# Response to the Calls for Inputs on Too Dirty, Too Little, Too Much: The Global Water Crisis and Human Rights, issued by the UN Special Rapporteur on Human Rights and the Environment

November 2020

Swedwatch is an independent, non-profit research organisation based in Stockholm, Sweden. It examines companies, investors, and state actors’ due diligence obligations to protect and respect the human and environmental rights of workers and communities. Together with its partner organisations, Swedwatch has examined effects of businesses on water use and pollution in sectors including agriculture, mining, and manufacturing.[[1]](#footnote-2) Swedwatch strongly believes that there needs to be both legal and non-legal measures to regulate businesses to encourage responsible production of goods and services, and to ensure protection of the rights of affected communities to a healthy environment. Our response below focuses on the following six questions posed by the United Nations Special Rapporteur.

1. **Please provide examples of ways in which water pollution, water scarcity and floods are having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water and sanitation, food, culture, livelihoods, non-discrimination, a safe, clean, healthy and sustainable environment, and indigenous peoples’ rights.**

Swedwatch has documented business operations both directly and indirectly aggravating water pollution and scarcity in various world regions (See Appendix 1). Detrimental effects on local communities include reduced access to safe and clean water, and threats to food security. Water pollution and water shortage pose long-term health effects on community members. Furthermore, unpredictable climatic conditions aggravate negative impacts on communities that are particularly dependant on small-scale agriculture, such as indigenous communities, through increased exposure to floods and droughts.

Key examples of Swedwatch studies include:

* Export oriented commercial farming (e.g. tropical fruits and vegetables, biofuel, rubber, coffee, etc.) that intensively mine ground water and contaminate water bodies through heavy use of agro-chemicals including fertilizers, pesticides and herbicides as well as other chemicals used for processing agricultural commodities (e.g. rubber). This not only aggravates water shortages for smallholder farmers but also inhibits local community members’ access to safe and clean water, and further disrupts water-dependent livelihoods such as fisheries.[[2]](#footnote-3) While large-scale commercial farm operators are capable of investing in irrigation system and crops that require less water, smallholders struggle to access water and cultivate essential food. This not only affects livelihood of smallholders but also has detrimental effects on local food production and nutritional wellbeing of community members.[[3]](#footnote-4) Furthermore, pollution of water from agricultural run-offs and processing factories negatively affects aquatic resources often leading to fish die-offs, and inhibits people’s access to clean drinking water. This bears long term health effects on local people and disrupts their lives.[[4]](#footnote-5)
* The mining (e.g. gold, platinum, uranium, jade, coal) industry also extracts ground water and contaminate waterbodies with hazardous chemical effuluences. This inhibits local communities to access safe and clean water, and bears detrimental health effects.[[5]](#footnote-6)
* Manufacturing also extracts ground water and contaminates waterbodies with hazardous chemicals that are used during production processes. This inhibits local communities’ access to safe and clean water, and poses severe long-term health effect for community members.[[6]](#footnote-7)
* The finance sector can also indirectly contribute to climate change though investments increasing risks of floods and natural disasters. This not only threatens people’s rights to life, but their basic human rights to food, shelter, and livelihood.[[7]](#footnote-8)

1. **How has climate change exacerbated water-related problems?**

According to the Ecological Threat Register 2020, flooding and water stress will be amongst the most common ecological threats in the coming two decades.[[8]](#footnote-9) Rising temperatures and dry weather patterns are expected to aggravate water scarcity, and threaten communities’ access to safe and clean water. In communities already facing shortages of clean water supplies, economically and socially marginalized groups are already burdened by the cost of accessing clean water.[[9]](#footnote-10) It is also anticipated that water scarcity will further intensify national and regional conflicts potentially threatening global peace and security.[[10]](#footnote-11) Furthermore, climate change induces uncertain weather patterns causing floods and natural disasters in some places, displacing people, threatening lives and threatening people’s rights to food, and livelihoods.[[11]](#footnote-12)

1. **To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing water pollution, water scarcity and floods? Please provide specific examples of constitutional provisions, legislation, institutions, regulations, standards, policies and programmes that apply a rights-based approach to preventing, reducing, or eliminating water pollution, water scarcity and floods. Please include, inter alia, any instruments that refer directly to the right to a healthy environment and/or the rights to clean water and adequate sanitation.**

The Aarhus Convention of the United Nations Economic Commission for Europe, adopted in 1998, recognises rights to a healthy environment and seeks to guarantee rights to access information, public participation in decision making, as well as seeking justice and remedy to any environmental impacts. The Convention should be promoted and made mandatory to prevent and mitigate negative environmental impacts.

Regional legislation including the European Union’s Water Framework Directive (2000), and Integrated Pollution Prevention and Control Directive (2010) provide examples of legislative efforts to ensure clean and safe access to water. These legislations seek to prevent and mitigate pollution from industrial activities in compliance with the polluter pays principle.

Efforts at the national level are also essential in promoting environmental standards and developing legislation to control water pollution. For example in Sweden, discussions are ongoing regarding ways to control pharmaceutical emissions and other hazardous substances.[[12]](#footnote-13) The government has also adopted an action plan for implementing the 2030 Agenda, which seeks to address the Sustainable Development Goal 6 on clean water and sanitation with strong focus on equitable access.[[13]](#footnote-14)

While legal measures to regulate environmental pollution are important, non-legal measures to control industrial emissions into waterbodies also need to be promoted together with sharing of information to improve transparency. In line with the United Nations Guiding Principles on Business and Human Rights Reporting Framework, voluntary efforts should be made by businesses to identify the most severe and salient water-related human rights and environmental risks.

1. **Please identify specific challenges that your government, business, or organization has faced in attempting to employ a rights-based approach to address water pollution, water scarcity and floods and the impacts of these problems on human rights.**

There is a need for systematic monitoring and assessment of water-related issues, and disclosure of information to the business affected communities. States and businesses must also ensure the safety of human rights and environmental defenders as well as communities to pursue rightful grievances and remedy.[[14]](#footnote-15)

* In the case of export oriented commercial farming in water scarce areas, businesses generally lack a human rights perspective to equitably access and manage water. For example, measures to address water shortages and scarcity by businesses remain a technical issue without consideration of local communities’ access to clean and safe water supplies.[[15]](#footnote-16)
* In the case of the pharmaceutical sector – despite the existence of national regulations and institutions to control pollution from pharmaceutical manufacturing facilities – fierce market competition to produce cheap drugs encourages companies to dispose of industrial wastewater without appropriate treatment.[[16]](#footnote-17) Lack of baseline environmental data, and long-term monitoring of effluence from manufacturing facilities by states and companies further weakens local communities‘ ability to seek grievance and remedy for the industrial pollution caused by businesses.
1. **Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to water pollution, water scarcity and floods (e.g. women, children, persons living in poverty, members of Indigenous peoples and traditional communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and improve water quality and availability?**

Drawing on past studies, Swedwatch advocates for strong legislation on mandatory human rights and environmental due diligence for businesses. Swedwatch recommends that businesses explicitly identify water-related human rights and environmental risks in the supply chain. This includes considerations on availability, accessibility, quality and safety, acceptability, and finally, affordability of water for all rights holders.[[17]](#footnote-18) When identifying risks and addressing impacts, businesses need to prioritise controlling risks to vulnerable and marginalised groups such as indigenous communities.

Furthermore, Swedwatch strongly believes that it is essential for states and businesses to respect human rights and environmental defenders who are raising these issues on behalf of local communities.[[18]](#footnote-19) We are particularly concerned about the increasing use of strategic lawsuits against public participation that threaten and attack human rights and environmental defenders.

1. **How do you ensure that the rights of environmentalists working on water issues (environmental human rights defenders) are protected? What efforts has your Government or business made to create a safe and enabling environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?**

First and foremost, it is essential to develop and implement legislation on mandatory human rights and environmental due diligence. In addition, states should develop clear guidance on how business actors should integrate measures to respect human rights and environmental defenders. Secondly, states need to establish effective judicial and non-judicial grievance mechanisms for human rights and environmental defenders and victims of business-related human rights and environmental impacts. Thirdly, states must ensure that trade promotion does not compromise their obligation to protect human rights inclusive of the right to a healthy environment. For example, export credit guarantees, and trade agreements should not be encouraged where and when human and environmental rights risks are deemed high. Finally, states through embassies and other diplomatic missions should ensure the protection of human rights and environmental defenders and provide guidance to businesses in line with the United Nations Guiding Principles on Business and Human Rights.[[19]](#footnote-20)

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Appendix 1: Swedwatch Case Studies with a Focus on Water

| **Sector** | **Location** | **Issue** | **Who is affected**  | **Human and environmental rights** | **Implications of climate change**  | **Obligations of businesses**  | **Note on reference**  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Agriculture** | Peru, Ica valley  | Intensive use of water for commercial agriculture  | Local communities near agricultural fields  | Access to safe and clean water; access to healthy and sustainable environment  | Warming temperature induces water shortage   | Ensure sustainable and responsible use of water and land.  | https://swedwatch.org/wp-content/uploads/2018/11/92\_To-the-last-drop\_Full-report.pdf  |
| Brazil  | Intensive use of agro-chemicals for coffee production  | Local communities near agricultural fields and agricultural workers  | Access to healthy and sustainable environment  |   | Ensure sustainable and responsible use of water and land.  | https://swedwatch.org/wp-content/uploads/2010/08/swedwatch\_-\_etik\_for\_dyrt\_for\_svenska\_kaffebolag.pdf  |
| Costa Rica   | Intensive use of agro-chemicals for export fruit production  | Local communities near agricultural fields and agricultural workers  | Access to healthy and sustainable environment  |   | Ensure sustainable and responsible use of water and land.  | https://globalarkivet.se/sites/default/files/documents/2015-05/swedwatch\_report\_65.pdf  |
| Brazil  | Large-scale commercial farming for biofuel and intensive use of agro-chemicals  | Local communities near agricultural fields  | Access to safe and clean water; access to healthy and sustainable environment  | Warming temperature induces water shortage   | Ensure sustainable and responsible use of water and land; regulating land speculation.  | https://swedwatch.org/wp-content/uploads/2016/12/swedwatch\_-\_investering\_utan\_insyn.pdf  |
| Peru, Thailand  | Intensive fish farming using antibiotics   | Local fisheries and  communities depending on aquatic resources  | Access to safe and clean water; access to healthy and sustainable environment; access to food  |   | Ensure sustainable and responsible use of water and aquatic resources.  | https://swedwatch.org/wp-content/uploads/2016/12/swedwatch\_-\_vet\_du\_vad\_din\_middag\_at\_till\_frukost.pdf  |
| **Manufacturing** | India, Hyderabad  | Pharmaceutical effluence in the environment from manufacturing facilities  | Local communities near manufacturing facilities  | Access to safe and clean water; access to healthy and sustainable environment  | Warming temperature and dry climate induce regional water scarcity  | Ensure sustainable manufacturing and regulate pharmaceutical effluence in the environment; sustainable procurement of pharmaceuticals  | https://swedwatch.org/wp-content/uploads/2020/02/96\_Pharma-report.pdf   |
| Liberia  | Release of effluence from rubber manufacturing facilities  | Local communities near manufacturing facilities  | Access to safe and clean water; access to clean air; access to healthy and sustainable environment  |   |   |   |
| Global  | Export of e-waste and pollution from hazardous chemical   | Local communities near waste collection sites  | Access to healthy and sustainable environment  |   | Ensure sustainable manufacturing and product cycle approach  | <https://www.somo.nl/wp-content/uploads/2009/04/Out-of-Control.pdf>; <https://swedwatch.org/wp-content/uploads/2016/12/mobilavfall77_160422.pdf>   |
| **Mining** | Namibia  | Environmental pollution from uranium mining  | Local communities near mining area and workers extracting uranium  | Access to healthy and sustainable environment  |   | Ensure safe and sustainable mining  | http://nonuclear.se/files/swedwatch201009namibias\_uran.pdf  |
| China, India  | Environmental pollution from gold mining  | Local communities near mining area and workers extracting gold  | Access to healthy and sustainable environment  |   | Ensure safe and sustainable mining  | https://globalarkivet.se/sites/default/files/documents/2015-05/swedwatch\_-\_allt\_ar\_inte\_guld\_som\_glimmar.pdf  |
| South Africa  | Environmental pollution from platinum mining  | Local communities near mining area and workers extracting platinum  | Access to healthy and sustainable environment  |   | Ensure safe and sustainable mining  | https://swedwatch.org/wp-content/uploads/2018/02/Carrying-the-costs\_full-report.pdf  |
| Myanmar  | Environmental pollution from jade mining  | Local communities near mining area and workers extracting jade  | Access to healthy and sustainable environment  |   | Ensure safe and sustainable mining  | https://swedwatch.org/wp-content/uploads/2018/06/91\_Myanmar\_FINAL\_uppslag\_180618.pdf  |
| South Africa  | Environmental pollution from coal mining  | Local communities near mining area and workers extracting coal  | Access to safe and clean water; access to clean air; access to healthy and sustainable environment   | Export credits structurally supporting dependency on coal and contributing to climate change  | Ensure safe and sustainable mining; phase out from building dependency on coal  | https://swedwatch.org/wp-content/uploads/2020/09/99\_Kol-i-Sydafrika\_200921.pdf  |

1. Swedwatch has also carried out a study focusing on the role of fund managers and investors in mitigating climate change effects including floods and natural disaster induced by uncertain weather patterns. See Arounsavath, Frida. “Turning the Tide: The Urgent Need to Shift Capital Flows to Climate Solutions, a Case Study of Ten Fund Management Companies,” 2017. <https://swedwatch.org/wp-content/uploads/2017/12/87_Turning-the-tide.pdf>. [↑](#footnote-ref-2)
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