

I. 経緯

- 2013年9月 [人権理事会におけるエクアドル提案](#)
 - “clarify the obligations of transnational corporations”
 - “the establishment of effective remedies for victims in cases where domestic jurisdiction is clearly unable to prosecute effectively those companies”
- 2014年7月 [人権理事会決議 26/9](#)
 - パラ1 条約作成のためのWG設置
 - [20-14-13](#) で可決。賛否の分布に注意。
- 2015年7月 [OEIGWG](#) 第1回会合
 - 先進国はほとんど参加せず。[会合報告書](#)パラ6。
 - 参加しても、“sat silently in the room (many represented only by low-ranking officials or summer interns)” ([Carlos Lopez and Ben Shea, “Negotiating Treaty on Business and Human Rights”](#), *Business and Human Rights Journal*, vol. 1 (2015), p. 111, pp. 112-113).
 - [EU 声明](#) 対象範囲の問題

II. 交渉の現状

- [第3改訂ドラフト](#) (2021)
- +各国提案 [A/HRC/49/65/Add.1](#)
- 論点
 - 1条 定義 雑すぎる? →8条・9条との関係
 - ◇ 1.2 “Human rights abuse”
 - ◇ 1.5 “Business relationship”
 - 8条 企業の法的責任に関する国内法整備
 - ◇ 8.1 “legal liability... for human rights abuses that may arise from their own business activities... or from their business relationships”
 - ◇ 8.6 “liability... for their failure to prevent another... person with whom they have had a business relationship, from causing or contributing to human rights abuses, when the former... should have foreseen risks of human rights abuses in the conduct of their business relationships”
 - 9条 国内裁判所の管轄権
 - ◇ 9.1(c)
 - 11条 適用法
 - ◇ 11.2(b)
 - 15条 国家報告制度
 - 18条 紛争処理

◇ 18.2 “a State Party may declare”

● 批判

- [米声明 \(2019\)](#) : “the one-size-fits-all approach represented by the proposed treaty”
- [O’Brien, “Transcending the Binary”](#), *AJIL Unbound*, vol. 114 (2020), p. 186, p. 190. (2020).
 - ◇ 発効しないおそれ高く、国連（人権理事会）への信頼低下を招く
 - ◇ 発効しても参加国少なければ、条約の「内外」で対立悪化の恐れ
- どういう付加価値があるのか？

以上