

Promotion of a multi-stakeholder model and civil society organization (CSO) participation, for the implementation of SAICM - Africa

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Briefing Notes Pillar 1.1: Highly Hazardous Pesticides (HHPs) in international governance – how far have we come? With special reference to human rights

The costs of pesticides

A characteristic of all pesticides is that they were developed to inhibit the development of organisms or to kill them. These characteristics have proven to harm not only the intended organisms like specific pests or harmful fungi but also so called non-target organisms like pollinators and amphibians and also humans, and their widespread use and open release in the environment has led to ubiquitous contamination of natural resources and has developed in some areas into a human rights issue. Those pesticides that are known to cause severe or irreversible harm to health or the environment under normal conditions of use, that and are of high acute and chronic toxicity (e.g. carcinogenic, mutagenic or toxic for reproduction) are summarised under the term Highly Hazardous Pesticides (HHPs)

An estimated 44% of farmers suffer acute unintentional pesticide poisoning symptoms every year²

In addition to the cost of purchasing a pesticide, there are many other ‘external’ costs that are often overlooked. These costs include *inter alia*:

- medical treatment and lost work resulting from pesticide poisoning
- loss of beneficial organisms including pollinators, fish, soil microorganisms
- monitoring water quality
- disposing of obsolete stocks of pesticides
- recovery and disposal / recycling of empty pesticides containers

UNEP’s ‘Cost of Inaction’ report³ in 2013 shows that the costs of inaction on pesticides for small holder farmers in sub-Saharan Africa was an estimated USD 4.4 billion.

Most pesticides have a shelf life of two years from the date of manufacture. Poor stock control can result in large stocks of old and unwanted pesticides. Pesticides also become obsolete when they are banned. ‘Donations’ of unwanted and obsolete pesticides are often made to Low Income Countries, particularly during pest outbreaks, such as locust outbreaks.

¹ PAN International <http://pan-international.org/resources/>

² Boedeker W, Watts M, Marquez E, Clausen P. 2020. The global distribution of acute unintentional pesticide poisoning: estimations based on a systematic review [in press]

³³ https://wedocs.unep.org/bitstream/handle/20.500.11822/8412/Costs%20of%20inaction%20on%20the%20sound%20management%20of%20chemicals013Report_Cost_of_Inaction_Feb2013.pdf?sequence=3&isAllowed=y

Unwanted pesticides often end up in obsolete stockpiles. According to FAO 'Half a million tonnes of obsolete pesticides are scattered throughout [low income] countries. These toxic chemicals, often stored outdoors in leaking containers, are seeping into the soil and water, putting populations and environmental resources at high risk.

Eliminating these dangerous stocks is expensive. To meet UN safety standards, the stocks must be re-packed, transported and (usually) shipped to a suitable high temperature facility. Currently, only Europe allows the import of pesticide waste for incineration.

The best way of tackling waste is to avoid generating it in the first place. Unfortunately, many countries Ethiopia, for example, has been the subject of repeated clean up operations. In the absence of measures to minimise waste, it has reaccumulated.

Discarded pesticide containers are a significant, global problem. They are much more hazardous than general plastic waste due to the pesticides residues they contain. They can lead to incidents of human poisoning and they contaminate soils and water.

A PAN-UK survey of 209 smallholder farmers in Suriname estimated each farmer generates, on average, 34.7 pieces of pesticide contaminated plastic per farmer per year and 4.64 foil sachets.

CropLife International boast that from the 40 mature container programs they support, farmers currently return 66% of all plastic containers shipped. Even in the fortunate locations with mature schemes in place, 34% containers are not recovered. The majority of locations have no such schemes, meaning that the containers end up being burned, buried or put into landfill. All these options lead to environmental contamination.

Unfortunately, **used pesticides containers**, which are made from high quality plastic, can also be attractive storage containers for water and food, resulting in dangerous exposure to hazardous chemicals. In some countries it is common to purchase used pesticide containers at markets for domestic use. A survey by PAN-Africa in Senegal in 2010 revealed that 10% of pesticides containers were reused for domestic purposes.

History of HHPs

The term Highly Hazardous Pesticides (HHPs) has only been in existence since 2006, but the HHPs themselves have existed for about 3,200 years, with the Chinese use of mercury and arsenic-based pesticides for controlling body lice.⁴ Check the PAN International Consolidate List of Banned Pesticides for countries that have banned these.⁵

Earlier, the Sumerians used sulphur for controlling pests on crops, but sulphur is not an HHP. Since then Greeks and Romans used a variety of methods to manage pests, including burning plant or animal matter to windward so that the smoke would spread throughout the orchard, crop or vineyard and dispel blight or mildew. Pyrethrum, from the dried flowers of

⁴ IUPAC. 2020. History of Pesticide Use.

http://agrochemicals.iupac.org/index.php?option=com_sobi2&sobi2Task=sobi2Details&catid=3&sobi2Id=31

⁵ PAN International Consolidated List of Banned Pesticides. 2019. <http://pan-international.org/pan-international-consolidated-list-of-banned-pesticides/>

Chrysanthemum cinerariaefolium (pyrethrum daisies), has been used as an insecticide for over 2000 years, again not an HHP.⁶

Use of the HHP nicotine as a pesticide is known to have occurred from at least 1690.⁷ HHPs came into more regular use with the advent, in 1848, of rotenone, a natural substance extracted from the roots and stems of plants, including the genus *Derris*. It is still used as an insecticide and for killing fish, for scabies and head lice on humans, and for parasitic mites on chickens, livestock, and pet animals in some countries, although banned in EU and UK since 2009.⁸ Rotenone is an HHP, linked to Parkinson's Disease but included on the PAN International HHPs list for its toxicity to bees.⁹

Other HHPs to come in common use in the 1800s included acetoarsenic (Paris Green),¹⁰ nicotine and arsenic itself.

HHPs in the 'modern era'

It was the discovery of DDT's insecticidal properties in 1939¹¹ that really ushered in the modern era of pesticide use. Mass production of DDT, and its introduction to agriculture began in earnest in the 1940s, quickly accompanied by other HHPs, including organophosphates, carbamates and phenoxy herbicides like 2,45-T and 2,4-D.

The start of the modern era of environmentalism is credited to Rachel Carson's exposé of DDT in *Silent Spring* in 1963, but recognition of the adverse effects of DDT on human health began with the publication of a paper by Drs Morton Biskind and Irving Bieber, US physicians, in 1949.

Global Governance

Since 1985, the number of regional and international legal instruments and conventions dealing with chemicals has increased by 80%, to approximately 50 agreements. But success in dealing with pesticide problems has been elusive.¹²

Here we can only address a few major international instruments.

The International Code of Conduct on Pesticide Management

⁶ IUPAC. 2020. History of Pesticide Use.

http://agrochemicals.iupac.org/index.php?option=com_sobi2&sobi2Task=sobi2Details&catid=3&sobi2Id=31

⁷ Nicotine. <https://en.wikipedia.org/wiki/Nicotine>

⁸ Rotenone. <https://en.wikipedia.org/wiki/Rotenone>

⁹ PAN International List of HHPs. 2019. http://pan-international.org/wp-content/uploads/PAN_HHP_List.pdf

¹⁰ The evolution of chemical pesticides. Science News, 2016, Issue 4.

<https://www.fishersci.com/us/en/scientific-products/publications/lab-reporter/2016/issue-4/the-evolution-chemical-pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents>

[pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents](https://www.fishersci.com/us/en/scientific-products/publications/lab-reporter/2016/issue-4/the-evolution-chemical-pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents)

¹¹ The Evolution of chemical pesticides. Science News, 2016, Issue 4.

<https://www.fishersci.com/us/en/scientific-products/publications/lab-reporter/2016/issue-4/the-evolution-chemical-pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents>

[pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents](https://www.fishersci.com/us/en/scientific-products/publications/lab-reporter/2016/issue-4/the-evolution-chemical-pesticides.html#:~:text=Early%20pesticides%20included%20the%20use%20of%20botanicals%20and,the%20discovery%20and%20utilization%20of%20additional%20pesticide%20agents)

¹² PAN Germany. 2016. Stop Pesticide Poisonings! A time travel through international pesticide policies, 2nd Edition. http://www.pan-germany.org/download/stop_pesticide_poisonings_161214.pdf

The world had to wait almost 40 years after the health effects of DDT were revealed for its first form of global governance of pesticides. In 1985, FAO's governing body approved the first Code of Conduct: the FAO Code of Conduct on the Distribution and Use of Pesticides, now known as the International Code of Conduct on Pesticides Management. This will be discussed fully in the next session, but for now the Code was, and still is, voluntary.

Since then the silver bullets in the fight against pesticide poisonings in most countries around the globe have been:

- pesticide legislation on distribution, use and disposal
- pesticide registration to make sure that only properly tested and approved pesticides are sold
- training in so-called 'safe' and effective pesticide use.

The aim of these initiatives has been to apply strategies and approaches already adopted by high income countries to address pesticide-related problems in countries that haven't yet implemented these approaches.

Today, nearly all countries have put in place pesticide legislation. Many programmes aim to help low and middle income countries to properly register pesticides for distribution and use. And millions of farmers have been trained in 'safe' handling, use and disposal of pesticides by governmental organisations, aid agencies, the FAO, the pesticide industry and other private sector bodies, and by civil society organisations. *But all these activities have not stopped the pesticide poisonings. This is a predictable outcome in circumstances where regulation is weak, people are living under conditions of poverty and the use of PPE is neither affordable nor practical for the majority of end users.*

Stockholm Convention

Next in line was the Stockholm Convention on Persistent Organic Pollutants (SC), adopted in 2001 and now ratified by 152 countries.

This Convention, although legally binding has a profound effect on a few pesticides but a very limited impact on pesticides in general. All pesticides listed under the Convention are automatically regarded as HHPs as this listing is one of the criteria for an HHP (more on this later).

- Pesticides listed under the SC are mostly obsolete: aldrin, chlordane, chlordecone, dieldrin, endrin, heptachlor, hexachlorobenzene (HCB), alpha and beta hexachlorocyclohexane (HCH), mirex, pentachlorobenzene, toxaphene
- A few are still in limited use: endosulfan, dicofol, lindane, pentachlorophenol
- Two are on the way to being listed: methoxychlor, currently being addressed by POPRC and likely to be considered for listing at the next Conference of the Parties (CoP); and chlorpyrifos which the EU is in the process of nominating
- And, of course, DDT with its "acceptable purpose" for vector control

Problems with the SC and HHPs

- There are only a very few other pesticides that might conceivably be listed under the SC: bifenthrin, dactal, cypermethrin, lufenuron, pyridalyl, and a few others.¹³

¹³ UNEP. 2012. Report on the assessment of chemical alternatives to endosulfan and DDT. UNEP/POPS/POPRC.8/INF/12.

- The SC deals with only one pesticide at a time; and each one takes a minimum of 3 years to be listed after it has been nominated by a Party.
- The SC is only binding on a country when a country ratifies the Convention and the amendments listing the new pesticides.
- There is no provision for penalty if a Party violates the convention, and indeed one Party is known to be still manufacturing endosulfan.

Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

The RC was adopted in 2004 and is currently ratified by 164 countries.

It creates legally binding obligations for the implementation of the Prior Informed Consent (PIC) procedure. It built on the voluntary PIC procedure, initiated by UNEP and FAO in 1989. PAN was very instrumental in the development of the original PIC procedure.

Unlike the Stockholm Convention, Rotterdam does not ban pesticides: it is simply a procedure to notify countries about particularly hazardous industrial chemicals, pesticides (active ingredients), and severely hazardous pesticide formulations. It says that chemicals / pesticides which have been banned, withdrawn or severely restricted in a defined number of countries¹⁴ should only be exported to a country if the importing country's government has been informed of the reasons for the regulatory action and has given positive prior consent to the importation of the chemical or pesticide.

When a pesticide is listed in Annex III, all ratifying countries are notified, and they are required to send an Import Response – whether it will allow imports of those pesticides or not. If the answer is no, then the exporter is not allowed to send the pesticide to them: AND the country that has refused import is not allowed to manufacture that pesticide.

Pesticides currently listed under the Rotterdam Convention, that are not also listed under the Stockholm Convention are:

2,4,5-T and its salts and esters	EDB (1,2-dibromoethane)
Alachlor	Ethylene dichloride
Aldicarb	Ethylene oxide
Azinphos-methyl	Fluoroacetamide
Binapacryl	Mercury compounds
Captafol	Methamidophos
Carbofuran	Monocrotophos
Chlordimeform	Parathion
Chlorobenzilate	Phorate
Dinitro-ortho-cresol (DNOC) and its salts	Tributyl tin compounds
Dinoseb and its salts and esters	Trichlorfon

Severely hazardous pesticide formulations are:

- Dustable powder formulations containing a combination of benomyl at or above 7%, carbofuran at or above 10% and thiram at or above 15%
- Methyl-parathion (Emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)
- Phosphamidon (Soluble liquid formulations of the substance that exceed 1000 g active ingredient/l)

Problems with Rotterdam:

- Listing is not a ban

¹⁴ One country from each of 2 UN regions in the case of industrial chemicals and pesticides, but only 1 country in the case of severely hazardous pesticide formulations.

- Listing is by consensus of the CoP, so even though they agree that a pesticide meets the criteria of the convention, a small handful of parties have prevented the listing of a paraquat formulation, a fenthion formulation, acetochlor, carbosulfan

Only about 3.4 percent of all pesticides in use worldwide are covered by these two international conventions and thus globally restricted in trade or banned.

Approximately 31% pesticides meet PAN's criteria for HHPs.

SAICM and HHPs

In 2006, the Strategic Approach to International Chemicals Management (SAICM) was agreed at the first International Conference on Chemicals Management (ICCM1) in Dubai. As with the Code of Conduct, SAICM is not a legally binding treaty. However, it constitutes a global political commitment on the part of governments, chemical and pesticide manufacturers, civil society organisations and others. It is a broad global commitment which aims to foster sound management of chemicals, including pesticides.

SAICM texts drew attention to the problems with pesticides in general, highly hazardous pesticides in particular, and the need to replace them with safer alternatives.

Box 1.1: SAICM texts on HHPs¹⁵

Dubai Declaration:

6. The need to take concerted action is accentuated by a wide range of chemical safety concerns at the international level, including ... dependency on pesticides in agriculture

Global Plan of Action:

8. ... It is therefore critical for all stakeholders to take appropriate action on global priorities. These include, among others:

- h. Promoting alternatives in order to reduce and phase out highly toxic pesticides

Work Areas Addressing Risk Reduction

Highly toxic pesticides–risk management and reduction:

25 Base national decisions on highly toxic pesticides on an evaluation of their intrinsic hazards and anticipated local exposure to them.

26. Prioritize the procurement of least hazardous pest control measures . . .

27 Promote development and use of reduced-risk pesticides and substitution for highly toxic pesticides as well as effective and nonchemical alternative means of pest control.

29. Promote integrated pest and vector management.

114. Improve access to and use of information on pesticides, particularly highly toxic pesticides, and promote alternative safer pest control measures through networks such as academia.

¹⁵ SAICM texts and resolutions of the International Conference on Chemicals Management:
http://www.saicm.org/Portals/12/Documents/saicmtxts/New%20SAICM%20Text%20with%20ICCM%20resolutions_E.pdf

Following intensive efforts to reduce the number of poisonings in developing countries, in 2006 the FAO Council recognised for the first time that certain pesticides could not be used without harm in developing countries, and responded to SAICM by recommending that:

“In view of the broad range of activities envisaged within SAICM, the Council suggested that the activities of FAO could include risk reduction, including the progressive ban on highly hazardous pesticides, promoting good agricultural practices, ensuring environmentally sound disposal of stock-piles of obsolete pesticides and capacity-building in establishing national and regional laboratories.”¹⁶

As a result of this recommendation, in 2008 the FAO/WHO Joint Meeting on Pesticide Management (JMPM) developed criteria to define highly hazardous pesticides and recommended that FAO and WHO develop a list based on these criteria, to be updated periodically in conjunction with UNEP.¹⁷

The criteria are:

- Pesticide formulations that meet the criteria of classes Ia or Ib of the WHO Recommended Classification of Pesticides by Hazard; or
- Pesticide active ingredients and their formulations that meet the criteria of carcinogenicity Categories 1A and 1B of the Globally Harmonized System on Classification and Labelling of Chemicals (GHS); or
- Pesticide active ingredients and their formulations that meet the criteria of mutagenicity Categories 1A and 1B of the Globally Harmonized System on Classification and Labelling of Chemicals (GHS); or
- Pesticide active ingredients and their formulations that meet the criteria of reproductive toxicity Categories 1A and 1B of the Globally Harmonized System on Classification and Labelling of Chemicals (GHS); or
- Pesticide active ingredients listed by the Stockholm Convention in its Annexes A and B, and those meeting all the criteria in paragraph 1 of Annex D of the Convention; or
- Pesticide active ingredients and formulations listed by the Rotterdam Convention in its Annex III; or
- Pesticides listed under the Montreal Protocol; or
- Pesticide active ingredients and formulations that have shown a high incidence of severe or irreversible adverse effects on human health or the environment.

To this day, FAO have NOT identified a list of HHPs, preferring to work individually one by one (or in small regions) with countries to help them identify HHPs in their countries.

In 2009, to assist governments and others and to provide a basis for action on pesticide related hazards, PAN International published the first PAN International List of Highly Hazardous Pesticides, with some additional criteria that PAN recommends are used to identify HHPs (mainly endocrine disruption, bee toxicity, and aquatic toxicity).¹⁸ The list, developed by PAN Germany, is updated regularly. Further assistance to regulators and others is provided by the companion list, PAN International Consolidated List of Banned Pesticides, maintained by PAN

¹⁶ FAO (2006): Report of the Council of FAO, 131st Session, Rome, 20-25 November 2006 (CL 131/REP).

¹⁷ FAO and WHO (2008): Report of the 2nd FAO/WHO Joint Meeting on Pesticide Management, 6-8th October 2008, Geneva

¹⁸ PAN International List of HHPs. 2019. http://pan-international.org/wp-content/uploads/PAN_HHP_List.pdf

Asia Pacific.¹⁹ This list provides information on known regulatory action by 150 countries against 366 pesticide active ingredients (as of April 2019).

Back to SAICM:

2012

Despite this promising start nothing further happened in SAICM with regard to HHPs, until in 2012 at ICCM3 in Nairobi, when concern crystallised with a conference room paper submitted²⁰ and supported²¹ by at least 65 countries and organizations. The resolution proposed in the paper included supporting “a progressive ban on HHPs and their substitution with safer alternatives”. The resolution was not adopted because some countries needed more time to consider it.

2013

Then three of the intercessional regional SAICM meetings held since ICCM3, involving more than 140 countries, reiterated concern about HHPs and called for more information on ecosystem-based approaches to pest management as alternatives to HHPs.

2014

In December 2014, at SAICM’s Open-Ended Working Group, the entire African region called for a Global Alliance to Phase-out HHPs. This call was widely supported and resulted in agreement to develop a proposal for such an approach for ICCM4.

However, at ICCM4, the proposed Global Alliance was circumvented by a voluntary strategy proposed by FAO, WHO and UNEP. That strategy has still not been activated, although FAO is now (2020) developing a Global Plan of Action for agreement at ICCM5.

ICCM4 did adopt a resolution that “supports concerted action on HHPs”, and encourages relevant stakeholders to implement the above-mentioned strategy “with emphasis on promoting agroecologically based alternatives and strengthening national regulatory capacity to conduct risk assessment and risk management, including the availability of necessary information, mindful of the responsibility of national and multinational enterprises;”²²

2020

In September 2020, UNEP published *An Assessment Report on Issues of Concern*,²³ in response to Resolution 4/8 by the United Nations Environment Assembly (UNEA).

¹⁹ PAN International Consolidated List of Banned Pesticides. 2019. <http://pan-international.org/pan-international-consolidated-list-of-banned-pesticides/>

²⁰ Draft resolution on Highly Hazardous Pesticides: submission by Antigua & Barbuda, Armenia, Bhutan, Dominican Republic, Egypt, Guyana, International Trade Union Congress, IPEN, Iraq, Kenya, Kiribati, Kyrgyzstan, Libya, Mongolia, Nepal, Nigeria, Peru, Pesticide Action Network, Republic of Moldova, St Lucia, Tanzania, Tunisia and Zambia. SAICM/ ICCM.3/CRP.16.

²¹ Other countries that spoke in support of the resolution included Zambia on behalf of the whole African region, Burundi, Colombia, Iran, Nepal, Palestine, and Russia. Mongolia proposed replacing pesticides with biological means and biopesticides.

²² UNEP. 2015. Report of the International Conference on Chemicals Management on the work of its fourth session. Resolution IV/3. SAICM/ICCM.4/15. p47.

²³ UNEP. 2020. *An Assessment Report on Issues of Concern*.
<https://wedocs.unep.org/handle/20.500.11822/33807>

The report acknowledged that:

- progress has been made on HHPs but it is uneven across countries and regions and it is not enough
- there is no overarching legally binding instrument for all HHPs
- current instruments do not comprehensively address the sound management of HHPs at a global scale
- there is a disconnect between international recognition and national action
- many developing and transition countries lack the necessary resources and capacities to enforce national pesticide legislation
- there are high levels of illegal trafficking of illicit pesticides, including HHPs
- adequate pesticide management measures including comprehensive labelling, correct use and storage of pesticides, and proper use of personal protective equipment (PPE) are important in managing risks from HHPs; however, farmers in developing and transition countries often lack adequate knowledge and financial resources to implement these measures,
- concerted international actions are urgently needed in all possible forms
- GCO-II had identified emerging evidence that glyphosate is a risk, including the heavy contamination of formulations with arsenic and growing public concern about human health risk, and that significant risks for non-target terrestrial and aquatic plants may exist
- a transition towards alternatives [to glyphosate] that minimise chemical use such as agroecological techniques and integrated pest management and other solutions could improve the sustainability of urban and agronomic systems while preserving human and environmental health
- that the widespread use of neonicotinoid insecticides in outdoor agriculture is an issue of public concern and there may be significant risk to bees, other wildlife and humans.

The report identified the need to address existing challenges for HHPs:

- address the current ambiguity of the criteria for identifying HHPs
- strengthen international support for developing and transition countries, possibly through legally binding instruments and partnerships, including building up resources and capacities to establish and enforce national pesticide legislation, combatting illegal trafficking of illicit pesticides, and treatment of existing stockpiles.
- increased research and development of safer alternatives, particularly non-chemical alternatives such as agroecology techniques that minimise chemical uses and methods such as integrated pest management, and making them available, accessible and visible to farmers across the globe
- revisiting national, regional and international legal frameworks for sound pesticide management, including trade, liability, sustainable use of pesticides, and integrated pest management; to do so, strong coordination and leadership at the international level is necessary

The UNEP assessment report on Issues of Concern acknowledged that current instruments do not comprehensively address the sound management of HHPs at a global scale and that concerted international actions on HHPs are urgently needed and require for example, an international framework of sound management of Highly Hazardous Pesticides, possibly legally binding, and more engagement in alternative techniques that minimise chemical uses, such as agroecological techniques and integrated pest management.

Human Rights and HHPs

The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes's website states:

*"Indeed, a common denominator among many cases of human rights abuses involving business enterprises is the poisoning of communities, workers and consumers with toxic substances, whether from extractive industries, pesticide use in agriculture, industrial chemicals in manufacturing, emissions from power plants, factories, vehicles, and other sources—and of course the improper disposal of waste."*²⁴

IN ONLY ONE OF THE ABOVE INSTRUMENTS AND REPORTS ARE HUMAN RIGHTS MENTIONED

Stockholm and Rotterdam Conventions - human rights are not mentioned in the Stockholm or Rotterdam Conventions, only the rights of Parties

International Code of Conduct on Pesticide Management - human rights are not mentioned

SAICM – the Dubai Declaration does however refer to human rights:

10. We commit ourselves to respecting human rights and fundamental freedoms, understanding and respecting ecosystem integrity and addressing the gap between the current reality and our ambition to elevate global efforts to achieve the sound management of chemicals.

The resolution on HHPs at ICCM4 does not refer to human rights.

Human Rights Council

Several UN Special Rapporteurs have made numerous references to human rights and HHPs.

Most notable was the UN Special Rapporteur on the right to food, Hilal Elver,²⁵ who in her report to the Human Rights Council in 2017²⁶ stated that:

- Pesticides, which have been aggressively promoted, are a global human rights concern
- Reliance on hazardous pesticides is a short-term solution that undermines the rights to adequate food and health for present and future generations.
- Exposure to pesticides can have severe impacts on the enjoyment of human rights, in particular the right to adequate food, as well as the right to health.
- The right to food obligates States to implement protective measures and food safety requirements to ensure that food is safe, free from pesticides and qualitatively adequate.
- Human rights standards require States to protect vulnerable groups, such as farm workers and agricultural communities, children and pregnant women from the impacts of pesticides.

²⁴ UNHCR website of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, "Introduction" (download 02.11.2020), <https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/SRToxicWastesIndex.aspx>

²⁵ In collaboration with the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Baskut Tuncat.

²⁶ Report of the Special Rapporteur on the right to food. Human Rights Council Thirty-fourth session 27 February-24 March 2017. A/HRC/34/48. <https://undocs.org/A/HRC/34/48>

- ... a comprehensive treaty that regulates highly hazardous pesticides does not exist, leaving a critical gap in the human rights protection framework.
- Hazardous pesticides impose substantial costs on Governments and have catastrophic impacts on the environment, human health and society as a whole, implicating a number of human rights and putting certain groups at elevated risk of rights abuses.
- With regard to pesticide exposure, human rights law underlines the obligation on States to ensure that people live and work in safe and healthy environments and have access to safe and clean food and water. As such, exposure to pesticides, whether at work, as a bystander or via residue found on food or in water, would violate a person's right to the highest attainable level of health.
- To subject individuals of other nations to toxins known to cause major health damage or fatality is a clear human rights violation. [export of banned pesticides]
- Given the severe, negative impact of the use of hazardous pesticides on people and the planet, an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations would be important to strengthen the international accountability framework.

Recommendations included:

- The international community must work on a comprehensive, binding treaty to regulate hazardous pesticides throughout their life cycle, taking into account human rights principles.
- Regulate corporations to respect human rights and avoid environmental damage during the entire life cycle of pesticides

Then, in his opening remarks at the 75th Session of the UN General Assembly 27 October 2020, United Nations Special Rapporteur on human rights and hazardous substances and wastes, Marcos A. Orellana made the following statements (extracts):

- “Regrettably, the, current practice of wealthy countries exporting highly hazardous pesticides and toxic industrial chemicals, which are banned on their home soil, to poorer nations lacking the capacity to control the risks, perpetuates global environmental injustice.
- States have a duty to "prevent and minimize" exposure to hazardous substances to protect against preventable diseases and disabilities.
- But the most vulnerable in society continue to find themselves on the wrong side of a toxic divide. They suffer under an invisible weight of systemic injustice, racism and discrimination. More often than not, they are "legally poisoned" by "permissible limits" of toxic exposures that do not account for human rights protections.
- The need for a human rights approach to hazardous substances and wastes is today more pressing than ever.
- A life of dignity is not possible on a planet contaminated with hazardous substances and wastes.
- We all have our part to play, to ensure that our human right to live free from toxic pollution is no longer treated as a privilege of the few.”

Human rights violation linked to pesticides

After large-scale use of toxic agrochemicals in the region of in Canindeyú, Paraguay, which had severe impacts on the victims' living conditions, health, livelihoods, contaminating water resources and aquifers, preventing the use of streams, and causing the loss of fruit trees, the death of various farm animals and severe crop damage, in 2019 the UN Human Rights Committee concluded that heavily spraying the area with toxic agrochemicals poses a

reasonably foreseeable threat to the victims' lives. Therefore, the Committee declared the violation of the right to life and the right to private life, family and home by Paraguay.²⁷

In 2018, PAN Asia Pacific published a report on the results of monitoring of the impacts of HHPs in 7 Asian countries. The report found widespread use of HHPs and, as a consequence, gross breaches of a number of human rights instruments:²⁸

- **Violations of the right to life and health:** The Universal Declaration on Human Rights enshrines the right to life for every person. In Article 25, it says, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family."
- **Violations of the right to freedom of information and right to know** - United Nations General Assembly in its resolution 59(I)
- **Violations of the right to a safe working environment and labour rights** - ILO Convention 184
- **Violations of children's rights** - Article 32 of the UN Convention on the Rights of the Child
- **Violations of women's rights** - Article 11 of the UN Convention on the Elimination of All Forms of Discrimination against Women
- **Violations of indigenous people's rights** - UN Declaration on the Rights of Indigenous Peoples

List of abbreviations

CSO – Civil society organization (CSO)

CoP – Conference of the Parties

FAO – Food and Agricultural Organization of the United Nations

HHP – Highly Hazardous Pesticides (HHPs)

ICCM – International Conference on Chemicals Management

JMPM – Joint Meeting on Pesticide Management

PIC – Prior Informed Consent

RC – Rotterdam Convention on the Prior Informed Consent

SC – Stockholm Convention on Persistent Organic Pollutants

SAICM – Strategic Approach to International Chemicals Management

UNEA – United Nations Environment Assembly

UNEP – United Nations Environment Programme

²⁷ UN. 2019. Paraguay responsible for human rights violations in context of massive agrochemical fumigations. Office of the High Commissioner Human Rights, United Nations.

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24890&LangID=E>

²⁸ Rengam S, Serrana M, Quijano I-I. 2018 *Of Rights and Poisons: Accountability of the Agrochemical Industry*. PAN Asia Pacific, Penang. <https://panap.net/resource/of-rights-and-poisons-accountability-of-the-agrochemical-industry/>