
THIRD SESSION OF THE OPEN-ENDED
INTERGOVERNMENTAL WORKING GROUP ON
TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS
ENTERPRISES WITH RESPECT TO HUMAN RIGHTS

Oral Submission - Subject 1: General
framework

Good Morning, my name is Lucien Limacher, I from the Legal Resources Centre from the Johannesburg office in South Africa.

I am viewing the elements draft document from a viewpoint of respecting, protecting promoting the core environmental and sustainability principles widely accepted and fundamental to the survival and development of vulnerable communities who face, often unwanted, development projects imposed by TNCs, OBEs and states.

At Preamble:

In terms of the preamble, there are two core international environmental laws or policies that are currently not mentioned within the draft elements document, which play a critical role on the impact TNCs and OBEs have on human right violations. The first pertains to the lack of reference to the various international binding treaties on climate change; we cannot ignore the anthropocentric impact of TNCs and OBEs have on climate change and of course then on human rights. The second international environmental issue relates to the failure to acknowledge the Development Sustainable Goals that were agreed upon in terms of the 2030 Agenda for Sustainable Development read with the Rio Declaration and the Johannesburg Declaration on Sustainable Development. It is critical that TNCs and OBEs follow a sustainable development pattern that does not impact the livelihood of communities. As such the treaty should reflect in the preamble the above two aspects.

At Principles:

Taking the above context into consideration, the same problem can be expanded on under the principles section wherein the draft elements document failed to take cognisance of the following critical environmental principles that impact the human rights discourse:

- ❖ The first principle that must be included is the Cradle-to-Grave principle;
- ❖ The second principle that must be included is Prior Environmental Impact Assessment Principle (this must go along with the human rights impact assessment mention in the draft element document);
- ❖ The third principle that must be included is the Public Trust Principle;
- ❖ The fourth principle that must be included is the Polluter Pays Principle; and
- ❖ Lastly, the fifth principle that must be included is the Sustainable Use and Equity Principle.

Lastly, at Purpose:

Within this section, it was mention that adequate remediation is to be used as an effective remedying tool. It is this submission that remediation must include rehabilitation of the environment if the environment has been degraded by an activity of a TNC or an OBE.

Thank you.

Lucien Limacher
Legal Resources Centre
Johannesburg