

Oral Statement

Fourth Session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG)

Item 4 – Final Provisions

Date: 18 October 2018

I speak on behalf of Al-Haq, ALTSEAN-Burma, AWID, CIHRS, ESCR-Net, FIDH, WILPF, ACCA, SOMO,

Despite the inclusion of conflict areas under Article 15 of the Draft Treaty, it is imperative that such language is expanded and strengthened.

The current text seriously fails to sufficiently prioritize the rights and protections afforded to individuals, communities and peoples against corporate abuses; victim's access to remedy; and corporate accountability in conflict areas.

Merely allocating "special attention" to situations of conflict is insufficient to address the increasing direct and indirect role of corporations in human rights abuses, grave violations and prolonging conflicts, especially those linked to natural resources, land and environment.

We strongly recommend that the Treaty amends:

1. Article 7 on Applicable Law to include a specific provision surrounding conflict areas, emphasizing the applicability of international human rights and humanitarian law.
2. Article 9 on Prevention does not include any measure regarding due diligence for business activities in conflict areas, which is a major gap. The Treaty should require states to impose mandatory and enhanced due diligence for businesses, operating or planning to operate in conflict areas, including more urgent and immediate preventive measures, divestment and disengagement policies, to avoid corporate involvement in or contribution to human rights abuses in their activities and relationships. Human rights due diligence, coupled with legal liability and gender impact assessments, are essential to prevent corporate abuses linked to conflict, including sexual and gender-based violence.
3. Article 15(4) on Final Provisions should be reinforced and echo the UNGPs which recall a set of existing obligations for states under international law, including humanitarian and criminal law, applicable to situations of conflict.

We call on you to enhance the Treaty's provisions on conflict areas to allow for a genuine alternative avenue for accountability during situations of conflict where impunity for perpetrators often prevails.