



Oral Intervention on Article 9 of Third Revised Draft 26 October 2022

Thank you Mr. Chairperson,
Distinguished delegates and colleagues,

Article 9 must absolutely retain the language in the Third Draft which includes, “victims, irrespective of their nationality or place of domicile,” can bring a claim for human rights violations and abuses. This sentence must not be eliminated in the treaty text. Victims and their families should be able to decide where to adjudicate a case.

We reiterate that all negotiations should be based on the third revised draft and are concerned that proposals supported for example by the USA and IOE are dangerously undermining the legal advances proposed by several States last week to strengthen this Article.

It is also important for the treaty text to articulate what is meant by domicile - this should include both where the company is headquartered but also the place where its substantial assets are held to ensure remedy for affected communities. We agree with the proposal of Palestine last year to include a provision to this effect in Article 9(2)d bis.

Article 9 should also not restrict the advancement in applicability of international law based on applicable domestic or State laws. This defies the very purpose of this treaty which would be to expand avenues for remedy and corporate accountability by setting legal standards that would enhance the ability to adjudicate cases of abuses and violation related to business activity extraterritorially across different jurisdictions. The aim of this treaty is not to limit liability but to expand it so that corporate accountability may be possible.

Finally, States should incorporate or otherwise implement within their domestic law appropriate measures for universal jurisdiction for human rights violations and internationally recognized crimes mentioned in the preceding. This was mentioned in the zero Draft under Article 6 and should be reintroduced. As such, we support the textual suggestion by the State of Palestine to add the following provision in the draft treaty: ***“Where applicable under international law, State Parties shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction over human rights violations that amount to international crimes.”***

Thank you