

**Open-ended Intergovernmental Working Group on Transnational Corporations and Other
Business Enterprises with Respect to Human Rights - 3rd Session**
Item 4 - Subject 6 - Access to Justice and Remediation

Oral Statement from Conectas Direitos Humanos

Delivered by Paulo Lugon Arantes

A legally binding instrument to address violations of corporate activity is an important step towards the development of a robust international corporate liability regime.

Conectas has been working on issues related to the formulation of remedies in the context of corporate-related human rights abuses. We cannot more emphasize the importance of victims' participation throughout the process of definition and implementation of remedies.

The elements for the draft legally binding instrument recognize different types of remedies, but it does not mention the importance of adopting the victims' perspective.

Conectas has been working on the Mariana case, in which the collapse of a mining tailings dam affected millions of people in Brazil and released tons of toxic residue into one of the main Brazilian river basins. It is considered the worst socio-environmental disaster in Brazil's history and the companies have been failing to provide adequate remedy ever since.

The transnationals involved and the Brazilian government signed a agreement to carry out a program to repair the related environmental and human rights damages, without the participation of the affected communities in its implementation, without discussing with them the the type of remedies, and without guarantees of no-recurrence and of revictimization.

Moreover, we would like to express our concern with the provision that establishes that State parties shall adopt adequate measures to provide remedies for the cases in which companies are acting under the State's direction and control or when companies are empowered to exercise elements of governmental authorities. The "State action" doctrine was long used to limit companies' obligations. States must provide victims of corporate-related human rights abuses with adequate redress, regardless of its influence on corporate activity. Companies should be held liable regardless of whether they are performing a State action.

In future draft texts should consider adding the relevance of victims participation in the formulation of remedies, as well as to rephrase the mention of the State action requirement.

Thank you.