**Civil Society priorities and proposals regarding the Official visit of the Working Group on business and human rights to Mexico**

**28 August 2016**

Mexico is amongst the fifteen most important global economies, but it is also one of the most unequal and dangerous countries for those who work for the protection of human rights, land and territory. The Mexican human rights crisis has been acknowledged by several United Nations bodies[[1]](#footnote-1) and the Inter-American Commission of Human Rights. In this regard, the signatory civil society organizations, movements and communities, hereby consider that the Official visit of the Working Group of Human Rights and Transnational Corporations and other enterprises to Mexico, is crucial for a better understanding of the role of corporations and enterprises regarding respect for human rights, and compliance with international legal frameworks including the UN Guiding Principles on Business and Human Rights.

Taking into account the territorial extension and complexity of Mexico, as well as the mandate of the Working Group, over 100 civil organizations, movements and networks have drafted a preparatory report for the visit. The full report is available [in Spanish](https://business-humanrights.org/es/m%C3%A9xico-67-casos-de-abusos-de-empresas-a-los-derechos-humanos-exhiben-situaci%C3%B3n-en-el-pa%C3%ADs-ante-la-visita-del-grupo-de-trabajo), and is summarized in the present paper.

The report sets out the priority topics that from our perspective, should be analyzed before, during and after the visit, and the suggested regions to visit. The report also documents over 60 cases of alleged human rights abuses involving business. We aim to collaborate with the Working Group in the understanding of the current situation in Mexico, towards the success of the visit.

We would also like to express our interest that the Working Group meets with a wide range of human rights organizations, communities and affected people by business activities, in order to directly acknowledge the priority topics described. These meetings should take place both, in Mexico City, as well as at the site visits the Working Group decides to implement.

Notwithstanding the complexity of the current situation on business and human rights in Mexico, and that it impacts the enjoyment of all human rights, the following list includes the priority topics on these issues, based on our experience, evidenced by repeated situations and circumstances that hinder the progress and implementation of the UN Guiding Principles on Business and Human Rights:

1. **Lack of independence of the State and corporate capture: complicity, corruption and impunity.** It has been noted that the State of Mexico is not independent from the business sector; rather, in many situations at federal, state and municipal levels business interests are a priority and above the protection of the public interest. For example, the enactment of rules and regulations that favor business interests over human rights; the use of public force against peaceful social mobilization to protect private interests; favoring or support from several authorities towards extractive industry projects against community interests; the lack of further investigation and prosecution of human rights violations committed by businesses and its directors; as well as the criminalization of those who seek to protect their human rights or of their communities.
2. **Structural reforms** (energy, labor, mining act, among others) **that weaken the protection of human rights and favor business interests.** Several structural reforms such as the Energy Reform - and consequently the Mining Act - and Labor Reform have been approved since 2013 without considering impacts on human rights, nor taking into account adequate information or inclusive consultation of affected persons and communities.
3. **Lack of prior consultation and free, prior and informed consent, and culturally appropriate due diligence by corporations; and proliferation of mega projects with negative impacts over human rights.** Over the last years, foreign investment and large mining, infrastructure, tourism and agribusiness projects have increased without due planning, regulation or adequate assessment. This has caused significant violations of human rights, particularly of communities in vulnerable situations. After the structural reforms, extractive activities have increased due to the weakening of the legal framework and lack of enforcement and monitoring. Environmental impact assessments for projects are submitted and approved without independent and objective evaluations, since EIAs are prepared by the same companies proposing the projects and most authorities do not have the capacity – technical, legal and economic - to evaluate the information received.
4. **Lack of access to justice and lack of compliance with rules and judgments by the State and corporations.** The existing legal framework in Mexico is limited to respond situations where companies have violated human rights; therefore, victims do not have effective mechanisms to access to justice. When such mechanisms exist, there is a high rate of impunity and inequality between victims and businesses. On multiple occasions victims who allege violations have reported a reduction in their personal security. Furthermore, when there are court decisions that recognizes human rights violations - including the Supreme Court of Justice of the Nation - they are not complied with.
5. **Narrowing of space for participation, and increase in abuses and attacks against human rights defenders due to business activities.** Mexico is one of the most dangerous countries for those who defend human rights; a situation that has been evidenced by an increase in killings, criminalization, threats and attacks to defenders. Furthermore, there are state and federal regulations that have limited the Right to freedom of speech, expression and freedom of association. Notwithstanding that the victims – human rights defenders - of human rights violations who have reported these cases and linked them to projects or situations related to business activities, find that in many cases the facts are not investigated nor prosecuted.

As it is well known, the Mexican government has boosted the development of a National Plan of Action on Business and Human Rights (NAP) and established a working group to advance in this regard with the participation of some civil society organizations. Taking into account the importance of this process, it is worth mentioning that it is still developing and there are essential elements that must be strengthened, as has been repeatedly mentioned by civil society organizations. These elements include: the involvement of other sectors and actors, such as communities affected by corporate abuses and human rights defenders; the haste with which this process has been developing and the lack of concrete action by the government; the need to ensure appropriate consultation processes with other organizations and indigenous peoples; and the need to ensure transparent and participatory processes in the preparation, adoption and implementation of the NAP.

Due to the identified challenges in developing the NAP and since it is an ongoing process, we consider crucial that during the visit, the Working Group prioritizes a direct and practical analysis of the situation based on the Group's mandate and the implementation of the Guiding Principles. We believe that the analysis and understanding of the NAP may be made at a later stage, without having to be included on the agenda of the visit as a preferential issue, which could decrease or sacrifice time from activities that we consider priority for the visit of the Group to Mexico. For example, meetings with authorities, public and private companies, and organizations, movements and victims of human rights violations related to the activities of enterprises.

Organizations, movements and communities hereby appreciate the attention and hope that the information summarized here, the full report and additional information submitted, will be useful to the Working Group, as well as other special mechanisms of the United Nations and other human rights, relevant.

Alianza de la Costa Verde

Ambiente y Desarrollo Humano

Asociación Interamericana para la Defensa del Ambiente (AIDA)

Bios Iguana

Campaña Nacional Sin Maíz No Hay País

Cartocrítica

Casa del Migrante Saltillo

Centro de Derechos Humanos “Fray Bartolomé de Las Casas”

Centro de Derechos Humanos “Fray Francisco de Vitoria”

Centro de Derechos Humanos “Miguel Agustín Pro Juárez” (Centro Prodh)

Centro de Derechos Humanos de la Montaña, Tlachinollan

Centro de Derechos Humanos Toaltepeyolo

Centro de Derechos Humanos Zeferino Ladrillero (CDHZL)

Centro “Fray Julián Garcés” Derechos Humanos

Centro de Información sobre Empresas y Derechos Humanos (CIEDH)

Centro de Reflexión y Acción Laboral (CEREAL)

Centro Diocesano para los Derechos Humanos “Fray Juan de Larios”

Centro Mexicano de Derecho Ambiental (CEMDA)

Colectivo sí a la vida No al basurero tóxico en Noria de la Sabina

Colectivo de Mujeres en Defensa de los Pedregales

Comités de Cuenca Río Sonora

Comité de Defensa Integral de Derechos Humanos Gobixha (CODIGODH)

Comité de Derechos Humanos de Tabasco (CODEHUTAB)

Comisión Mexicana para la Defensa y Promoción de los Derechos Humanos (CMDPDH) Consejo en Defensa de la Vida y el Territorio Tiyat Tlali

DECA Equipo Pueblo

DH Rayoactivo

El Barzón Chihuahua

EcoRed Feminista la Lechuza Buza

Enfoque DH

Estancia del Migrante en Querétaro

Frente de Derechos Humanos de la Sierra de Puebla

*Frente* de Pueblos en Defensa de la Tierra y el Agua (*FPDTA*)

Fundar, Centro de Análisis e Investigación

Foro de Derechos Humanos y Resistencias de la Sierra de Puebla

Greenpeace México

Grupo de Estudios Ambientales

Grupo Focal sobre Empresas y Derechos Humanos

Indignación, Promoción y Defensa de los Derechos Humanos

Instituto Mexicano para el Desarrollo Comunitario (IMDEC)

Movimiento Ciudadano en Defensa de la Loma

Movimiento Mexicano de Afectados por las Presas y en Defensa de los Ríos (MAPDER) Movimiento Mesoamericano contra el Modelo Extractivo Minero (M4)

Organic Consumers Association (México)

Oxfam México

Programa Universitario de Derechos Humanos, Programa de Incidencia, Programa de Medio Ambiente, UIA

Proyecto de Derechos Económicos, Sociales y Culturales (ProDESC)

Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER)

Red Mexicana de Afectados por la Minería (REMA)

Semillas de Vida

SMR, Scalabrinianas: misión con Migrantes y Refugiados

Serapaz, Servicios y Asesoría para la Paz

Y la Red Nacional de Organismos Civiles de Derechos Humanos “Todos los Derechos para Todas y Todos” (conformada por 80 organizaciones en 21 estados de la República mexicana).

1. Statement of the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein, on his visit to Mexico, October 7th, 2015: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16578&LangID=E> [↑](#footnote-ref-1)