

Oral Intervention

Preamble and Article 1, Item 4

Monday, 14 October 2019 (3:00 – 6:00)

On behalf of Al-Haq and ESCR-Net, we welcome the revised draft, including the additional language introduced in the Preamble and Article 1, yet remain concerned that it still fails to explicitly reaffirm the fundamental *right to self-determination and permanent sovereignty over natural resources*, which should be at the core of this binding instrument.

The Treaty, in its current and previous draft, has neglected the collective right of peoples to permanent sovereignty, access and control over their natural wealth and resources – in a way that respects the land and environment. Businesses, reinforced by or supporting the State, have long unlawfully exploited these, leading to detrimental impacts on social, economic, cultural, civil and political rights of communities and peoples around the world.

It is also necessary that *the right to life, liberty and security of person* are among the guaranteed fundamental rights in the Treaty.

Moreover, the Preamble should explicitly reference States' obligations to protect against human rights abuses by business enterprises, within their territory and/or jurisdiction, *and ensure respect for the implementation of international law, encompassing all its sources, including international human rights and humanitarian law.*

The Preamble and Article 1 should further recognise the disproportionate impact of business-related human rights abuses *on populations, communities, vulnerable groups and human rights defenders in high-risk settings, including situations of conflict and occupation.* In such settings, systemic human rights abuses, often facilitated by State actors or those in position of authority, combined with a prevailing culture of impunity, allow for, among others, unaccounted for business-related human rights abuses, which may amount to internationally recognised crimes, such as pillage, forced displacement and transfer.

Lastly, in Article 1, *“contractual relationship” should be replaced by “business relationship”* as it could undermine the purpose of this Treaty in ensuring that parent companies of TNCs are held liable, even when no contractual relationship exists between them and their subsidiaries or affiliates. The definition must also include *“actions and omissions” of businesses, and refer to “products and services” – mirroring Principle 13 of the UNGPs.*

Thank you.