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*Check against delivery*

**Eight session of the OIEGWG – Legally binding instrument on business and human rights**

**Article 11**

Thank you Mr. Chair,

This is a joint statement on behalf of FIDH and Franciscans International

Article 11 of the Third Revised Draft contains a critical provision allowing the possibility for victims to choose the applicable law in the cases they bring before courts: it would concretely give to the victims the possibility to choose the most protective legislative framework in case of a dispute, while keeping the case in the judicial system they are more familiar with. This is also particularly important given that domestic law in certain places where harm arises often features inadequate protection of human rights or disproportionately restrictive procedural standards (*e.g.* very short statutes of limitation).

This possibility or similar possibilities already exist in certain legal systems.

* For example it exists in the European Union’s Rome II regulation with respect to environmental damage. As a matter of fact, several EU institutions, including the EU Agency for Fundamental Rights and the European Economic and Social Committee suggested to expand this principle to all business and human rights cases.
* The *pro personae* principle, which implies that legal interpretation should always seek the greatest benefit for the human being is also well established in the Inter-American System, namely in the case-law of the Inter-American Court of Human Rights that derived it from Article 29 of the American Convention on Human Rights.

As cases are often decided on the basis of provisions contained in the law applicable to the case, which might not be the law of the forum in which the case is filed, it is crucial that the LBI contains provisions that set general rules on this issue.

For all these reasons, we strongly support Palestine and Mexico’s proposal and recommend to keep article 11 in the LBI.