



Franciscans International

A voice at the United Nations

Oral Statement

Sixth session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG)

Tuesday, 27 October 2020
Statement on Articles 3 & 4
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Thank you Mister Chairperson,

Article 3 (3)

In line with our previous submissions on article 3(3), we acknowledge concerns raised by various States regarding the lack of clarity of the scope in relation to rights covered by the LBI, especially considering that different States have ratified different regional and international instruments and because of the uncertainties in scenarios mentioned by Egypt, inter alia.

In that regard, FI concurs with Ecuador's intervention and proposals about a "minimum package of human rights" in line with UNGP 12 and commentary. I wish here to recall that States decided to impose this minimum package of rights on all business enterprises under their responsibility to respect. One could consider that it shouldn't be out of reach for States in the context of the UN human rights council to thus agree to such a minimum package, themselves.

And so, FI reiterates its support for language resembling that anchored in the very UNGPs that are so much promoted by various States as a reference framework as we heard in this room. This would include, at a very minimum, the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights and the two Covenants), together with the ILO Declaration on Fundamental Principles and Rights at Work. However, a provision should be added to explicitly state that the establishment of this "minimum package" shall be without prejudice of additional States international human rights obligations.

Additional language under Article 3(3) also could underscore "States' obligations under international humanitarian law in situations of armed conflict, and under international criminal law".

In line with FI's comments made under the preamble, FI also notes that, as it is currently worded, Article 3(3) and that which follows it, Article 4(1), are likely to entail incoherencies and would pose issues of legal certainty about what "all internationally recognized human rights" mean in specific cases.

Article 4. Rights of Victims

Article 4, in conjunction with article 5, are redundant, and should be replaced with an article on Access to Justice that encompasses some of the specific obstacles that victims of business abuses face in accessing justice, including remedies and reparation.

Such a new article on access to justice should come after the article on prevention and should contain an explicit provision requiring States to take measures to guarantee non-repetition.

If Articles 4 & 5 are not subsumed in an article on Access to Justice, FI will have suggestions for specific changes on article 5 that we will raise later.