



Pan African Lawyers Union
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ZELA



Statement on relevance of Africa's Engagement in the Tenth Session of the Intergovernmental Working Group on the UN-Legally Binding Instrument (LBI) Negotiations.

16 December 2024, Geneva

I am Gilbert Sebihogo, the Executive Director of the Network of African National Human Rights Institutions, and I am honored to deliver this statement on behalf of:

ActionAid International, Pan African Lawyers Union, Centre for Democracy and Human Rights, FIDA-Uganda, Kenya Human Rights Commission, Uganda Consortium on Corporate Accountability, Lusophone Platform on Human Rights, Network of African National Human Rights Institutions (NANHRI), and the Zimbabwe Environmental Law Association (ZELA).

Honourable Delegates,

We, the undersigned organizations, are pleased to present this statement that is crucial in reminding us why the participation of Africa in the ongoing negotiations is crucial.

We recognize that **Africa has over the past two decades attracted heightened economic activities**. As Africa's economic activity and Foreign Direct Investment (FDI) growth continue, **businesses in the region** are under **increasing scrutiny** for their **impact on and respect** for human rights.

We are **deeply concerned** about the **ideological and political divide** that has **stalled** initiatives towards regulating the conduct of Trans-National Corporations (TNCs) and

business enterprises, from as early as the 1970s when discussions began to date. Nevertheless, we **commend the UN Human Rights Council** for boldly revamping the discussion in 2014 by adopting a resolution to negotiate a legally binding instrument (LBI), and **strongly urge for political consensus** in the ongoing initiative.

We emphatically highlight that the **corporate accountability discourse is particularly important to Africa**, which for a variety of different reasons, **experiences weak-governance and conflict**. Historical systems of **colonisation, slavery, apartheid, and imperialism** which were intended to benefit some countries by exploiting others, have **created power imbalances between TNCs and States**. This has created a **dissonance between the abundance of natural resources on the one hand and extreme poverty** on the other; **an acute tension between trade and investment liberalization policies**; and the **lack of effective regulation of foreign direct investment**. Above all, the levels of **adverse corporate human rights impacts are particularly high, especially on vulnerable groups**.

Distinguished delegates

Taking **cognizance of the limitations inherent in soft standards**; existing **power imbalances between TNCs and States**; and the **gravity of the impact of the operations of TNCs**; a **binding international framework, applicable across jurisdictions, remains crucial in global context**.

Honorable delegates

We recognize that the global energy system is in the middle of a major and rapidly evolving transition to low-carbon energy sources with **Africa hosting robust energy transition minerals**. As the scale and ambition of clean energy policies and projects are ramped up, the **global demand for transition minerals is projected to increase fivefold**. Recent reports show that more than **1 million children worldwide** are being **forced to work in dangerous cobalt and coltan mines**, which are essential minerals needed to manufacture batteries for electric vehicles and solar, wind and other renewable energy infrastructure. In the Democratic Republic of the Congo (DRC) alone, **more than 80 multinational corporations** from around the globe have been implicated in the illegal exploitation of natural resources, forced labour, and the distribution of

weapons to different armed groups. With **Africa having more than half of the world's resources**, statistics indicate that a **huge volume of the cases involving corporate violation of human rights globally**, occur in the African continent. This is a stark reminder of the **urgent need to reconcile ideological differences, address political sensitivities and move with speed** in the adoption of a legally binding instrument that will adequately **regulate and punish corporate malfeasance, strengthen protection of victims** including **human rights defenders**, ensure **access to effective and efficient remedies** and **reinforce corporate liability** for **human rights abuse**.

Dear Delegates

We reiterate that the State duty to protect is a standard of conduct. The UNGPs rightly emphasize that States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. Further considering the **multifaceted role of civil society organizations and human rights defenders**, States should **safeguard the civic space** of these actors and treat them as critical allies in realizing human rights.

Further States have a duty to **co-operate and collaborate** with other States to provide more **effective and efficient remedies locally and extraterritorially** for all business-related human rights abuses. To date, there has been **little progress in cross-border cooperation** for successful law enforcement action in **transboundary business-related human rights abuses**. This is key in ensuring the provision of more effective remedies locally and extraterritorially for all business-related human rights abuses. As part of their extraterritorial obligation to respect, protect and fulfil human rights, States should provide access to effective remedies no matter where the offense occurs. This is crucial and sends a clear message to enterprises domiciled in their territory and/or jurisdiction to respect human rights throughout their operations.

Dear Delegates

Considering procedural barriers in judicial systems make it difficult for victims of human rights abuse to seek and obtain justice, we welcome the proposal to alleviate the disproportionate burden of proof on the claimants, by encouraging the reversal of the burden of proof and reducing the financial burden on victims seeking remedies. We

however advocate for **stronger measures towards provision of adequate legal aid programmes** and **timely dispensation of justice** for all. The instrument also needs to guarantee **access to effective and efficient remedies** to **marginalized groups** while applying a **critical gender lens**.

Distinguished delegates

We extend our heartfelt gratitude to Cameron, the Friends of the Chair for this opportunity, for it through these multi-stakeholder engagements that we get to openly **confront the inherent gaps** and **build consensus on crucial elements** of the legally binding instrument. The adoption of this legally binding instrument will also create a **monumental shift** and **promote an expansive understanding of corporate human rights accountability**. We reiterate **Africa's urgent need** for an **efficient global economy, operating concurrently with a more accountable legal system** that **ensures social justice** for local communities. We call on African states to **meaningfully** engage in this process, and lobby for a **robust instrument** that will **stand the test of time**.