

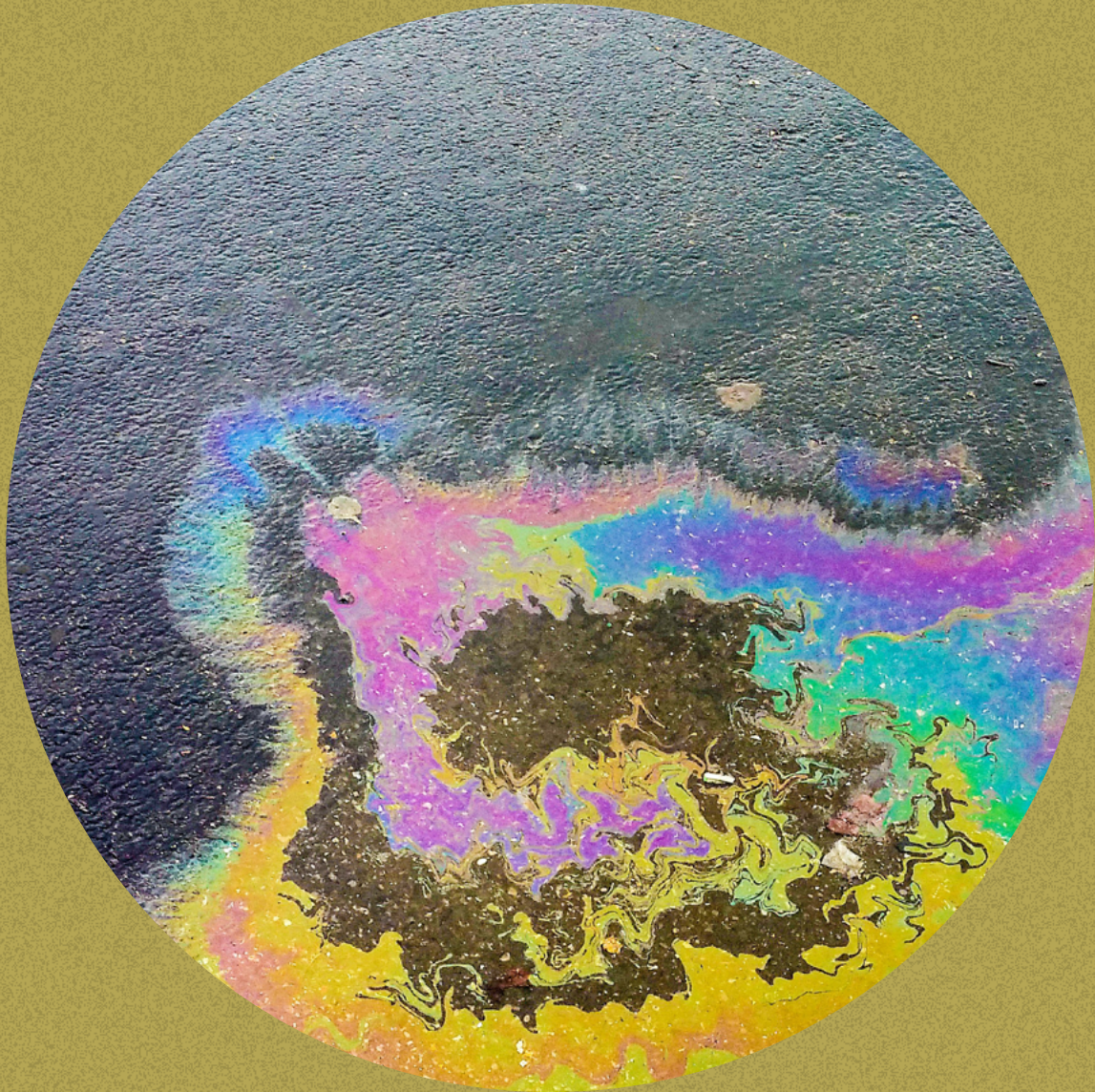


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Human rights depend on a non-toxic environment

A/HRC/49/53 - Executive summary

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The importance of a non-toxic environment

While the climate emergency, the global biodiversity crisis and the coronavirus disease (COVID-19) pandemic garner headlines, the devastating toll inflicted upon health, human rights and ecosystem integrity by pollution and hazardous substances continues to be largely overlooked. Yet pollution and toxic substances cause at least 9 million premature deaths annually, double the number of deaths inflicted by the COVID-19 pandemic during its first 18 months. One in six deaths in the world involves diseases caused by pollution, three times more than deaths from AIDS, malaria and tuberculosis combined and 15 times more than from all wars, murders and other forms of violence. Air pollution is the largest environmental contributor to premature deaths, causing an estimated 7 million annually. Low- and middle-income countries bear the brunt of pollution-related illnesses, with nearly 92 per cent of pollution-related deaths. Over 750,000 workers die annually because of exposure to toxic substances on the job, including particulate matter, asbestos, arsenic and diesel exhaust.

The toxification of planet Earth is intensifying. Production of chemicals doubled between 2000 and 2017, and is expected to double again by 2030 and triple by 2050, with the majority of growth in non-members of the Organisation for Economic Co-operation and Development (OECD). Lead is still widely used despite long-standing knowledge regarding its toxicity and devastating consequences for the neurological development of children. Lead causes close to 1 million deaths annually, as well as immense and irreversible damage to the health of millions of children. Emerging issues of concern also include per- and polyfluoroalkyl substances, endocrine disruptors, microplastics, neonicotinoid pesticides, polycyclic aromatic hydrocarbons, pharmaceutical residues and nanoparticles. Chemical accidents can have a catastrophic impact on health human rights and the environment.

International regulation of pollution and toxic substances

An extensive body of international law addresses pollution and toxic substances. Several voluntary instruments adopted by international organizations also address pollution and toxic chemicals. The effectiveness of these instruments is undermined by many major gaps and weaknesses, including the fact that none of them mention human rights, the vast majority of toxic substances are not controlled and few nations are fulfilling all of their obligations. For example, OECD estimates that between 20,000 and 100,000 existing chemicals have not been adequately assessed to determine their risks because of information gaps. Fewer than half of States have implemented the Globally Harmonized System of Classification and Labelling of Chemicals and fewer than half compile and publish data on pollutant releases and transfers. Many parties to the Basel, Rotterdam and Stockholm Conventions are not fulfilling their reporting obligations

Environmental injustices

While all humans are exposed to pollution and toxic chemicals, there is compelling evidence that the burden of contamination falls disproportionately upon the shoulders of individuals, groups and communities that are already enduring poverty, discrimination and systemic marginalization. Women, children, minorities, migrants, Indigenous peoples, older persons and persons with disabilities are potentially vulnerable, for a variety of economic, social, cultural and biological reasons. Workers, especially in low- and middle-income nations, are at risk because of elevated exposures on the job, poor working conditions, limited knowledge about chemical risks and lack of access to health care. Millions of children are employed in potentially hazardous sectors including agriculture, mining and tanning. Low-income housing may contain asbestos, lead, formaldehyde and other toxic substances.

Many environmental injustices are transnational, with consumption in wealthy States resulting in severe impacts on health, ecosystems and human rights in other States. High-income States continue to irresponsibly export hazardous materials such as pesticides, plastic waste, electronic waste, used oil and derelict vehicles, along with the associated health and environmental risks, to low- and middle-income countries, taking advantage of the fact that these countries often have weaker regulations and limited enforcement.

Sacrifice zones

Some communities suffer from environmental injustices whereby the exposure to pollution and toxic substances is so extreme in the areas in which they live that they are described as “sacrifice zones”. A sacrifice zone can be understood to be a place where residents suffer devastating physical and mental health consequences and human rights violations as a result of living in pollution hotspots and heavily contaminated areas.

The most heavily polluting and hazardous facilities tend to be located in close proximity to poor and marginalized communities. Health, quality of life and a wide range of human rights are compromised, ostensibly for “growth”, “progress” or “development” but in reality to serve private interests. Prolonging the jobs of workers in polluting industries is used as a form of economic blackmail to delay the transition to a sustainable future, while the potential of green jobs is unjustifiably discounted.

The continued existence of sacrifice zones is a stain upon the collective conscience of humanity. Often created through the collusion of Governments and businesses, sacrifice zones are the diametric opposite of sustainable development, harming the interests of present and future generations. The people who inhabit sacrifice zones are exploited, traumatized and stigmatized. They are treated as disposable, their voices ignored, their presence excluded from decision-making processes and their dignity and human rights trampled upon. Sacrifice zones exist in States rich and poor, North and South.¹

1 For examples, please see the full report and Annex 1.

Human rights obligations related to pervasive pollution and toxic substances

The framework principles on human rights and the environment clarify three categories of State obligations: procedural obligations, substantive obligations, and special obligations towards those in vulnerable situations. In terms of **procedural** obligations regarding pollution and toxic substances, States must:

- (a) Establish monitoring programmes, assess major sources of exposure and provide the public with accurate, accessible information about risks to health;
- (b) Ensure meaningful, informed and equitable public participation in decision-making;
- (c) Use the best available scientific evidence to develop laws, regulations, standards and policies;
- (d) Enable affordable and timely access to justice and effective remedies for all;
- (e) Assess the potential environmental, social, health, cultural and human rights impacts of all plans, policies, projects and proposals that could foreseeably result in exposure to pollution or toxic substances;
- (f) Integrate gender equality into all plans and actions and empower women to play leadership roles at all levels;
- (g) Provide strong protection for environmental human rights defenders, vigilantly protect defenders from intimidation, criminalization and violence, diligently investigate, prosecute and punish the perpetrators of these crimes, and address the root causes of social-environmental conflict.

Regarding **substantive** obligations, States must not cause pollution or exposure to toxic substances that violates the right to a clean, healthy and sustainable environment; protect this right from being violated by third parties, in particular businesses; and take positive actions to fulfil this right. Given that current efforts to minimize or mitigate pollution and waste are grossly inadequate, States should establish or strengthen legislation, regulations, standards and policies to prevent exposure to toxic substances, and develop action plans for preventing pollution, eliminating toxic substances and rehabilitating contaminated sites.

The application and interpretation of the right to a safe, clean, healthy and sustainable environment in the context of pollution and toxic substances should be guided by the principles of prevention, precaution, non-discrimination and non-regression, and the polluter pays principle.



Prevention

States should enact measures to achieve zero pollution and zero waste. States should eliminate the production, use and release of toxic substances, except for essential uses. States must prevent exposure, by regulating industries, emissions, chemicals and waste, and promote innovation of safe substitutes.



Precaution

Knowledge about pollution and toxic substances will never be complete, necessitating recourse to the precautionary principle, which holds that where there are threats of harm to human health or the environment, lack of full scientific certainty must not be used as a reason for postponing preventive action.



Non-discrimination

Non-discrimination requires States to avoid exacerbating, and actively improve, existing situations of environmental injustice, with special urgency in sacrifice zones. The principle of non-discrimination also requires States to prioritize clean-up and restoration measures for disadvantaged communities.



Non-regression

States must adopt science-based standards for pollution and toxic substances, based on guidance from international organizations. Once these standards are in place, the principle of non-regression means the State cannot ignore them or establish levels that are less protective without adequate justification.



Special duties towards vulnerable populations

States should give special attention to vulnerable or marginalized groups whose rights are jeopardized by pervasive pollution and toxic contamination, including children, women, Indigenous peoples, minorities, refugees, migrants, persons with disabilities, older persons, people living in protracted armed conflicts, and people living in poverty.



Progressive Realization

The right to a clean, healthy and sustainable environment is subject to progressive realization, although States are obligated to use the maximum available resources to realize it. This requires ensuring that the State carries out actions to advance or take steps (obligation of immediate enforceability) with a view to achieving the full and effective enjoyment of the right involved (obligation of result conditioned to a gradual and continuous materialization).

Business responsibilities related to pollution and toxic substances

Businesses should conduct human rights and environmental due diligence and respect human rights in all aspects of their operations, yet there are countless examples of businesses violating the right to a clean, healthy and sustainable environment by generating pollution or causing exposure to toxic substances. Businesses should not lobby against stronger environmental laws and policies and must refrain from publishing or supporting inaccurate, false or misleading information about the risks posed by toxic substances. Businesses operating in sacrifice zones should install pollution-abatement equipment, switch to clean fuels, change processes, reduce production and, if necessary, relocate. Businesses are also responsible for cleaning up and rehabilitating communities, lands, waters and ecosystems polluted or contaminated by their operations.

Some good practices relating to human rights, pollution and toxic substances



Global treaties control toxic substances and wastes, including the Basel, Stockholm, Rotterdam and Minamata Conventions.



More than 60 States have prohibited all uses of all types of asbestos. Estimated worldwide consumption of asbestos is falling.



In 2008, the Supreme Court of the Philippines ruled that pollution in Manila Bay violated the right to a healthy environment.



The European Green Deal contains policies which aim to achieve zero pollution and a non-toxic environment.



Many States have banned the use of highly hazardous pesticides to protect human and ecological health.



More than 40 States have committed to eliminating coal-fired power production by 2030.



The United States has transformed some of the nation's most contaminated sites into liveable, productive areas.



Legislation in British Columbia, Canada, authorizes the provincial government to make polluters pay for contaminated site remediation.



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