



Panel VIII: Building National and international mechanisms for access to remedy, including international judicial cooperation, with respect to human rights violations by TNCs and other business enterprises.

Oral statement

Thank you Madame Chairperson.

In theory, one could argue that there are several mechanisms to access remedy, be they intergovernmental, judicial, administrative, mediation and other complaint mechanisms.

In reality and in the vast majority of corporate-related cases, however, access to justice remains an illusion. From the selling of surveillance technologies to repressive regimes that is used to torture opponents and journalists, to severe environmental contamination caused by the extractive industries, to modern slavery in global supply chains, it remain virtually impossible – in too many cases – for victims to obtain remedy and where there is, it is usually woefully inadequate. And human rights defenders acting to protect their communities from abuses involving businesses are being attacked as we speak, with total impunity.

FIDH's experience in using judicial and non-judicial mechanisms remains dishearteningly challenging. In some countries access to justice is becoming increasingly difficult as a result of legislative reforms or regressive judicial decisions.

A treaty must include provisions to ensure affected individuals, communities and peoples can – at a minimum – access effective remedies in their own States as well as in the home State of the business enterprise concerned, where the corporation, or its parent or controlling company, has its center of activity, its main place of business or substantial business activities.

A treaty should aim at identifying and removing barriers to remedy for business-related human rights cases in national legal systems, irrespective of where the abuse occurred. Existing obstacles to access remedy should be addressed, including the corporate law doctrine of separate legal personality and limited liability, jurisdiction and choice of law, *forum non conveniens*, practical and financial constraints to access courts, restrictive procedural and evidence rules, and mutual legal assistance. Extraterritorial jurisdiction of both civil and criminal jurisdictions must be confirmed. FIDH supports courts finding jurisdiction under the *forum necessitatis* doctrine.

In line with the principle of complementarity, the treaty should include recourse to effective and robust supra-national remedial mechanisms, as necessary.

There is no right without a remedy. FIDH urges the IGWG to prioritize access to justice and reparation for victims and encourages their direct participation in the sessions of this IGWG.

Thank you.