



Centre Europe - Tiers Monde

Centre de recherches et de publications sur les relations entre le Tiers Monde et l'Europe

Rue Amat 6
CH-1202 Genève
Tel. +41 (0)22 731 59 63
Fax +41 (0)22 731 91 52
E-mail: contact@cetim.ch
Site Web: www.cetim.ch

GENERAL ASSEMBLY
HUMAN RIGHTS COUNCIL
50th session of the Human Rights Council
13 June – 8 July 2022

Oral statement
Check against delivery

Item 3: Interactive dialogue with Experts' Working group on TNCs and human rights

Check against delivery

Mister President,

It is clear, from the report on the role corporations played during the COVID-19 pandemic, that business-related human rights violations can only be tackled from a human rights perspective.

The setting of the context and the analysis of the report showed the devastating impact corporate decisions had on the rights of workers and vulnerable communities. However, the angle and the recommendations driven on the basis of such analysis, are weak and devoid of any effective impact on the promotion and protection of human rights.

We deeply regret that in the report no mention is made about the ongoing negotiations of a legally binding instrument on TNCs and human rights. The adoption of this future treaty will be determinant to address corporate violations and could represent an important lever to effectively regulate corporate activities, ensure access to remedy and support states in their duty to protect human rights. This is the only way forward to effectively implement UNGPs.

Moreover, in the context of the activities of this Working Group, we are worried about the constant attempt to reduce corporate legal accountability to mechanisms of due diligence, a narrow concept historically rooted in business risk mitigation. Lessons learned indicate that this logic of self-regulation is totally insufficient. Due diligence or any other legal obligations limited to the mere prevention of harmful consequences cannot replace the responsibilities TNCs have to respect human rights. They can neither weaken nor replace the need to establish provisions and mechanisms for determining legal liability of TNCs.

For many years, affected communities, human rights organizations, academia and member of parliaments from all over the globe have been calling the UN to establish international legally binding norms to regulate TNCs activities. This regulation must encompass a wide range of elements, including prevention issues beyond due diligence. Among others, it must ensure: the establishment of criminal, civil and administrative liability of TNCs (and their economic agents along their global value chains); direct obligations for TNCs to respect human rights; and effective enforcement and monitoring mechanisms to ensure access to justice for affected

communities.

In light of the above, we urge the Working Group not to reduce its mandate to the mere promotion of UNGPs and due diligence mechanisms. We also urge the Working Group and all UN member states to constructively engage in the intergovernmental process to elaborate a UN Binding Treaty on TNCs and human rights.

Thank you for your attention.

Geneva, 20th of June 2022