



**FIAN**  
INTERNATIONAL



**General Assembly  
47<sup>th</sup> session of the UN Human Rights Council  
Geneva (21<sup>st</sup> June–15<sup>th</sup> July 2021)**

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

*Joint statement CETIM, FIAN International, Transnational Institute/Institute for Policy Studies, Amigos de la tierra internacional, Asociación internacional de juristas demócratas, Corporate Accountability International, Asociación americana de juristas.*

*On behalf of the Global Campaign to Reclaims People's Sovereignty, Dismantle Corporate Power and Stop Impunity*

**Check against delivery**

Madame President, dear members of the Working Group

I speak on behalf of CETIM, FIAN International, Transnational Institute, Friends of the Earth International, the American Association of Jurists and the International Association of Democratic Lawyers.

We would like to express our deep concern about the general trend, in particular in the context of the activities of this Working group, to reduce corporate legal accountability to the extremely narrow component of due diligence, which is historically rooted in business risk mitigation and based on the logic of self-monitoring. This concept focuses on simple processes, guided by obligations of means and not of result, which is insufficient to address corporate impunity.

This approach is evident in the implementation of guiding principles and regulatory processes, especially in Europe.

We urge the Working Group to understand their mandate in a broader sense (taking Resolution 26/9 of the Human Rights Council as a reference), in order to abstain from this reductionist perspective, and take into account that the corporate legal responsibility

of transnational corporations (TNCs) with respect to human rights must encompass a wide range of elements, including prevention issues, beyond due diligence: criminal, civil and administrative accountability of TNCs and their global value chain ; the establishment of binding obligations for TNCs to respect human rights ; effective mechanisms to ensure access to justice among others.

We have expressed this in our inputs to the process on the Binding Treaty on Transnational Corporations and Human Rights. We consider duty of care to be more appropriate than due diligence, as it focuses on the impact on substantive rights and not on a simple business process. It gives a wider margin of appreciation to legal operators when judging cases of corporate violations, as recent jurisprudential decisions have shown , including the Shell case<sup>1</sup>, although progress is still needed for effective and broader accountability of transnational corporations for human rights violations in their business relationships, including along their value chains.

In conclusion, we urge all UN member states to engage constructively in the intergovernmental process to elaborate a legally binding international treaty on TNCs and human rights. The communities affected by TNCs need and demand it.

Thank you for your attention.

**Geneva, June 25, 2021**

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<sup>1</sup> Milieudefensie et al. v. Royal Dutch Shell plc.