SEA circular
solving plastic pollution at source

UN environment programme 50 1972-2022

DALHOUSIE UNIVERSITY
MARINE & ENVIRONMENTAL LAW INSTITUTE

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge

©UNRC Office Thailand/Bovornpong Vathanathanakul

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

Training Slides, August 23, 2022

1

Supplementary Resource Materials

Available on google drive:

https://drive.google.com/drive/folders/14-CXKetOu1UVF-AD3-aoPise8SirSOY7?usp=sharing

- Issue Brief: Plastics, Human Rights, and Business Responsibilities
- PDF versions of training slides:
  - Module 1
  - Module 2
  - Module 3
- Checklists for Business, Government, and Civil Society

Also:

- Toolbox of Resources (July/November 2021)
- [forthcoming: full PDF Training Resource]

Dalhousie/UNEP 2

2

Overcoming the Plastics Challenge: A Theory of Change

Where does today's training 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

Dalhousie/UNEP 3

3

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

4

Module 1 - The Human Rights Dimensions of the Plastics Crisis

International Law & Policy Context

Introduction to a Human Rights-Based Approach

Plastic Impacts on People and Planet

Domestic Initiatives & Challenges

Q&A

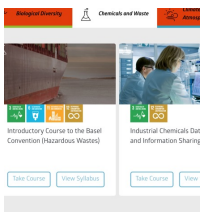
5

1. International Law & Policy Context

International law governs plastic pollution, but incompletely and in a fragmented manner

- United Nations Environment Programme (UNEP) – UNEA resolution to negotiate plastics treaty
- The Basel Convention – plastics amendments
- Stockholm Convention on Persistent Organic Pollutants
- MARPOL – shipping
- Sustainable Development Goals (SDGs)
- Etc

[See UNEP's InforMEA learning website for courses]



6

2. Introduction to a Human Rights Approach

- While **States** are the primary duty bearers under sources of international human rights law, the 1948 Universal Declaration on Human Rights contemplates that "every individual and every organ of society" has an obligation to "strive by teaching and education to promote respect for these rights and freedoms, and by progressive measures, national and international, to secure their universal and effective recognition and observance."
- Since the United Nations Guiding Principles on Business & Human Rights (UNGPs) were endorsed by the UN Human Rights Council in 2011, **business enterprises** are also understood to be duty bearers with a responsibility to respect human rights.
- International human rights law (IHRL) is codified in treaties on civil and political rights, and economic, social and cultural rights, while other treaties address the rights of marginalized groups such as racialized minorities, women, children, and the disabled. UN General Assembly Declarations are also important sources of IHRL, such as the UN Declaration on the Rights of Indigenous Peoples, as are regional instruments.
- **The right to a clean, healthy and sustainable environment** was recognized by the UN Human Rights Council in 2021 and the UN General Assembly in 2022. It is found in many Constitutions around the world.

7

The Right to a Clean, Healthy and Sustainable Environment: substance, procedure & equity

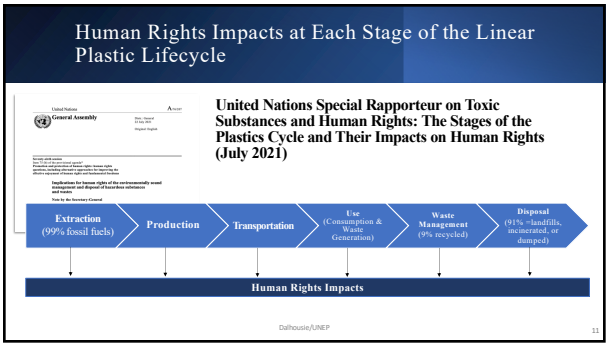
8

UNGPs & Duty Bearers: States and Businesses

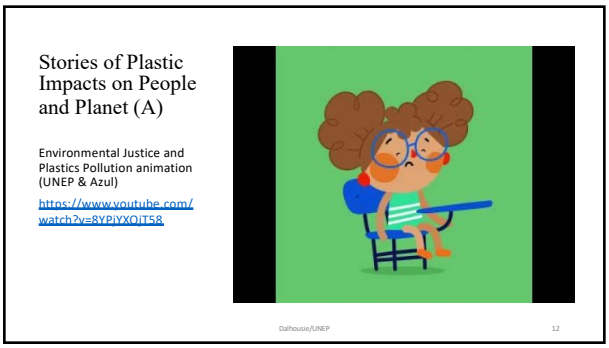
9

3. Plastic Impacts on People and Planet

10


Human Rights Impacts at Each Stage of the Linear Plastic Lifecycle
United Nations
General Assembly
United Nations Special Rapporteur on Toxic Substances and Human Rights: The Stages of the Plastics Cycle and Their Impacts on Human Rights (July 2021)
Extraction (99% fossil fuels)
Production
Transportation
Use (Consumption & Waste Generation)
Waste Management (9% recycled)
Disposal (91% =landfills, incinerated, or dumped)
Human Rights Impacts
Dalhousie/UNEP
11

11


Stories of Plastic Impacts on People and Planet (A)
Environmental Justice and Plastics Pollution animation (UNEP & Azul)
https://www.youtube.com/watch?v=8YPjYXOjT58
Dalhousie/UNEP
12

12

Extraction Stage

- Fossil fuels (99%) make up raw plastic materials
- Extraction and refinement of fossil fuels have wide-ranging impacts
  - Deforestation
  - Ecosystem fragmentation
  - Chemical contamination of land and water with wastewater from extraction process
    - chronic exposure = cancer and other major health concerns
  - Degradation of air quality
    - asthma; lung and bladder cancers

[Source: SR Toxics]

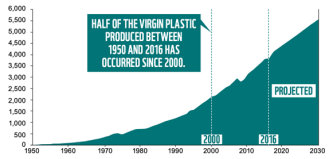
13

Production Stage

- Hazardous substances are emitted into the environment during the production and manufacturing phase
  - Air, water and soil are polluted (including rivers and groundwater)
  - Workers exposed to health risks, communities
- Toxic chemical additives (eg endocrine disrupters – bisphenol A, phthalates, etc)
- Microplastics are manufactured and added to some products
- Overall, toxics added to plastics are linked to a wide range of health concerns from cancer to diabetes to neurodevelopmental issues to fertility issues

[Source: SR Toxics]

14



Production of Virgin Plastic is Expected to Rapidly Increase by 2030

Source: WWF, "No Plastic in Nature: Assessing Plastic Ingestion From Nature to People" (2019) at 7, online.

15

Transportation Stage

- Possibility of spillage or loss, including of microplastics
  - Example: MV X-Press Pearl (plastic pellets spilled into sea)
- Challenges: extent of human rights impacts during transportation is not yet fully known
  - Illegal transport and importation of plastic waste is an additional challenge

Images: https://www.bbc.com/news/world-asia-57395693

16

Use Stage (Consumption and Waste Generation)

- Consumers have daily contact with plastic
  - Human absorption, ingestion and inhalation of plastic and toxic additives occurs during the use stage
  - Low quality plastics are often marketed to low-income communities
  - Women and children are disproportionality affected by exposure to hazardous chemicals through use
- Businesses that purchase polymers for use (intermediary businesses) are significant drivers of fossil fuel production for plastics
  - plastic packaging represents 42% of all plastic waste generated

[Source: SR Toxics; UNEP EJ; OECD]

17

Waste Management Stage

- Recycling of plastics largely remains a myth despite best efforts:
  - "currently [there is] no commercially available waste management method capable of solving the global plastic pollution crises"
  - "the recycling practices implemented to date are more of a mirage, an optical illusion that perpetuates the severe human rights impacts of plastics."
- Informal waste sector (often women and children) play key role in global plastics recycling efforts and therefore are vulnerable to health risks and harms from exposure to plastic [*sustainable livelihoods]
- Current recycling practices concentrate toxic additives in plastics, generating new hazardous products
- Potential of extended producer responsibility (EPR), but not complete solution

[Source: SR Toxics]

18

"First of its Kind" Legal Investigation into "Recycling"

"For more than half a century, the plastics industry has engaged in an aggressive campaign to deceive the public, perpetuating a myth that recycling can solve the plastics crisis. The truth is: The vast majority of plastic cannot be recycled, and the recycling rate has never surpassed 9%."

- Rob Bonta (b. Philippines) California Attorney General Press Release: April 28 2022

- *Subpoenas ExxonMobil for information relating to decades-long plastics deception campaign*

19

Disposal Stage

- 91% of accumulated plastics are put into landfills, dumped (leaked into nature), or incinerated (especially where solid waste management does not exist)
- 12% of plastics since the 1950s have been incinerated, releasing highly toxic substances into the air and posing a severe health risk to local communities, leading to premature deaths from respiratory issues and organ damage
- Dumping and landfills are associated with health risks arising from dangerous emissions of methane and heavy metals
- Plastic that does not make it to landfill is washed into rivers, then oceans where it can wash up on beaches or sink to the ocean floor
  - Plastic exposed to sunlight causes GHG emissions, leaches contaminants into marine environments, and ultimately degrades into micro and nano-plastics
  - These microplastics absorb toxins, and are then ingested by fish so readily absorbed into food chain with disproportionate impact on coastal communities that depend on fish as primary food source

[Source: SR Toxics, UNEP EJ]

20

Business Impacted by/and Contributing to the Plastics Crisis (*examples*)
[Source: SEA Circular, *Marine Plastic Litter in East Asian Seas: Gender, human rights, and economic dimensions,* 2019]

Fisheries: dependent on healthy ecosystems: marine litter injures marine organisms, contaminates seafood, and destroy habitats; damage to fishing gear (interrupting operations and causing human injuries)

Shipping: significant hazards for navigation as marine plastic entangles propellers which can lead to injury and death of crew members

Coastal tourism: plastic pollution reduces aesthetic value of beaches and makes recreational activities such as swimming, surfing and diving less desirable

21

Reflection:

- Identify how your business activities contribute to each **stage** of the **plastics lifecycle**:
  - Extraction
  - Production
  - Transportation
  - Use (Consumption and Waste Generation)
  - Waste Management (including Recycling)
  - Disposal
- Is your business also negatively impacted by plastics? How?

Governments: what impacts fall within your jurisdiction?

Civil society?

22

4. Domestic Initiatives / Challenges

Shift from linear plastic lifecycle to a (chemical free) Circular Economy

Supporting Informal Waste Pickers

Countering Illegal Importation

23

Principles of a Circular Economy

See SGP, gef, UNDP, "Plastics and Circular Economy: Community Solutions", 2019, at 9-10.

24

Reflection:

- Evaluate opportunities for your business to adopt and implement a **circular economy** model and align it with **human rights-aware** plastics action:
  - Reduce or eliminate unnecessary plastic packaging
  - Reduce or eliminate reliance on single-use plastics
  - Seek non-toxic and plastic alternatives
  - Seek ways to up-cycle (recover and regenerate) plastic-based products that are at the end of their service life to prevent disposal

Governments, civil society: how might you legislate/advocate for human rights-aligned approaches to circular economy?

25

Informal Plastic Waste Workers

- The Philippines is home to a large number of informal workers who collect, sort and clean plastic waste for purposes of commercial sale, many of whom are women
- They play a highly valuable role, reducing the volume of waste that is collected and brought to landfills, but:
- **Human rights risks:**
  - direct contact with uncleaned waste
  - lack of basic occupational health and safety protections
  - potential for exploitation through low prices paid for collected plastic (livelihood)
  - potential for gender-based violence
- **Solutions?**
  - Need to protect the livelihoods of members of the informal sector, while also addressing plastic pollution and ensuring health and safety

How can HRBA help?

[COBSEA Plastic and Gender]

Source: When in Manila, online: https://www.wheninmanila.com/69-billion-sachets-and-17-5-billion-plastic-bags-are-thrown-each-year-in-the-philippines/

26

Illegal Importation

- Wealthy nations export their plastic waste to other nations (despite international law…)
- China was historically a major importer of the world's plastic waste, but in 2017 imposed a ban.
- Shipments were then diverted to Southeast Asian nations….
- SEA Response? New bans on plastic waste imports, **which have created opportunities for organized crime**
  - Illegal imports of plastic
  - Illegal dumping of plastic
  - Illegal burning of plastic

Illegal imports cause additional pressure in Southeast Asian countries who must also deal with domestic plastic waste challenges.

Solutions? *How can HRBA help?*

[GAIA, INTERPOL]

Image: Illegal imports being sent back to Hong Kong
Source: Froilan Gallardo/Greenpeace

27

Stories of Plastic Impacts on People and Planet (B)

The Story of Plastics, animated short

(The Story of Stuff Project)

https://www.youtube.com/watch?v=iQ3SA4YvEYU

28

Questions? Discussion

29

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 Southeast 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.

- [contact: Sara.Seck@dal.ca]

30

SEA circular

UN environment programme 50 1972-2022

DALHOUSIE UNIVERSITY
MARINE & ENVIRONMENTAL LAW INSTITUTE

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge

©UNRC Office Thailand/Boonmpong Wathoonthanakul

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

Training Slides, August 23, 2022

1

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

Dalhousie/UNEP 2

2

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

Dalhousie/UNEP 3

3

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

4

1. Human Rights and Environment Frameworks

United Nations
General Assembly

Resolution adopted by the General Assembly on 28 July 2022

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

United Nations
General Assembly

Human Rights Council

Resolution adopted by the Human Rights Council on 8 October 2021

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

5

UN Human Rights Council

6

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.*

7

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.

8

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

9

Right to Clean Air

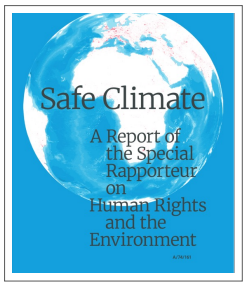
Applied to the plastics lifecycle:
- Extraction
- Production
- Transportation
- Use
- Waste management
- Disposal

10

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.



11

Right to Clean Water

Applied to plastics lifecycle:
- Extraction
- Production
- Transportation
- Use
- Waste Management
- Disposal

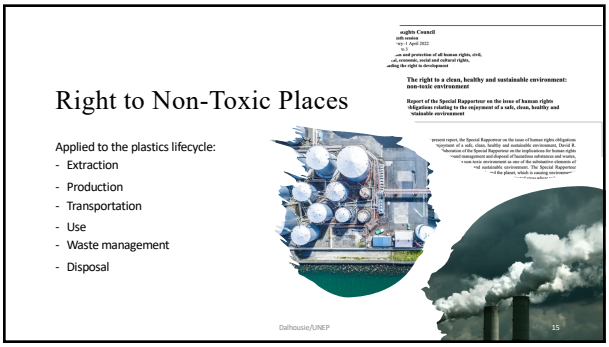
12

Right to Healthy Ecosystems and Biodiversity
Applied to plastics lifecycle:
- Extraction
- Production
- Transportation
- Use
- Waste Management
- Disposal
Dalhousie/UNEP
13

13

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
Dalhousie/UNEP

14


Right to Non-Toxic Places
Applied to the plastics lifecycle:
- Extraction
- Production
- Transportation
- Use
- Waste management
- Disposal
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
Dalhousie/UNEP
15

15

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 pro-active action to *support* the substantive components of this right?

16

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…*]

17

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

18

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

19

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)

20

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

21

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.

22

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…

23

Vulnerability and Intersectionality

24

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.

Dalhousie/UNEP 25

25

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.

Dalhousie/UNEP 26

26

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.

Dalhousie/UNEP 27

27

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.

28

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.

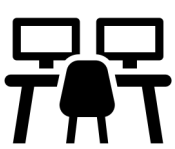
But both formal and informal workers have rights to be protected from exposure to toxic substances, including rights to information, freedom of association, and effective remedy.

29

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.

30



Case Studies,
Summary and Q&A

31

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)

32

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?

33

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.

Source: Kimberley-Clark Softex

34

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?

35

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.

36

Questions? Discussion

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

37

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 Southeast 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.

- [contact: Sara.Seck@dal.ca]

38

SEA circular

UN environment programme 50 1972-2022

DALHOUSIE UNIVERSITY
MARINE & ENVIRONMENTAL LAW INSTITUTE

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge

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

Training Slides, August 23, 2022

©UNRC Office Thailand/Boonmpong Wathoonthanakul

1

Overcoming the Plastics Challenge: A Theory of Change

*Where does **Module 3** 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

Dalhousie/UNEP

2

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

Dalhousie/UNEP

3

Module 3: Business, Human Rights (BHR) and Plastics

1. Business & Human Rights Frameworks
   - **UN Guiding Principles on BHR**
   - UN Global Compact
   - OECD MNE Guidelines & RBC
   - ILO
2. Application of BHR to Plastics Challenges
   - Select themes and case studies with reflections
3. Summary and Q&A

4

1. BHR Frameworks: United Nations Guiding Principles (UNGPs)

OHCHR's work on business and human rights

OHCHR leads the business and human rights agenda within the UN system.

OHCHR develops guidance and training relating to the dissemination and implementation of the **UN Guiding Principles on Business and Human Rights** for States, business, civil society, and other relevant stakeholders. This means:

- providing **advice, tools and other resources**;
- supporting capacity building on business and human rights to all stakeholders, including through OHCHR's field presences and across the United Nations system; and
- acting as secretariat for human rights mechanisms and bodies, such as **the Working Group on Business and Human Rights** and **the inter-governmental group developing a business and human rights treaty**.

Source: OHCHR website

5

UN Guiding Principles on Business and Human Rights (UNGPs)

Pillar I: State Duty to Protect Human Rights

Core of international human rights law (IHRL): to protect against HR abuse by third parties
Prevent, investigate, punish, and redress

How? Effective policies, legislation, regulations, adjudication

Scope? Expectation that businesses respect HR throughout their operations

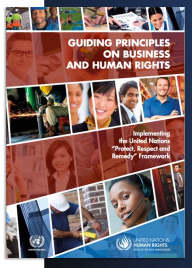
Pillar II: Corporate Responsibility to Respect Human Rights

History (debate): Do TNCs have direct obligations under IHRL? (if so, for what?)
Consensus: societal expectation of business is to respect HR

- Policy commitment
- Due diligence processes
- Remediation

Pillar III: Access to Remedy

Judicial & non-judicial remedy
State & non-state-based grievance mechanisms, including company level



6

UNGPs & Duty Bearers: States and Businesses

Dalhousie/UNEP

7

Pillar I: State Duty

Foundational principles (1-2)

Principle 1: *States must protect against human rights abuse within their territory and/or jurisdiction…*

Principle 2: *States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.*

Operational Principles (3-10) *Examples:*

Principle 3: General State Regulatory and Policy Functions should enable and support business respect for human rights

Principle 4: State-owned or controlled business should take additional measures to protect human rights, such as by requiring due diligence procedures

Principle 5: States should implement oversight procedures to ensure that human rights are not impacted when contracting or legislating for busines services

Principle 8: Human rights-informed policy coherence across government departments, agencies, and institutions that shape business practices is essential

Dalhousie/UNEP

8

Pillar II: Business Responsibility

Foundational Principles (11-15) [Operational Principles (16-24)]

Principle 11: *Business enterprises should respect human rights. …*

Principle 12: Applies to *all internationally recognized human rights;*

Principle 13: *The responsibility to respect human rights requires that business enterprises:*

*(a)**Avoid causing or contributing** to adverse human rights impacts through their **own** activities, **and address** such impacts where they occur;*

*(b)**Seek to prevent or mitigate** adverse human rights impacts that are **directly linked** to their operations, products or services by their business relationships, even if they have not contributed to those impacts.*

Principle 14: Applies to all business *regardless of their size, operational context, ownership and structure*

Principle 15: *… have policies and processes appropriate to size and circumstances:*

*(a) A **policy commitment** to meet their responsibility to respect human rights;*

*(b) A human rights **due diligence process** to identify, prevent, mitigate and account for how they address their impacts on human rights; [and]*

*(c) Processes to enable the **remediation** of any adverse human rights impacts they cause or to which they contribute.*

Dalhousie/UNEP

9

Pillar III: Access to Remedy

Foundational principle:
Principle 25: *States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.*
Commentaries: remedies may include apologies, restitution, rehabilitation, financial or non-financial compensation, punitive sanctions, injunctions, guarantees of non-repetition

Operational Principles (26-31):
Principle 26: State-Based Judicial Mechanisms

Principle 27: State-Based Non-Judicial Grievance Mechanisms

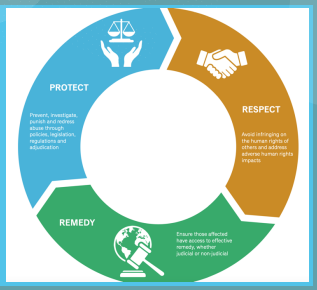
Principle 28-30: Non-State-Based Grievance Mechanisms
* including those established by businesses

Principle 31: Effectiveness Criteria for Non-Judicial Grievance Mechanisms (State and Non-State-Based)

Dalhousie/UNEP

10

UNGPs & Duty Bearers: States, Businesses and Access to Remedy



11

Each UNGP is Supplemented by Gender-Specific Guidance and Illustrative Actions

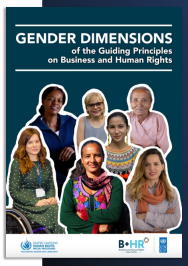
Gender Guidance particularly relevant to the plastics crisis include:

Principle 14: "All business enterprises, including micro-, small and medium-sized enterprises, should take appropriate steps in line with the Guiding Principles to respect the human rights of women, including those working in the informal economy

(c) "Business enterprises should map workers in the informal economy who are part of their supply chains, identify gender-specific issues and take appropriate steps to address these issues"

**Plastics relevance? informal waste pickers are predominantly women*

Principle 18: "…business should adopt a gender-responsive approach, draw upon gender experts, conduct meaningful consultations with potentially affected women, women's organizations…and women human rights defenders"

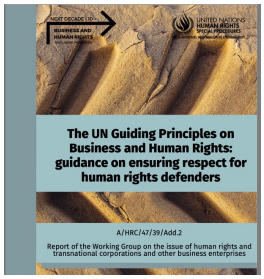


Dalhousie/UNEP

12

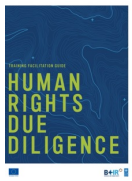
Supplementary Guidance on Respect for Human Rights Defenders

- *Respect for human rights defenders (HRDs) is essential for sustainable development*
- *A cultural shift is required so that both States and businesses understand HRDs as essential allies in protecting people and planet, rather than enemies*
- *Businesses should treat HRDs and community leaders as expert resources for HRDD processes*



13

BHR in Asia: UNDP trainings



14

Reflection:

- What would it mean for your business to implement the business responsibility to respect human rights in accordance with the **UNGPs**, including through:
  - The creation of a **policy commitment** to respect human rights, which includes a commitment to identify, prevent, mitigate and account for the human rights impacts of your business' contribution to the plastic lifecycle;
  - Undertaking **human rights due diligence** by (1) assessing the actual and potential human rights impacts created by the business' contribution to the plastics lifecycle, (2) integrating and acting upon these findings, (3) tracking the effectiveness of the response, and (4) communicating how the impacts are addressed;
  - Taking appropriate steps to ensure that rights holders have **access to remedy** for any plastics-related adverse human rights impacts caused by your business, and taking steps to **cease or prevent** potential impacts;
  - Ensuring a **gender responsive** approach to fulfilling these responsibilities, while treating **human rights defenders** and community leaders as essential allies and experts for human rights due diligence.

15

United Nations Global Compact

United Nations Global Compact

World's largest corporate sustainability and corporate citizenship initiative

Mission: help companies align business strategies and operations with **ten universal principles** derived from international legal instruments, while taking assisted actions to advance the UN Sustainable Development Goals (SDGs)

Implemented by **local networks** run by businesses (15 local networks in Asia)

Dalhousie/UNEP

16

UN Global Compact: 10 Principles

Human Rights
- Principle 1: Business should support and respect the protection of internationally proclaimed human rights; and
- Principle 2: make sure that they are not complicit in human rights abuses

Labour
- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining
- Principle 4: The elimination of all forms of forced and compulsory labour
- Principle 5: The effective abolition of child labour; and
- Principle 6: The elimination of discrimination in respect to employment and occupation

Environment:
- Principle 7: Business should support a precautionary approach to environmental challenges;
- Principle 8: Undertake initiatives to promote greater environmental responsibility; and
- Principle 9: Encourage the development and diffusion of environmentally friendly technologies

Anticorruption
- Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery

Dalhousie/UNEP

17

How Your Company Can Advance Each of the SDGs

Source: UNGC website

Responsible business and investment – rooted in universal principles – will be essential to achieving transformational change through the SDGs. For companies, successful implementation will strengthen the enabling environment for doing business and building markets around the world.

Below you will find links to important initiatives and resources of the UN Global Compact – and in some instances of other like-minded organizations – to guide companies and other stakeholders to action-oriented platforms and tools that support SDG implementation.

Dalhousie/UNEP

18

Sustainable Oceans Principles (2020)

United Nations Global Compact

for business who are "part of an ocean productivity value chain" and for business whose operation "may impact ocean health". **Plastics challenge? = all!**

9 Principles provide guidance on how companies can integrate material ocean-related risks and opportunities into their corporate strategy, risk management and reporting procedures.

Seaweed identified as having potential as alternate packaging material = sustainable business contribution to ocean health

Principle 1: Assess the short- and long-term impact of their activities on ocean health and incorporate such impacts into their strategy and policies.

Principle 2: Consider sustainable business opportunities that promote or contribute to restoring, protecting, or maintaining health and productivity and livelihoods dependent on the ocean.

Principle 3: **Take action to prevent pollution affecting the ocean, reduce greenhouse gas emissions in their operations to prevent ocean warming and acidification, and work towards a circular economy.**

Principle 4: Plan and manage their use and impact on marine resources and space in a manner that ensure long-term sustainability and take **precautionary measures** where their activities may impact vulnerable marine and coastal areas and the communities that are dependent on them.

...

Dalhousie/UNEP

19

OECD Responsible Business Conduct (RBC)

International standards for RBC, adhered to by 50 States (OECD & non-OECD)

Expectations: *all business avoid and address negative environmental and social impacts arising from their operations, while contributing positively to sustainable development in every country that a business operates*

Risk-based due diligence approach aligned with UNGPs (Chapter IV): *focus on risk to rights holders*

National Contact Points (NCPs) promote RBC; hear specific instance complaints (non-judicial grievance)

Expectations are the same for domestic and multinational enterprises; small and medium-sized enterprises are encouraged to observe Guidelines as much as possible

Dalhousie/UNEP

20

Select Chapters Applied to Plastics Challenge

Chapter III: Disclosure

Supports the imperative that businesses gather information on the human rights implications of plastics through all stages of the plastics cycle, and in relation to business operations as well as business relationships. This information must then be made accessible to rights holders so that those who may be at risk of environmental harm can exercise their procedural and substantive rights to prevent and remedy harms. Supports rights to access information and the right to science, as discussed in module 2.

Chapter V: Employment and Industrial Relations

Supports the imperative that businesses support both formal and informal workers in exercising their rights with the aim of reducing exposure to hazardous substances at all stages of the plastics cycle, and through global supply chains. This aligns with a human rights-based approach that identifies workers and their families as being at heightened risk of environmental harms arising from hazardous substances and wastes as explored in module 2.

Chapter VI: Environment

•Supports the imperative that businesses integrate an environmental human rights approach at all stages and through supply chain relationships. This includes procedural components of prevention, prior assessment, and precaution (with the aim of avoiding impacts through product design where possible), access to information and right to science and environmental education, and meaningful and timely public participation in environmental decisions for communities and workers.

Chapter VII: Combatting Bribery, Bribe Solicitations and Extortion

Supports the imperative that businesses confront the organized crime and corruption related challenges arising especially at the importation and incineration stages of the current plastics cycle, but more generally in relation to all environmental crime. In this way the environmental human rights risks facing poor and marginalized communities can be reduced if not avoided.

Chapter VIII: Consumer Interests

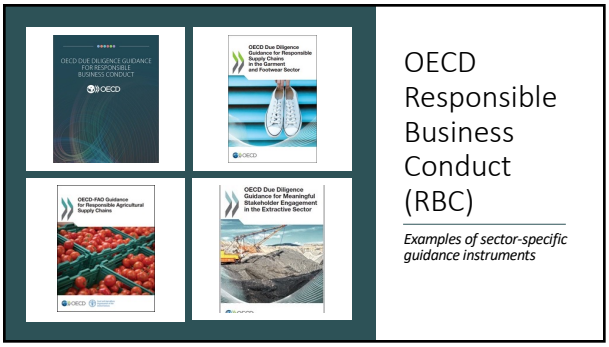
Supports the imperative that businesses ensure respect for the rights of consumers to environmentally relevant information, to education on environmental matters and right to science, as well as the importance of attention to equity and vulnerability in environmental and health standards.

Chapter IX: Science and Technology

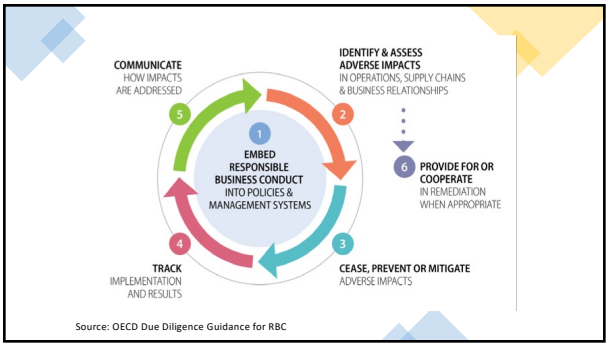
Points to the importance of businesses developing innovative solutions to the plastics challenge in an equitable way to ensure long term sustainable solutions.

Dalhousie/UNEP

21


OECD Responsible Business Conduct (RBC)
Examples of sector-specific guidance instruments

22


COMMUNICATE
HOW IMPACTS ARE ADDRESSED
IDENTIFY & ASSESS ADVERSE IMPACTS
IN OPERATIONS, SUPPLY CHAINS & BUSINESS RELATIONSHIPS
EMBED RESPONSIBLE BUSINESS CONDUCT INTO POLICIES & MANAGEMENT SYSTEMS
PROVIDE FOR OR COOPERATE
IN REMEDIATION WHEN APPROPRIATE
TRACK
IMPLEMENTATION AND RESULTS
CEASE, PREVENT OR MITIGATE
ADVERSE IMPACTS
Source: OECD Due Diligence Guidance for RBC

23

OECD e-learning Academy on Responsible Business Conduct
Register now & learn with us!
OECD
OECD RBC trainings

24

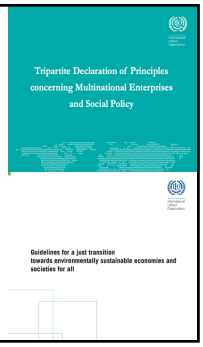
International Labour Organisation (ILO)

ILO Tripartite Declaration (2017)

- Establishes broad human rights-based principles in workplace environments overseen or operated by MNEs
- Directed to governments and MNEs to advance the concept of "decent work"; emphasis on ensuring that low-income groups are able to access to employment in safer, healthier and more gender-equal working conditions

ILO Guidelines for Just Transition

- Key message: importance of social dialogue and viewing workers as agents of change in shaping policies to transition to sustainable economies



25

ILO, "A Circular Economy Can Promote Decent Work" (2021)

26

Reflection

- How could your business undertake opportunities to learn about and implement supplementary guidance on business and human rights and responsible business conduct including those developed by:
  - UNDP Asia [HRDD Training Facilitation Guide]
  - UN Global Compact & Local Networks [including the 10 Principles & Sustainable Oceans Principles]
  - OECD e-learning Academy [including the Guidelines for Multinational Enterprises, Due Diligence Guidance for Responsible Business Conduct, and sector-specific initiatives]
- [Or has your business already taken some of these steps - were they useful? Why or why not?]

27

2. Application of BHR to Plastics Challenges

A. Responsibility, liability & remedy: Philippines Commission on Human Rights case study
B. Integrate responsibility and exercise leverage in supply chains: Indonesian plastic waste case study
C. Protect and enable formal & informal workers: Plastic Credits case study
D. Centre equity and support environmental human rights defenders
E. Confront illegal import and ensure safe disposal

Dalhousie/UNEP

28

NATIONAL INQUIRY ON CLIMATE CHANGE REPORT

COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES 2022

Credit: Chris McGrath/Getty Images

Aftermath of Typhoon Haiyan, 2013, in Leyte, Philippines

A. Plastic Production: Responsibility, Liability & Remedy?

- Plastics have a large carbon footprint and contribute significant GHG emissions especially at the production phase: 3.4% of total (OECD, 2022)
- GHG emissions increase climate risks; the Philippines is "highly vulnerable" to such risks (Kusnierz, 2022)
- Commission on Human Rights of the Philippines, 2022, first of its kind, found: **fossil fuel corporations can be held liable for human rights impacts caused by climate change, and:**

"the carbon majors must conduct due diligence, and climate change and human rights assessments in accordance with the UNGPs in all stages of their operations and across all their value chains, even if not required by government regulations in the jurisdictions they operate in" (p.130)

Could plastics producers also be held liable for the human rights and environmental impacts of plastic pollution and waste?

Dalhousie/UNEP

29

Reflections on Responsibility, Liability & Remedy Case Study

Module 2: *What do the SRs have to say about remedy?*

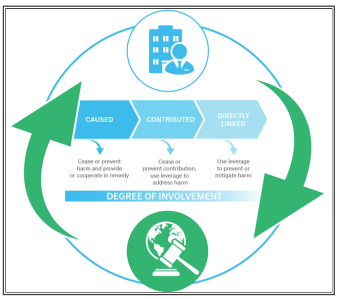
- Access to justice & remedy includes for human rights violations arising from environmental harms (Framework Principles, Principle 10)
- But in the plastics context, remedy has historically been elusive due to misinformation and false promises about the potential of recycling, placing responsibility instead on consumers, with the plastics industry failing to remedy the risks and harms posed by plastics and escaping accountability (SR Toxics)

Module 3: *What do the UNGPs say about the responsibility of business enterprises to respect human rights, and remedy?*

- To meet the responsibility to respect human rights, businesses need to have "processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute" (Principle 15(c))
- *Did business cause or contribute to adverse impact? Or is impact directly linked to its operations, products or services by a business relationship? How much leverage does the business have to address adverse impact?*

Dalhousie/UNEP

30



Business Responsibility and Degree of Involvement

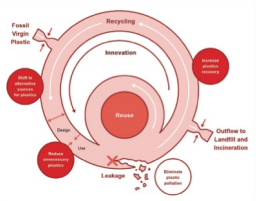
Recall UNGPs; and

Commentary to Principle 12, Framework Principles, Module 2.

31

B. Integrate Responsibility and Exercise Leverage

[Image from WWF PACT (Plastic ACTion), reproduced in WWF Indonesia & Indonesian BCSD, *Sustainable Sourcing Guideline*]



1. Reduce the use of plastics
2. Prevent plastic waste
3. Plastic product substitution

How can human rights/risk based due diligence align with and supplement sustainable sourcing guidance?

32

Case Study: Plastic Waste Contaminates Indonesia

Issue

China's 2017 plastic waste import ban re-routed plastic waste imports into Indonesia, doubling volume, and milking plastic a cheap fuel source

Example: local tofu factories
Plastic = Rp 200.000/day; Firewood = Rp 350.000/day

Human Rights Impacts

Burning plastic causes dark smoke, which is absorbed into the food chain, including grass used for farm animal feed

Example: free range eggs in East Java contained toxic and banned chemicals; 70X European Food Safety daily limit

Dioxin = cardiovascular disease, cancer, diabetes and endometriosis;

PFOS = reproductive and immune system effects

Solutions

Media awareness prompted people to supply free firewood to tofu factories for 3 months in replacement of plastic

Awareness of health impacts of burning plastic amongst factories has prompted factories to stop using plastic as a fuel source

In some cases, plastic as fuel was used for years

Source: KOMPAS.COM/GHINAN SALMAN

Source: KOMPAS.COM/GHINAN SALMAN

33

Reflections on the plastic waste case study:

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

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

Drawing upon module 3, how can businesses take responsible action to prevent and remedy the human rights impacts identified? [*Which businesses? *How does this relate to sustainable sourcing?]*

- (identify, prevent, mitigate, account for impact)

- Might the solution being implemented raise other human rights concerns? If so, how could these be overcome?

Dalhousie/UNEP

34

HRDD & leverage & plastics life cycle

1. Adopt a human rights policy commitment
2. Implement human rights due diligence to 'identify, prevent, mitigate and account for how the business enterprise will address its impacts on human rights'
3. Integrate human rights impact assessment findings across appropriate levels and functions within the enterprise, assign responsibility accordingly with decision-making, budget allocations and oversight process to enable effective responses
4. Did business cause or contribute to adverse impact? Or is impact directly linked to its operations, products or services by a business relationship? How much leverage does the business have to address adverse impact?

Cease, prevent, mitigate, capacity-build, collaborate, consult stakeholders, communicate risks to rights holders …

Dalhousie/UNEP

35

C. Protect and Enable Both Formal and Informal Workers

Elements of due diligence relevant to workers: [Source: BHRRC *Closing the Gap Report*]

1) Supply chain transparency and traceability throughout all tiers of global supply chains, with attention to unauthorized subcontracting
2) Risk assessment processes led by workers collective including local stakeholders
3) Responsible purchasing practices that support freedom of association
4) Worker-oriented grievance processes to ensure trusted access to remedy

How can businesses enable workers, whether formal or informal, to protect their rights to health and to live in a clean, healthy, and sustainable environment, and to be agents for change in supporting the transition from harmful plastics to sustainability?

Dalhousie/UNEP

36

Case Study: Circularity and Plastic Credits in the Philippines

Concept: A business can purchase plastic credits from a plastic crediting business to offset plastic pollution generated by the business (its "plastic footprint")

How it Works: Any business that purchases credits funds the collection of plastic pollution, which ultimately diverts pollution. In exchange, a business can publicly make a claim that they have "offset" their plastic footprint

- Opportunities to partner with informal waste pickers to collect plastic, many of whom are women, which may support livelihoods

WWF Position Paper (January 2021): "if developed appropriately, plastic crediting has the potential to drive investment towards circular systems." (at 1). However, caution is needed:

- Credibility of plastic crediting business must be assessed, and a "transformational change" commitment is needed (at 1)
- Emphasizes the need for "strong social and environmental safeguards" (at 1)
- Does not support the branding claims "plastic neutral" or "plastic neutrality" (at 1)

Source: Aling Tindera Network/Plastic Credit Exchange https://www.plasticcreditex.com/mechanical-recycling/plastic-credit-exchange-wants-put-your-waste-plastic-good-use

Dalhousie/UNEP

37

Reflections on Circularity and Plastic Credits

What are the implications of the plastic credit system for human rights at each stage of the plastics cycle? (support, undermine, neutral?)

- Extraction
- Production
- Transportation
- Use (Consumption & Waste Generation)
- Waste Management
- Disposal

What are the implications of the plastic credit system for the right to a clean, healthy and sustainable environment? (support, undermine, neutral?)

- Substance, procedure, equity

How does the plastic credit system contribute to or undermine responsible business plastics action?

- at each stage of the plastics cycle?
- for different rights holders, rights?
  - *Including informal waste pickers*

Dalhousie/UNEP

38

D. Centre Equity and Support Environmental Human Rights Defenders

Vulnerable individuals and groups experience disproportionate human rights impacts at each stage of the plastics cycle. These may be substantive (rights to clean air, clean water, non-toxic places, safe climate, sustainable food, healthy biodiversity) or procedural (rights to information, assessment, participation, justice) or a combination of both: to protect substantive rights, often requires the exercise of procedural rights.

How can businesses centre the rights of vulnerable individuals and groups at each stage of the plastics cycle?

How can businesses support the creation of a safe space for environmental human rights defenders at each stage of the plastics cycle?

How can businesses support local communities at each stage of the plastics cycle, including in implementation of extended producer responsibility (EPR) schemes?

Dalhousie/UNEP

39

E. Confront Illegal Import and Secure Safe Disposal

Transboundary movements of hazardous wastes including plastic waste continue to be a problem despite the existence of international treaties specifically designed to stop these practices. Illegal importation and disposal is not the only example of environmental crime, however, which can undermine government enforcement of environmental laws. While not illegal, businesses are sometimes implicated in pressuring governments to roll back environmental protections, rather than complying with the law and internalizing the costs of compliance into prices.

How can a human rights-based approach, and risk-based due diligence, help businesses confront the challenges arising from the illegal import of plastic waste, and help to ensure safe disposal of legal plastic waste?

Can a human rights-based approach to each of the stages of the plastics cycle help businesses integrate concern for people and planet into business practices?

Dalhousie/UNEP

40

3. Summary

Responsible business guidance tools are being developed to help businesses embed both human rights and circularity into their policies and management systems. As the plastics crisis receives increasing attention, and as the right to a clean, healthy and sustainable environment is better understood, there will be increasing expectations that businesses will adopt and implement human rights responsible plastics action.

The next slides are designed to visually illustrate what this means for product design, and waste management/disposal.

Dalhousie/UNEP

41

HRBA and product design

Dalhousie/UNEP

42

HRBA, waste management and disposal

Dalhousie/UNEP

43

Questions? Discussion

How could human rights due diligence and risk-based due diligence be applied to different stages of the plastics life cycle in your business?

What challenges might arise?

What opportunities might present?

Dalhousie/UNEP

44

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 Southeast 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.

• [contact: Sara.Seck@dal.ca]

Dalhousie/UNEP

45

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge

A Checklist for Responsible Business Plastic Action

This Checklist for Responsible Business Plastic Action illustrates practical steps that business enterprises can take to implement a human rights-based approach to the plastics pollution challenge.

Module 1: The Human Rights Dimensions of the Plastic Crisis

- ☐ Identify how your business activities contribute to each **stage** of the **plastics lifecycle**:
    - Extraction
    - Production
    - Transportation
    - Use (Consumption and Waste Generation)
    - Waste Management (including Recycling)
    - Disposal
- ☐ Evaluate opportunities to harmonize your business' commitments to address **climate change** with plastics action;
- ☐ Evaluate opportunities to adopt and implement a **circular economy** model and align it with **human rights aware** plastics action:
    - Reduce or eliminate unnecessary plastic packaging
    - Reduce or eliminate reliance on single-use plastics
    - Seek non-toxic and plastic alternatives
    - Seek ways to up-cycle (recover and regenerate) plastic-based products that are at the end of their service life to prevent disposal
- ☐ Understand what it means for your business to be a human rights "**duty bearer**";
- ☐ Identify "**rights holders**" that your business may impact throughout the plastics lifecycle.

Module 2: Plastics, Human Rights & the Environment

- ☐ Evaluate how the contribution of your business to the plastics lifecycle ***impacts*** **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.

☐ Identify steps to ensure that your business is supporting the exercise of **procedural** components of the right to a clean, healthy and sustainable environment, including by:

- Identifying your business' commitment to the **prior assessment and prevention** of environmental impacts caused by plastics or substitutes. Ensure that this process takes proper consideration of impacts on human rights;
- Ensuring that the public has **access to information** regarding your business' 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 business' 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 business' contribution to the plastics lifecycle may have had on human rights. Ensure a robust commitment to effective remedy.

☐ Identify **rights holders** who may be disproportionately impacted by your business' 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 business interacts with **environmental human rights defenders**. Make a commitment to protect, support and collaborate with them to enable human rights responsible plastics action.

Module 3: Business and Human Rights Frameworks

☐ Undertake to implement the business responsibility to respect human rights in accordance with the **United Nations Guiding Principles on Business and Human Rights** (UNGPs), including through:

- The creation of a **policy commitment** to respect human rights, which includes a commitment to identify, prevent, mitigate and account for the human rights impacts of your business' contribution to the plastic lifecycle;
- Undertaking **human rights due diligence** by (1) assessing the actual and potential human rights impacts created by the business' contribution to the plastics lifecycle, (2) integrating and acting upon these findings, (3) tracking the effectiveness of the response, and (4) communicating how the impacts are addressed;
- Taking appropriate steps to ensure that rights holders have **access to remedy** for any plastics-related adverse human rights impacts caused by your business, and taking steps to **cease or prevent** potential impacts;
- Ensuring a **gender responsive** approach to fulfilling these responsibilities, while treating **human rights defenders** and community leaders as essential allies and experts for human rights due diligence.

☐ Undertake opportunities to learn about and implement supplementary guidance on business and human rights and responsible business conduct including those developed by:

- UNDP Asia [HRDD Training Facilitation Guide]
- UN Global Compact & Local Networks [including the 10 Principles & Sustainable Oceans Principles]
- OECD e-learning Academy [including the Guidelines for Multinational Enterprises, Due Diligence Guidance for Responsible Business Conduct, and sector-specific initiatives]

☐ Identify your business' impact, or reliance, on **formal and informal workers** in the plastics cycle. Commit to supporting and protecting these workers at all stages of the plastics cycle, and learning more about guidelines developed by the International Labour Organisation on decent work, circular economy, and just transition]

☐ Cooperate with states to share knowledge of corrupt businesses who participate in the **illegal importation** of plastics. Additionally ensure that your business respects worker whistleblower protections to enable them to challenge of illegal importation.

This checklist was developed for educational purposes as part of the SEA circular project – 'Reducing marine litter by addressing the management of the plastic value chain in Southeast Asia', which is implemented by UNEP and COBSEA with funding support from the Government of Sweden, by researchers at the Marine & Environmental Law Institute (MELAW) and Schulich School of Law, Dalhousie University.

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge: A Checklist for Civil Society

This Checklist illustrates practical steps that civil society members can take to advocate for a human rights-based approach to the plastics pollution challenge

Module 1: The Human Rights Dimensions of the Plastic Crisis

- ☐ Identify the impacts of each **stage** of the **plastics lifecycle** in your community:
  - Extraction
  - Production
  - Transportation
  - Use (Consumption and Waste Generation)
  - Waste Management (including Recycling)
  - Disposal
- ☐ Understand what it means for states and businesses to be "**duty bearers**" in a human rights context;
- ☐ Identify the **duty bearers** within the plastics lifecycle in your community;
- ☐ Identify the **rights holders** that make up your community and how the plastics lifecycle effects them.
- ☐ Evaluate opportunities to harmonize your organization's commitments to address **climate change** with plastics action;
- ☐ Identify and advocate for steps to be taken by states and businesses to better adopt a **circular economy** model and align it with **human rights aware** plastics action:
  - Reduce or eliminate unnecessary plastic packaging;
  - Reduce or eliminate reliance on single-use plastics;
  - Encourage non-toxic and plastic alternatives;
  - Encourage the up-cycling (recovery and regeneration) of plastic-based products that are at the end of their service life to prevent disposal.

Module 2: Plastics, Human Rights & the Environment (HR&E)

- ☐ Evaluate and publicize how the plastics lifecycle impacts your community's rights holders' ability to enjoy 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.

☐ Ensure that states and businesses better allow rights holders to exercise their **procedural** environmental rights, including by advocating for:

- The implementation or strengthening of laws and policies which require the **prior assessment and prevention** of environmental impacts caused by plastics or substitutes. Ensure that these laws and policies take proper consideration of impacts on human rights;
- Public **access to information** regarding the contribution by your state, as well as other duty bearers (i.e. businesses) within your community, to the plastics lifecycle or substitutes. If possible, undertake efforts to gather information about the impacts of the plastics lifecycle, and provide such information to the public;
- Reform to laws and policies to ensure that rights holders that may be impacted by the contributions of any duty bearer to the plastics lifecycle or substitutes, have the opportunity to **participate** in such assessments, and that their consent is sought where appropriate. If possible provide resources to rights holders to assist them in participating in such assessments;
- Robust **access to remedy** for impacts that any duty bearers' contribution to the plastics lifecycle have had on human rights within your jurisdiction. When appropriate/possible support such rights holders to ensure that they are able to obtain access to justice.

☐ Identify **rights holders** within your community who may be disproportionately impacted by duty bearer's contribution to the plastics lifecycle, including: Indigenous peoples; tribal and traditional peoples; rural and coastal communities; women and gender diverse persons; ethnic, racial and other minorities; persons living in poverty; the disabled; formal and informal workers; as well as children and future generations. Commit to ensuring that you collaborate with any such groups/communities where possible/appropriate;

☐ Identify **human rights defenders** within your community. Advocate for a robust law and policy framework which protects, and facilitates collaboration with, any such human rights defenders.

Module 3: Business and Human Rights Frameworks

- ☐ Work with, and monitor, duty bearers to facilitate compliance with the **United Nations Guiding Principles on Business and Human Rights** (UNGPs). This includes:
    - Ensuring that states are fulfilling their duty to **protect** rights holders from human rights abuse by businesses which contribute to the plastics lifecycle;
    - Ensuring businesses fulfill their responsibility to **respect** human rights by avoiding infringing on the human rights of others, and addressing existing impacts on human rights through their participation in the plastics lifecycle.
- ☐ Advocate for the implementation of **Extended Producer Responsibility (EPR)** schemes which ensure that businesses who contribute to the earlier stages of the plastics lifecycle (i.e. extraction and production) are responsible for the impacts that their actions have throughout the entire plastics lifecycle. Monitor the effectiveness of existing schemes;
- ☐ Identify groups of **formal and informal workers** in the plastics lifecycle within your community. Collaborate with these groups where possible/appropriate;
- ☐ Gather information about corrupt businesses who participate in **illegal importation** practices. Make all gathered information public, and cooperate with states that wish to take action where appropriate.

This checklist was developed for educational purposes as part of the SEA circular project – 'Reducing marine litter by addressing the management of the plastic value chain in Southeast Asia', which is implemented by UNEP and COBSEA with funding support from the Government of Sweden, by researchers at the Marine & Environmental Law Institute (MELAW) and Schulich School of Law, Dalhousie University.

Business, Human Rights, and the Environment: Overcoming the Plastics Challenge: A Checklist for State Institutions and Government Officials

This Checklist illustrates practical steps that state or government institutions and officials can take to implement a human rights-based approach to the plastics pollution challenge

Module 1: The Human Rights Dimensions of the Plastic Crisis

- ☐ Identify the impacts of each **stage** of the **plastics lifecycle** in your jurisdiction:
  - Extraction
  - Production
  - Transportation
  - Use (Consumption and Waste Generation)
  - Waste Management (including Recycling)
  - Disposal
- ☐ Evaluate opportunities to harmonize your state or government's commitments to address **climate change** with plastics action;
- ☐ Evaluate opportunities for your state's laws or institution's policies to implement a **circular economy** model and align it with **human rights aware** plastics action, including laws and policies which seek to:
  - Reduce or eliminate unnecessary plastic packaging
  - Reduce or eliminate reliance on single-use plastics
  - Encourage non-toxic and plastic alternatives
  - Encourage the up-cycling (recovery and regeneration) of plastic-based products that are at the end of their service life to prevent disposal
- ☐ Understand what it means for your state or institution to be a "**duty bearer**" in a human rights context;
- ☐ Identify **private sector duty bearers** within your jurisdiction;
- ☐ Identify the relevant **rights holders** that your state or institution has a duty to.

Module 2: Plastics, Human Rights & the Environment (HR&E)

- ☐ Evaluate how your state's laws or policies contribute to the plastics lifecycle, impacting **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.

☐ Identify steps to ensure that your state is allowing rights holders to exercise their **procedural** environmental rights, including by:

- The implementation or strengthening of laws and policies which require the **prior assessment and prevention** of environmental impacts caused by plastics or substitutes. Ensure that these laws and policies take proper consideration of impacts on human rights;
- Ensuring that the public has **access to information** regarding the contribution by your state, as well as other duty bearers (i.e. businesses) within your jurisdiction, to the plastics lifecycle or substitutes. This includes the use of any hazardous substances or toxic chemicals;
- Ensuring that rights holders that may be impacted by the contributions of any duty bearer in your jurisdiction to the plastics lifecycle or substitutes, have the opportunity to **participate** in such assessments, and that their consent is sought where appropriate;
- Providing robust **access to remedy** for impacts that any duty bearers' contribution to the plastics lifecycle have had on human rights within your jurisdiction.

☐ Identify **rights holders** within your jurisdiction who may be disproportionately impacted by duty bearers' contributions to the plastics lifecycle, including: Indigenous peoples; tribal and traditional peoples; rural and coastal communities; women and gender diverse persons; ethnic, racial and other minorities; persons living in poverty; the disabled; formal and informal workers; as well as children and future generations.

☐ Identify **human rights defenders** within your state. Ensure a robust law and policy framework which protects, and facilitates collaboration with, any such human rights defenders.

Module 3: Business and Human Rights Frameworks

☐ Fulfill your state's duty to protect against human rights abuse within your territory and/or jurisdiction by third parties, including businesses, as detailed within the

United Nations Guiding Principles on Business and Human Rights (UNGPs), including by:

- **Enforcing laws** that require business enterprises to respect human rights in the context of the plastics lifecycle. Make an immediate and ongoing commitment to assessing the adequacy of these laws and addressing any gaps;
- Ensuring that other laws and policies governing the creation and ongoing operation of businesses do not constrain but **enable business respect for human rights**;
- Providing effective **guidance** to businesses on how to respect human rights throughout their operations with attention to the human rights impacts at all stages of the plastics lifecycle;
- **Encouraging**, and where appropriate requiring, businesses to **communicate** how they address their human rights impacts in the context of the plastics lifecycle.
- Achieving **policy coherence** by ensuring awareness of the human rights impacts of the plastics lifecycle across all governmental departments, agencies, and institutions that shape business practices.

☐ Enact and enforce **Extended Producer Responsibility (EPR)** schemes which ensure that businesses who contribute to the earlier stages of the plastics lifecycle (i.e. extraction and production) are responsible for the impacts that their actions have throughout the entire plastics lifecycle.

☐ Identify groups of **formal and informal workers** in the plastics lifecycle within your jurisdiction. Create a framework of law and policy which supports these workers at each stage of the plastics lifecycle;

☐ Create a law and policy framework (i.e. whistleblower protections) which will encourage all third parties to share any knowledge of corrupt businesses who participate in **illegal importation** practices.

This checklist was developed for educational purposes as part of the SEA circular project – 'Reducing marine litter by addressing the management of the plastic value chain in Southeast Asia', which is implemented by UNEP and COBSEA with funding support from the Government of Sweden, by researchers at the Marine & Environmental Law Institute (MELAW) and Schulich School of Law, Dalhousie University.