

**Open-ended Inter-Governmental Working Group on transnational corporations
and other business enterprises with respect to human rights
Oral Statement**

By **Brot für die Welt** (Social Service Agency of the Protestant Church in Germany), **CIDSE** (International family of Catholic social justice organisations), **FIDH** (International Federation for Human rights), **FoEE** (Friends of the Earth Europe), **IBFAN-GIFA** (International Baby-Food Action Network), **SOMO** (Centre for Research on Multinational Corporations)

Panel VI: Lessons learned and challenges to access to remedy (selected cases from different sectors and regions)

Thank you, mister moderator.

I am delivering this statement on behalf of Bread for the World, CIDSE, FIDH, Friends of the Earth Europe, IBFAN, and SOMO. We are all members of the Treaty Alliance.

Victims of business-related human rights abuses often face considerable and well-documented barriers to accessing remedy. Parent companies are rarely held liable for human rights abuses committed by their subsidiaries or along their supply chains, while the environment of local subsidiaries and suppliers is often characterized by weak regulation and enforcement. Therefore, the future international legally binding instrument must remove obstacles to remedy at the national level, both in host and home States in order to protect victims' rights, which has also been underlined in the final report of the Accountability and Remedy Project Office of the High Commissioner for Human Rights.

To improve access to remedy in the home countries, the treaty should finally require States to abolish the corporate veil and develop legal approaches to hold parent companies accountable for human rights abuses by their subsidiaries. For instance, the treaty should recognize all companies of a group as one company and include a presumption of parent company liability. To avoid regulatory loopholes, the future instrument should also clarify the condition under which supply chain liability should arise.

In particular, the treaty should oblige states to provide for civil, criminal and administrative liability in case of violations of human rights by business. The treaty should also include a provision for collective redress and access to legal aid in appropriate cases. Furthermore, transparency and access to information need to be ensured through the treaty, in order to enable victims to effectively seek remedy. Legal action from both host and home States should be required, with denial of access to remedy being treated as a human rights violation by the State concerned.

As illustrated by numerous cases highlighted here this week, the impacts faced by affected communities and individuals can be severe and of a long-term or even permanent nature, affecting their living environment, health, livelihood, and safety. To avoid irreparable harm, affected communities must have a quick and affordable access to interim measures of protection. It is essential that, in case of abuse, the treaty requires full reparation to be provided to victims by the responsible company. Remedies must be culturally appropriate, sensitive to gender, and particularly attentive to the lived experiences of minorities and indigenous peoples.

Last but not least, the Maastricht Principles form an important framework that can help shape content for the future treaty regarding the extraterritorial obligations of home States.

Over the past decades, States have reaffirmed the right to an effective remedy in numerous treaties and declarations, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law. It is time to put these words into action, and ensure that the right to an effective remedy is protected and promoted for all victims, also for those whose rights were violated by corporate actors.

We would like to ask individual Member States this; how do they ensure, or commit to ensure that there are no legal loopholes in their jurisdiction, in particular in relation to the corporate veil and lacking parent company liability?

Our question to the panel: "what measures could Member States take to ensure that there are no legal loopholes in their jurisdiction, in particular in relation to the corporate veil and lacking parent company liability, and how could the treaty enhance efforts to improve A2R at the national level?"

Thank you.