participation in future UN fora related to human rights and business will depend on our assessment of what concrete progress is made by the UN Working Group to address these aforementioned points.