

**Seventh Session of the Open-ended intergovernmental working group on
transnational corporations and other business enterprises
with respect to human rights**

ORAL STATEMENT – ARTICLE 1

On behalf of: CIDSE, CCFD-Terre Solidaire, Misereor, KOO, DKA, Fastenopfer, Focsiv, Broederlijk Delen, Entraide & Fraternité, CAFOD, Trocaire, Commission Justice & Paix Belgium, Alboan, Conselho Indigenista Missionario (Cimi), Red Iglesias y Minería

26 October 2021

Mr. Chair,

I deliver this statement on behalf of CIDSE, CCFD-Terre Solidaire, Misereor, KOO, DKA, Fastenopfer, Focsiv, Broederlijk Delen, Entraide & Fraternité, CAFOD, Trócaire, Commission Justice & Paix Belgium, Alboan, and Conselho Indigenista Missionario (Cimi)

On **art 1.1**, We support the proposal by Cameroon and Palestine, and we suggest to further strengthen it throughout the text, by replacing the term **victims** with **right holders**. This will ensure that the definition is inclusive not only of ‘groups of people’ but also of people with a specific cultural and spiritual identity, such as indigenous peoples.

The collective and structural aspects of victims is grounded UN human rights law.

- Under the Basic Principles and Guidelines of the Right to Reparation (2005), the collective concept of victimization is enshrined in the relevant preamble and Article 8.
- Likewise, ILO Convention 169, in Article 13 protects the collective aspect of communal lands, and the relevant access to justice.
- The collective nature of rights is also recognized by Article 1 of the UN Declaration on the Rights of Indigenous Peoples (2007).

Restricting the concept of victim to individuals would also create further obstacles for victims to obtain redress, for example in large-scale damages of the mining industries, in culturally adaptable forms of redress of indigenous, peasants, afrodescendants, quilombola and other traditional communities. Many jurisdictions worldwide recognize several forms of class and collective actions that facilitate collective victims in courts to obtain redress.

We would also like to add a reference to an element which was put forward in the second draft, referring to persons who have suffered harm in an attempt to prevent human rights abuses on other rights’ holders.

We suggest to rephrase art 1.1 as follows:

***Art 1.1.** – “Rights-holder” shall mean any person, group of persons, community, tribal or indigenous people, irrespective of nationality or place of domicile, who individually or collectively have suffered harm that constitutes human rights abuse through acts or omissions in the context of business activities. The term “rights-holder” shall also include the immediate family members or dependents of the direct victim, and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation. A person shall be considered a rights-holder regardless of whether the perpetrator of the human rights abuse is identified, apprehended, prosecuted, or convicted.*

Then, on **Art 1.2** should refer to the particular kind of harm on children. A line should be added at the end of art 1.2, reading as follows:

“When the “right-holder” is a child, harm should contemplate the impacts on their development”.

Moreover, **1.2** shall keep the reference to the “right to a safe, clean, healthy and sustainable environment”. As the distinguished delegate from the EU highlighted, this is a crucial, emerging element in both regional and international legal frameworks.

Thank you.