

# COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

## ISHR'S SUMMARIES OF DOCUMENTS FOR THE 5<sup>TH</sup> SESSION OF THE COUNCIL

### Report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights<sup>1</sup>

#### Mandate holder

Okechukwu Ibeanu

#### Mandate

The mandate was established in 1995<sup>2</sup> to examine 'the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.' The UN Human Rights Commission (the Commission) affirmed the serious threat posed to the human rights of life and health by the illicit traffic and dumping of toxic and dangerous products. Since its initial resolution, the Commission has adopted a resolution each year on the issue, culminating with a resolution in 2004 and a subsequent extension by the Human Rights Council (the Council).<sup>3</sup> The Special Rapporteur has adopted a thematic focus taking into account the gravity and extent of the actual or potential human rights violations, and whether analyses from the perspective of human rights violations could incite greater international efforts to address a given theme. Previous reports submitted to the Commission considered exposure to pesticides and other hazardous chemicals and the legal framework of international environmental law. The current report addresses the effects of armed conflict on the environment via toxic products, including oil and chemicals.<sup>4</sup>

#### Activities

- Annual report<sup>5</sup>

#### Annual Report

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<sup>1</sup> Summary prepared by Daniel Perell, Intern, ISHR edited by Gareth Sweeney, Information Program, ISHR.

<sup>2</sup> Commission on Human Rights, 8 March 1995 Resolution 1995/81.

<sup>3</sup> The Commission resolutions 1996/14, 1997/9, 1998/12, 1999/23, 2000/72, 2001/35, 2002/27, 2003/20, 2004/17 and 2005/15. Council *Resolution 1/102*.

<sup>4</sup> A/HRC/5/5, 5 May 2007.

<sup>5</sup> It is necessary to note the Special Rapporteur did not conduct any missions or reference any communications.

## Scope:

The report covers the Special Rapporteur's research from 2006 through 2007 and focuses on the effects of armed conflict on the dispersion of toxic and other dangerous waste.

## Summary and key conclusions:

- **Toxic and dangerous products released as a result of hostilities:** Toxins are released during hostilities either voluntarily or incidentally. Oil has been released in great quantities because of its prevalence and importance in the Middle East and has had far-reaching effects. Not only are fish and wildlife killed and poisoned, destroying important aspects of the food chain, but the livelihoods of fishermen, the functionality of desalination plants, and the tourism industry are affected. Groundwater and soil are harmed by oil spills or fires on land. Chemical plants are frequently targeted in armed conflict, most notably in Croatia where the bombing of a chemical plant caused 72 tons of anhydrous ammonia to be released. The movement and use of standard weapons themselves is problematic for the environment with the leakage of polychlorinated biphenyls (PCBs) from mobile energy facilities and the use of depleted uranium munitions. Also noted was concern with the use of herbicides, most famously Agent Orange in the Viet Nam war, as a means both of depleting vegetation for purposes of locating an enemy and to limit a food supply. Both objectives have tremendous detrimental effects on civilians including increased risks of cancer and famine. Lastly, war debris such as ash containing paint or plastic products, can be a source of toxic discharge. The breadth of concern is wide and the environmental impacts of war are far-reaching.
- **Negative impact of armed conflicts on the control of toxic and dangerous products and wastes:** As a consequence of armed conflicts governmental and military infrastructure is depleted thus creating vulnerability to the trafficking of dangerous or toxic products into the given country. Similarly, armed opposition groups in internal conflicts may be willing to accept money or weapons in exchange for unauthorized dump sites. In situations with dilapidated governance, there is little communication or dissemination of information regarding the safe disposal of toxic and other dangerous materials.
- **Affected human rights:** Discussing the impact of the aforementioned problems on the enjoyment of human rights could be an effective means for inciting change in the international community. The affected rights, enshrined in various international covenants include: the right to life, the right to the highest attainable standard of health, the right to adequate food, the right to work, the right to information and participation, and the right to a remedy. The primary responsibility holders are certainly States, however companies that produce herbicides or private companies responsible for their own dumping of toxic materials are also accountable for protecting these human rights.
- **Legal framework:** The humanitarian law concepts of distinction (that civilians are not meant to be targeted), proportionality (that an attack is not to cause excessive damage) and precautions (that the incidental losses must be minimized) apply to attacks which could result in the release of toxic or dangerous products into the environment. Additional protocols and customary international law contain general protections for the environment as well.<sup>6</sup> There are prohibitions of attacks on works containing dangerous forces and the destruction of objects indispensable to the survival of the civilian population. The Statute of the International Criminal Court also implicates the aforementioned list as offensive to international humanitarian law.<sup>7</sup> The Special Rapporteur noted that the applicability of human rights law remains even during armed conflict.

## Key recommendations:

- The **response** to the release of toxic products during armed conflict should integrate a **human rights approach**.
- Parties to armed conflicts should take into account the potential **consequences of the release of toxic products** on the environment.

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<sup>6</sup> Protocol Additional to the Geneva Conventions of 12 August 1949.

<sup>7</sup> Rome Statute of International Criminal Court, article 8, 17 July 1998.

- States should identify **potential ‘hotspots’** in territories under their jurisdiction, including the sharing of information about industrial sites, and disseminate this information to local populations so they can take protective measures.
- A **rapid and adequate clean-up procedure** should be implemented for sites which have been contaminated via special clean-up crews, especially in cases of oil spills.
- States should **collaborate** with the Post-Conflict Branch of the United Nations Environment Programme.
- **Regional cooperation**, such as the Environment and Security initiative in Central Asia, should be encouraged, especially with regards to assistance in non-international armed conflicts.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at [www.ishr.ch/hrm/council](http://www.ishr.ch/hrm/council)

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