



Newsletter of the Mandate on Human Rights and Toxics

Spring 2019

Dear Friends, Colleagues and Followers,

It is with pleasure that I share with you this newsletter to update you on developments under the Human Rights Council mandate on human rights and toxics. Here you can find some highlights from 2018, and some insights into my plans and priorities for 2019. As this is the first newsletter of the mandate in some time, you are asked to forgive the length. Future editions will be more frequent – and shorter!

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-- Baskut Tuncak,

Special Rapporteur on human rights and hazardous substances and wastes (toxics)

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Introduction

For the first time since its creation in 1995, the mandate was invited to present a thematic report to the General Assembly of the United Nations in 2018. This report and my 2018 report to the Human Rights Council are discussed in further detail below. I hope that future interactions with the UN General Assembly and other international bodies outside Geneva will expand interest and involvement in the work carried out by the mandate on toxic exposures as a human rights issue, prevent harm and ensure victims have access to remedies.

In 2018, my mandate signed or co-signed a total of 75 communications to Governments, companies, and other organisations on alleged human right violations and abuses resulting

from toxic exposures ([link to communication database, search for “hazardous substances”](#)). I also released 10 [press releases](#) since the beginning of 2018 independently or jointly with other mandate holders of the Human Rights Council. A few of these are pinpointed below. We also presented two reports on [country visits](#), one on Denmark and Greenland and another on Sierra Leone.

I would also like to introduce the two staff members of the Office of the High Commissioner for Human Rights, Lilit Nikoghosyan and Alvin Gachie, who support the mandate on toxics. For the first time in nearly 25 years, we have a permanent position supporting the mandate (funded by the UN regular budget), and another position supported by the Government of the Netherlands, which is greatly appreciated!

Focus areas of the mandate

Workers' rights

Workers' rights are human rights. Protecting workers and their families from exposure to toxic and otherwise hazardous substances at work is a central human right requirement.

This message was conveyed in the thematic report I presented to the Human Rights Council in 2018. The [report on protecting workers from toxic exposures](#) received wide support by Member States of the Human Rights Council, trade unions and civil society organisations. The interactive dialogue with States convinced me that there exists a strong interest to finalize the draft set of Principles on protecting workers from toxic exposures.

I am now in the process of gathering input from States and other stakeholders on these principles to provide a framework for implementation by States, business enterprises and other actors. I intend to submit to the Human Rights Council in September 2019 a new report containing the final principles for protecting workers rights from toxic exposures.

The general call for submissions to my 2019 report can be found [here](#). I would be pleased to continue receiving your input, even if it might come in beyond the indicated deadline.

Cases of concern regarding workers continued to be investigated through the (cryptic) [“communications procedure”](#), which enables me to engage in a direct dialogue with Member States and business actors:

- In January and February 2018, letters were addressed to the Governments of Denmark ([DNK1/2018](#)) the UK ([GBR 1/2018](#)), and Bangladesh ([BGD 1/2018](#)), as well as to the companies implicated, AP Moeller-Maersk ([OTH 6/2018](#)) and Odebrecht ([OTH 8/2018](#)), concerning a **radioactive ship sent for dismantling on the beaches of Bangladesh**. The case was also addressed in a visit to Denmark and Greenland (report available [here](#)). Regrettably, Maersk had reversed a 10-year policy prohibiting such abhorrent waste management practices in 2016.

- In June 2018, a joint letter initiated by my mandate and addressed to the Government of Japan ([JPN 5/2018](#)) raised issues of concern about the situation faced by workers in the on-going decontamination and resettlement program in the **Fukushima Prefecture of Japan**. See here the [response](#) of the Government of Japan. In a subsequent [press release](#), I called upon Japan to act urgently to protect tens of thousands of workers in efforts to clean up the damaged Fukushima Daichi Nuclear Power Station. In September 2018 Japanese authorities acknowledged that [one worker died as a result of exposure to radiation below levels the government considered permissible](#).
- Also in May, joint letters were addressed to the Government of **Zimbabwe and 10 tobacco companies**, as well as their countries of domicile, concerning exposure of child workers to toxic chemicals while working in tobacco farms in Zimbabwe. The numerous allegation letters and responses received are available via the above mentioned communication database.

More cases involving workers exposed to hazardous substances are discussed below as well.

Children's rights

In 2016, the mandate presented the first [report](#) to the Human Rights Council on child rights and environmental exposure to toxics. Childhood exposure to pollution and the rights of the child have and will continue to remain a priority area in my work as a Special Rapporteur.

My above-mentioned 2018 [report on Workers' rights](#) discussed in greater detail the risks faced both by child labourers and children of adult workers exposed to toxic chemicals. Work where children use or are otherwise exposed to pesticides, toxic industrial chemicals, heavy metals or other hazardous substances constitute one of the worst forms of child labour. Exposing children to toxic substances at work is indefensible.

I also continue to address cases of children exposed to toxics via the above mentioned [communications procedure](#). In addition to the above case of child labor on tobacco farms in Zimbabwe, below are other cases of childhood exposure investigated recently by this mandate.

- In May 2018, a letter was sent to the Government of Peru ([PER1/2018](#)) regarding relentless childhood exposure to high amounts of heavy metals as a result of mining activities in the region in **Cerro de Pasco, Peru**. As described in [this article](#), the mine at Cerro de Pasco, Peru, which once funnelled silver to the Spanish crown, continues to consume the town—and poison its children with lead and other toxic pollutants. In 2017, testing of children from the community determined high levels of exposure to toxic elements, such as lead, chromium, aluminium, manganese, and nickel. Peru still has not rescheduled a country visit by this mandate that was postponed unilaterally by the Government in early 2017.
- In July, I addressed a letter to the Government of Kazakhstan concerning the persistently worrying health situation and rehabilitation of 25 children, former residents

of **Berezovka, Kazakhstan**, who had been exposed to toxic gas emissions ([KAZ 3/2018](#)). More than three years after the accident at the Karachaganak Oil and Gas Condensate field, victims reportedly continue to suffer serious adverse health effects from the toxic gas poisoning, questioning the adequacy of the remedy provided. The [response](#) of the Government is available. Read more on the case in the [report on my 2015 mission to Kazakhstan](#).

- Throughout 2018 I also engaged in a dialogue with the Secretary General of the UN regarding the Organisation's responsibility towards victims of lead poisoning in **Kosovo**. Children of Roma and other minority communities were housed in UN camps constructed on a toxic wasteland. The United Nations established a Trust Fund in 2017, but as of January 2019, no funding was available and not one Government had contributed to the Fund, which even if funded would regrettably fail to provide individual compensation to the victims. Two letters to the Secretary General are available here ([letter 1](#) and [letter 2](#)), along with the answers provided by the Deputy Under-Secretary General for Peacekeeping Operations of the UN which can be consulted here ([response 1](#) and [response 2](#)).

- The mandate has also raised concerns regarding the return of children to areas of **Fukushima**, Japan, where permissible levels of radiation exposure have been raised from 1 mSv/yr to 20 mSv/yr following the nuclear disaster (Letter [JPN 6/2018](#), [press statement](#)). In the case of the general public, including young children, the International Commission on Radiological Protection recommends 1 mSv per year as the effective dose and application of the justification principle for exposure (ICRP 103, table 6). In February 2019, the Committee on the Rights of the Child reiterated concerns for the rights of children in Fukushima, stating that Japan should "reaffirm that radiation exposure in evacuation zones is consistent with internationally accepted knowledge on risk factors for children" ([CRC/C/JPN/CO/4-5](#)). The Government of Japan has a standing invitation to all Human Rights Council mandates, but refuses the repeated request of those concerned in Japan to extend this mandate an invitation to visit. [Read more about the concerns in this excellent article](#).

Business and human rights

In November 2018, as part of the UN Forum on Business and Human Rights, I co-organised an event titled '[Addressing human rights impacts of toxic substances: challenges and human rights due diligence across sectors with a deep dive on the electronics industry](#)'. Key stakeholders discussed exposure of workers to toxic substances as a form of exploitation implicating a range of economic sectors. Business enterprises were urged to implement human rights due diligence processes to prevent and address exposure of workers in their supply chain, and to support access to effective remedies in case of infringements. There was also a discussion on transparency and the right to information as a key element of the way forward.

My mandate has sent a number of letters to business enterprises on alleged human rights violations and intends to continue the active dialogue with business actors in 2019. In addition to the cases mentioned above, a few more are mentioned below.

- I recently called for a [criminal investigation](#) into the collapse of the **Brumadinho tailing dam in Minas Gerais, Brazil**, on 25 January 2019, which killed or left missing over 300 people. It was the second such incident involving the company Vale in the past three years. The tragedy demands accountability and calls into question preventive measures taken subsequent to the **Samarco** mining disaster in Minas Gerais just over three years ago, when a catastrophic flood of mining waste near Mariana killed 19 people and affected the lives of millions, including indigenous communities. A [joint statement](#) was issued by mandate holders, in which I made a specific call for a transparent, impartial, rapid, and competent investigation into the toxicity of the waste, with full accessibility of information for the general public, and urged for necessary precautionary measures to be taken immediately. *I look forward to [an invitation](#) to visit Brazil soon as possible.*
- I addressed a letter to the Republic of Korea ([KOR 5/2018](#)) concerning (1) the grossly inadequate sanctions given to chemical companies for their role in the **sale of deadly humidifier sterilizing solutions to consumers in Korea**; and (2) the apparent inability of thousands of victims to access a remedy. The humidifier sterilizers are now acknowledged to have killed or caused diseases or disabilities among hundreds of people, mostly young children, pregnant women and older persons. Over 1000 cases of deceased individuals await determination for remedy, and only 6000 individuals have registered for compensation when the government estimates that over 500,000 persons experienced health damage. Three chemical companies (SK Chemical, Aekyung Industrial and Emart) linked to the commercialisation of the deadly consumer products were fined a mere \$125,000 -- or US\$ 92 for each victim who died, based on the number of registered cases of premature death.
- The mandate has been concerned by a pattern of detention and imprisonment of several **human rights defenders in Viet Nam**— particularly journalists and bloggers – for exercising their human rights regarding the impacts of toxic pollution in the country due to foreign and domestic businesses. In this letter ([VNM2/2018](#)) to the Government, concerns were expressed regarding the arrest, detention, and conviction of reporters covering the environmental disaster of the Formosa Steel Plant in 2016. A [joint statement](#) was issued in early 2018 for yet another example of alleged intimidation of health and environmental advocates by authorities and a major foreign investor.

Rights of indigenous peoples

The exposure of indigenous communities to toxic and otherwise hazardous substances has always been a matter of concern for the mandate, but is an area of deeper engagement and research in 2019.

In April 2018, I delivered a statement at the 17th Session of the **United Nations Permanent Forum on Indigenous Issues (UNPFII)** in response to an invitation from the UNPFII to carry out a review of the United Nations chemicals and waste conventions on the basis of indigenous rights and continued concern about the impact of environmental pollutants on the rights of indigenous peoples. Particular concern is raised by the UNPFII regarding **grave impacts on the reproductive health of indigenous women and girls** due to the export of hazardous pesticides from countries in which they are banned to those in which their use is

poorly controlled. I continue to engage on this issue, and intend to submit a final report to the Nineteenth Session of the UNPFII in 2020, as well as the UN General Assembly in 2020.

See the [General call for contributions](#) (in English, French, Russian and Spanish) on the consequences of exposure of indigenous people to toxic and otherwise hazardous substances. (Note that while indicated that the report was to be prepared for 2019, I have decided to postpone presentation of the report to allow for more consultations).

Regarding communications:

- Further to a series of urgent appeals and letters of allegation arising from the **2015 Doce River disaster in Brazil**, in September and October 2018, additional allegations were addressed to the Government of Brazil, the Government of Australia, the Renova Foundation and 3 companies (Vale, BHP Billiton, Samarco) concerning the renewed agreement on funding as well as socioeconomic and environmental reparations required ([BRA 11/2018](#), [AUS 4/2018](#), [OTH56/2018](#), [OTH 57/2018](#), [OTH 58/2018](#), [OTH 59/2018](#)). Multiple indigenous and traditional communities dependent on the Doce River for fishing and farming, as well as cultural, religious, and leisure activities, were heavily affected by the dam collapse. Those communities were not entitled to receive remedies for specific types of losses. The mechanisms and modalities of their meaningful involvement in the remediation and reparation processes also remain issues of concern.

Chemicals and waste conventions

In 2006, States and businesses recognized that their human rights obligations and responsibilities apply to toxic chemicals and wastes under the Strategic Approach to International Chemicals Management (**SAICM**) global policy framework. Negotiations over the future efforts at the global level to protect against the adverse impacts of toxic chemicals and wastes will continue this spring. In my [2018 report to the UN General Assembly](#), I provided my views on what the future framework for “sound chemicals management” should contain to better protect human rights from toxic chemicals and wastes. In short, the report calls for (1) an obligation on States to have effective national systems for toxic exposures; (2) a periodic review mechanism; (3) a modern definition of a “chemical of global concern” that includes global supply chains; (4) a mechanism to phase out chemicals of global concern; and (5) greater attention to the adverse impacts of toxic exposures on children and different genders (see section III).

I am grateful for the opportunity to increase engagement between this mandate and the Inter-Organization Programme for the Sound Management of Chemicals (**IOMC**) in the past year. Furthermore, I am pleased to note that the second edition of the Global Chemicals Outlook (**GCO II**), a summary of which has been made available as an [advance working document](#) for the upcoming fourth session of the United Nations Environment Assembly, supports the call of my mandate in relation to strengthening the interface of chemicals and waste management and human rights.

Additional information

Communications procedure

The Special Rapporteur can intervene directly with Governments, businesses and other actors on allegations of violations of human rights through urgent appeals, letters of allegation and other communications. The intervention can relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring.

[Information on how to submit complaints of human rights violations or abuses due to toxic substances under the communications procedure is available here.](#)

OR

You may make a submission by filling in an online form [HERE](#)

Consulting past communications issued by the mandate

Letters sent by the mandate, (as well as responses received to them), are generally made public 60 days after they are sent, on the Special Procedures Communications website - spcommreports.ohchr.org. A detailed search engine will guide you through the process. If you are interested in communications issued specifically by this mandate, select 'hazardous substances' in the drop down menu of all mandates, which can be further filtered by date, country, etc.

Commentaries on laws and policies (called 'Other Letters') are made available on the mandate's website two days after they are sent.

Further information about Special procedures' Communications can be found here: https://www.ohchr.org/Documents/HRBodies/SP/SPP_PresentationFlyer.pdf

Useful contacts and links

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