

8th Session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

Art. 10 Statute of Limitations

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This is a joint statement by Franciscans International, FIDH and FIAN International. In general, we highlight the importance of article 10 of the 3rd revised Draft. This article is key to guaranteeing effective access to justice for victims, and in particular inter-generational victims, and in cases where harm and effects continue or manifest over long periods of time as a consequence of business activities. As the Special Rapporteur on hazardous substances pointed out, in cases like the dumping of waste in Arica, Chile, strict implementation of statute of limitations prevented victims access to justice because the effects of the business activities took years to manifest.

In paragraph 1, on the non-applicability of statutory or other limitations, we are of the view that this provision shall not be limited to violations that constitute the most serious crimes and this paragraph should include violations whose effects and impact would continue over long periods of time or when harm have long lasting effects. This would be the case of environmental harms. This should be added also in article 10.2 to make it consistent.

In regard to paragraph 2, we support Palestine's proposal for Art. 10.2, but we suggest adding "and" after "reasonable" so it reads as follows: "allow a reasonable and gender-responsive period of time".

Moreover, any proposal that would refer to domestic legal and administrative systems for the applicability of this article should be rejected.