



Keynote Speech by United Nations Special Rapporteur on human rights and hazardous substances and wastes,

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“Toxic Trade”

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Thank you. Friends, colleagues,

It is an honor and a privilege to be with you here today, to give a few thoughts on equality and sustainable development. The inequalities are often invisible. The individuals and communities adversely impacted by today’s economies are unseen, forgotten and ignored. We know these impacts and inequalities exist, but only when we examine consumption, production and disposal from the lifecycle of exposures, do we truly see the great magnitude of what is being foisted on the most vulnerable, and the need to advance and implement truly sustainable solutions for development. I am grateful for the opportunity to share a few thoughts and observations.

This year marks the 30th anniversary of the Basel Convention on transboundary movements of waste. The Basel Convention was driven by concerns anchored in universal values and principles; values and principles on which international order and the United Nations are based, such as equality, non-discrimination, the dignity of individual human beings, cooperation, justice and accountability. These implicit values and principles not only bind the Basel Convention and other related treaties to each other, but also these treaties to human rights.

While celebrating 30 years of the Basel Convention this year, we also celebrate 71 years of the landmark Universal Declaration on Human Rights and 30 years of the UN Convention on the Rights of the Child, a widely underutilized environmental treaty. Yet, the very pillars on which such agreements were erected are weakening.

The rise in populism and nationalism have inflicted wounds, not only within countries but also between. Hallowed principles of equality, non-discrimination, human dignity, international cooperation, justice and accountability are melting toward denigration and insensitivity. These are arguably unprecedented days we are living in.

These political shifts have not left environmental and occupational protections unscathed. It is no secret that those most vulnerable, most marginalized and most susceptible in society also face greater toxic

exposures and thus disproportionate threats to their human rights to life, health and bodily integrity, among others.

Billions of people continue to suffer the indignity and injustice of relentless exposure to toxics in the air, water and food upon which they depend.

Those whose rights are most violated by exposure to toxics are those living in poverty, minorities, migrants, workers, children, indigenous peoples and other vulnerable or susceptible groups, with highly gendered impacts.

Policies that directly or indirectly permit hazardous substance exposure perpetuate discrimination, exploitation and inequality. In the case of environmental and occupational health, protections have been eviscerated by this new breed of politics, falling victim to unprecedented corruption, corporate capture, financial constraints and disingenuous arguments of economic growth. The protective role of science compromised, inherent uncertainties abused, international trade and investment agreements used to prevent protection, and the public misinformed with deliberate and uncontested misinformation campaigns. These political decisions will leave permanent impacts, but primarily on those most vulnerable to environmental degradation.

It seems that no institution, issue or tradition is insulated from the aftershocks of political shifts over the past several years. Not the least of which are the historic halls of the United Nations. And yet, strangely

enough, when looking at these environmental concerns from the lens of human rights, I am cautiously optimistic.

You see, in recent years, human rights institutions appropriately responded with increasing frequency to the accelerating infringement of human rights by toxic exposures and other environmental harms. In the past year,

- the Human Rights Committee issued a new General Comment on the right to life, clarifying that all States have a duty to protect the human right to life from pollution in all its forms, as everyone is entitled to freedom from acts or omissions that may cause their premature death.
- Just last week, the Human Rights Council passed its first resolution on toxics and workers. The Human Rights Council, in its resolution, condemned the plight of workers exposed to toxics, and encouraged States and businesses to implement 15 principles on the protection of workers from toxic exposures.
- And the International Labor Organization is considering including the human right of workers to safe and healthy work as one of its fundamental principles and rights at work.

This in my view is no accident. There has been an unprecedented surge in the quantity and quality of decisions from human rights mechanisms, at all

levels, in seeming rebuke to the politics of today that erodes our environments and human rights along with it.

A long-dormant discussion on environmental rights has now resurfaced at the international level. In a world of increasing corporate rights, environmental rights are finally getting the attention they deserve as globally recognized human rights to help serve as a counterbalance.

Despite this encouraging progress, there is the reality. Among the rights increasingly discussed is the right to a healthy environment. When we speak of the right to a healthy environment, it is, in its true sense, a non-toxic environment. A world where children are born pre-polluted is not a healthy environment. Where it is legally permissible that one in 100 workers develop cancer is not a healthy environment, no matter what certain politicians say.

It must be acknowledged that billions around the world are deprived of a healthy environment, and that the definition of what is clean, healthy, adequate and sustainable currently employed by States is none of these and a failure to present and future generations. For those on the wrong side of a toxic divide, the right to a healthy environment is not considered a human right, but rather an elusive privilege. The toxification of our planet represents an underappreciated crisis of justice, equality and existence, hidden by the shadows of climate and biodiversity crises.

There must be greater emphasis on the human rights to life, health and bodily integrity that are interrelated and indivisible in environmental and occupational rights. This necessitates that States fulfill their duty to prevent exposure to hazardous substances. It demands that States compel businesses to respect human rights and fulfil their corresponding responsibility to prevent exposure.

The duties of States and responsibilities of businesses to prevent exposure are simply unavoidable. For example, the Human Rights Council has recognized the duty and responsibility to prevent exposure by States and businesses in its recent resolution on the plight of workers. But the duty does not simply extend to workers, or just to children, but rather to all. To everyone. States owe this duty to everyone affected by what transpires in their territory and jurisdiction.

This duty to prevent exposure is not limited by borders. While exploitation takes many forms, exporting exposure is a particularly heinous form of exploitation. Toxic trade preys on the inequalities between countries, in direct contravention of the principles of equality and non-discrimination upon which the United Nations was founded.

As I mentioned, the Basel Convention was based on these principles, but the scope of the treaty was never intended to fully address the lifecycle of exploitation by exposure. Many toxic exposures were never included in the scope, and many more sources of exposure have been slowly and steadily

excluded over time through the creation of new instruments and loopholes to perpetuate exposure and business as usual. Of course, the Basel Ban, which will enter into force later this year, is wonderful news, a result of the hard work of those in the room today. However, the problem of toxic trade is not simply one of what is defined to be waste, but the entire lifecycle of consumption and production.

For example, today, hundreds of chemicals that are banned by the European Union are exported to foreign countries, including those with far weaker governance structures to prevent exposure. Countries that have abhorrent records of human rights or environmental protection. Substances include some of the most toxic pesticides and industrial chemicals ever produced.

This is pure and simple the creation and exploitation of double standards, exporting toxic threats abroad, profiting in many ways while turning a blind eye to impacts on the most vulnerable communities and workers and still touting environmental progress at home. This is a form of exploitation, which the global community has only marginally addressed through global treaties and other instruments, whether under human rights or environmental or occupational laws.

These chemical products are not the only challenge. Wasted ships, consumer products, dirty energy, raw material extraction, and other

sources of toxic exposures continue to be exported without any reasonable public interest justification offered.

The 1972 Stockholm Declaration of the United Nations Conference on the Human Environment stated that “...policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.” It is now 50 years later, and the need to eliminate toxic trade as a form of discrimination and perpetuation of segregation is long overdue.

Through the influence of the Basel Convention, the Human Rights Council’s mandate on toxics was established to address the injustices perpetuated by toxic trade. Over the years it has expanded to cover the lifecycle of hazardous substances and wastes. In addition, a separate, broader mandate, on Environment, was also created, in large part to get rid of the mandate on toxics, which was seen by some as undermining the positive rhetoric around sustainable development by exposing the reality of the inequality of sustainable consumption and production, the poisoning of those most vulnerable.

I’m pleased to say it hasn’t worked. The toxics mandate is still here and will celebrate its 25th anniversary next year. Developing countries know their lands, peoples and resources continue to be exploited, and stand to defend the toxics mandate. In 2017, the mandate was renewed for the 7th

consecutive time, with a request that it start reporting to the UN General Assembly given the rising inequality and injustice from exposure to toxic substances from a multitude of sources and materials. With what I hope is recognition of the inequalities that also exist within the wealthiest of States, the human rights impacts of toxics are now increasingly recognized as an urgent issue by countries in the global North and South. So again, I am cautiously optimistic.

Accordingly, the UN Human Rights mechanisms are increasingly addressing the exploitation of double standards across borders by States and businesses.

- The Committee on Economic, Social and Cultural Rights recently clarified that the duties incumbent on States to protect various human rights such the health, adequate food, water, air and housing, and safe and healthy work, among others, do indeed cross borders.
- The Committee on the Rights of the Child recommended a State stop importing toxic substances that are banned in the country from which they are exported to protect child rights, which the country's President has now pledged to do.
- And, in its recent resolution on worker's rights, the Human Rights Council encourages States to implement among other principles, principle 5 of my most recent report regarding worker's rights and

toxics: that Duties and responsibilities to prevent the exposure of workers to toxic substances extend beyond borders.

But, to truly have success, States and businesses must acknowledge the full implications of what their failure to prevent exposure to toxic substances means for the most vulnerable. The diseases and disabilities that result from exposure to toxic substances are cruel, inhuman and degrading. They include the excruciating pains of cancer, the suffocating torture of respiratory diseases, and the psychological torment of parents watching the impacts of their own exposures materialize in their children. The right to be free from torture and cruel, inhuman or degrading treatment is no less a right that is implicated by toxic pollution than the right to health, but has not been recognized as such by the United Nations -- yet.

To conclude, it has been said that poverty is a political choice. Exposure to toxic pollution is also a political choice. The political decisions made on toxics, whether listing of toxic chemicals or amending of annexes or ensuring compliance, are not technical chemical details. They have direct bearing on advancing the universal principles of human dignity and equality that are the cornerstone of international order, and the human rights that are universal. Decisions made on toxic substances and wastes, have the power to help realize everyone's right to life and the highest attainable standard of health, especially those most vulnerable, such as people living in poverty, workers, children and different genders.

States have both the duty and the power to prevent exposure to toxic substance and thus protect the human rights that are implicated. They have this power and duty at home and abroad. It is vital that States make the right choice, and I am optimistic that human rights will finally be the tool that it should to help ensure that they do.

Thank you.