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## Human Rights Council

### Fourteenth session

Agenda item 3

**Promotion and protection of all human rights,  
civil, political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Human Rights Advocates Inc., a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 May 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Right to truth: a tool for addressing human rights violations resulting from the transfer of toxics**

1. The right to truth is an emerging fundamental human right that has traditionally been invoked in the context of investigating mass disappearances and repression. Recent reports and resolutions of the Council and the General Assembly, however, demonstrate that the scope of this right is evolving and expanding to act as a means of combating impunity in all cases of human rights violations.<sup>1</sup> The right to truth would prove especially useful in the context of redressing human rights violations caused by corporations involved in the movement and dumping of toxic wastes and dangerous products.

2. The essence of the right to truth is a State's obligation to conduct or cooperate in conducting a timely and proper investigation of human rights violations and sharing such information with victims so they can begin to access justice and remedy.<sup>2</sup> This is why the right to truth is complementary to the right to remedy and an integral part of the right to justice.<sup>3</sup>

3. The right to truth in the toxic wastes context obligates States to promptly and comprehensively investigate the nature of the wastes, costs of cleanup and proper disposal, and liable parties. The investigation should employ independent experts who can objectively analyze the evidence. States without the capacity to conduct such investigations or to safely process toxic wastes should look to liable parties to help bear these costs. The right to truth also entails providing this information to the public in order to help victims obtain compensation and have an opportunity to avoid or mitigate any damage. This includes promptly releasing and granting access to records, documents, and archives.

4. In a parallel way, the right to truth is an indispensable tool in ensuring corporate accountability. Corporations seeking to cut costs have historically dumped toxic wastes in areas of politically-disempowered populations. The right to truth obligates corporations to disclose all information about toxics and cooperate fully in investigating toxic-waste related human rights violations. Liable corporations should pay for their share of the costs of all damages, including those for the investigation, cleanup, proper disposal, and injuries to the environment, other local businesses, and victims.

### **Applying the right to truth in Armenia**

5. In 1982, the Soviet Armenian government constructed a toxic-waste burial site in Yerevan.<sup>4</sup> The toxic waste is from Armenian enterprises and foreign entities.<sup>5</sup> At first, the site was fenced off and continuously inspected to ensure that it did not leach wastes.<sup>6</sup> Monitoring ceased after 1991.<sup>7</sup> The fence collapsed and people moved in, not knowing that

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<sup>1</sup> See Human Rights Council Resolution 12/12. A/HRC/RES/12/12 (October 1, 2009). See also Report of the Office of the United Nations High Commissioner for Human Rights on the right to truth, A/HRC/5/7 (June 7, 2009)

<sup>2</sup> Equipo Argentino de Antropología Forense 2002 Annual Report, Special Section: Right to Truth, at 130, <http://eaaf.typepad.com/pdf/2002/17RightToTruth.pdf>

<sup>3</sup> Id. at 130–31

<sup>4</sup> Vem Radio, “An Environmental Disaster in the Making Just Outside Yerevan” (May 10, 2010), <http://www.vem.am/en/topics/news/752/>.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

they were living next to toxic wastes.<sup>8</sup> Many residents still do not know about the dump and graze livestock on the site.<sup>9</sup> Rainwater is currently washing away the exposed 577 tons of toxic wastes, threatening to pollute the entire area.<sup>10</sup> Malignant tumor-causing persistent organic pollutants make up 60% of these wastes.<sup>11</sup> It is reported that the government knew about this situation in March but did nothing until it began posting warning signs on May 6th, 2010.<sup>12</sup> Meanwhile, residents complained of chickens mysteriously dropping dead, shortness of breath, and joint pain.<sup>13</sup> A 2003 study by an organization declared the concentration of insecticides in the soil above the permissible limit and classified the site as unstable due to its location in an area of active landslides.<sup>14</sup>

6. This situation demonstrates a violation of the residents' rights to life, health, and livelihood. The right to truth provides States with guidelines: the Armenian government should have immediately investigated the situation, disclosed the dangers to the public, and identified the perpetrators.

### **Applying the right to truth in Somalia**

7. The right to truth is particularly imperative in regions lacking a functioning state to hold corporations accountable. For years, foreign ships have taken advantage of Somalia's political turmoil and illegally dumped nuclear wastes on Somalia's coast.<sup>15</sup> A 2005 UNEP report cited radioactive and other hazardous deposits causing a breakout of respiratory ailments and skin diseases in Somali coastal villages.<sup>16</sup> Greenpeace reported that the dumping started in the late 1980's and that European companies acted as brokers for the hazardous waste transportation.<sup>17</sup> An investigation in Italy uncovered 35-million tons of waste exported to Somalia for \$6.6 billion.<sup>18</sup> No entity has yet been held accountable for the violation of Somali residents' human rights.

8. Enforcing the right to truth in Somalia requires international oversight and cooperation to investigate, identify the perpetrators, and allocate liability. Disclosing this information would allow the opportunity to prosecute liable corporations and demand compensation. Because of the lack of a central Somali government, other States must cooperate in order to render the right to truth meaningful.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Radio Free Europe/Radio Liberty, "Armenian Government Moves to Contain Toxic-Waste Site," (May 14, 2010), [www.rferl.org/content/Armenian\\_Government\\_Moves\\_to\\_Contain\\_Toxic\\_Waste\\_Site/2035775.html](http://www.rferl.org/content/Armenian_Government_Moves_to_Contain_Toxic_Waste_Site/2035775.html).

<sup>11</sup> Vem Radio, *supra* note 4.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> William Jelani Cobb, "Commentary: A lesson of Somali pirate attacks" (CNN, April 19, 2009), <http://www.cnn.com/2009/WORLD/africa/04/19/cobb.somalia.piracy/index.html?iref=allsearch>. See also Rene Eduardo Velasquez, Human Rights Advocates, *The Right to the Truth: Beyond the Armed Conflicts*, submitted to the 13th Session of the Human Right Council, March 2010, at 11, [http://www.humanrightsadvocates.org/images/HRC13/HRC13\\_The\\_Right\\_to\\_Truth.pdf](http://www.humanrightsadvocates.org/images/HRC13/HRC13_The_Right_to_Truth.pdf) ["HRA Report"].

<sup>16</sup> HRA Report, *supra* note 16, at 12.

<sup>17</sup> Id.

<sup>18</sup> Chris Milton, "Somalia used as toxic dumping," (The Ecologist, March 1, 2009), [http://www.theecologist.org/News/news\\_analysis/268581/somalia\\_used\\_as\\_toxic\\_dumping\\_ground.html](http://www.theecologist.org/News/news_analysis/268581/somalia_used_as_toxic_dumping_ground.html)

9. With the worldwide swell of support for establishing an international tribunal to address environmental injustices,<sup>19</sup> the UN and Member States must use all of its disposable tools to address human rights violations caused by the movement and dumping of toxic wastes and dangerous products. Enforcing the right to the truth can be a complementary and effective Way To Ensure Victims Have Access To Justice And Remedy.

### **Recommendations**

10. In order to promote and protect all fundamental human rights and address human rights violations caused by the movement and dumping of toxic wastes and dangerous products, HRA urges the Council to recommend Member States:

- Recognize the expansion of the historically narrow scope of the right to truth and apply the right to instances where there are mass human rights violations;
- Utilize the right to truth as a tool to obtain justice and remedies for victims of human rights violations by obligating States to:
  - Conduct timely and comprehensive investigations to identify the nature of the wastes, costs of cleanup and proper disposal, and liable parties;
  - Provide this information to the public in order to help victims obtain compensation and an opportunity to avoid or mitigate any damage;
- Utilize the right to truth to ensure corporate accountability by identifying, notifying, and prosecuting liable corporations for their share of the costs of all damages, including investigation, cleanup, proper disposal, and injuries to the environment, local businesses, and victims.
- Cooperate with and support other States lacking the capacity to meaningfully enforce the right to truth.

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<sup>19</sup> E.g. Louis Gray, "Lawyers call for international court of the environment," The Telegraph, November 22, 2008, <http://www.telegraph.co.uk/earth/environment/climatechange/3530607/Lawyers-call-for-international-court-for-the-environment.html>. See also, World People's Conference on Climate Change and the Rights of Mother Earth, Final Conclusions of Working Group 5: Climate Justice Tribunal, April 30, 2010, <http://pwccc.wordpress.com/2010/04/30/final-conclusions-working-group-n%C2%BA-5-climate-justice-tribunal/>. See also, Karah Woodward, "The Climate Justice Groundswell from Copenhagen to Cochabamba to Cancun," The Independent, May 12, 2010, <http://www.independent.org/2010/05/12/climate-justice-groundswell/>.