



Module 2: Plastics, Human Rights & The Environment

Reducing marine litter by addressing management of the plastic value chain in South-East Asia

Training Slides, September 2022



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Overcoming the Plastics Challenge: A Theory of Change

*Where does **Module 2** fit into the process for change?*

INPUT: Information Sharing on a BHR Approach to Plastic Pollution to Promote Awareness of Key Tools

OUTPUT: Businesses as Change-Agents Influenced to Implement Key Tools

IMPACT: Reduction of Plastic Pollution & Negative Human Rights Impacts

Agenda

MODULE 1: The Human Rights Dimensions of the Plastics Crisis

MODULE 2: Plastics, Human Rights & The Environment

MODULE 3: Business & Human Rights (BHR) and Plastics



Module 2 – Plastics, Human Rights and the Environment

Human Rights and Environment
Frameworks

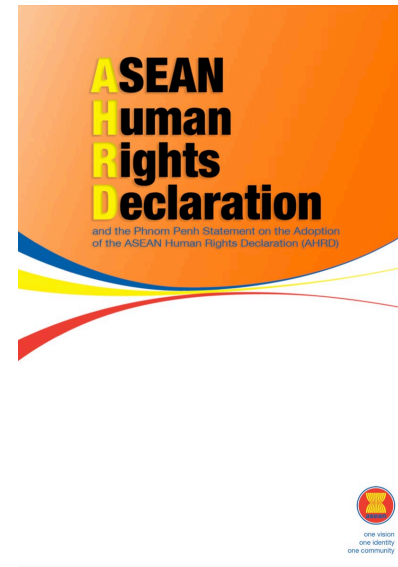
Substantive Elements

Procedural Elements

Equity and Vulnerability

Case Study, Summary and Q&A

1. Human Rights and Environment Frameworks



Seventy-sixth session
 Agenda item 74 (b)
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Resolution adopted by the General Assembly on 28 July 2022

[without reference to a Main Committee (A/76/L.75 and A/76/L.75/Add.1)]

76/300. The human right to a clean, healthy and sustainable environment

The General Assembly,
Guided by the purposes and principles of the Charter of the United Nations,
Reaffirming the Universal Declaration of Human Rights¹ and the Vienna Declaration and Programme of Action,² recalling the Declaration on the Right to Development,³ the Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration),⁴ the Rio Declaration on Environment and Development,⁵ and relevant international human rights treaties, and noting other relevant regional human rights instruments

Human Rights Council
 Forty-eighth session
 13 September–11 October 2021
 Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council on 8 October 2021

48/13. The human right to a clean, healthy and sustainable environment

The Human Rights Council,
Guided by the purposes and principles of the Charter of the United Nations,
Reaffirming the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling the Declaration on the Right to Development, the Declaration of the United Nations Conference on the Human Environment (the Stockholm

UN Human Rights Council

The screenshot shows the website interface for the Special Rapporteur on toxics and human rights. The header includes the United Nations logo, the text 'UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER', a 'Donate' button, and a search icon. A navigation menu below the header contains links for 'What are human rights?', 'Topics', 'Countries', 'Instruments & mechanisms', 'Latest', 'About us', and 'Get Involved'. The main content area features a dark green background with the text 'Topics / Special Rapporteur on toxics and human rights' and the United Nations Human Rights Special Procedures logo. To the right of the text is a photograph of a person in a red hat and white jacket collecting plastic waste from a boat on a beach.

The screenshot shows the website interface for the Special Rapporteur on human rights and the environment. The header and navigation menu are identical to the previous screenshot. The main content area features a dark green background with the text 'Topics / Special Rapporteur on human rights and the environment' and the United Nations Human Rights Special Procedures logo. To the right of the text is a photograph of two people in a canoe on a body of water at sunset.



Interdependence of Substance, Procedure & Equity for Environment & Human Rights

2018 Framework Principles, A/HRC/37/59 (Annex)

1. *States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.*
2. *States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment.*
3. *States should prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.*



2018 Framework Principles, Principle 12, Commentary

the business responsibility to respect human rights includes the responsibility of business enterprises to avoid causing or contributing to adverse human rights impacts through environmental harm, to address such impacts when they occur and to seek to prevent or mitigate adverse human rights impacts that are directly related to their operations, products, or services by their business relationships. Businesses should comply with all applicable environmental laws, issue clear policy commitments to meet their responsibility to respect human rights through environmental protection, implement human rights due diligence processes (including human rights impact assessments) to identify, prevent, mitigate and account for how they address their environmental impacts on human rights, and enable the remediation of any adverse environmental human rights impacts they cause or to which they contribute.

2. Substantive Elements

Substantive rights

*Factsheet: The right to a safe, clean, healthy and sustainable environment
@SREnvironment*

Environmental degradation can harm a wide variety of human rights, including the rights to life, health, food, water, culture and the rights of children and Indigenous peoples. The right to a healthy and sustainable environment, which is now recognized by more than 80 percent of UN member States (156 out of 193), includes both substantive and procedural elements. The substantive elements include:



Clean air



Safe and sufficient water



Healthy and sustainably-produced food



Healthy ecosystems and biodiversity



A safe climate



Toxic-free environments



Right to Clean Air

Applied to the plastics lifecycle:

- Extraction
- Production
- Transportation
- Use
- Waste management
- Disposal

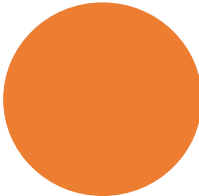
Human Rights Council
Fortieth session
 25 February–22 March 2019
 Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Report of the Special Rapporteur

Summary

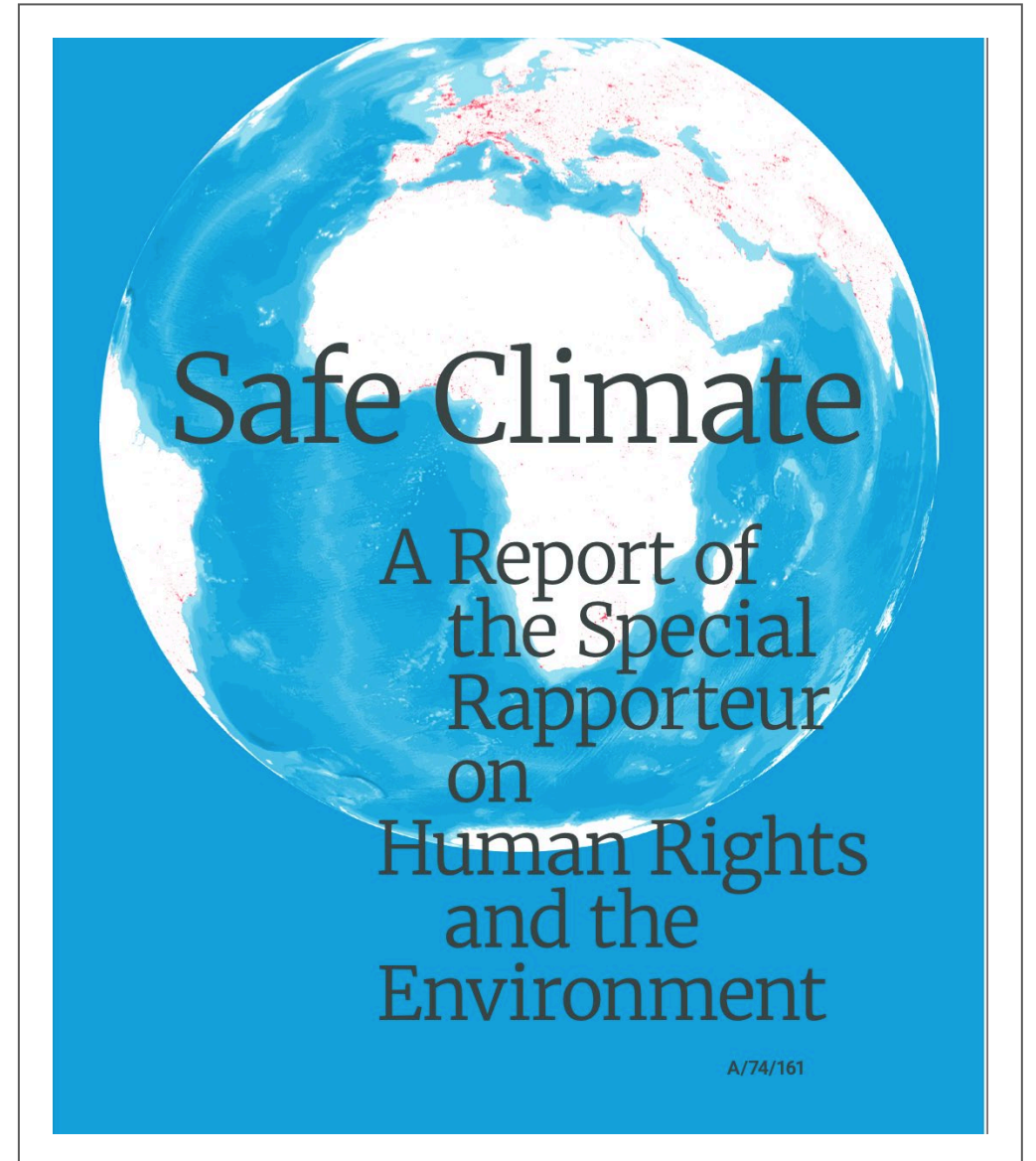
In the present report, the Special Rapporteur recalls that the right to a healthy environment has been recognized by a majority of States in their constitutions, legislation, and various regional treaties to which they are parties. However, in spite of the wide recognition of its crucial importance, the right to a healthy environment has not yet been recognized as such at the global level. The Special Rapporteur focuses on the right to breathe clean air as one of its component and describes the negative impact of air pollution on the enjoyment of many human rights, in particular the right to life and the right to health, in particular by vulnerable groups. He highlights the different State obligations in relation to the right to breathe clean air, which are both procedural and substantive, as well as the specific obligation to protect people and groups in vulnerable situations. He identifies several good practices implemented worldwide that have helped to improve air quality. Finally, the Special Rapporteur offers a number of recommendations to States for which they should consider as part of a national air quality action plan and in order to fulfil their responsibility in this regard, to contribute to a reduction in air pollution.



Right to Safe Climate

Plastics lifecycle & emissions

As almost all plastic is produced from fossil fuels and is omnipresent in modern society, reliance on plastics is a key part of society's addiction to fossil fuels.



Right to Clean Water

Applied to plastics lifecycle:

- Extraction
- Production
- Transportation
- Use
- Waste Management
- Disposal

Human Rights Council
 Forty-sixth session
 22 February–19 March 2021
 Agenda item 3
 Promotion and protection of all human rights, civil,
 political, economic, social and cultural rights,
 including the right to development

Human rights and the global water crisis: water pollution, water scarcity and water-related disasters

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*

In the present report, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment identifies safe and sufficient water as one of the substantive components of a healthy and sustainable environment. He describes the global water crisis, focusing on the negative impacts on the environment and human rights.



+



Right to Healthy Ecosystems and Biodiversity



Applied to plastics lifecycle:

- Extraction
- Production
- Transportation
- Use
- Waste Management
- Disposal

of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd

Human rights depend on a healthy biosphere

Summary

In the present report, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, discusses the need for urgent action to conserve, protect and restore the biosphere on which all species depend, including *Homo sapiens*. He illustrates the devastating effects of coronavirus disease (COVID-19) and the global nature emergency on the enjoyment of human rights, and the crucial role of human rights in catalysing action to safeguard nature. The Special Rapporteur clarifies the obligations of States and the responsibilities of businesses and civil society organizations and makes practical recommendations to conserve, protect and restore healthy ecosystems and biodiversity, ensure sustainable use and distribute the benefits of nature equitably. He emphasizes that healthy ecosystems and biodiversity are vital elements of the right to a healthy environment.

The Special Rapporteur has prepared an annex on good practices related to conserving, protecting and restoring ecosystems and biodiversity, available on the website of the Office of the United Nations High Commissioner for Human Rights.⁶ The good practices demonstrate that effective actions are available to simultaneously protect human rights and protect nature.

⁶ Available at www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx



Right to Healthy Food

Applied to the plastics lifecycle:

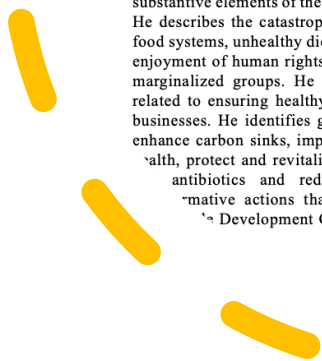
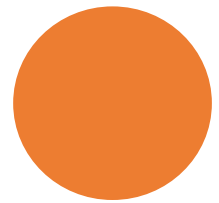
- Extraction
- Production
- Transportation
- Use (food packaging)
- Waste management
- Disposal

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd

Healthy and sustainable food: reducing the environmental impacts of food systems on human rights

Summary

In the present report, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, identifies healthy and sustainable food as one of the substantive elements of the right to a safe, clean, healthy and sustainable environment. He describes the catastrophic environmental and health consequences of industrial food systems, unhealthy diets and food waste and the associated consequences for the enjoyment of human rights, with disproportionate adverse effects on vulnerable and marginalized groups. He highlights procedural and substantive State obligations related to ensuring healthy and sustainable food, as well as the responsibilities of businesses. He identifies good practices that reduce greenhouse gas emissions and enhance carbon sinks, improve air and water quality, reduce water use, restore soil health, protect and revitalize biodiversity, decrease the use of pesticides, fertilizers and antibiotics and reduce the risk of zoonotic diseases. He emphasizes transformative actions that will concurrently contribute to progress on relevant Sustainable Development Goals, resulting in healthy, equitable and sustainable food systems.





**The right to a clean, healthy and sustainable environment:
 non-toxic environment**

Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

Right to Non-Toxic Places

Applied to the plastics lifecycle:

- Extraction
- Production
- Transportation
- Use
- Waste management
- Disposal



In his present report, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, David R. Boyd, outlines the findings of his mission and the elaboration of the Special Rapporteur on the implications for human rights of the management and disposal of hazardous substances and wastes, and the need to ensure a non-toxic environment as one of the substantive elements of the right to a clean, healthy and sustainable environment. The Special Rapporteur also notes that the plastic pollution of the planet, which is causing environmental damage in the most vulnerable areas where...





Reflection:

- Evaluate how the contribution of your business (or organisation) to the plastics lifecycle *impacts* the **substantive** components of the right to a clean, healthy and sustainable environment, including the right to:
 - clean air;
 - safe climate;
 - clean water;
 - healthy ecosystems and biodiversity;
 - healthy food; and
 - non-toxic places.
- Does your business (or organization) take proactive action to *support* the substantive components of this right?

3. Procedural Components

2018 Framework Principles

Commentary to Principles 1 & 2

- *the exercise of human rights, including rights to freedom of expression and association, to education and information, and to participation and effective remedies, is vital to the protection of the environment.*

Principle 4

- *provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence*

2021 SR Toxics Plastics and Human Rights

- *A human rights-based approach is key ... to prevent exposure and transition towards a circular economy at all stages of the plastics cycle [including principles of] informed participation, prevention, precaution and polluter-pays ... [and] effective remedy...]*



Prevention, Prior Assessment & Precaution

Principles of international environmental law:

Prevention: when consequences of an action or substance are known, actors must take steps to minimize known consequences

Precaution: even if the consequences of an action or substance are not conclusively known but scientific evidence points to possible serious risks, actors must abstain

2018 Framework Principle 8:

Impact assessment: the prior assessment of environmental impacts of proposed projects and policies, including effects on the enjoyment of human rights, is necessary to avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights [business HRIA]

Application to plastics challenge:

- Avoid false solutions, address classes of chemicals, place emphasis on product design



Access to Information

2018 Framework Principle 7, Commentary

Right to information:

The human right of all persons to seek, receive and impart information includes information on environmental matters. [] access to environmental information enables individuals to understand how environmental harm may undermine their rights, including the rights to life and health, and supports their exercise of other rights, including the rights to expression, association, participation and remedy.

Related to **Principle 6: education and public awareness** on environmental matters

Application to plastics challenge:

- the **right to science** underlies the right to information, enabling access to truthful and non-misleading information of the impact of plastic on health and the environment
- the “vast majority” of people “do not have access to information relating to the impacts of the various stages of the plastics” linear cycle



Public Participation

2018 Framework Principle 5, Commentary

...rights to freedom of expression, association and peaceful assembly encompass the exercise of those rights in relation to environmental matters

2018 Framework Principle 9, Commentary

Ensuring that environmental decisions take into account the views of those who are affected by them increases public support, promotes sustainable development and helps to protect the enjoyment of rights that depend on a safe, clean, healthy and sustainable environment.

Application to plastics challenge:

- the **right to public participation** applies to all stages of the plastics life cycle, including policy
- at risk communities, especially Indigenous communities, have a right to free, prior and informed consent (2018 Framework Principle 15)
- environmental human rights defenders require a safe and enabling environment (2018 Framework Principle 4)



Accountability and Access to Justice/Remedy

2018 Framework Principle 10, Commentary

...access to judicial and other procedures for effective remedies for violations of human rights encompass remedies for violations of human rights relating to the environment.

The public should have access to guidance on how to seek access to justice and support on how to overcome obstacles to access. *All those pursuing remedies must be protected against reprisals, including threats and violence.*

Application to the plastics challenge:

- Remedy has historically been elusive due to misinformation and false promises about the potential of recycling, placing responsibility instead on consumers, with the plastics industry failing to remedy the risks and harms posed by plastics and escaping accountability (SR Toxics)
- Businesses have responsibilities for the risks and harms caused along all stages of the plastics cycle



Reflection:

- Identify steps to ensure that your organisation is supporting the exercise of **procedural** components of the right to a clean, healthy and sustainable environment, including by:
 - Identifying your organisation's commitment to the **prior assessment and prevention** of impacts caused by plastics or substitutes;
 - Ensuring that the public has **access to information** regarding your organisation's contribution to the plastics lifecycle, or substitutes, including the use of any hazardous substances or toxic chemicals;
 - Supporting and ensuring that rights holders that may be impacted by your organisation's contribution to the plastics lifecycle or substitutes have an opportunity to **participate** in such assessments, and, where appropriate, that their consent is sought;
 - Supporting **access to remedy** for any impact that your organisation's contribution to the plastics lifecycle may have had on human rights.

3. Equity & Vulnerability

2018 Framework Principles

Principle 3

- prohibit discrimination and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.

Principle 14

- take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.

2021 SR Toxics Plastics & Human Rights

Persons and groups in vulnerable conditions are disproportionately exposed to the impacts of the plastics cycle, depending on factors such as age, gender, ethnicity, education, profession and poverty. [They] often lack tools and opportunities to protect themselves from such exposure...

Vulnerability and Intersectionality

Children & future generations

Indigenous peoples, rural & coastal communities

Women & gender diverse persons

Persons living in poverty

Disabled, Elderly

Racial & marginalized minorities

Formal & informal workers

Children

Children exposed to hazardous substances in the plastics cycle suffer a violation of their rights to life, health, and physical integrity, as well as their right to a toxic-free environment, among others.

Impacts of hazardous substances on children can be irreversible and are proven to occur before birth through the mother's exposure.

Vulnerability is aggravated for children:

- Living in poverty; exposed to dumping sites; working as waste pickers

But children have limited possibilities to exercise rights to information, participation and remedy.

Women

Owing to biological, social and economic inequalities, as well as political underrepresentation in decision-making, women are particularly affected by the harmful effects of hazardous chemicals from plastics.

Women experience heightened contact with plastics:

- as workers (formal or informal) in the textile industry, or as waste pickers
- through exposure to plastic-based hygiene and menstrual products

But women can also be champions of reform through contributions to the development of responsible consumption and waste disposal practices, and through inclusion in decision-making.

Indigenous Peoples, Rural and Coastal Communities

Indigenous peoples and other traditional communities, as well as rural and coastal communities that have close relationships with natural ecosystems on their traditional territories are particularly vulnerable to the impairment of their rights due to environmental harm, including from plastics. This includes the impacts from toxic additives that are persistent and capable of long-range transport.

The first stage of the plastics lifecycle has caused serious violations of Indigenous peoples' rights. Coastal communities face extreme impacts from marine plastic litter, harming their ocean food supply. Rural communities face extreme impacts when subject to dumping and incineration of plastic wastes.

But these communities hold rights to consultation or free prior and informed consent when decisions are made that would affect their lands, territories or resources.

Racial or Other Minorities & Persons Living in Poverty

Racial minorities and people experiencing poverty are more likely to reside in fenceline communities situated close to petrochemical and plastics manufacturing industries, or unregulated dumping or incineration grounds, and experience disproportionate impacts on their rights.

The global plastic waste flow disproportionately impacts people living in low-income countries. People experiencing poverty are more likely to be exposed to toxins from plastics through the products accessible to them or in housing.

But these communities often lack access to information and health care resources, and face challenges accessing justice.

Formal and Informal Workers

Workers, whether formal or informal, are among those most exposed to the health risks and harms of the plastics cycle, including through exposure to chemicals in plastics during the manufacturing, recycling and waste management stages.

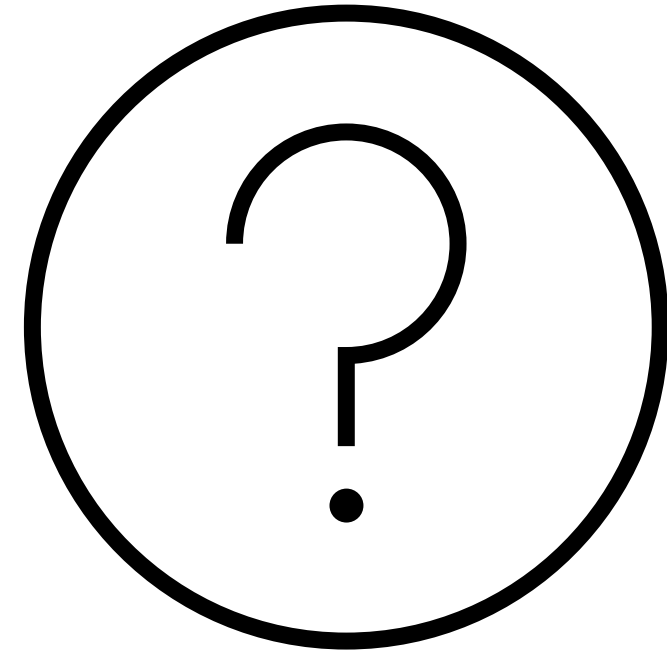
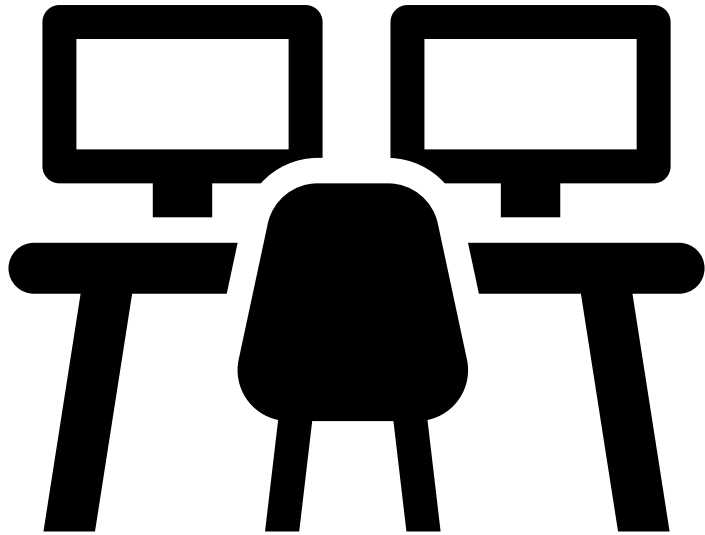
At the petrochemical and plastics manufacturing stages, the rights of industrial workers are impaired through exposure to hazardous substances emissions and toxic plastic additives.

At the waste management stage, waste pickers, often women, play a crucial role salvaging plastics for recycling from the waste stream, yet with low and insecure incomes, lack of access to protective equipment, and high risks to health.

But both formal and informal workers have rights to be protected from exposure to toxic substances, including rights to information, freedom of association, and effective remedy.

Reflection:

- Identify **rights holders** who may be disproportionately impacted by your organisation's contribution to the plastics lifecycle, including: Indigenous peoples, tribal & traditional peoples; rural & coastal communities; women & gender diverse persons; ethnic, racial & other minorities; persons living in poverty; the disabled; formal & informal workers; children & future generations.
- Identify how, and when, your organisation interacts with **environmental human rights defenders**. Make a commitment to protect, support and collaborate with them to enable human rights responsible plastics action.



Case Studies,
Summary and Q&A



Case Study #1 the Philippines' "Sachet Economy"

Issue

- Low-income communities depend on sachets lined with plastic used to package household commodities: toothpaste, shampoo, coffee, cooking oil, soy etc.
- Affordable, convenient, appealingly branded, easy disposal

(Reuters, Manila, 2019)

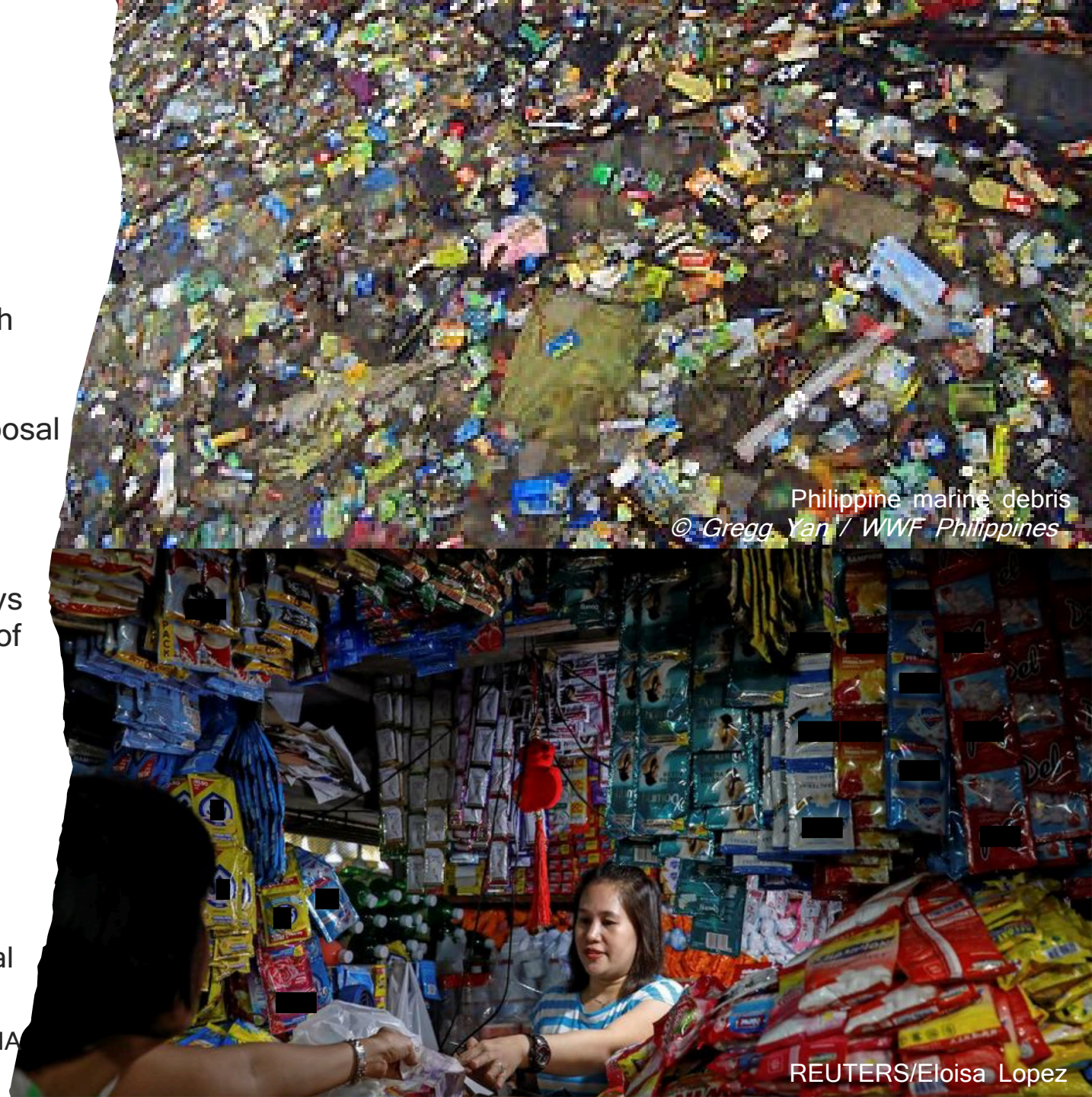
Human Rights Impacts

- 163 millions sachets/day in the Philippines
- Waste disproportionately pollutes streets and waterways in low-income communities because of inaccessibility of garbage trucks and irregular waste collection
- Present flooding risks because of ability to clog waterways

(Reuters, Manila, 2019; GAIA, 2020)

Solutions?

- Unilever implemented a recycling program to turn sachets into school chairs or cement bricks in communities
- Collection of sachet waste creates opportunities for informal waste pickers under a plastic crediting business model
- Reduce dependency on sachets/single-use plastics (see GAIA p. 24)



Philippine marine debris
© Gregg Yan / WWF Philippines



Reflections on Sachet Economy Case Study

Drawing upon Module 2: how does the sachet economy impact the right to a clean, healthy and sustainable environment?

- Substantive elements:
 - clean water, safe food, healthy ecosystems & biodiversity, toxic-free environment ...
- Procedural elements:
 - Prior assessment & precaution? Information, science, education? Public participation? Justice?
- Non-discrimination:
 - Importance of access for those living in poverty, sustainable livelihoods, ...?

Anticipating module 3, how can businesses take responsible action to prevent and remedy the human rights impacts identified?

- (identify, prevent, mitigate, account for impact)
- Might the solutions suggested raise other human rights concerns? If so, how could these be overcome?

Case Study #2 Used Diapers Pollute Indonesia's Rivers

Issue

Estimated 1.5 million diapers disposed into Brantas River, Surabaya, alone but likely more extensive [Ecoton, Ecological Observation and Wetland Conservation]]

Java island = 84 spots of diaper dumps across 37 cities

Diapers = 55% plastic raw material; 42% polymer microbeads (microplastic)

Diapers pollute river water, regional supply source for drinking water and daily water source for riverbank communities

Human Rights Impacts

Unusable water source

Plastic particles contaminate water; consumed by fish (80% of fish stomachs sampled contained microplastics)

Microplastic ingestion associated with hormonal disruption and disease

Solutions

River clean-ups; government lobbying; drop points initiated (“Dropo”); promotion of reusable/cloth diapers; pressure on manufacturers

Kimberly Clark Softex (PT Softex Indonesia) → new diaper recycling facilities, partnership with Octopus (circular economy firm).

- 17.4 tons of diapers collected; 4 recycling facilities; target 9.5 tons of waste per month to contribute to national plastic waste target to reduce 70% of plastic ocean waste by 2025

- Have turned these plastics into fertilizer, bricks, fuel and handicrafts



Figure SEQ Figure * ARABIC 2. Ecoton cleaning up the bridge area from the diaper waste



Figure SEQ Figure * ARABIC 1.





Reflections on Diaper Pollution Case Study

Drawing upon module 2: how does the dumping of diapers impact the right to a clean, healthy and sustainable environment?

- Substantive elements:
 - clean water, safe food, health...
- Procedural elements:
 - To information, science, education, freedom of expression (media)
- Non-discrimination?

Anticipating module 3, how can businesses take responsible action to prevent and remedy the human rights impacts identified?

- (identify, prevent, mitigate, account for impact)
- Might the solution being implemented raise other human rights concerns? If so, how could these be overcome?

Summary

The substantive, procedural and equity dimensions of the right to a clean, healthy and sustainable environment are interdependent and mutually reinforcing.

To overcome the plastics challenge, all duty bearers have responsibilities to address each component of this right.





Questions? Discussion

What are some examples of good practices that can contribute to alleviating the disproportionate impacts of plastic pollution?



These training slides were developed for educational purposes as part of the SEA circular project – Reducing marine litter by addressing the management of the plastic value chain in South-East Asia, which is implemented by UNEP and COBSEA with funding support from the Government of Sweden.

The slides were prepared by Dr Sara Seck with the assistance of researchers at the Marine & Environmental Law Institute (MELAW) and Schulich School of Law, Dalhousie University.

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