



Subject 7: Jurisdiction

Thank you, Mr. Chair.

This statement is made on behalf of the Center for International Environmental Law and the Project on Organization, Development, Education and Research.

The panelists have made important points about the need to address the various types of jurisdiction clearly.

CIEL strongly supports the comments made by Sandra Ratjen with respect to the need to clarify the relationship between jurisdiction and States' obligations extraterritorially.

Throughout the draft elements, the State obligation to protect against human rights violations is defined with respect to TNCs within the State's territory and/or jurisdiction.

The draft elements also explain that a fundamental purpose of creating the binding framework on TNCs is to "reaffirm that State Parties' obligations regarding the protection of human rights do not stop at their territorial borders."

To achieve this fundamental purpose, the draft elements should clarify that the State obligation to protect against human rights violations or abuses by TNCs or OBEs also applies extraterritorially, and is not limited to the definition of jurisdiction provided in section 7.

States must take necessary measures to ensure that TNCs which they are in a position to regulate do not nullify or impair the enjoyment of human rights in any other State. As clearly articulated by Professor David Bilchitz yesterday, the elements should address the role that corporate law should play in this regard.

States must also ensure that they do not use their influence in a way that can undermine another State's ability to protect against human rights abuses. For example, the negotiation of investor state dispute resolution provisions in trade and investment agreements by one State can undermine the other State's ability to protect the human rights of its citizens. The elements should be explicit about State obligations in this context.

Thank you.