

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

Art. 7: Access to Remedy  
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*Delivered by: Ulises Quero*  
*Check against delivery*

We recognize the advances made to contain key elements that should improve access to justice and address obstacles that may otherwise prevent victims from enjoying their right to an effective remedy including reparations.

In regard to Art.7.3, we support the delineated measures to be taken by States. In subparagraph (a) it would be beneficial to ensure that State make information regarding environmental disasters public, include that related to negotiations between companies and the State, particularly on reparation agreement negotiations.

We recognize that Art. 7.4 attempts to ease the concern of legal costs faced by victims, however, we feel that limiting cases to an ‘unreasonable burden’ is too broad, and can potentially be challenged by corporations. We are similarly concerned with so-called ‘loser-pay’ systems which may also deter victims from bringing claims, and may effectively allow corporations to again harm communities.

We support Art. 7.5 in regard to the reversal of the burden of proof, which is fundamental to avoid denial of justice, to protect general principles of law, the interest of justice and equality of arms. We note that such a provision has precedent in the Escazu Agreement, as mentioned and proposed by Mexico.