



Sixth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights – Geneva, 26-30 October 2030

Joint oral statement

Tuesday 27th October Afternoon, covering Articles 5, 6 and 7

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I would like to make a joint statement on behalf of CINEP and the CAFOD and CIDSE Delegation in relation to Articles 5, 6 and 7.

The case of Carbones del Cerrejón Ltd in La Guajira, Colombia, one of the largest open cast coal mines in Latin America jointly owned by subsidiaries of BHP, Anglo-American and Glencore, is an example of systematic violation of human rights, nature and environmental harm that shows the need for a UN binding treaty to strengthen access to justice for communities and to face corporate impunity and state inaction or omission. After 40 years of operation, the company has violated the rights of communities to prior consultation, to water, healthy environment, food, health, and labor rights. In this context, there have been threats and attacks on human rights defenders who risk their lives and integrity when they denounce abuses. Colombia is one of the most risky countries for environmental defenders.

We recommend the text be strengthened as follows:

- **Art. 5** - should specifically refer to “human rights defenders”, and specify effective measures to protect victims, including from intimidation, stigmatization and judicial complaints.
- **Art 6 on Prevention** - should give special attention to those **defending human rights and the environment**, giving special attention to the rights of indigenous and tribal peoples because there is damage to nature and culture that is irreparable to them.
- **Art 6.1** - must include the **precautionary principle in environmental matters** enshrined in the Rio Declaration, requiring measures to reduce the possibility of environmental damage.
- **Art. 6.2** - should establish the special obligation of States to guarantee access to **timely and adequate information** for the defense of human rights.
- **Art. 6.3, b)** - needs to clarify how a gender perspective can be applied to data collection and disaggregation.
- **Art. 6.3, c) and d)** - should state the **binding** nature of consultations and the granting of free, prior and informed consent. Communities have the **right to say NO** and have their decision respected.
- **Art. 7.3, e)** - should state the right-holder must get sufficient **public financial support** in civil proceedings to avoid financial obstacles.
- **Art. 7.6** - needs to strengthen the terminology by saying that States “shall”... enact or amend laws to **reverse the burden of proof**, instead of “may”.

Thank you