

First intersessional thematic consultation, focused on: Article 4 (Rights of victims), Article 5 (Protection of victims), and Article 7 (Access to remedy) towards the 11th session of the Open-ended Intergovernmental Working Group (OEIGWG) on transnational corporations and other business enterprises with respect to human rights

Article 4

In relation to the comments related to including the formulation “internally recognized human rights”:

Article 21 of the Rome Statute, for example, includes already the reference to internationally recognized human rights:

“The application and interpretation of law pursuant to this article must be consistent with internationally recognized human rights”

We would also consider the proposal made by the experts using the last formulation that was proposed to consolidate the different positions presented by various States.

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On article 4.2 .e. we think is important to maintain the reference to the right of victims to be protected from any unlawful interference against their privacy, and from intimidation, and reprisals, before, during and after any proceedings have been instituted. In this sense, we think that the proposal by Mexico and Panama to also include their representatives, families, and witnesses.

Article 4.2 would also support the importance of including other persons, including human rights defenders, within the scope of article 4. This should be included in this article or in article 1 when defining “victim”.

On merging article 4.2.e and article 5.1.

We understand the proposal on merging these articles, however, we think that each article would have different scope of application. While article 4 refers to the rights of victims, article 5 would refer to the positive obligation to protect them.

Finally, in addition to the right to privacy, this article also includes the right to defend rights, including the rights that were violated against them, and other rights enshrined in the future LBI.