Toxics and Human Rights: A scoping consultation


3 – 6 November 2014
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1. Background

The link between human rights and the quality of the human environment in all its dimensions was first acknowledged at the United Nations Conference on the Human Environment (Stockholm Declaration) of 1972\(^1\), with toxic and otherwise hazardous pollution explicitly mentioned in Principles 6, 7, and 22. Over the past several decades, this linkage has been sustained through various international declarations, including the Rio Declaration on Environment and Development, whose Principle 10 pronounced the importance of access to information, participation and the access to remedy in dealing with environmental harms, and the Dubai Declaration of the Strategic Approach to International Chemicals Management.

The 1993 Vienna Declaration and Programme of Action declared that “the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.” Furthermore, the World Conference on Human Rights recognized in the Declaration “that illicit dumping of toxic and dangerous substances and waste potentially constitutes a serious threat to the human rights to life and health of everyone”.

In 1995, the then United Nations Commission on Human Rights (now U.N. Human Rights Council) adopted its first resolution on “the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights”, following a number of General Assembly resolutions on the issue of dumping of hazardous products. Commission resolution

\(^1\) The Stockholm Declaration proclaimed that “both aspects of man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself.”
1995/81 affirmed that the illicit traffic and dumping of toxic and dangerous products and waste constitutes a serious threat to the human rights to life and health, and established the mandate of the Special Rapporteur to examine the human rights aspects of the issue.

Subsequently, the scope of the mandate of the Special Rapporteur was reviewed in September 2011. The Human Rights Council decided to strengthen the mandate so as to cover not only the movement and the dumping of hazardous substances and waste, but also the whole life cycle of hazardous products, from their manufacturing to their final disposal (cradle-to-grave approach). By this decision, the mandate was not only expanded but also re-defined and re-established through the Council’s request for a new and substantially expanded scope of work.

Since the establishment of the mandate in 1995, the Special Rapporteurs have produced reports on the human rights implications of hazardous substances and waste with a specific thematic focuses and have undertaken visits to a number of countries.

**Mandate of the Special Rapporteur**

Aforementioned, the mandate was re-defined in 2011 moving away from the limited scope of illicit dumping issues to a broader, holistic life-cycle approach in analyzing human rights implications for hazardous substances and waste management. Accordingly, the U.N. Human Rights Council mandated the Special Rapporteur with a new set of tasks to provide comprehensive and up-to-date information on the myriad of adverse effects that the improper management and disposal of hazardous substances and waste may have on the full enjoyment of human rights. For example, in connection with hazardous substances and wastes, the Council requested information on:

- The human rights issues raised by transnational corporations and other business enterprises;
- The scope of national legislation relating to the human rights implications;
- The human rights implications of waste-recycling programmes and the transfer of polluting industries, industrial activities and technologies from one country to another and new trends therein, including e-waste and the dismantling of ships;
- Support and assistance to victims of human rights violations;
- The ambiguities in international instruments that allow the movement and dumping of hazardous substances and wastes, and any gaps in the effectiveness of international regulatory mechanisms;
- Human rights abuses and violations committed against human rights defenders owing to their activities relating to hazardous substances and wastes.

Furthermore, the Human Rights Council, at its 27th session, extended the mandate of the Special Rapporteur for a period of three years and tasked him to:

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2 A/HRC/RES/18/11
3 For more information, see http://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Annual.aspx
4 For more information, see http://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Visits.aspx
5 A/HRC/RES/21/17
6 A/HRC/RES/27/23
• Submit annual reports to the Council;¹
• Hold consultations with relevant stakeholders;
• Develop a guide to “best practices” regarding the human rights obligations related to the environmentally sound management and disposal of hazardous substances and wastes, to be submitted together with his report to the Human Rights Council in 2017.

Working methods of the Special Rapporteur

In addition to submitting annual reports to the Human Rights Council, the Special Rapporteur undertakes country visits; acts on individual cases and concerns of a broader, structural nature by sending communications⁸ to States and others in which they bring alleged violations or abuses to their attention; convenes expert consultations, contributes to the development of international human rights standards, engages in advocacy, raises public awareness, and provides advice for technical cooperation.

A human rights-based approach to the sound management of substances and wastes

The value of the mandate is well-summarized by the former Special Rapporteur, as follows:

“[t]he added value of the mandate is its human rights-based approach. Its aim is to raise awareness of the threats that hazardous substances and wastes pose to the enjoyment of internationally protected human rights, with a view to eliminating, or reducing to a minimum, such threats and to ensuring effective redress for victims of human rights violations. By focusing on the human rights of the victims of exposure to hazardous substances and wastes, the mandate complements, rather than duplicates, the protection afforded by the international legal framework adopted in the field of international environmental law.”⁹

Hazardous substances and waste pose a serious threat to the enjoyment of human rights. This includes the right to life, safe and healthy working conditions, food, safe drinking water, adequate housing, the right to information, public participation, the enjoyment of the highest attainable standard of physical and mental health; and other human rights enshrined in the Universal Declaration of Human Rights and several international human rights treaties.¹⁰

A human rights-based approach to the sound management of hazardous substances and wastes facilitates to identify rights holders, who have a claim to certain entitlements, and duty bearers, who are legally bound to respect, protect and fulfil the entitlements associated with those claims. Such an approach works towards strengthening the capacities of rights-holders to make their

¹ The forthcoming annual report of the Special Rapporteur to the Council (September 2015) will focus on the right to access to information in the field of management of hazardous substances and waste. For more information, see A/HRC/27/54.

⁸ For information on how to submit information to mandate holders, see http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx.

⁹ A/HRC/24/39, para. 16

¹⁰ For example, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, etc.
claims, and of duty-bearers to meet their obligations. A few examples of rights that are essential in the area of management of hazardous substances and wastes are described below:

- **Right to information**: all stakeholders have the right to have access to appropriate information and knowledge on the hazardous substances they may be exposed to, including their intrinsic properties, their potential uses, their possible adverse effects on human health and the environment, as well as the measures and precautions to be adopted to ensure their proper handling, management and disposal. Such information should be available, accessible, user friendly, adequate and appropriate to the needs of all stakeholders.

- **Right to participation**: all concerned stakeholders, and in particular those belonging to groups that are particularly vulnerable to discrimination and/or to risks from hazardous substances, such as women, children, people living in poverty, indigenous peoples, ethnic or national minorities, and workers in the agricultural or industrial sector, have the right to participate in a meaningful and active way in the design, implementation and monitoring of regulations, strategies and policies on the sound management of hazardous substances and wastes that affect, or may affect, them.

- **Right to a remedy**: any person whose human rights have been violated as a result of the unsound management of hazardous substances has the right to an effective remedy, which includes the right to the right to seek just and adequate compensation for any damage suffered as a result of such violation. Any person claiming such a remedy has the right to have his/her claim examined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State.

- **Equality and non-discrimination**: All individuals are equal as human beings and by virtue of the inherent dignity of each human being. All human beings are entitled to their human rights without discrimination of any kind, based on any grounds such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status, as stated by the human rights treaties.

Against this backdrop, the newly appointed Special Rapporteur wishes to hold this consultation to exchange views on the mandate with various stakeholders.

### 2. Objectives of the consultation

The objectives of this consultation are to:

i) Raise awareness about the mandate of the Special Rapporteur;

ii) Bring two communities – human rights and chemicals management – together to reinforce the linkage between the two;

iii) Promote a human rights-based approach to chemicals management;

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11 With the untimely death of the former Special Rapporteur, Mr. Marc Pallemaerts, the Human Rights Council appointed Mr. Baskut Tuncak as his successor. Subsequently, Mr. Tuncak assumed the mandate on 1 August, 2014.
iv) Strengthen partnerships with participants;  
v) Incorporate views of participants in shaping priorities and constructing strategies for the Special Rapporteur.

3. Expected outcomes

This consultation will enable the Special Rapporteur to identify priority work areas in carrying out his mandate, to set short- and long-term goals to achieve and to develop effective strategies to accomplish these goals.

Furthermore, it will raise awareness about the work of the Special Rapporteur and facilitate partnerships with interested stakeholders. The consultation will also provide an opportunity for the human rights and the hazardous substances management communities to meet and exchange experiences, which, in turn, will lead to strengthened capacities for synergies between human rights and hazardous substances management.

4. Participants and format

The consultation will gather approximately 20 participants.

The consultation will be informal and interactive. Participants will be provided with a set of questions prior to the meeting to share their views with the Special Rapporteur and other participants.

The consultation will take place in English only.

5. Background documents

- A/HRC/27/54
- A/HRC/RES/27/23
- Background note on human rights
- OHCHR publication on the U.N. Guiding Principles on Business and Human Rights

6. Contact information

For issues related to this consultation or to submit information related to the mandate, please write to the Special Rapporteur on human rights and hazardous substances and waste (srtoxicwaste@ohchr.org).