

# Unity Statement

## Asia Pacific Civil Society's Demands for the Legally Binding Treaty on Business and Human Rights

**This statement originates from the Asia Pacific Regional Consultation on the Asia Pacific Regional Consultation on the Legally Binding Treaty on Business and Human Rights, May 1-3, 2015 Chiang Mai, Thailand, co-convened by the International Network for Economic, Social and Cultural Rights (ESCR-Net), the International Federation for Human Rights (FIDH) and the Asia Pacific Forum on Women, Law & Development (APWLD)**

WE, the undersigned members of Asia Pacific civil society, representing different constituencies, movements and organisations, recognize, experience, and resist the human rights violations committed by transnational corporations (TNCs) and other business entities.

We strongly protest the impact of direct and indirect violations by the TNCs and other business entities, which destroy lives, cultures, livelihoods, the environment, and profoundly affect women, children, peasants, workers, and indigenous peoples.

We welcome UN Human Rights Council Resolution 26/9<sup>1</sup>, which mandates an intergovernmental working group to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

We collectively unite to demand corporate accountability for human rights violations and to redress the grave imbalance between corporate power and the power of people.

We strongly demand that our governments protect, respect and fulfil human rights and commit to enact effective laws for corporate accountability. We encourage all governments to actively participate in the development of a legally binding treaty on business and human rights in the UN Human Rights Council.

As peoples and CSOs, we demand an end to the human rights violations perpetrated with impunity by TNCs and other business entities, often with the complicity or inaction of States. We make the following demands for a legally binding treaty:

- The adoption of an expansive definition of transnational corporations which encompasses parent companies, subsidiaries and contractors and ensures comprehensive supply chain accountability. No corporate participation in the process of elaborating and adopting the treaty. The private sector has actively resisted legal accountability for the impact of its actions and this treaty must

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<sup>1</sup> UN Human Rights Council, Resolution 26/9, [\*Elaboration of an internationally legally binding instrument on transnational corporations and other business enterprises with respect to human rights\*](#), A/HRC/26/L.22/Rev.1, 26 June 2014

be formulated with the priorities and interests of affected individuals, communities and peoples at its heart;

- The inclusion of a provision that explicitly prohibits corporate capture of political processes, including collusion and complicity between governments and corporate actors. At a minimum, this should take the form of a requirement that there is no conflict of interest in government approval of corporate sector projects;
- The inclusion of a provision requiring transparency and financial disclosure from transnational corporations that should be made available to the public consistent with the public right to access information regarding private operations that have public impact;
- An end to impunity for the human rights violations caused by transnational corporations, including but not limited to providing for criminal liability for corporations, their employees, and governments and public officials complicit in the unlawful activity of transnational corporations;
- Accountability for the direct, indirect, short-term and long-term impacts of corporate activity, including remote, “down-stream”, or cumulative negative impacts;
- Affirmation of the primacy of governments’ human rights obligations under the UN Charter and international treaties and customary laws over obligations in trade and investment agreements.
- A rejection of coercive enforcement mechanisms under trade and investment agreements which are incompatible with the human rights obligations of governments, including Investor-State Dispute Settlement.
- Provisions should be progressive and ensure no regression from existing international human rights standards, including core ILO Conventions;
- The inclusion of provisions recognizing the right of indigenous peoples to free, prior, and informed consent (FPIC) as a corollary of their internationally-recognized right to self-determination; for non-indigenous peoples, consent must be secured through a direct and participatory process of consultation that respects the right to participation.
- An explicit prohibition of government or corporate retaliation against human rights defenders, including through the suppression of protests, surveillance, and other forms of intimidation and harm.
- An explicit prohibition of the use of State security, military or paramilitary forces to secure corporate projects.
- The establishment of an international tribunal or mechanism to receive, investigate, and adjudicate complaints of human rights violations committed by TNCs. The decisions of this mechanism should be based on the obligations of governments and businesses in relation to international human rights standards and should be legally binding.

Agreed on by the undersigned members of Asia Pacific civil society.

***Endorsed by:***