

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

Oral statement

Brot für die Welt, CAFOD (Catholic Agency For Overseas Development), **CCFD-Terre Solidaire, CIDSE** (International family of Catholic social justice organizations), **Global Policy Forum**, and **SOMO** (Centre for Research on Multinational Corporations)

Subject 7 – Jurisdiction

Thank you, Mr. Chairman. I deliver this statement on behalf of Brot für die Welt, CAFOD, CCFD, CIDSE, Global Policy Forum, and SOMO.

We welcome the draft elements as a holistic starting point for further negotiations, under the ongoing mandate of the open-ended working group.

In this statement, we would like to highlight the findings and recommendations of a report, co-commissioned by several of our organizations. The report, titled *Removing Barriers to Justice*, gives an overview of obstacles victims find on their lengthy road to remedy, including issues around jurisdiction.

Based on analysis of transnational business and human rights litigation, the report identified several common jurisdictional barriers, including forum selection, and limits to the legal applicable framework and extraterritorial jurisdiction. These aspects all too often result in victims not being able to access the courts in their home state or in the host state either. This is a reality we should not be willing to accept.

While corporate activities effortlessly cross borders, jurisdiction over these same actions is lost somewhere along the way.

The treaty can address these before-mentioned issues, making it possible for victims to overcome jurisdiction barriers.

Firstly, the treaty can create a common framework for jurisdiction and choice of law. Implementing their duty to protect, States can agree to recognise jurisdiction over companies domiciled in their country when cases are filed against those companies for human rights violations occurring overseas. The treaty should also establish a presumption for choice of law.

Secondly, the treaty should develop rules to allow the joinder of host state subsidiaries as co-defendants to claims against the parent company. This will expedite proceedings, allow for a more effective determination of claims, and avoid having conflicting judgments when parent and subsidiary are litigated in separate courts. Several European domestic legal systems already have provisions for the joinder in the interests of justice.

Finally, the rule of *Forum Non Conveniens* should be abolished or dis-applied in transnational human rights cases.

Introducing these three changes, among others, the treaty could help avoid lengthy jurisdictional battles, and help victims bring their case before a court.

Access to remedy, a central focus of the treaty, as expressed by many states present here, starts with victims having their case heard. For that, states need to decide they will open their courts for victims, with at least the same ease with which they have opened their markets for companies the victims seek to hold to account.

I thank you.