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البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

المقرر الخاص المعني بالآثار المترتبة في مجال حقوق الإنسان على إدارة المواد والنفايات الخطرة والتخلص منها بطريقة سليمة بيئياً*

مذكرة من الأمانة

تتشرف الأمانة بأن تحيل إلى مجلس حقوق الإنسان تقرير المقرر الخاص المعني بالآثار المترتبة في مجال حقوق الإنسان على إدارة المواد والنفايات الخطرة والتخلص منها بطريقة سليمة بيئياً، الذي أُعِدّ عملاً بقرار المجلس ٢٥/٣٦.

ويتناول المقرر الخاص في هذا التقرير، وفقاً لولايته، حالة العمال المتأثرين بالتعرض المهني للمواد السمية وغيرها من المواد الخطرة الأخرى أو المتضررين منها في جميع أنحاء العالم. وهو يقترح مبادئ تحدف إلى مساعدة الدول والمؤسسات التجارية والجهات الفاعلة الرئيسية الأخرى على احترام وحماية حقوق العمال المتأثرين بالتعرض المهني للمواد السمية ومدهم بما يلزم من سبل الانتصاف إزاء ما يُرتكب من انتهاكات في هذا الصدد.

تُستنسخ مرفقات هذه الوثيقة كما وردت وباللغة التي قُدمت بما فقط.





تقرير المقرر الخاص المعني بالآثار المترتبة في مجال حقوق الإنسان على إدارة المواد والنفايات الخطرة والتخلص منها بطرق سليمة بيئياً

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1- لكل فرد الحق في التمتع بشروط عمل عادلة ومواتية (۱). ولكل عامل الحق في الكرامة وفي أن يعامل معاملة أخلاقية قائمة على الاحترام وخالية من شروط عمل تجرده من إنسانيته أو تحط من قدره. وقد اتخذت الدول هدفاً طموحاً في إطار أهداف التنمية المستدامة، ألا وهو ضمان العمل اللائق للجميع بحلول ٢٠٣٠.

7- وعلى الرغم من الالتزامات الواضحة المتعلقة بحماية صحة العمال، يجد العمال في جميع أنحاء العالم أنفسهم في مواجهة أزمة ذات صلة بالصحة العامة مردها تعرضهم للمواد الخطرة في العمل. وفي حين دعت منظمة الصحة العالمية ومنظمة العمل الدولية وغيرهما طوال عقود من الزمن إلى اتخاذ إجراءات بشأن أزمة الصحة العامة هذه، ما تزال مشكلة تعرض العمال للمواد الخطرة - التي تكتسى صبغة عالمية - تُعالج بصورة سيئة.

٣- ويُقدَّر أن عاملاً واحداً يلقى حتفه في كل ١٥ ثانية بسبب التعرض لمواد سمية في العمل (٣)، بينما يموت في كل سنة أكثر من ٢٠٨٠ ٢ عامل في العالم بسبب ظروف العمل غير المأمونة أو غير الملائمة للصحة (أكثر من ٢٠٨٠ ٢ عامل في العالم بسبب ظروف العمل غير المأمونة في المائة) (٥). و "المرض المهني" هو أي مرض يصاب به الشخص بصورة مبكرة ويكون سببه في المقام الأول التعرض لعوامل خطر ناشئة عن نشاط مهني، بما في ذلك التعرض المزمن للمواد الكيميائية الوسناعية السمية، ومبيدات الآفات أو المواد الكيميائية الزراعية الأخرى، والإشعاع والغبار، وغير ذلك من مصادر الخطورة (٢). ويُملَّغ سنوياً عن حوالي ٢٦٠ مليون حالة مرض مهني (٧). وتقدر تكلفة تقاعس الدول والمؤسسات التجارية عن معالجة هذه الأزمة العالمية ذات الصلة بالصحة العامة بنحو ٤ في المائة من الناتج المحلي الإجمالي العالمي، أو ما يناهز ٣ تريليونات دولار (٨).

وتمثل الإصابة بالسرطانات ما يزيد على ٧٠ في المائة من عدد حالات الأمراض المهنية
 على الصعيد العالمي ويقدر أنما تتسبب في وفاة ما لا يقل عن ٢٠٥٠٠٠ شخص سنوياً (٩)؛

⁽١) الإعلان العالمي لحقوق الإنسان، المادة ٢٣.

⁽٢) انظر منظمة العمل الدولية، "Decent work and the 2030 Agenda for Sustainable Development"، ٢ تشرين الثاني/نوفمبر ٢٠١٧. وتعرف آليات الأمم المتحدة لحقوق الإنسان "العمل اللائق" باعتباره "عملاً يراعي حقوق الإنسان الأساسية فضلاً عن حقوق العمال من حيث شروط العمل والسلامة والأجر". اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٨ (٢٠٠٥) بشأن الحق في العمل.

Päivi Hämäläinen, Jukka Takala and Tan Boon Kiat, Global Estimates of Occupational Injuries

and Work-related Illnesses 2017 (Singapore, Workplace Safety and Health Institute)

⁽٤) المرجع نفسه.

⁽٥) المرجع نفسه.

⁽٦) منظمة الصحة العالمية، "Occupational and work-related diseases" (بدون تاريخ).

International Trade Union Confederation, Toxic Work: Stop Deadly Exposures Today!, 13 April 2015 (Y)

Gerry Eijkemans, "The importance of workers' health to advance the United Nations Sustainable
Development Agenda", Occupational & Environmental Medicine, vol. 75, Supp. 2 (April 2018);
ILO, "Global action needed to tackle rising work-related injuries and diseases, ILO says", 7

September 2017

Promoting Decent Work in the Chemical Industry: Innovative Initiatives (٩) منظمة العمل الدولية، ٢٠٠٤)، الصفحة ٢٠)، الصفحة ٢٠)، الصفحة ٢٠)

وتعزى إلى التعرض المهني لمواد سمية نسبةٌ تتراوح بين ٥,٣ و ٨,٤ في المائة من جميع أنواع السرطانات، ونسبةٌ تتراوح بين ١٧ و ٢٩ في المائة من الوفيات الناجمة عن سرطان الرئة لدى الرجال (١٠٠). ويمكن الوقاية من حدوث جميع أنواع هذه السرطانات تقريباً (١١٠). وحتى الآن، حُدد أن أكثر من ٢٠٠ من عوامل الإصابة المختلفة المعروفة، بما في ذلك المواد الكيماوية السمية والإشعاع، تُعدّ مُسرطِنات بشرية معروفة أو محتملة، علماً أن العمال يتعرضون للعديد من هذه العوامل في سياق أعمالهم (١٠٠).

٥- وتمثل أمراض الرئة الموهِنة والمميتة وحالات العجز العصبية والاضطرابات الإنجابية، مثل العقم وعدم بلوغ الحمل نهايته، بعضاً من الآثار الصحية الأخرى التي تلم بالعمال المعرضين للمواد السمية. وينتج عن التعرض المهني لهذه المواد وفيات سببها في ١٢ في المائة من الحالات داء انسداد الرئتين المزمن، إضافة إلى وفيات أخرى يقدر عددها بـ ٢٩٠٠٠ حالة سببها أمراض مهنية مثل السُّحار السيليسي وداء الأَسْبَسْت وتغيّر الرئة (١٢).

7- وبسبب تباين الأدوار الاجتماعية، بما فيها الأدوار المهنية والأسرية، تتعرض النساء والرجال على نحو مختلف للمواد الكيميائية السمية، وذلك من حيث المواد المتعرَّض لها ودرجة التعرض وغير ذلك من الأمور. وتؤدي الاختلافات البيولوجية بين الرجل والمرأة، كالاختلافات الفسيولوجية والهرمونية، إلى تفاوت في قابلية تأثر كل منهما بالتعرض للمواد السمية (١٠١٠). فمن الأرجح، مثلاً، أن تختزن الأنسجة الدهنية للمرأة كميات من الملوثات البيئية أكبر من تلك التي يختزنها جسم الرجل. وأثناء فترة الحمل والإرضاع ومرحلة انقطاع الطمث، يتعرض جسم المرأة لتغيرات قد تزيد من قابلية تأثرها بالعواقب الصحية للتعرض لمواد سمية.

٧- ومن الأمور التي تبعث على القلق بصفة خاصة تعرض العاملات ممن هن في سن الإنجاب للمواد الكيميائية السمية. ولا تكفي حماية النساء الحوامل فقط من التعرض لهذه المواد، لأن الجنين الذي ينمو يمكن أن يتضرر من تعرض سابق قد يحدث قبل معرفة الأم بوجود الحمل. وتحدث التأثيرات الصحية الضارة، وبخاصة عند الأمهات الحوامل والجنين، وأيضاً عند العمال ككل، في مستويات تعرض منخفضة للغاية. ومع تراكم الأدلة بشأن التأثيرات الضارة، تُنقح باستمرار المعلومات المتعلقة بمستويات التعرض التي يمكن اعتبارها "مأمونة"، علماً أن ثمة أطفالاً ما زالوا يولدون وهم يعانون من مجموعة من النتائج الصحية السلبية الناجمة بصفة خاصة عن تعرض أمهاتم للمواد الكيميائية السمية أثناء الحمل (Δ/HRC/33/41).

Jukka Takala and others, "Eliminating occupational cancer in Europe and globally", OSHWiki, 30 (\.\cdot\.)

.May 2017

⁽١١) المرجع نفسه.

IARC monographs on the evaluation of carcinogenic " منظمة الصحة العالمية، الوكالة الدولية لبحوث السرطان، " https://monographs.iarc.fr/agents-classified-by-the-iarc. متاح في: / ۲۰۱۸ متاح في:

⁽۱۳) منظمة الصحة العالمية، Global Health Risks: Mortality and Burden of Disease Attributable to منظمة الصحة العالمية، (۱۳) .۲٥ الصفحة Selected Major Risks

⁽١٤) برنامج الأمم المتحدة الإنمائي، Chemicals and Gender.

Summary of Principles for Evaluating Health Risks in Children (۱۰) انظر أيضاً منظمة الصحة العالمية، Associated with Exposure to Chemicals

٨- ومن المرجع أن الإحصائيات الرسمية تقلل من حجم المشكلة. فعلى سبيل المثال، يظل مستوى الإبلاغ عن عدد حالات التعرض للمواد السمية أقل بكثير من الحجم الحقيقي في بعض السياقات والبلدان (١٦). ونظراً إلى أن الإحصاءات الرسمية لمعدلات الإصابة تستند إلى ما يبلغ عنه من بيانات، قد تبدو نسبة حالات الأمراض المهنية في بلد متقدم مثل فنلندا في مستوى أعلى مقارنة بدولة مثل الهند، ومرد ذلك ببساطة قدرة أكبر في البلد الأول على تشخيص وتحديد التعرض المهني باعتباره سبباً للمرض. وعلاوة على ذلك، لا يوجد لدى بعض البلدان تعريف قانوني أو قائمة مرجعية للأمراض المهنية يسهلان الإبلاغ عن الأمراض والوفيات الناجمة عن أسباب محددة. فثمة أمراض مهنية رئيسية مثل داء انسداد الرئتين المزمن قد لا تكون معروفة بصورة جيدة وربما كان عدد حالاتما المشخصة في الغالب أقل من الحجم الحقيقي (١٧). وعلاوة على ذلك، وهذا الأهم، نادراً والعاملين في الاقتصاد غير الرسمي. وتشكل القوى العاملة غير الرسمية جزءاً كبيراً من القوى العاملة في العالم وقد تمثل غالبية العمال في بعض البلدان، علماً أن النسبة الأكبر من هذه الفئة العاملة في المناطق الأقل نمواً أن النسبة الأكبر من هذه الفئة توجد في المناطق الأقل نمواً أن الناطق المتعلقة بأسباب الوفاة، فمن اللازم تقييم المعلومات المتعلقة بالمرض وأنماط الوفاة.

9- وكل القطاعات تقريباً معنية بأزمة الصحة العامة هذه، بما في ذلك القطاعان العام والخاص فضلاً عن أقوى الصناعات في العالم من الناحية الاقتصادية. وللعديد من هذه الصناعات - حسب تصميمها الخاص - سلاسل توريد ضخمة ومستترة، بما يشمل حلقات ترابط مع الاقتصاد غير الرسمي. وبعض هذه المؤسسات التجارية ليس معنياً بصورة واضحة، ومن ذلك مثلاً المؤسسة المالية التي تتاجر بالذهب المستخرج باستخدام الزئبق السام الذي يؤدي إلى آثار خطيرة على العمال غير الرسميين وأطفالهم. وترد في مرفق هذا التقرير مجموعة صغيرة منتقاة من الحالات التي جرى تناولها في إطار الولاية في السنوات الأخيرة.

• ١٠ ويورد المقرر الخاص في تقريره تحليلاً لحقوق الإنسان المكفولة للعمال المتأثرين بالتعرض المهني للمواد السمية وغيرها من المواد الخطرة (المواد السمية) أو المتضررين منها (١٩٠)، يليه ملخص للتحديات الحالية التي تواجه العمال في الاقتصاد العالمي. ويختتم المقرر الخاص تقريره بمبادئ مقترحة تصب في احترام وحماية حقوق العمال المتأثرين بالتعرض المهني للمواد السمية وضمان إتاحة سبل انتصاف فعالة إزاء الانتهاكات أو التجاوزات التي تحدث.

11- ولأغراض هذا التقرير، يقصد بمصطلح "العمال" ليس فقط العمال المستخدمون بصفة مباشرة وإنما أيضاً العمال غير الرسميين، وكذلك العمال المتعاقدون، والمتعاقدون من الباطن، والعمال المؤقتون، وجميع الأشخاص الآخرين الذين يؤدون عملاً أو أنشطة ذات الصلة بالعمل.

⁽١٦) منظمة العمل الدولية، "World Statistic: The enormous burden of poor working conditions" (بدون تاريخ).

[.]Hämäläinen, p. 17 (\V)

⁽١٨) المرجع نفسه، الصفحة ٧.

⁽١٩) تماشياً مع التقارير السابقة للمكلف بالولاية الحالي وسابقيه، لا تُعرّف المواد والنفايات الخطرة بصفة قطعية؛ فهي تشمل فيما تشمل المواد الكيماوية والمبيدات الصناعية، والملوثات، والشوائب، والمواد المتفجرة والمشعة، وبعض المضافات الغذائية، وأشكال متنوعة من النفايات. ولتسهيل تناول الموضوع، يشير المقرر الخاص إلى المواد الخطرة بعبارة "السموم"، لكن المصطلح الوارد في التقرير يشمل أيضاً المواد والنفايات الخطرة غير السمية.

١٢ - وعلى مدى أكثر من ٢٠ عاماً، كلفت هيئات الأمم المتحدة المعنية بحقوق الإنسان مقرراً خاصاً برصد الآثار المترتبة في مجال حقوق الإنسان على التعرض للمواد الخطرة والنفايات السمية في مختلف الصناعات على صعيد العالم وتقديم تقارير عنها، بما يشمل الجوانب المتعلقة بالعمال.

17- وهذا التقرير جزء من الجهود المتواصلة التي يبذلها المكلف الحالي بالولاية لتحسين إدراج حقوق الإنسان في المناقشات المتعلقة بالسلامة والصحة في المجال المهني وطنياً ودولياً. ويعتقد المقرر الخاص أن أهمية هذه المسألة قد نُسيت إلى حد كبير وقُلصت أولويتها في المحافل الدولية ذات الصلة، ثما أدى إلى عدم إحراز تقدم عالمي في مواجهة هذا الشاغل المستفحل.

ثانياً حقوق الإنسان المكفولة للعمال والتعرض للمواد السمية

١٤ حقوق العمال هي حقوق للإنسان، وحقوق الإنسان هي حقوق مكفولة للعمال. وهذه الحقوق مترابطة وغير قابلة للتجزئة وعالمية. وهي تشمل الحقوق المدنية والسياسية والاقتصادية والاجتماعية والثقافية. ولا يمكن حرمان أي شخص من حقوق الإنسان هذه بسبب العمل الذي يؤديه.

10 - ويتعرض العمال بصفة خاصة لانتهاك حقوق الإنسان المكفولة لهم ولتجاوزات تمس بحا، وليس أقلها تعريضهم للمواد السمية أثناء عملهم. وغالباً ما تكون أضرار التعرض المزمن غير مرئية، وقد تمر سنوات أو حتى عقود من الزمن قبل أن تظهر التأثيرات الصحية الضارة بصورة جلية في صحة العمال أو أطفالهم. فالوقاية من التعرض للمواد السمية أمر ضروري لحماية حقوق الإنسان، بما في ذلك حقوق العمال.

ألف - الحق في شروط عمل مأمونة وملائمة للصحة

17 - يشمل الحق في شروط عمل عادلة ومُرضية، المنصوص عليه في الإعلان العالمي لحقوق الإنسان (المادة ٢٣) وكذلك في العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية (المادة ٧)، الحقّ في شروط عمل مأمونة وملائمة للصحة. وإذ ينص العهد بصورة منفصلة على حق العمال في شروط عمل مأمونة وملائمة للصحة، فإنه يعترف بضعف العمال حيال الانتهاكات والتجاوزات التي تمس بحقوقهم ويشدد على ذلك. ويضاعف هذا الضعف من التزامات الدول والأطراف الأخرى في منع الاستغلال المؤسسي للعمال الناتج عن العمل المحفوف بالخطورة.

1٧- والحق في العمل المأمون والملائم للصحة هو حق في حد ذاته؛ ومع ذلك، فهو يشمل أيضاً العديد من حقوق الإنسان الأخرى المترابطة والمتداخلة المكفولة للعمال، بما في ذلك الحقوق الموضحة أدناه.

1 / - ولكل شخص، بما في ذلك العمال المستخدمون في سياق رسمي أو غير رسمي، حقٌّ في الحياة (٢٠) ملازم له كإنسان وحقٌ في التمتع بأعلى مستوى من الصحة البدنية والعقلية يمكن بلوغه (٢١). ويقع على الدول التزام واضح باتخاذ تدابير وقائية لحماية الحق في الحياة (٢١) والحق في الصحة كليهما، بما في ذلك من خلال أحكام تحدد "ظروف العمل الملائمة للصحة "(٢٠).

⁽٢٠) العهد الدولي الخاص بالحقوق المدنية والسياسية، المادة ٦.

⁽٢١) العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية، المادة ١٢.

⁽٢٢) اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ٦(١٩٨٢) بشأن الحق في الحياة.

⁽٢٣) اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٤ (٢٠٠٠) بشأن الحق في التمتع بأعلى مستوى من الصحة يمكن بلوغه.

9 - وتوضح اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية أنه يقع على الدول واجب يقتضي تحسين جميع جوانب الصحة في المجال الصناعي. ويشمل ذلك "التدابير الوقائية فيما يتعلق بالحوادث والأمراض المهنية ... [و] وقاية السكان والحد من تعرضهم للمواد الضارة مثل الأشعة والمواد الكيميائية الضارة ... التي تؤثر بصورة مباشرة أو غير مباشرة على صحة الإنسان"(٢٤).

• ٢٠ ولكل شخص، بما في ذلك العمال، الحق في السلامة البدنية (٢٠). ويشمل هذا الحق حق كل إنسان في أن يكون مستقلاً بذاته وقادراً على اتخاذ القرار فيما يختاره لبدنه، بما في ذلك فيما يتصل بتسرب مواد سمية غير مرغوب فيها إلى جسمه، سواء من مصادر مهنية أو غيرها. وتشكل حالات التسمم الحاد والحالات الأخرى من التعرض الشديد للمواد السمية انتهاكات لا يمكن إنكارها لحق العمال في السلامة البدنية، وهي تعرضهم لأشكال من المعاملة العنيفة والقاسية واللاإنسانية والمهينة. ويمتد هذا الحق أيضاً ليشمل مسألة التعرض الطويل الأجل للمواد السمية، الذي يمكن أن يؤدي أيضاً إلى نتائج عنيفة وقاسية ولاإنسانية ومهينة (A/HRC/22/53).

71- وعلاوة على ذلك، للعمال الحقّ في عدم الخضوع لتجربة علمية دون موافقتهم (٢٦). ويثير تعريض العمال لموادّ لا تقدَّم بشأنها معلومات كافية تبين ما إذا كان يمكن أن تسبب السرطان أو تُؤْذي الأجنة النامية - عندما يكون بالإمكان إتاحة هذه المعلومات وجعلها في المتناول - شواغل مردها أن العمال يخضعون ولا يزالوا يخضعون لنوع من التجارب البشرية. ويوضح هذا الحق أهمية الحق في المعلومات من منظور إتاحة إعمال حقوق الإنسان المكفولة للعمال.

77- ومن منظور إعمال الحق في التمتع بشروط عمل مأمونة وملائمة للصحة، ينبغي الاعتراف بأن تعرّض العمال للمواد السميّة دون موافقتهم المسبقة والمستنيرة يشكل انتهاكاً وتجاوزاً لحقوقهم، وهو اعتراف ينبغي أن يشمل تمكين العمال بصورة حقيقية من رفض الاضطلاع بالنشاط المشتمل على خطورة. وهذا جزء أساسي من حق كل عامل في الحماية من شروط العمل غير المأمونة وغير الملائمة للصحة. ويعتقد المقرر الخاص أن لكل عامل حق طبيعي في عدم التعرض للمواد السمية دون موافقته المسبقة والمستنيرة. وهو يعتبر أن هذا الحق يصب في جوهر الحق في السلامة البدنية والحق في المعلومات والحق في عدم خضوع شخص لتجارب علمية دون موافقته.

77- وتعترف اتفاقية الإطار الترويجي للسلامة والصحة المهنيتين لعام ٢٠٠٦ (رقم ١٨٧)، وهي من اتفاقيات منظمة العمل الدولية، بحق العمال في شروط عمل مأمونة وملائمة للصحة، على الرغم من أن منظمة العمل الدولية لا تدرج هذا الحق ضمن "الحقوق الأساسية المتعلقة بالعمل". وتعترف منظمة العمل الدولية ضمناً بحق العمال في عدم التعرض للمواد السمية وغيرها بدون موافقتهم المسبقة والمستنيرة من خلال تسليمها "بحق العامل في أن يبتعد بنفسه عن خطر ناجم عن استعمال مواد كيميائية إذا كان لديه مبرر معقول للاعتقاد بوجود خطر وشيك وشديد على سلامته أو صحته (٢٧)". وقد أصدرت منظمة العمل الدولية توصيات ذات صلة

⁽٢٤) نفس المرجع.

⁽٢٥) تشمل هذه الحقوق الأساسية أيضاً احترام السلامة البدنية والعقلية للعامل في سياق ممارسته لعمله. اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ١٨.

⁽٢٦) العهد الدولي الخاص بالحقوق المدنية والسياسية، المادة ٧.

⁽۲۷) اتفاقية المواد الكيميائية ١٩٩٠ (رقم ١٧٠)، المادة ١٨.

إلى الدول تقتضي مثلاً وضع السياسات والنظم والبرامج الوطنية اللازمة للوقاية من "الإصابات والأمراض والوفيات المهنية ... لحماية جميع العمال، ولا سيما العمال في القطاعات المرتفعة المخاطر والعمال المستضعفون، كما هو الحال مثلاً بالنسبة للعمال في الاقتصاد غير المنظم والعمال المهاجرين والعمال الشباب"(٢٨).

باء - الحق في المعلومات والمشاركة وتكوين الجمعيات

٢٤ لكل فرد، بما في ذلك العمال، حقوق غير قابلة للتصرف تشمل الحق في حرية التعبير والتجمع وتكوين الجمعيات، بما في ذلك حرية الانضمام إلى النقابات العمالية وتشكيلها، والحق في الحصول على المعلومات (٢٩).

٥٦ - ويشكل الحق في المعلومات أساساً لإعمال حقوق العمال المتعلقة بالتعرض للمواد السمية. وكما ورد أعلاه، لا يمكن فصل الحق في المعلومات عن حق العامل في عدم التعرض للمواد السمية دون موافقته المسبقة والمستنيرة. ويحق للعمال أن يعرفوا، في جملة أمور، الآثار المترتبة على التعرض، والإجراء المتخذ لمنع التعرض، وحقوقهم فيما يتعلق بمثل هذا التعرض.

77- وتشكل الأطر العامة لجمع المعلومات المتعلقة بمصادر الخطورة ومستويات التعرض لها وقياسها ورصدها والإبلاغ عنها والتحقق منها أداة ضرورية لتقييم وتحليل الآثار الصحية وللمساءلة. ومن الضروري تعهد نظام معلومات مفصلة ودقيقة وكاملة لفهم أحداث محددة ولاكتساب معرفة دقيقة بشأن تأثير أعمال معينة على فئات مختلفة من العمال وكذلك على المجموعات المعرضة الأخرى، بما في ذلك الأطفال والنساء في سن الإنجاب والعمال المهاجرون وأسرهم والمسنون والأشخاص ذوو الإعاقة.

97 - وتقر منظمة العمل الدولية في اتفاقياتها بالعديد من جوانب حق العامل (وحق الممثل) في أن يعلم وبواجبات الدول ومسؤوليات المؤسسات التجارية صاحبة العمل، بما في ذلك موردو المواد الكيميائية (٢٠). وعلى سبيل المثال، للعمال المعنيين وممثليهم الحق في "الحصول على معلومات تشمل تعريف المواد الكيميائية المستعملة في العمل، وخواصها الخطرة، والتدابير الاحتياطية، والتعليم والتدريب (٢١). ومع ذلك، ففي حين تدعو اتفاقية المواد الكيميائية إلى تصنيف المواد الكيميائية وفقاً لخطورتها الصحية المحتملة (المادة ٦)، فهي لا تشترط على الموردين سوى تقييم خصائص هذه المواد "على أساس تقصي المعلومات المتوفرة" (المادة ٩ (٣))، أي أن الاتفاقية لا تشترط عليهم إجراء اختبارات لاستخلاص ما ينقص من معلومات ذات صلة بهذا التصنيف.

⁽٢٨) توصية بشأن الإطار الترويجي للسلامة والصحة المهنيتين، ٢٠٠٦ (رقم ١٩٧)؛ انظر أيضاً دستور منظمة العمل الدولية.

⁽٢٩) الإعلان العالمي لحقوق الإنسان، المادة ٢٤؛ والعهد الدولي الخاص بالحقوق المدنية والسياسية، المواد ١٩ و٢٢ و ٢٦ و ٢٥؛ والاتفاقية الدولية لحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، المادة ٢٦.

⁽٣٠) اتفاقية المواد الكيميائية، المادة ١٨؛ واتفاقية منع الحوادث الصناعية الكبرى، ١٩٩٣ (رقم ١٧٤)، المادة ٢٠؛ واتفاقية السلامة والصحة في واتفاقية السلامة والصحة في المناجم، ١٩٩٥ (رقم ١٧٦)، المادة ١١(١)(ج)؛ واتفاقية السلامة والصحة في الزراعة، ٢٠٠١ (رقم ١٨٤)، المادة ٨(١)(أ).

⁽٣١) اتفاقية المواد الكيميائية، المادة ١٨(٣).

7۸- وينبغي أن تُشمل بمبدأ الكشف جميع المعلومات المتعلقة بالصحة والسلامة التي تحوزها الهيئات العامة والمؤسسات التجارية، ما لم تندرج ضمن مجموعة ضيقة مُقيّدة بالمصلحة العامة من قبيل حماية الخصوصية أو الصحة العامة (انظر A/HRC/30/40، الفقرتان ٣٨ و ١٠١(ب)). وليس من المشروع أبداً أن ترفض الدول أو المؤسسات التجارية الكشف عن معلومات الصحة والسلامة بحجة أنها سرية، لا سيما إذا كان ذلك على أساس خشية التأثير سلباً على الأرباح أو القدرة التنافسية (المرجع نفسه، الفقرة ٤٢). وتحقيقاً لهذه الغاية، تنص الاتفاقيات الدولية المتعلقة بالمواد الكيميائية السمية بصورة متكررة على أن معلومات المواد السمية ذات الصلة بالصحة والسلامة لا تعتبر سرية (٢٢).

97- ومن شأن العمال الذين يدافعون عن حقهم في العمل المأمون والملائم للصحة، من بين حقوق أخرى، أن يُعزِّزوا موقفهم بالاعتماد على التكتل العددي. وقد ثبت أن حماية العمال من التعرض للمواد السمية والأخطار الأخرى تتعزز بفعالية الحماية القوية للحق في التنظيم، بما في ذلك تشكيل النقابات، والحق في حرية تكوين الجمعيات، والحق في المفاوضة الجماعية. فعلى سبيل المثال، أدت قوة النقابات إلى التخلص التدريجي من تدخين التبغ من الأماكن المغلقة. وتنص اتفاقيات منظمة العمل الدولية على هذه الحقوق التي تعتبرها حقوقاً أساسية متعلقة بالعمل.

جيم- حقوق العمال في خطر متزايد

• ٣٠ يولد العمال، مثلهم مثل جميع البشر، أحراراً ومتساوين في الحقوق (٣٣). وكثيراً ما يكون المتضررون من التعرض للمواد السمية أشخاصاً يعيشون أصلاً حالة تهميش تجعلهم عرضة لانتهاك حقوقهم. ومع ذلك، لكل فرد الحق في الحماية من التمييز وفي المساواة في المعاملة أمام القانون. ويجب ألا يتحمّل أي عامل أو طفل عامل عبء أمراض أو عجز مهني يمكن أن يحدث نتيجة تمييز على أساس العمر أو الدخل أو العرق أو الدين أو نوع الجنس أو بلد المنشأ أو الذكاء أو الآراء السياسية أو أي سبب آخر.

١- حقوق الطفل والمرأة

71 لكل طفل الحق في أن يعيش حياة خالية من أسوأ أشكال عمالة الأطفال. ويشكل العمل الذي يستخدم فيه الأطفال مبيدات أو مواد كيميائية أو معادن صناعية سمية أو غيرها من المواد الخطرة واحداً من أسوأ أشكال عمل الأطفال (A/HRC/33/41). وتسلم اتفاقية حقوق الطفل بحق الطفل في الحماية من الاضطلاع بأي عمل يحتمل أن يكون خطيراً أو ضاراً بصحته أو نموه البدني (المادة ٣٦). وتعرّف أسوأ أشكال عمل الأطفال في اتفاقية منظمة العمل الدولية بشأن أسوأ أشكال عمل الأطفال لعام ٩٩٩ (رقم ١٨٢) بأنها "الأعمال التي يرجح أن تؤدي، بفعل طبيعتها أو بفعل الظروف التي تزاول فيها، إلى الإضرار بصحة الأطفال أو سلامتهم أو سلوكهم الأخلاقي"(المادة ٣). ولا يمكن تبرير تعريض الأطفال للمواد السمية في العمل.

⁽٣٢) اتفاقية استكهولم بشأن الملوثات العضوية الثابتة، المادة ٩؛ اتفاقية ميناماتا بشأن الزئبق، المادة ١٧. انظر أيضاً إعلان دبي بشأن الإدارة الدولية للمواد الكيميائية.

⁽٣٣) الإعلان العالمي لحقوق الإنسان، المادة ١.

٣٢- وتشكّل حماية الصحة الإنجابية من تبعات ظروف العمل الخطرة التزاماً أساسياً للدول في القضاء على التمييز ضد المرأة في العمل (٢٣). وللنساء العاملات الحق في الحصول على حماية خاصة خلال جميع الفترات التي قد يتعرض فيها، أو يتعرض فيها نسلهن، لمخاطر إنجابية (٣٥)، الأمر الذي يتطلب حمايتهن من العمل الذي يعرضهن أو يعرض جنينهن لمواد كيميائية سمية.

٣٣- وفي الوقت نفسه، ينبغي ألا تحرم النساء من فرص عمل أو دخل متكافئة. ومما يثير القلق بصفة خاصة أن النساء العاملات يتعرضن لمواد سمية في العمل قبل الحمل وأثناء مراحله الأولى، أي حتى قبل أن يعلمن بحملهن. ويتطلب هذا الواقع رعاية خاصة تبذلها الدول والمؤسسات التجارية من أجل حماية الصحة الإنجابية للمرأة من خلال منع تعرضهن للمواد السمية دون الحد من العمالة على أساس تمييزي. وأفضل وسيلة لتحقيق ذلك هي إزالة المواد السمية من العمل.

٧- حقوق العمال المهاجرين والعمال ذوي الإعاقة

٣٤- ينطبق في هذا الصدد حظر التمييز العنصري بكافة أشكاله. وبالمثل، ينبغي ألا يشكل العرق أو الأصل الاثني عاملاً مانعاً لإعمال حق العمال في ظروف عمل مأمونة وملائمة للصحة (٢٦). وللعمال المهاجرين، سواء كانوا يحوزون أم لا وثائق نظامية، الحق في المساواة وفي أن يعاملوا على قدم المساواة مع المواطنين فيما يتعلق بالسلامة والصحة وشروط العمل الأخرى (٢٧). وللأشخاص ذوي الإعاقة الحق في التمتع، على قدم المساواة مع الآخرين، بظروف عمل مأمونة وملائمة للصحة وبحقوق الإنسان ذات الصلة (٢٨).

دال - الحق في الانتصاف الفعال

97- المساءلة مبدأ أساسي في مجال حقوق الإنسان. ويجب أن تكون الدول وغيرها من الجهات المكلفة مسؤولة أمام العمال، بما يشمل غيرهم من أصحاب الحقوق الآخرين، عن التقيد بالتزامات حقوق الإنسان. ولا يمكن الفصل بين الحق في سبيل انتصاف فعال والحق في المعلومات، لأن الوصول إلى سبل الانتصاف الفعالة في سياق التعرض للمواد السمية يتوقف على إتاحة بعض المعلومات المتعلقة بهذه المواد وبظروف العمل وعلى إمكانية الوصول إليها (A/HRC/30/40).

٣٦- ولجميع العمال الذين هم ضحايا تجاوز أو انتهاك لحقوقهم الحق في الوصول إلى وسيلة انتصاف فعالة (٢٩). وتشمل سبل الانتصاف الفعال إزاء انتهاكات حقوق العمال الناجمة عن التعرض للمواد السمية حق الضحايا في تعجيل رد الحق والتعويض وإعادة التأهيل والرضا وضمانات عدم

⁽٣٤) اتفاقية القضاء على جميع أشكال التمييز ضد المرأة، المادة ١١(١)(و).

⁽٣٥) المرجع نفسه، المادة ١١(٢)(د).

⁽٣٦) الاتفاقية الدولية للقضاء على جميع أشكال التمييز العنصري، المادة ٥(د)٬١٠.

⁽٣٧) الاتفاقية الدولية لحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، المادة ٢٥ (١)(أ).

⁽٣٨) اتفاقية حقوق الأشخاص ذوى الإعاقة، المادة ٢٧.

⁽٣٩) العهد الدولي الخاص بالحقوق المدنية والسياسية، المادة ٢(٣)(أ)؛ واللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٣(١٩٩٠) بشأن طبيعة التزامات الدول الأطراف؛ والمبادئ التوجيهية بشأن الأعمال التجارية وحقوق الإنسان: تنفيذ إطار الأمم المتحدة المعنون "الحماية والاحترام والانتصاف".

التكرار، وكذلك في تقديم منتهكي الحقوق إلى العدالة (٠٠). ويشكل منع وقوع تعرض في المستقبل للمواد السمية قاسماً مشتركاً بين العديد من عناصر الانتصاف الفعال في هذا الصدد.

977 ويحق لكل صاحب حق أن يشرع في إجراءات الجبر المناسب أمام محكمة مختصة أو أي هيئة تحكيم أخرى وفقاً للقواعد والإجراءات المنصوص عليها في القانون. ويجب أن تكفل الدول الوصول في الوقت المناسب إلى سبل الانتصاف الفعالة لضحايا الانتهاكات التي تحدث بسبب التعرض للمواد الكيميائية الخطرة (انظر E/CN.4/2006/42)، الفقرة ٥٤). وفي ظروف شتى، حولت الدول عبء الإثبات إلى صاحب العمل أو غيره من المستفيدين من الخدمات (١٠٠). وفي حالات أخرى، خفضت الآليات القضائية وغير القضائية من عبء الإثبات الذي يقع على العمال للمساعدة في ضمان الوصول إلى سبل الانتصاف (٢٠٠).

ثالثاً التحديات التي تواجه حقوق العمال المتضررين من التعرض لمواد سمية ألف معايم غير كافية في مجال الحماية

77 كثيراً ما تتسم قوانين وسياسات الصحة المهنية بأنما لا تحمي الصحة. وهي لا تزال تسمح بتعرض العمال للمواد السمية بدرجة تتجاوز بمئات المرات أو حتى بآلاف المرات ما يتعرض له غير العمال ضمن نفس الولاية الإقليمية (٢٠٠٠). وكثيراً ما تعتمد تقييمات المخاطر على معرفة غير كاملة أو افتراضات خاطئة، مما يؤدي إلى ضمانات مضللة في مجال السلامة وتأثيرات واسعة النطاق تمس بصحة العمال. ولا تزال عمليات تحسين معايير الحماية من التعرض للمواد السمية تُؤخّر بصورة متعمدة لسنوات إن لم يكن لعقود، مما يؤدي إلى وفيات مبكرة لا حصر لها.

باء- تقدم محدود في منع التعرض للمواد السمية

97- من الوسائل الأكثر فعالية في منع تعرض العمال للمواد السمية إزالتها من مكان العمل. وينعكس ذلك في الممارسة السليمة المعروفة باسم التسلسل الهرمي لإجراءات السيطرة على المخاطر، أو "التصميم القائم على الإزالة المنهجية لمصادر الخطورة"، الذي تشجعه منظمة العمل الدولية والهيئات الوطنية المعنية بالسلامة والصحة في المجال المهني (٤٤). وفي ترتيب تنازلي حسب معيار فعالية منع التعرض للمواد السمية، تأتي بعد إجراء الإزالة خيارات ترمي إلى تخفيف المخاطر بوسائل منها الاستعانة بمواد وأدوات بديلة أقل خطورة، وإعمال ضوابط هندسية وإدارية، واستخدام معدات للوقاية الشخصية.

⁽٤٠) المبادئ الأساسية والمبادئ التوجيهية بشأن الحق في الانتصاف والجبر لضحايا الانتهاكات الجسيمة للقانون الدولي الإنساني، الفقرات ١١ و ١٥ - ٢٣؟ اللجنة المعنية بمقوق الإنسان، التعليق العام رقم ٣١ (٢٠٠٤) بشأن طبيعة الالتزام القانوني العام المفروض على الدول الأطراف في العهد، الفقرة ٢٦؛ واتفاقية حقوق الطفل، المادة ٣٩.

[&]quot;Presumptive legislation for firefighter cancer", First Responder Center, 2017 (\$\)

Junius C. McElveen Jr., "Establishing proof of exposure", Lexology, 2012 (\$ 7)

Ted Smith and Chad Raphael, "Health and safety policies for electronics workers", in *The Routledge Companion to Labor and Media*, Richard Maxwell, ed. (Routledge, 2015), pp. 78–89 .(citing Amanda Hawes)

National Institute for Occupational Safety and Health, "Hierarchy of controls", Centers for Disease (\$\xi\$)

Control and Prevention, 11 May 2018

• 3- وتظل هذه الممارسة محدودة على الرغم من وجود أمثلة على تطبيقها. ومن شأن اشتراط اعتماد التسلسل الهرمي لإجراءات السيطرة على المخاطر كمعيار دولي أن يوجِد قاعدة موحَّدة يمكن الاستناد إليها لتعزيز التنسيق. ومع ذلك، تواصل الجهات الفاعلة في قطاع الأعمال كبح التقدم العالمي من خلال الإصرار على أن تطبيق التسلسل الهرمي سيقلل من القدرة التنافسية. ويظل العمال معرضين للمواد السمية، بما في ذلك المواد الكيميائية الصناعية السمية والمبيدات الشديدة الخطورة، علماً أنه قد ثبت وجود بدائل أقل خطورة. وتشكل صناعة النقل البحري وممارساتما في مجال تكسير السفن مثالاً صارخاً آخر على صناعة ما زالت تُلقي بتأثيراتما على العمال الفقراء والمجتمعات المحلية الفقيرة في البلدان النامية بسبب عدم تطبيق التسلسل الهرمي.

13- ويمكن للمؤسسات التجارية تطوير وتبني بدائل تقلل من الضرر على صحة الإنسان ومن الأثر البيئي لعملياتها وعلاقاتها التجارية. وقد طبق بعضها ذلك. لكن العديد من المؤسسات التجارية أحال مشكلة التعامل مع مسألة التعرض للمواد السمية إلى جهات خارجية و/أو طمسها ضمن المستويات الدنيا من سلاسل التوريد العالمية، مما أتاح مواصلة العمل كالمعتاد بدلاً من اعتماد تدابير تصب في احترام حقوق العمال المتأثرين بالعمل المتصل بالمواد السمية، على الرغم من التوقعات المتزايدة التي تفيد بأن المؤسسات التجارية ينبغي أن تمنع حدوث التعرض للسموم كجزء من العناية الواجبة التي تقع على عاتقها في مجال حقوق الإنسان.

جيم- فجوات الرصد والإنفاذ

العمال، بما يشمل الرصد النسقي لحالات التعرض للمواد السمية وإنفاذ قوانين لحماية حقوق العمال، بما يشمل الرصد النسقي لحالات التعرض للمواد السمية وإنفاذ قوانين لحماية حقوق العمال. ومع ذلك، لا تضطلع الغالبية العظمى من الدول بواجباتها بصورة مناسبة فيما يتصل بإجراءات الرصد أو الرقابة أو الحماية أو الإنصاف اللازمة للتصدي للتجاوزات التي تنال من حقوق العمال جراء تعريضهم لمواد سمية في سياق يخضع لولايتها الإقليمية. ويؤدي الانخفاض المنهجي للتمويل المخصص للمؤسسات المسؤولة عن الرصد (٥٠) إلى صعوبات كبيرة وضخمة تواجهها الدول في رصد العدد الكبير من أماكن العمل الخاضعة لولايتها الإقليمية، فضلاً عن التحديات التي لا تزال قائمة في مجال جمع المعلومات الإحصائية، لا سيما تلك المتعلقة بالقطاع غير الرسمي. وتشهد معظم البلدان ضعفاً في تسجيل بيانات الحوادث المهنية، لا سيما بيانات الأمراض، والإخطار بحا، ويظل التنسيق بشأنها منعدماً والإبلاغ في مستوى أدنى من المطلوب.

دال- استغلال الأشخاص الأكثر عرضة للخطر

25- يمكن لعوامل متعددة مثل الوضع الاجتماعي أو التعليم أو العمر أو نوع الجنس أو بلد المنشأ أو الأصل الاثني أو الإعاقة أن تؤدي إلى تفاقم مخاطر التعرض للسموم. وتوخياً للفعالية في الوقاية من هذا التعرض والاستجابة لما يستدعيه، يجب أن تؤخذ بعين الاعتبار أوجه الضعف المحددة هذه.

Report of the Committee of Experts on the Application of Conventions and ، منظمة العمل الدولية ، (٤٥) منظمة العمل التقرير الثالث (الجزء ١باء)، المتضمن استقصاء عاماً بشأن بعض صكوك السلامة والصحة في المجال المهني (جنيف، ٢٠١٧)، الفقرة ٤٣٦.

33- والأشخاص الأكثر عرضة لخطر التعرض للمواد السمية هم الأشخاص الأكثر ضعفاً حيال الاستغلال، أي الفقراء والأطفال والنساء والعمال المهاجرون والأشخاص ذوو الإعاقة والمسنون. وكثيراً ما يكون هؤلاء عرضة لتجاوزات تمس بكثير من حقوق الإنسان المكفولة لهم، لأنهم مجبرون على الاختيار البغيض بين صحتهم ودخلهم، وتظل محنتهم أمراً لا يراه معظم المستهلكين وواضعي السياسات ممن لهم القدرة على تحقيق انتقال منصف.

١ – الفقر

٥٤- الفقر حالة شائعة بين معظم العمال الذين تُتجاوز حقوقهم جراء تعريضهم للمواد الكيميائية السمية. ويوجد تباين ملحوظ في درجة التعرض بين العمال ذوي الدخل المنخفض والعمال ذوي الدخل المرتفع سواء داخل البلدان أو من بلد لآخر.

73- وفي كثير من الأحيان، يكون للعمال ذوي الدخل المنخفض مستويات تعليمية متدنية، الأمر الذي يفرض عليهم قبول مهن تعرضهم للمواد الكيميائية السمية، ويحد من وصولهم إلى المعلومات والمعرفة، ويمنعهم من الدفاع عن حقوقهم. وقد تُعزى آثار تعرض العمال ذوي الدخل المنخفض لمواد سمية مهنية على الأرجح إلى أسباب التعرض الأخرى غير المتصلة بالعمل التي تكون حاضرة بدرجة أكبر في المجتمعات الأكثر فقراً، ومن هذه الأسباب تلوث الهواء والماء والأغذية، أو إلى خيارات مرتبطة بنمط الحياة مثل التغذية غير الصحية والتدخين وغير ذلك من استعمالات المواد الضارة.

٤٧ - وغالباً ما يُستغل عامل الهشاشة الاقتصادية للعمال في تعريضهم للمواد السمية. وكثيراً ما يستخدم الخوف من فقدان فرص العمل لثني العمال والجهات التنظيمية والسياسيين عن تحسين حماية العمال من التعرض للمواد السمية.

٢- النساء العاملات

24 - تشكل النساء نسبة كبيرة من العمال في بعض المهن والقطاعات، مثل التصنيع والزراعة، وكذلك الخدمات والأعمال غير الرسمية، التي تنطوي على مخاطر أكبر من حيث التعرض للمواد السمية (انظر A/HRC/36/41) على سبيل المثال). وتفيد تقارير بوجود تأثيرات مرتبطة بنوع الجنس. وثمة أدلة متزايدة تشير إلى وجود ترابط بين سرطان الثدي والتعرض المهني لمبيدات ومواد كيميائية صناعية ومعادن شتى (٢١). وهناك العديد من الأمثلة على تزايد مخاطر الإجهاض التي تتعرض لها النساء العاملات في صناعة الإلكترونيات (٧١). وكثيراً ما تكلف النساء في سن الإنجاب باستعمال معادن ثقيلة سمية، مثل الزئبق، في التنقيب التقليدي عن الذهب، مما يعرضهن وأطفالهن في المستقبل لآثار صحية شديدة الخطورة.

Concetta Fenga, "Occupational exposure and risk of breast cancer", Biomedical Reports, 21 (£7)

.January 2016

R.H. Gray and others, Final Report: The Johns Hopkins University Retrospective and Prospective (\$\sqrt{\chi}\) Studies of Reproductive Health Among IBM Employees in Semiconductor Manufacturing

(Baltimore, Johns Hopkins University, 1993)

٣- تشغيل الأطفال

93 - لا يزال الأطفال يُستخدمون في واحد من أسوأ أشكال عمل الأطفال في سياق يستعملون فيه مواد سمية أو يتعرضون لها. ولأسباب مختلفة، يتعرض الأطفال للمواد السمية بدرجة أشد بكثير من غيرهم، علماً أنهم أكثر حساسية لمثل هذا التعرض من البالغين، الأمر الذي يجعل من احتمال إصابتهم بأمراض مهنية ناتجة عن ذلك أشد مقارنة بغيرهم (٨٤).

وهي مجالات وليعمل عدد يقدر بـ ٧٣ مليون طفل في المناجم والحقول الزراعية والمصانع، وهي مجالات يتعرض فيها معظمهم لمواد سمية مختلفة $(^{6})$. وينشط نحو ، ٦ بالمائة من الأطفال العاملين في مجال الزراعة، بما في ذلك في ظروف يستخدمون فيها المبيدات $(^{(0)})$. ومن المعروف أن الأطفال يستعملون الزئبق في مناجم ذهب تقليدية وصغيرة النطاق في ، ٧ بلداً في العالم، وهو ما يؤدي إلى إصابة بعضهم بأعراض تطابق أعراض التسمم بالزئبق $(^{(0)})$. ويتعرض الأطفال للمواد الخطرة في مراحل مختلفة من دورة حياة المنتجات الاستهلاكية. ففي مجال الإلكترونيات، يعمل عشرات الآلاف من الأطفال في استخراج مادة سمية تستخدم في البطاريات (الكوبالت) في بداية دورة استعمالها $(^{(0)})$ وكذلك في نفاية هذه الدورة، حيث يتعرضون لمواد سمية مختلفة نتيجة استعادة النفايات الإلكترونية.

٤- العمال المهاجرون والعمال المؤقتون

20- يواجه العمال المهاجرون مخاطر كبيرة متعلقة بالسلامة والصحة في المجال المهني مردها عدد من الأسباب، بما في ذلك نقص التدريب والحواجز اللغوية والتمييز والقيود المرتبطة بتغيير العمل (٥٢). ويمارس العديد من العمال المهاجرين وظائف يضطلعون بما في ظروف قذرة وخطيرة وصعبة، وبالتالي يواجهون مخاطر عالية من حيث الحوادث والمرض. ويتعرض العمال المهاجرون غير النظاميين أو غير المسجلين لخطر شديد مرتبط باستغلالهم من جانب أصحاب العمل الذين يسعون إلى الاستفادة منهم في جني منافع المنافسة غير المشروعة. ويمكن أن تقترن حركات الهجرة السرية والاتجار بالأشخاص والعبودية المعاصرة بتعرض العمال المهاجرين للمواد السمية.

20- ولا يتمتع العمال المؤقتون، بما في ذلك العمال الموسميون، في كثير من الأحيان بنفس الحماية والسلامة التي يتمتع بما العمال الدائمون أو المقيمون. ويتعرض العمال المؤقتون بدرجة كبيرة لخطر الإصابة أو المرض في سياق العمل. وقد يغيرون عملهم عدة مرات في السنة، وبالتالي، فباعتبارهم عمالاً جدداً، تكون معلوماتهم بشأن المخاطر التي قد يتعرضون لها أقل. وكثيراً ما يكون أرباب العمل أقل التزاماً بتوفير التعليم أو الاستثمار في حماية العمال المؤقتين (٤٠). وقد تكون جهود التوجيه والتفتيش التي تبذلها الحكومة محدودة في مجال السلامة والصحة.

⁽۲۰۱۸ (جنيف، Towards the Urgent Elimination of Hazardous Child Labour (جنيف، ۲۰۱۸) منظمة العمل الدولية، ۲۰۱۸ (طبقت ۲۰۱۸) الصفحة ۳۵.

⁽٤٩) المرجع نفسه، الصفحة '٦'.

[.] ۲۰۱۱ ، "Hazardous work of children and regulation of hazardous chemicals" ، منظمة العمل الدولية ،

[·]Human Rights Watch, "Danger, keep out! Children's exposure to toxic substances", 28 April 2016 (01)

Amnesty International, "This is what we die for": Human Rights Abuses in the Democratic (or)
. Republic of the Congo Power the Global Trade in Cobalt, 2016

Kawon Lee, Connor McGuiness and Tsuyoshi Karaskami, Research on Occupational Safety and (%T)
Health for Migrant Workers in Five Asia and the Pacific Countries: Australia, Republic of Korea,
Malaysia, Singapore and Thailand (Bangkok, ILO, 2011), p. 20

United States Department of Labor, Adding Inequality to Injury: The Costs of Failing to Protect

. Workers on the Job (2015)

٥- العمال ذوو الإعاقة

٥٣ - قد يواجه العامل ذو الإعاقة مخاطر إضافية أو قد يكون أكثر عرضة لعواقب التعرض للمواد السمية. وثمة اتجاه سائد يتمثل في تعيين العاملين ذوي الإعاقة في وظائف متدنية المهارات وبعقود غير مألوفة، مثل العمل بدوام جزئي أو بعقود مؤقتة.

٦- العمال المتقدمون في السن

20- يتعرض الأشخاص المتقدمون في السن أيضاً للمواد السمية في سياق العمل. وبصورة عامة، يرتبط التقدم في السن بتراجع في الوظائف المعرفية وفي الصحة والقدرة على استعادة العافية، بما يشمل تقلص القدرة التنفسية وتراجع القدرة على تحمل الحرارة والقوة العضلية وحدة البصر والسمع. ومن شأن كل المخاطر التي يتعرض لها العمال المتقدمون في السن بسبب مهنهم أن تضاف إلى ما يعيشونه من مشاكل صحية أو أن تزيد من التدهور الطبيعي لقدراتهم الحسية والبدنية. ومما يؤسف له أن تأثيرات التعرض المهني للمواد السمية على صحة الأشخاص المتقدمين في السن غالباً ما تُعزى بالكامل إلى التقدم في السن وليس إلى التعرض نفسه.

هاء- الاقتصاد غير الرسمي

٥٥- ينبغي للسياسات والبرامج الوطنية الرامية إلى تعزيز ظروف العمل المأمونة والملائمة للصحة ألا تقتصر على الاقتصاد الرسمي فحسب بل أن تشمل أيضاً الاقتصاد غير الرسمي. ويلاحظ في العديد من البلدان النامية أن عدد مستخدمي القطاع الرسمي قليل بالمقارنة بعدد العاملين في القطاع غير الرسمي. ولا ترد عادة بيانات العاملين في القطاع غير الرسمي ضمن الإحصاءات المتعلقة بتأثير المواد الخطرة على العمال (٥٥).

واو - الجهود المتعمدة الرامية إلى تأخير أو عرقلة الحماية من التعرض للمواد السمية

70 تسعى مؤسسات الأعمال التجارية، في سياق بحثها عن تحقيق مكاسب اقتصادية، إلى تأخير اعتماد قوانين وضوابط للحماية من خلال شن حملات تستهدف تحوير ما يقوله العلم واستغلال حالة الهشاشة المالية للعمال عن طريق التهديد بفقدان فرص العمل. وسعت هذه الحملات في الأساس إلى تقويض حقوق العمال مستندة في تحديداتها إلى تقلص فرص العمل وتراجع التنافسية على نحو يستغل الخوف الاقتصادي للعمال ويستفيد منه. ولا يزال العمال يخافون من خفض أجورهم أو إنهاء عقودهم إذا ما رفضوا العمل الذي يعرضهم للمواد السمية أو تنصلوا منه.

00- وعلاوة على ذلك، تواصل المؤسسات التجارية تحوير الأدلة المتعلقة بالمخاطر المبطنة الناتجة عن أنواع مختلفة من المواد الكيميائية السمية (مثل المواد المسرطنة) والتعرض المؤذي لها وأخطارها الأخرى. وتشن المؤسسات التجارية ووكلاؤها حملات ترويجية تستهدف زرع بذور الشك وعدم التيقن إزاء نتائج الدراسات العلمية التي توضح المخاطر المطروحة وتأثيراتها على صحة العمال.

[.]Hämäläinen, p. 7 (oo)

David Michaels, ed., Doubt Is Their Product: How Industry's Assault on Science Threatens Your (%7)

.Health (Oxford, Oxford University Press, 2008)

00- ويتبين من الجهود التي تبذلها المؤسسات التجارية لإعاقة اعتماد قوانين الحماية الصحية وتحديد معايير التعرض وتحسين الممارسات استهتار بعضها بمسؤوليته في منع تعرض العمال للسموم. وهي تتمادى في ذلك متجاوزة عدم احترام الحقوق، سعياً منها إلى إدامة استغلال أوجه عدم المساواة داخل المجتمعات وفيما بينها.

زاي- سلاسل التوريد المسترة ونقل العمل المتسم بالخطورة

90- لا تزال مسألة نقل العمل المرتبط بالمواد السمية من البلدان ذات النظم الأكثر تقدماً إلى البلدان ذات المعايير الدنيا في مجال حماية العمال تمثل إشكالاً رئيسياً، رغم الفوائد المجتمعية المسلم بما التي يمكن أن ترافق النقل الدولي للتكنولوجيات المفيدة. فعلى سبيل المثال، أصبحت اليوم أنشطة التصنيع والتجهيز الكثيفة الاستخدام للمواد الكيميائية - التي كانت موجودة إلى حد كبير في البلدان الصناعية المتقدمة - تتوسع باطراد في البلدان النامية والبلدان التي تمر اقتصاداتها بمرحلة انتقال من خلال عولمة سلاسل الإمداد (٧٥).

• ٦٠ ونتيجة للنقل الدولي للعمل المتسم بالخطورة وبقذارة الظروف التي يُمارس فيها، سواء تعلق الأمر باستخراج الموارد الطبيعية أو استخدام المواد الكيميائية السمية أو المبيدات أو التخلص من النفايات الخطرة دون اتخاذ التدابير المناسبة لحماية العمال من التعرض للمواد السمية، أضحى العمال ومجتمعاتهم عرضة لمخاطر وتأثيرات شديدة تمس بحقوق الإنسان المكفولة لهم (٥٠). ويؤدي انعدام الشفافية على امتداد سلاسل التوريد إلى زيادة حدة المشكلة وتعطيل جهود مختلف الجهات المعنية لتحسين الصحة المهنية.

حاء - جهود مفككة على صعيد الصحة المهنية وسلامة البيئة

71- يؤدي وجود مواد سمية في مكان العمل عموماً إلى بيئة سمية. فعلى سبيل المثال، تؤثر ملوثات الهواء على صحة العمال المعرضين لها بصورة مباشرة ولكن أيضاً على صحة أطفالهم ومجتمعاتهم من منظور أوسع. فالعمال الذين يعتمدون على سبل عيش مشتملة على مواد عالية السمية، مثل التعدين التقليدي، والتخلص من النفايات، ومجموعة من الصناعات التحويلية (مثل النسيج)، والأنشطة الزراعية، غالباً ما يعملون في أماكن قريبة جداً من منازلهم ومجتمعاتهم المحلية، وقد يصحبهم أطفالهم أحياناً أو يساعدونهم في ممارسة هذه الأنشطة. لكن أوجه التآزر الممكنة التي من شأنها أن تنتج عن ترابط أقوى بين الصحة في العمل وسلامة البيئة غالباً ما تكون غير محققة.

طاء- عدم إعمال الحق في المعلومات

-77 تشكل فجوات المعلومات عائقاً أساسياً أمام احترام وحماية وإعمال العديد من حقوق الإنسان التي تُتجاوز أو تنتهك على نحو آخر بسبب تعرض العمال للمواد الكيميائية السمية (انظر A/HRC/30/40) الفقرات 77 و 77 (97).

^{.(}٢٠١٣) Global Chemicals Outlook: Towards Sound Management of Chemicals (عبرنامج الأمم المتحدة للبيئة،

⁽٥٨) المرجع نفسه.

⁽٥٩) انظر أيضاً اللجنة المعنية بحقوق الإنسان، التعليق العام رقم ٢٠١١)٣٤) بشأن حرية الرأي والتعبير، الفقرة ١٨.

77- وفيما يتصل بجانب يكتسي الأهمية الأكبر، لا تزال المعلومات الوافية بشأن المخاطر الصحية المبطنة للغالبية العظمى من المواد الكيميائية الصناعية غير متاحة، بما في ذلك المعلومات المتعلقة بخصائصها المسرطنة أو المطفّرة أو تأثيرها السمي على وظيفة الإنجاب (A/HRC/30/40). وعلاوة على ذلك، لا يزال شكل ومحتوى المعلومات التي يبلغ بما العمال فيما يتعلق بالمخاطر الصحية يطرحان إشكالاً كبيراً. فغياب المعلومات أو نقلها بطريقة غير ملائمة هو بمثابة تضليل، وتضليل العمال ما هو إلا ضرب من الاستغلال الذي يمكن أن يعدّ عملاً قسرياً أو إجبارياً (17).

37- وعلى الرغم من أن تقييمات المخاطر قد ساعدت في تحديد وتقييد استخدام المواد التي تشكل خطراً على العمال، إلا أن بعض القيود تظل مطروحة، ومنها صعوبة التنبؤ بمستويات تعرض العمال؛ واقتصار المعارف المتعلقة بالمخاطر الصحية على نسبة قليلة من المواد وعدم وجود معلومات بشأن مخاطر عشرات الآلاف من المواد الأخرى؛ وضعف معرفة تأثيرات التعرض للمواد الخطرة المختلطة، والمواد الوسيطة في عمليات الإنتاج، والنواتج المتولدة من اضمحلال المواد بمرور الوقت في ظروف مختلفة.

97- ومن التحديات المستمرة في إعمال الحق في الحصول على المعلومات في السياق المتعلق بالمواد الكيميائية السمية الادعاءات المتعلقة بالسرية أو التكتم. فالادعاءات غير المشروعة بشأن سرية معلومات العمل أو واجب التكتم التجاري فيما يتعلق بالمواد السمية وحالات التعرض المحتملة لهذه المواد كلها أمور يمكن أن تحرم العمال من حقوق الإنسان المكفولة لهم، بما في ذلك ظروف العمل المأمونة والملائمة للصحة وإمكانية الوصول إلى سبل الانتصاف. ويمكن أن تؤدي الادعاءات غير المشروعة المستندة إلى سرّية معلومات الصحة والسلامة وضرورة التكتم بشأنها إلى إخفاء الإشكالات القائمة وبالتالي كبح البحث المبتكر في مجال المنتجات والعمليات الرامي إلى تحسين الصحة المهنية، وكذلك إلى تعزيز شعور بالإفلات من العقاب من شأنه أن يتفشى بين المؤسسات التجارية التي لا تزال تستغل العمال وتتجاوز حقوقهم بتعريضهم للمواد السمية وتبرير استخلاص فوائد من ذلك.

77- ومن الأهمية بمكان أن بُحمع المعلومات المتعلقة بالصحة وتعالج وتستخدم في إطار نظام محكم يحمي خصوصية العمال ويضمن عدم استخدام المراقبة الصحية لأغراض تمييزية أو على أي نحو آخر يضر بمصالح العمال (٢٦). ومن المهم بنفس القدر أن يتمكن العمال من الوصول إلى السجلات الطبية الخاصة بحم.

ياء - التنفيذ المحدود لصكوك منظمة العمل الدولية

77- يوجد قلق بشأن عدم تنفيذ المعايير ذات الصلة لمنظمة العمل الدولية المتعلقة بحماية حقوق الإنسان المكفولة للعمال تنفيذاً مناسباً، علماً أن بعض المعايير الأخرى أصبح متجاوزاً. وقد عزا تقييم مستقل طلبت إنجازه منظمة العمل الدولية بشأن التحديات التنظيمية المطروحة عليها في هذا الصدد إلى جملة أمور منها التعاون المحدود أو غير الموجود بين الوحدات والموارد المالية المحدودة المخصصة لأنشطة السلامة والصحة في المجال المهني (٢٢).

the Modern Slavery Act 2015 of the United Kingdom of Great Britain and ه انظر، على سبيل المثال، (٦٠) انظر، على سبيل المثال، Northern Ireland

Technical and Ethical Guidelines for Workers' Health Surveillance, منظمة العمل الدولية، (٦١) . (۱۹۹۸) Occupational Safety and Health Series No. 72

Independent Evaluation of the ILO's Strategy on Occupational Safety and منظمة العمل الدولية، (٦٢) Health Conditions at Work (2013), pp. 46-47

7A وقد تكون المستويات المنخفضة للتصديق على صكوك منظمة العمل الدولية المتعلقة بالسلامة والصحة في المجال المهني عاملاً آخر، رغم أنها قد تشكل في بعض الحالات نماذج مفيدة للمعايير الوطنية. ومع ذلك، قد يتمثل عامل آخر في استبعاد مجلس إدارة منظمة العمل الدولية على نحو مؤسف الحقّ في العمل المأمون والملائم للصحة من "الحقوق الأساسية المتعلقة بالعمل".

كاف- تقييد حرية تكوين الجمعيات

لام- تعذر الوصول إلى سبل الانتصاف والعدالة والمساءلة

• ٧٠ تشير الدراسات إلى أن التمكن من الوصول إلى سبل الانتصاف لا يشمل سوى نسبة ضئيلة من العمال المتضررين من التعرض للمواد الخطرة (١٥٠). وتشمل العقبات الرئيسية التي تحول دون إعمال المساءلة الاشتراطات المفرطة لعبء الإثبات، وفترات الاستتار الطويلة التي تسبق ظهور العواقب في بعض الحالات، وصعوبة إثبات العلاقة السببية؛ ووجود فجوات معلوماتية كبيرة فيما يتعلق بتحديد المخاطر وقياس التعرض وتحديد التأثيرات الوبائية؛ والتعرض المحتمل لعدد كبير من المواد المختلفة في بيئات مهنية متنوعة على امتداد فترة الممارسة المهنية؛ وأحكام العلاقات التعاقدية بين الموردين والمشترين التي يمكن أن تنقل المسؤولية نحو المستوى الأعلى أو الأسفل من سلسلة التوريد.

٧١- وكثيراً ما تشكّل أنواع المعلومات المطلوبة والمسؤولية عن إثبات سبب الأضرار التي تحدث قواسم مشتركة في الحالات التي يكافح فيها العمال للوصول إلى سبل الانتصاف الفعالة. وغالباً ما يفتقر العمال إلى ما يلزم من معرفة وموارد تمكنهم من بلورة العناصر الضرورية للوصول إلى سبل الانتصاف. فأولاً، من الشائع عدم معرفتهم بالمواد التي تعرضوا لها. وثانياً، قد لا تكون المواد التي تعرضوا دُرست من حيث قدرتها على إحداث المرض أو الإعاقة لدى البشر؛ وثمة افتقار إلى المعلومات الكافية، وحتى إلى الحد الأدنى من بيانات الصحة والسلامة، فيما يتصل بعشرات الآلاف من المواد الكيميائية الصناعية التي يحتمل أن تكون خطرة. وثالثاً، عندما تُقدم ادعاءات بالتعرض لمواد خطرة، "فالدليل الموضوعي على حجم التعرض أو حتى مدى وجود تعرض أصلاً يكاد لا يتاح أبداً"(٢٦)، على الرغم من أن مسؤولية تتبع هذه البيانات والحفاظ عليها ينبغي أن تقع على صاحب

⁽٦٣) انظر منظمة العمل الدولية، International Labour Standards on Freedom of Association

⁽٦٤) المرجع نفسه.

Andrew Watterson and Rory O'Neill, "Double trouble on relative risk for occupational diseases", (२०)

. Hazards Magazine, March 2015

[.]McElveen, "Establishing proof of exposure" (77)

العمل، وعلماً أن عدم الاضطلاع بها يُستخدم لتبرير الرفض غير المقبول لتمكين العمال الذين يصابون بأمراض أو بعجز من الوصول إلى سبل الانتصاف. وأخيراً، يذكر أن العمال ينتقلون في كثير من الأحيان من عمل أو قطاع إلى آخر، ثما يمكن أن يعرضهم لمصادر خطورة متنوعة. ويمكن التذرع بالسلوك الشخصي للعمال، مثل التدخين أو تعاطى الكحول، لزيادة تعقيد تحديد العلاقة السببية.

رابعاً الاستنتاجات والتوصيات

٧٧- يمكن اعتبار تعرض العمال للمواد السمية أو بالأحرى ينبغي اعتباره شكلاً من أشكال الاستغلال، وهو تحد عالمي للبلدان من جميع مستويات التنمية دور فيه. ويمكن للدول والجهات الفاعلة في مجال الأعمال التجارية والمنظمات الدولية أن تضع حداً للتعرض للمواد السمية أو أن تقلله إلى الحد الأدنى، وهو أمر يجب عليها أن تضطلع به على وجه الاستعجال.

٧٧ ويقدم المقرر الخاص ١٥ مبدأً لمساعدة الدول والمؤسسات التجارية وأصحاب المصلحة الآخرين على حماية واحترام وإعمال حقوق الإنسان المكفولة للعمال التي تُنتهك بسبب تعرضهم المهني للمواد السمية وغيرها من المواد الخطرة. وتستند المبادئ إلى القانون الدولي لحقوق الإنسان وتنبني على المبادئ التوجيهية بشأن الأعمال التجارية وحقوق الإنسان وصكوك منظمة العمل الدولية والاتفاقات الدولية المتعلقة بالمواد الكيميائية السمية والنفايات وغيرها (١٧٠). وهذه المبادئ ما هي إلا نتيجة للقضايا التي وُجِّه إليها اهتمام المكلفين بالولاية منذ إنشائها في عام ١٩٩٥.

٤٧- وفي رأي المكلف بالولاية، ستساعد هذه المبادئ، في حال تنفيذها، على تعزيز التماسك بين حقوق الإنسان ومعايير الصحة والسلامة في المجال المهني فيما يتعلق بتعرض العمال للمواد السمية. وليس المقصود منها أن تكون نمائية، ولكنها تشكل بداية عملية ترمى إلى توضيح واجبات ومسؤوليات جميع الأطراف.

٥٧- وفي الأشهر القادمة، سيتولى المقرر الخاص جمع مدخلات من الدول وأصحاب المصلحة الآخرين بشأن كيفية مراعاة هذه المبادئ – حسب الاقتضاء – في القوانين والسياسات والإجراءات المتعلقة بالتعرض للمواد السمية في السياق المهني. ويعتزم المقرر موافاة مجلس حقوق الإنسان في دورة مقبلة بمجموعة من المبادئ أكثر تفصيلاً من شأنها أن تتيح إطاراً للتنفيذ تعتمده الدول والمؤسسات التجارية والجهات الفاعلة الأخرى. ويشجع المقرر الخاص منظمة العمل الدولية ومنظمة الصحة العالمية على مواصلة جهودهما، ويشجع منظمة العمل الدولية بصفة خاصة على السعي إلى مراعاة هذه المبادئ في جهودها الرامية إلى استعراض وتنقيح اتفاقياتها ومعايرها الخاصة بالسلامة والصحة في المجال المهني.

⁽٦٧) مثلاً، التوصيات التي اعتمدها المؤتمر الدولي المعني بإدارة المواد الكيميائية (SAIGM/ICCM.3/15) وتوصيات حلقة العمل الدولية بشأن المواد الخطرة في دورة حياة المنتجات الكهربائية والإلكترونية، التي عقدت في فيينا في عام ٢٠١١ (SAIGM/OEWG.1/11).

ألف - المبادئ المتعلقة بواجبات ومسؤوليات منع التعرض للمواد السمية

٧٦- يقع على الدول واجب احترام حقوق العمال وحمايتها وإعمالها وتتحمل الأعمال التجارية المسؤولية ذاتها؛ وعلى المستهلكين والجهات العسكرية والمستثمرين وغيرهم أيضاً مسؤوليات يجب أخذها بعين الاعتبار.

المبدأ ١- يقع على الدول واجب حماية حقوق الإنسان المكفولة لجميع العمال من خلال منع التعرض للمواد السمية.

٧٧- يجب على الدول أن تبذل كل ما في وسعها لحماية جميع العمال من التعرض المهني للمواد السمية في أراضيها و/أو ضمن ولايتها الإقليمية. وهذا الواجب موجود بصرف النظر عما إذا كان صاحب العمل مؤسسة تجارية أو دولة. ويتطلب ذلك اتخاذ الخطوات المناسبة لمنع وقوع حالات التعرض المهني للمواد السمية وغيرها من المواد الخطرة والتحقيق فيما يقع من حالات ومعاقبة المتسببين فيها وإتاحة سبل الانتصاف، من خلال سياسات وتشريعات وأنظمة وعمليات إنفاذ فعالة، بما يشمل البت في النزاعات ذات الصلة (١٨٠٠).

٨٧- وتتسم حقوق الإنسان بكونها عالمية. فلكل شخص نفس الحق في العمل المأمون والملائم للصحة، بصرف النظر عن الدخل أو السن أو نوع الجنس أو الأصل الإثني أو العرق أو الدين أو الفئة أو أي وضع آخر. وتقع على الدول واجبات مضاعفة فيما يتعلق بحماية العمال الذين يواجهون مخاطر اجتماعية أو فيزيولوجية مرتفعة، بما في ذلك العمال غير الرسميين المستخدمين في سلاسل التوريد العالمية. وللمهاجرين والأقليات والأشخاص ذوي الإعاقة الحق في الاستفادة من معايير الحماية على قدم المساواة مع غيرهم. ويجب ألا يستخدم الأطفال والحوامل أبداً المواد السمية في العمل أو أن يتعرضوا لها بشكل أو بآخر. ويجب اتخاذ تدابير خاصة لحماية عمال القطاعات الشديدة الخطورة، مثل التعدين والزراعة والبناء والطاقة والمجال العسكري والتصنيع ومعالجة النفايات وغيرها، من التعرض للمواد السمية.

المبدأ ٢ – تتحمل المؤسسات التجارية مسؤولية منع وقوع التعرض المهنى للمواد السمية.

9٧- تتحمل مؤسسات الأعمال التجارية مسؤولية، تندرج في العناية الواجبة المتوقعة منها، تقتضي "منع [و] تخفيف" التأثيرات التي تمس بحقوق الإنسان، بما في ذلك حقوق العمال، بسبب التعرض للمواد السمية (١٩٠٠). ويدخل ضمن هذه المؤسسات أصحاب العمل والمكلفون بالمشتريات وموردو المواد السمية وغيرهم. وفي حالة التعرض المهني لمواد سمية، تشمل "التأثيرات" التي تتحمل المؤسسات التجارية المسؤولية المتعلقة بما التعرض للمواد السمية والتأثيرات الصحية الضارة. وتستدعي هذه المسؤولية التحسين المستمر لظروف العمل وتمتد لتشمل التأثيرات المتعلقة بحقوق الإنسان ذات الصلة من خلال علاقات العمل وسلاسل التوريد، سواء في الداخل أو في الخارج، وطوال دورات حياة منتجاتها(٠٠٠).

⁽٦٨) المبادئ التوجيهية بشأن الأعمال التجارية وحقوق الإنسان، المبادئ ١ و ٤ و ١٥.

⁽٦٩) المرجع نفسه، المبدأ ١٥.

Global Sustainability Standards Board, Global Reporting Initiative, *GRI 403: Occupational* (۷۰)

. Health and Safety 2018

٠٨- ويشكل منع وقوع تجاوزات حقوق الإنسان هدفاً أساسياً ومدخلاً إلى جهود التخفيف في سياق إجراءات العناية الواجبة (١٧٠). ولمنع وقوع تأثيرات تمس بحقوق العمال، تقع على المؤسسات التجارية مسؤولية تقتضي أولاً وقبل كل شيء منع التعرض للمواد السمية من خلال إزالتها من منتجاتها ومن عمليات الإنتاج إلى أقصى حد ممكن. وإذا لم يكن بالإمكان التخلص من المخاطر، ينبغي للمؤسسات التجارية أن تطبق بصرامة وعلى نحو منهجي التسلسل الهرمي لإجراءات السيطرة على المخاطر لمنع وقوع التعرض للمواد السمية، مع استخدام معدات الوقاية الشخصية كملاذ أخير. وفي حال تعذر تجنب التعرض للمواد السمية حتى بعد تطبيق التسلسل الهرمي لإجراءات السيطرة على المخاطر، وجب على المؤسسات التجارية التخفيف من الآثار الصحية للتعرض.

المبدأ ٣ - إزالة مصادر الخطورة أمر حاسم في منع وقوع حالات التعرض المهني للمواد السمية.

٨١- ينبغي للدول أن تُدرج التسلسل الهرمي لإجراءات السيطرة على المخاطر في تشريعاتها لمنع تعرّض العمال للمواد السمية بقدر الإمكان. وينبغي أن تحرص على أن تكون هذه القوانين والسياسات ذات منحى تحوطي في الممارسة نظراً إلى أن مستوى اليقين العلمي يظل متدنياً في كثير من الأحيان. وكجزء من تشريعات السلامة والصحة في المجال المهني، يجب على الدول إجبار المؤسسات التجارية على إزالة مصادر الخطورة حيثما أمكن وتطبيق التسلسل الهرمي لإجراءات السيطرة على المخاطر حيثما تعذرت إزالة مصدر الخطورة.

المبدأ ٤ - للعمال الحق في عدم التعرض للمواد السمية دون موافقتهم المستنيرة المسبقة.

٨٢ يشمل الحق في العمل المأمون والملائم للصحة حق العمال في عدم التعرض للمواد السمية دون موافقتهم المستنيرة المسبقة. وللعمال الحق في أن يتجنبوا الأوضاع التي قد يتعرضون فيها للمواد الكيميائية السمية وغيرها من المواد الخطرة التي يعتقدون استناداً إلى مبرر معقول أنها تشكل مصدر خطورة.

٨٣- وينبغي للدول احترام وحماية وإعمال حق العمال في ألا يتعرضوا للمواد السمية بدون موافقتهم المستنيرة المسبقة. وينبغي للدول أن تراعي بوضوح هذا الحق في قوانينها، وأن تحقق في أي انتهاكات مزعومة وتعاقب مرتكبيها حسب اللزوم وتصدق على اتفاقيات منظمة العمل الدولية. وينبغي أن تدرج الدول عدم امتثال المؤسسات التجارية للمبدأ المذكور أعلاه في تعريفها للعمل القسري و/أو الرق المعاصر و/أو الاستغلال.

2/4 ويتحمل أصحاب العمل مسؤولية إعلام العمال على نحو كامل والحصول على موافقتهم قبل تعريضهم للمواد السمية. وينبغي لأصحاب العمل احترام هذا المبدأ والحق بصرف النظر عن استعداد الدولة لسن القوانين اللازمة. وينبغي أن يكون أصحاب العمل قادرين على إثبات أهم قد أعلموا جميع العاملين والمتعاقدين من الباطن والموردين بهذا الحق وأن ثمة آليات أو إجراءات تتيح لهؤلاء النأي بأنفسهم عن ظروف العمل غير المأمونة أو غير الملائمة للصحة. ولا ينبغي أن يشكل غياب مثل هذه الآليات أو الإجراءات عقبة أمام ممارسة هذا الحق.

⁽٧١) المبادئ التوجيهية بشأن الأعمال التجارية وحقوق الإنسان.

المبدأ ٥ - واجبات ومسؤوليات منع تعرض العمال للمواد السمية أمر يتجاوز الحدود الوطنية.

٥٨- ينبغي اعتبار نقل الأعمال الخطرة عبر الحدود الوطنية إلى البلدان ذات المستويات الأدبى من الحماية شكلاً من أشكال الاستغلال إذا لم تُتخذ تدابير معقولة لحماية العمال.

- ٨٦ ويقع على الدول التزام باتخاذ تدابير معقولة لمنع حالات تعرض العمال للمواد السمية التي تقع خارج أراضيها والتي تؤدي إلى انتهاك الحقوق السارية بسبب أنشطة كيانات تجارية يمكن للدول ممارسة رقابة عليها وتوقعها على نحو معقول (٢٧١). وينبغي للدول أن تطلب من هذه الكيانات التجارية أن تولي العناية الواجبة لتحديد ومنع التجاوزات التي قد ترتكبها الشركات الفرعية والموردون وشركاء الأعمال الآخرون.

٧٨- وتتحمل المؤسسات التجارية مسؤولية عواقب حالات تعرض العمال للمواد الخطرة التي تتسبب فيها أو تساهم فيها أو ترتبط بها^(٧٧). وتقع على المؤسسات التجارية مسؤوليات طوال دورة حياة منتجاها، من الاستخراج إلى التخلص النهائي منها، وبما يشمل كافة المستويات العمودية لسلاسل التوريد الخاصة بها. وتقع على عاتقها مسؤولية تقتضي أن تضمن، إلى جانب مورديها، في الداخل والخارج، اعتماد ممارسات جيدة من قبيل التسلسل الهرمي لإجراءات السيطرة على المخاطر من أجل منع التعرض للمواد السمية في سياق دورات حياة منتجاها وعملياها وخدماها.

المبدأ ٦ - يجب على الدول منع الأطراف الثالثة من تحوير الأدلة العلمية أو التلاعب بالعمليات الإجرائية لإدامة التعرض للمواد السمية.

٨٨- يجب على الدول أن تمنع، من خلال التشريع أو تدابير أخرى، المؤسسات التجارية والأطراف الثالثة الأخرى من تحوير الأدلة العلمية أو التلاعب بالعمليات الإجرائية بصورة متعمدة على نحو يضر بصحة العمال وسلامتهم. فحماية الصحة العامة تمثل استثناءً مشروعاً من حرية التعبير. ويجب أن يكون بالإمكان فرض عقوبات جنائية حيال ارتكاب المؤسسات التجارية والجهات الفاعلة الأخرى سوء تصرف من هذا القبيل.

المبدأ ٧ - حماية العمال من التعرض للمواد السمية خطوة تحمي أسرهم ومجتمعاتهم المحلية والبيئة.

٩٨- تنطوي حماية العمال من التعرض للمواد السمية على فوائد أوسع للمجتمع. وينبغي للدول أن تدرك الطبيعة المتآزرة لحماية العمال من التعرض المهني للمواد السمية وحماية البيئة. وينبغي أن تأخذ قوانين وسياسات حماية صحة الإنسان من المواد الخطرة بعين الاعتبار، في جملة أمور أخرى، مسألة التعرض المهني والبيئي للمواد السمية. وينبغي أن تضمن الدول التعاون الفعال بين السلطات المسؤولة عن العمل والصحة العامة والبيئة.

⁽٧٢) اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٢٤ (٢٠١٧) بشأن التزامات الدول بموجب العهد الدولي الخاص بالحقوق الاقتصادية والاجتماعية والثقافية في سياق الأنشطة التجارية، الفقرات ٣٠-٣٠.

⁽٧٣) المبادئ التوجيهية المتعلقة بالأعمال التجارية وحقوق الإنسان، المبدأ ١٣.

باء المبادئ المتعلقة بالمعلومات والمشاركة والتجمع

• ٩- يتيح الحق في المعلومات والحق في المشاركة والحق في حرية التعبير والحق في تكوين الجمعيات، فضلاً عن الحق في الانضمام إلى النقابات والحق في المفاوضة الجماعية، منع انتهاكات حقوق الإنسان وتجاوزاتها الناشئة عن تعرض العمال للمواد السمية. وعلاوة على ذلك، يشكل الإعمال التام للحق في المعلومات خطوة ضرورية لإعمال حق العمال في الانتصاف الفعال من الآثار الضارة للتعرض للمواد السمية.

المبدأ ٨ - لكل عامل الحق في الاطّلاع، بما يشمل الاطلاع على حقوقه.

90- لكل عامل الحق في الاطلاع على المعلومات الراهنة المتعلقة بتعرضه الفعلي والمحتمل للمواد السمية وغيرها من المواد الخطرة. ويجب أن تكون معلومات الصحة والسلامة في السياق المهني متاحة وفي متناول العمال على نحو يخدم احتياجاتهم بفعالية، مع مراعاة مهاراتهم وظروفهم، وأن تُبلّغ لهم من خلال التدريب وغير ذلك من الوسائل الأخرى (A/HRC/30/40). ويجب على الدول وأصحاب العمل ومؤسسات الأعمال أن تبلغ معلومات الصحة والسلامة بكفاءة، بما يشمل نتائج الفحوص الطبية، إلى العمال والنقابات وغير ذلك من ممثلي العمال.

٩٢- ومن واجب الدول استخلاص وجمع وتقييم وتحديث المعلومات المتعلقة بمصادر الخطورة والمخاطر التي يواجهها العمال، فضلاً عن الأدلة الوبائية للأمراض والإعاقات المهنية (المرجع نفسه).

97 وتتحمل المؤسسات التجارية مسؤولية تحديد وتقييم تعرض العمال بصورة فعلية أو محتملة للمواد الخطرة الموجودة في سلاسل التوريد الخاصة بها والناتجة عن أنشطتها (المرجع نفسه). ويشمل ذلك المعلومات المتعلقة بأنواع المواد الخطرة الموجودة في البيئات المهنية وخطورتها المبطنة والبيانات المتعلقة بالتعرض لها. وتقع على موردي المواد الكيميائية مسؤولية مضاعفة في تحديد وتقييم المعلومات المتعلقة بالحماية وإبلاغ العاملين وأصحاب العمل والمؤسسات التجارية الأخرى والدول بها(٤٠٠).

96- وإضافة إلى الحق في الحصول على المعلومات المتعلقة بالمخاطر الصحية المهنية، للعمال أيضاً الحق في أن يطلعوا على جميع حقوقهم وواجبات ومسؤوليات الدول والمؤسسات التجارية ذات الصلة بهذه الحقوق، وعلى كيفية ممارسة حقوقهم والدفاع عنها عندما تُتجاوز أو تُنتهك.

المبدأ ٩ - يجب ألا تكون معلومات الصحة والسلامة المتعلقة بالمواد السمية أبداً محاطة بالسرية.

90- يقع على الدول واجب التأكد من مشروعية الادعاءات التي تفيد بأن معلومات المواد السمية هي معلومات تجارية سرية أو أسرار تجارية (المرجع نفسه). ويجب ضمان سرية السجلات الطبية الشخصية، مثلما يجب عدم استخدامها للتعتيم على المشاكل الصحية الناشئة في مكان العمل. وينبغي أن تضمن الدول تطبيق عقوبات جنائية على المؤسسات

⁽٧٤) اتفاقية منظمة العمل الدولية بشأن المواد الكيميائية.

التجارية والجهات الفاعلة الأخرى التي لا تكشف عن معلومات الصحة والسلامة. ويجب على أصحاب العمل وموردي المواد الكيميائية أن يذكروا بوضوح في سياساتهم أنهم لا يطبقون السرية على هذه المعلومات.

المبدأ ١٠ - لا يمكن فصل الحق في عمل مأمون وملائم للصحة عن حرية تكوين الجمعيات، والحق في المفاوضة الجماعية.

97- تمثل حرية تكوين الجمعيات والاعتراف الفعلي بالحق في المفاوضة الجماعية حقين أساسيين في مجال العمل ينطبقان على جميع الناس في جميع الدول بصرف النظر عن مستوى التنمية الاقتصادية (٥٠). وبدون حرية تكوين الجمعيات، بما في ذلك تشكيل النقابات، والحق في المفاوضة الجماعية، لن يتاح للعمال هامش يذكر للدفاع عن حقهم في العمل المأمون والملائم للصحة وغير ذلك من حقوق الإنسان. ولكي يتسنى الوفاء بالتزامات حقوق الإنسان وتحقيق هدف التنمية المستدامة، يجب إشراك أصحاب الحقوق وتعزيز مشاركة العمال على نطاق النظام برمته (٢٠).

9٧- ويقع على الدول التزام بحماية وتعزيز واحترام وإعمال الحق في حرية تكوين الجمعيات والحق في المنظيم والحق في المفاوضة الجماعية من خلال التشريعات والأنظمة والسياسات الفعالة. ويجب عليها ضمان أن يتمكن كل شخص من ممارسة الحق في حرية تكوين الجمعيات في مكان العمل من دون تمييز (٧٧).

٩٨- وينبغي أن تفي المؤسسات التجارية بالتزاماتها حيال احترام حق العمال في حرية تكوين الجمعيات والتنظيم والمفاوضة الجماعية. ويجب على الدول أن تؤدي دورها القاضي بمنع انتهاك هذه الحقوق من جانب المؤسسات التجارية والأطراف الأخرى أو بوضع حد له.

المبدأ ١١ - يجب حماية العمال وممثلي العمال والمبلغين عن المخالفات والمدافعين عن حقوق الإنسان من الانتقام والتهديد بالانتقام.

٩٩ - يساعد تمكين أصحاب الحقوق، لا سيما أولئك الأكثر عرضة للخطر، من الدفاع عن حقوقهم الدولَ على الوفاء بالتزاماتها بموجب قانون حقوق الإنسان ويعزز مبدأ المساءلة والحق في المعلومات وسبل الانتصاف الفعالة، من بين أمور أخرى.

• ١٠٠ ولكي يتمتع العمال بحقهم في العمل المأمون والملائم للصحة، يجب أن يتاح لهم ولممثليهم إمكانية إثارة مخاوفهم أمام أصحاب العمل وزملائهم في العمل والوكالات الحكومية دون خوف من الانتقام. ويجب أن يكون العمال، والمبلغون عن المخالفات، والمدافعون عن حقوق الإنسان في منأى عن الترهيب والتهديدات وغيرها من الأعمال الانتقامية في سياق ممارسة حقوقهم والدفاع عن حقوق ضحايا التعرض المهني للمواد السمية وغيرها من المواد المحلود أو الأشخاص الذين قد يصبحوا ضحايا لذلك.

⁽٧٥) إعلان منظمة العمل الدولية بشأن المبادئ والحقوق الأساسية في العمل (١٩٩٨).

⁽٧٦) اتفاقية السلامة والصحة لمنظمة العمل الدولية.

⁽٧٧) مثلاً، على أساس نوع العمل أو الاستخدام، أو طبيعة مكان العمل، أو المؤسسة أو القطاع، أو الهجرة، أو غير ذلك من الأسباب.

١٠١- وينبغي ألا يستخدم أبداً التهديد بفقدان فرص العمل أو الدخل كورقة ضغط عند محاولة التوصل إلى اتفاق بشأن حماية حق العمال في العمل المأمون والملائم للصحة. ويشمل ذلك ما قد يصدر عن أصحاب العمل من تقديد بنقل الوظائف إلى الخارج.

١٠١- وينبغي أن تتزود الدول ببرامج وطنية لحماية المدافعين عن حقوق العمال وأن تتخذ الإجراءات التأديبية والمدنية والجنائية المناسبة إزاء أعمال الانتقام أو الترهيب أو التهديد بالانتقام ضد المدافعين. وينبغي للدول أن تعمل على إجراء استعراضات دورية مستقلة لبرامج الحماية الوطنية لتعزيز الفعالية في سياق حماية المدافعين عن حقوق العمال، بالتشاور مع العمال والمبلغين عن المخالفات والمدافعين، وكذلك النقابات العمالية ومنظمات المجتمع المدين التي تمثلهم.

جيم المبادئ المتعلقة بسبل الانتصاف الفعالة

7.١- يمكن أن يؤدي ضمان الوصول إلى العدالة وسبل الانتصاف الفعالة إلى تحفيز مؤسسات الأعمال التجارية على تطوير وتبني ممارسات أكثر أمناً تتخذها ضمن مسؤوليتها وتتراوح بين إيجاد بدائل أقل خطورة واعتماد ضوابط هندسية للحد من التعرض للمواد السمية. وفي المقابل، يشكل عدم معاقبة بعض المؤسسات التجارية والجهات المستفيدة الأخرى، التي تؤدي تصرفاتها أو تقصيرها إلى تعرض العمال لمواد سمية، عائقاً أمام تحسين وضع عدد لا يحصى من العمال في جميع أنحاء العالم. ويمثل عدم قدرة السواد الأعظم من العمال ممن يقعون ضحايا للتعرض للمواد السمية على الوصول إلى سبل انتصاف فعالة عائقاً أمام انتقال ملايين العمال في جميع أنحاء العالم إلى ظروف عمل أكثر أمناً وملاءمة للصحة.

المبدأ ١٢ - ينبغي للحكومات تجريم السماح بتعريض العمال لمواد معروف أو ينبغي أن يكون معروفاً أنما خطرة.

١٠٤ ينبغي أن يكون بالإمكان فرض عقوبات جنائية لتسهيل المساءلة عن التزامات حقوق الإنسان ومكافحة الإفلات من العقاب.

٥٠١- وينبغي أن تضمن الدول أن تنص التشريعات الوطنية على المسؤولية الجنائية لأصحاب العمل وغيرهم من الأفراد والكيانات في تعريض العمال لمواد معروف أو ينبغي أن يكون من معروفاً أنها خطرة. وينبغي للدول التحقيق في مثل هذه القضايا وعرضها على القضاء، وضمان تحمّل رؤساء مؤسسات الأعمال التجارية المسؤولية إلى جانب الجهات الفاعلة الأخرى المتورطة عن علم أو بإهمال.

المبدأ ١٣ - يجب أن يتاح للعمال وأسرهم ومجتمعاتهم إمكانية الوصول الفوري إلى وسيلة انتصاف مناسبة وفعالة، تكون متاحة لهم من وقت التعرض للمواد السمية.

1.٦ - يقع الضرر على العمال المعرضين للسموم وتُتجاوز حقوقهم أو تنتهك في وقت التعرض لتلك المواد، ولا يبدأ ذلك فقط بعدما تظهر أعراض المرض أو العجز على العامل أو طفل العامل. فكمون الأمراض والإعاقات بعد التعرض للمواد السمية، الذي قد يمتد لسنوات أو حتى لعقود، يمكن أن يجعل وصول العديد من العمال وأسرهم إلى وسيلة انتصاف فعالة أمراً مستحيلاً.

۱۰۷ ويشمل الانتصاف المناسب والفعال الجبر الفوري للأضرار المتكبدة، والرعاية الصحية، والتعويض، وضمانات عدم التكرار، والتدريب الكافي لإعادة التأهيل وإعادة الإدماج، والترتيبات التيسيرية المعقولة (۸۷٪). ويشمل الانتصاف الفعال أيضاً تقديم المسؤولين عن التعرض للمواد السمية إلى العدالة.

١٠٨ ويقع على الدول واجب أساسي إزاء إعمال حق العامل في الوصول إلى سبيل انتصاف مناسب وفعال، بما في ذلك بموجب قوانينها. ويقع على الدول التزام بالتحقيق التلقائي في احتمال وجود انتهاكات واسعة النطاق بمجرد بلوغ عتبة دنيا وبالانخراط في التعاون الدولي في سياق اضطلاعها بذلك. وينبغي أن يكون هذا منفصلاً عن أي تحقيقات أو إجراءات تحركها الضحية بحثاً عن سبيل انتصاف فعال. وينبغي للدول أن تكفل وضع حد للظروف التي تؤدي إلى تعرض مهني للمواد السمية، بما يشمل إدخال تعديلات على القوانين والممارسات ذات الصلة، وحظر إنتاج واستخدام فئات معينة من المواد، ونشر ما يلزم من معلومات لمنع تكراره (انظر A/HRC/33/41)، الفقرة ٤٠). ويجب أن تكون العقوبات المفروضة محدية بما يكفي لحث المؤسسات التجارية والجهات الفاعلة الأخرى وتحفيزها على اتخاذ إجراءات احترازية لمنع تعرض العمال للمواد السمية ولتكون رادعاً يكفل عدم التكرار.

9 · ١ - وتقع على المؤسسات التجارية التي تتسبب في تعرض مهني للمواد السمية أو تساهم فيه أو لها صلة به مسؤولية استحداث إجراءات مُحكمة لتمكين العمال من الحصول في الوقت المناسب على وسيلة انتصاف مناسبة وفعالة.

المبدأ ١٤ - ينبغي ألا يتحمل العمال أو أسرهم عبء إثبات سبب مرضهم أو عجزهم للوصول إلى سبيل انتصاف فعال.

١٠٠ من شأن وضع عبء الإثبات على الأشخاص المتضررين من المواد السمية في العمل أن يشكل تحدياً هائلاً كثيراً ما لا تكون لهم طاقة به. وفي حال وجود معلومات تفيد بأن عاملاً قد يكون تعرض لمواد سمية في العمل وحيثما ثبت أن هذا التعرض يسبب ضرراً في حالات مماثلة، ينبغي أن تكفل الدول انتقال عبء الإثبات إلى صاحب العمل ليقيم الدليل على انعدام الضرر (٢٠٠). وقد يكون هذا مناسباً بصورة خاصة عندما تكون الوقائع والأحداث ذات الصلة بالبت في الادعاء كلياً أو جزئياً تحت السيطرة الحصرية لصاحب العمل أو طرف ثالث آخر.

111 - وليس من اللازم أن ترد المعلومات التي تفيد بأن العامل قد يكون تعرض لمواد سمية في شكل يبين مستويات التعرض أو يحدد المادة الكيميائية بدقة؛ ويمكن أن تتضمن معلومات تفيد بأنه من المعروف أن أمراضاً مهنية قد حدثت في نوع معين من العمل أو الصناعة. وينبغي السماح لصاحب العمل أو غيره من المستفيدين من الخدمات بمحاولة دحض افتراض المسؤولية، لكن العبء ينبغي أن يقع على صاحب العمل.

Promoting Diversity and Inclusion Through Workplace Adjustments: A Practical منظمة العمل الدولية، (۷۸) منظمة العمل الدولية، (۲۰۱٦).

⁽٧٩) في حال عدم وجود صاحب العمل أو عدم قدرته بصورة أخرى على تقديم انتصاف فعال إلى العامل، ينبغي أن يتاح سبيل آخر للتظلم.

- ١١٢ ويتمثل أحد التحديات الرئيسية المطروحة في حالة عمال سلاسل التوريد في عدم حيازة المؤسسة التجارية موارد كافية لتقديم سبيل انتصاف مناسب وفعال للعمال المتضررين. ويجب على الدول أن تضمن أن يكون المستفيدون من الخدمات مسؤولين أيضاً عن توفير سبل الانتصاف. وقد وضعت دول تشريعات تتناول الظروف التي تقدم فيها مؤسسة ما وتتيح فيها لمؤسسة أخرى – منافع من أي نوع تستمدها من استغلال العمال، الأمر الذي يمكن أن يشمل التعرض للمواد السمية (١٠٠٠).

المبدأ ١٥ - ينبغي للدول أن تطبق ولايتها الإقليمية في القضايا العابرة للحدود المتعلقة بالعمال المتضررين من التعرض المهني للمواد السمية.

9 / ١ - يواجه الضحايا ثمن تُتجاوز حقوقهم من جانب المؤسسات التجارية عقبات محددة في الوصول الفعال إلى سبل انتصاف فعالة إزاء تعرضهم المهني للمواد السمية. وتشمل التحديات إقامة الدليل على حدوث أضرار وإثبات الروابط السببية، فضلاً عن التكاليف المالية للوصول إلى الانتصاف في معظم الولايات الإقليمية وعدم استقلال بعض الأنظمة القضائية. ويقع على الدول واجب اتخاذ الخطوات اللازمة لمعالجة هذه التحديات من أجل منع إنكار العدالة وضمان الحق في الانتصاف الفعال لضحايا التعرض المهني للمواد السمية (١٨).

١١٤ وينبغي للدول أن تكفل أن تنص قوانينها على ولاية إقليمية تنطبق في حالات تعرض العمال للمواد السمية التي تحدث في الخارج. ويجب على دول الموطن تطبيق الولاية الإقليمية على مثل هذه التجاوزات التي ترتكبها الشركات، بما يشمل فرض عقوبات جنائية عند الاقتضاء. وتتطلب المساءلة الفعالة وإمكانية الوصول إلى سبل الانتصاف في الحالات العابرة للحدود تعاوناً دولياً يشمل فيما يشمله تدابير للوقاية والكشف عن المعلومات.

the United Kingdom Modern Slavery Act 2015, Part 1, sect. 3 (5) انظر مثلاً، (٨٠)

⁽٨١) اللجنة المعنية بالحقوق الاقتصادية والاجتماعية والثقافية، التعليق العام رقم ٢٤.

Mapping references to the rights of workers in previous reports and selected communications of the Special Rapporteur

For over 20 years, the Commission on Human Rights, and subsequently the Human Rights Council, have mandated a special rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (formerly the illicit movement and dumping of toxic and dangerous products and wastes) to monitor and report on the issues confronting workers in various industries around the world. These sectors include extractive industries, manufacturing, agriculture and food, the dismantling of end-of-life ships (shipbreaking) and the disposal of electronic waste and other forms of waste disposal, in both the formal and informal sectors. The present annex contains examples of cases brought to the attention of the mandate, selected from reports of and communications to the Special Rapporteur. It is envisaged that a more complete compilation will be submitted to the Council at future sessions.

Report	References to occupational exposures	Challenges faced by workers
"Legal framework related to the release of	The report contained an overview of previous reports that illustrate impacts of workers' exposure to toxic chemicals on human rights.	Inadequate standards of protection
toxic and dangerous products during armed conflict"	The former Special Rapporteur's report in 2004 highlighted the adverse impacts on the human rights of workers and communities involved in hazardous waste disposal or recycling operations of obsolete ships and electronic wastes in developing countries. ¹	Limited progress in prevention of exposure
(A/HRC/5/5, sect. III) (2007)	The 2006 report of the former Special Rapporteur focused on chronic, low-level exposure to hazardous chemicals. ² Previously the former Special Rapporteur reported on the human rights impact of hazardous chemicals from acute exposures, such as in the context of incidents of pesticide poisoning in developing countries or from catastrophes like the Bhopal disaster.	Disconnected efforts on occupational and environmental
	In the 2007 report the former Special Rapporteur drew attention to the adverse effects of toxic and	health
	dangerous products in the context of armed conflicts, including on soldiers.	 Opaque supply chains and the transfer of hazardous work
		• Exploitation of those most at risk

¹ E/CN.4/2004/46 and Corr.1, paras. 29–43.

² E/CN.4/2006/42.

Report	References to occupational exposures	Challeng
"Mission to Ukraine"	In relation to workers, the former Special Rapporteur was informed that workers handling toxic	• M
(A/HRC/7/21/Add.2) (2008, mission carried out in 2007)	material (acid tars) were not informed of the materials toxicity and would unload the acid manually. These tars observed to be in partially exposed conditions around the grounds of Dobrotvir power station, posing threats of exposure to the workers, their families and the communities living around the area.	• Fa
"Adverse effects on human rights and right to information and participation" (A/HRC/7/21, sect. III) (2008)	The former Special Rapporteur noted that, because of structural conditions in many developing countries, women and the young are particularly at risk from transfers of toxic and dangerous products and wastes. Women, children and the young are often among the poorest and therefore likely to work in polluting industries and scavenge dumps of waste for reusable materials. They are also most likely to have limited access to information on waste products and to health facilities in the event of contamination. The former Special Rapporteur called for greater global attention to the gender and age dimensions of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.	 Exthe Father Operation Operation And the contract of the contract
"Mission to the United	During a country visit to Tanzania in 2008, the former Special Rapporteur observed that workers	• In

Republic of Tanzania" (A/HRC/9/22/Add.2)

did not use safety equipment such as gloves, dust masks, boots and glass retorts in the course of extracting and processing gold. He was particularly concerned because dangerous chemicals, mercury and cyanide, were used in the extraction process. Most of these were artisanal and smallscale miners (ASM) in the informal sector.

The former Special Rapporteur was informed that there were instances of miners not receiving adequate information on the impact mercury can have on their health. In other cases, however, local miners were sensitized through efforts made by the Government, non-governmental organizations and through projects such as the Global Mercury Project, launched by UNIDO and the Ministry of Energy and Minerals with the support of other stakeholders. Some workers informed the former Special Rapporteur that they were aware of the dangers of using mercury and other chemicals in the extraction process; however, due to poverty and the lack of a suitable alternative, the miners were forced to continue to use mercury and other dangerous products without supervision, endangering the health of themselves, their children and their community more broadly.

The former Special Rapporteur was concerned about the number of women and children he saw during his visits to the artisanal and small-scale mining areas. Many of the women and children were unaware of the health and safety hazards that are associated with artisanal and small-scale mining, such as mercury poisoning in the long term, amongst others. It was the case that during the processing of gold, ore is moved to the milling centres by women and children. In addition to working in harsh environments, often exposed to direct sunlight and not able to afford safety equipment, the women were sometimes subjected to threats and intimidation by other members of

- nges faced by workers
 - Monitoring and enforcement gaps
 - Failures to realize the right to information
- Exploitation of those most at risk
- Failures to realize the right to information
- Opaque supply chains and the transfer of hazardous work
- Inadequate standards of protection
- Limited progress in prevention of exposure
- Exploitation of those most at risk
- · Failures to realize the right to information
- · Opaque supply chains and the transfer of hazardous work
- · Monitoring and enforcement gaps
- Informal economy

the community, especially if they were migrants.

The presence of child labour in mining was attributed to poverty. Children were documented working in artisanal and small-scale mines in order to help the family and supplement total household income in order to buy basic goods and food. In Tanzania, child labour in the mining sites was described as common from the age of 10. The former Special Rapporteur saw children working and playing with their bare hands with toxic mercury, a particularly dangerous state of affairs as they are vulnerable to physical and chemical hazards. Mercury can cause severe damage to the developing brain, especially for developing children. The former Special Rapporteur was particularly concerned that children as young as 10 were being exposed to such highly toxic substances.

The former Special Rapporteur regretted the lack of statistics on occupational diseases related to mining. The former Special Rapporteur was informed by the authorities, non-governmental organizations and mining associations that there was no system of recording mining-related incidents, such as accidents that occur during the processing of gold amongst others. This was particularly worrying given the fact that artisanal and small-scale miners are often some of the poorest people and are therefore unlikely to have access to health-care. The former Special Rapporteur was further informed that while many miners were aware of the toxicity and dangers of mercury poisoning as well as other chemicals that may be harmful to their health, the miners and communities do not know when deaths and illnesses are related to their work, or to other illnesses.

Communications sent to and replies received from Governments

(see A/HRC/7/21/Add.1, Germany, Malaysia) (2006) On 17 July 2006, the former Special Rapporteur sent an urgent appeal regarding allegations relating to the SS Blue Lady (ex-Norway) bearing tonnes of toxic wastes such as asbestos, polychlorinated biphenyls (PCBs) and other contaminants in its structure, and which was reportedly waiting to be dismantled in Alang, state of Gujarat, India. The ship was reportedly denied entry to ship breaking yards in Bangladesh in February 2006 based on its toxic waste content. It was alleged that the ship-breaking yards in Alang lacked the possibility of protection of workers from exposure to toxic chemicals and environmentally sound management of toxic wastes. According to reports from experts, as much as 1,200 tonnes of asbestos remained in the SS Blue Lady, posing grave risks to workers and the community. The former Special Rapporteur expressed concerned with the potential human rights violations that could occur if the allegations mentioned in this communication were correct and the dismantling of the ship did indeed take place.

"Shipbreaking"
(A/HRC/12/26) (2009)

Shipbreaking represents an important source of raw material supply and provides jobs to tens of thousands of persons. Over 95 per cent of a ship can be recycled. In principle the recycling of end-of-life vessels constitutes the best option for ships that have reached the end of their operating life, and proper facilities are available to recycle ships. However, the abhorrent working

- Monitoring and enforcement gaps
- Exploitation of those most at risk
- Informal economy
- Opaque supply chains and the transfer of hazardous work
- Failures to realize the right to information
- Inadequate standards of protection
- Monitoring and

Report References to occupational exposures

Challenges faced by workers

conditions and abysmal environmental protections prevailing at many shipbreaking yards in the world, and in particular in South Asian countries where ships are dismantled directly on tidal beaches, are noted to risk adversely affecting the enjoyment of several human rights, including the right to life, the right to the highest attainable standard of physical and mental health, and the right to safe and healthy working conditions, among others.

The report notes with concern the ongoing use of these substandard shipping yards, and their unsustainable "beaching" practice, by major shipping companies around the world despite the availability of safer methods and the prohibition on such substandard practices in their home states.

In shipbreaking yards, workers often are exposed to toxic chemicals including asbestos dusts and fibres, highly toxic industrial chemicals which have been banned for decades but are still present in ships, as well as lead, mercury, arsenic or cadmium in paints, coatings and electrical equipment. Workers are often without protective equipment to reduce exposure. Prolonged exposure to these chemicals increases the risk of developing slow-progressing but fatal diseases, which may not become apparent until many years after exposure.

Shipbreaking activities expose workers to a wide range of workplace activities or conditions which may cause death, permanent or temporary disabilities, injuries, ill-health and occupational diseases. Long-term exposure to hazardous substances and wastes protection may also lead to serious or irreversible work-related diseases, including lung diseases, several forms of cancer and asbestos-related illnesses. Most workers are illiterate, very poor and are not aware of the health and safety risks associated with long-term exposure to these substances. Persons living in residential areas close to the yards also risk developing diseases related to the exposure to toxic and dangerous substances produced during shipbreaking activities.

Furthermore, a great number of workers die or are seriously injured because of work-related accidents or occupational diseases related to long-term exposure to hazardous materials present on end-of-life ships. Workers do not usually receive any information or safety training. They live in makeshift facilities which often lack basic minimum requirements such as sanitation, electricity and even safe drinking water, compounding health risks of toxic exposures at work. There is a general lack of medical facilities and social protection, and injured workers or their relatives hardly receive any compensation for work-related accidents resulting in fatal injuries or permanent disabilities. In spite of an increased international awareness on the issue in past years, shipbreaking continues to be one of the most hazardous occupations in the world due to the extremely poor working practices and environmental conditions prevailing in many shipbreaking yards.

Health and safety legislation is often not applicable to shipbreaking activities, due to the fact that it is not recognized as an industry in some countries, and this leaves workers in shipbreaking yards in a particularly vulnerable situation. Furthermore, when national labour standards are applicable, they are rarely enforced due to corruption of law enforcement officials and the lack

enforcement gaps

- Opaque supply chains and the transfer of hazardous work
- Inaccessible remedies, justice and accountability
- Disconnected efforts on occupational and environmental health
- Failures to realize the right to information
- Limited progress in prevention of exposure
- Exploitation of those most at risk
- Restrained freedom of association
- Deliberate efforts to delay or obstruct protection from toxic exposure
- · Informal economy

of effective inspection mechanisms. In many shipbreaking yards, workers are not provided with personal protective equipment (PPE), such as skin, eye or lung protection, aimed at ensuring the safe handling of hazardous materials or preventing the inhalation of toxic substances. Appropriate PPE for working in specialized areas, such as respiratory protective equipment for work in conditions where there is a risk of oxygen deficiency, is also generally not available. There is usually no equipment for machine safety, fire safety, chemical safety and water safety, and when such equipment exists, it is poorly maintained. With a few exceptions, the vast majority of workers do not receive any information on the hazards or risks to health and safety, nor do they receive any training on how to minimize risks to health and safety at work.

Due to the informal nature of working arrangements, workers are not covered by social protection schemes, and do not receive any benefit in case of injury, sickness, temporary or permanent disability in the case of occupational accidents or diseases. Injured workers or relatives of deceased workers receive hardly any compensation for work-related accidents resulting in fatal injuries or permanent disabilities. When compensation is paid, the amount received is generally much lower than the amount stipulated by the law. In case of accidents, employers usually pay for first treatment and immediate medical expenses, but not for long-term medical treatment or for expenses linked to chronic work-related diseases. If a worker is affected by an occupational disease, he is often unable to retain or find further employment opportunities in any of the yards.

There is no written contract of employment for semi-skilled and unskilled workers. They can be fired at any time with no prior notice, and without the need to indicate any reasonable ground. The absence of job security, due to the lack of formal work contracts, and the climate of intimidation prevailing in the yards de facto prevent workers in shipbreaking yards from exercising their right to form trade unions for the promotion and protection of their economic and social interests and their right to collective bargaining.

Semi-skilled and unskilled workers usually live in makeshift facilities built by yard owners on, or just outside, the yards. The shacks are often congested, and lack basic sanitation facilities, electricity and even drinking water. Workers are too often not provided with proper cooking or eating facilities in the yards, and are compelled to go to nearby shops and tea stalls for their food. Due to their proximity to the yard, workers continue to be exposed to toxic and dangerous substances like asbestos and hazardous fumes at their sleeping quarters.

There are no comprehensive statistical data on persons who died or developed disabilities as a result of occupational accidents in the shipbreaking industry. The authorities rarely keep records on accidents occurring at shipbreaking facilities. In Bangladesh, for example, neither the yard owners nor public authorities appear to collect statistical data about deaths and disabilities caused by accidents at shipbreaking yards. According to media reports, more than 400 workers were killed and 6,000 seriously injured between 1985 and 2005 in Bangladesh, but NGOs estimate that at least 1,000 people have died in Chittagong due to accidents over the last decades. When official figures exist, they appear to be largely underestimated. According to official figures, for example, there were 434 incidents at the Alang yards between 1996 and 2003, killing 209 workers;

however, NGOs feared that that the number of workers who died or developed disabilities as a result of work accidents may be much higher.

Through the adoption of various unfair practices, employers often conceal information about work-related accidents. Many major cases are not reported and settlements are reached with the workers secretly. In case of fatal accidents, families of the victims are usually not informed, as contractors do not use proper names or addresses of the workers and there is no monitoring or inspection of the yards.

Official and estimated figures do not include workers who died of occupational diseases related to long-term exposure to toxic and hazardous wastes and materials: the "hidden" deaths. It is virtually impossible to get any data about the number of affected workers, since the symptoms of many of these occupational diseases only appear several years after exposure, but it is estimated that a significant number of individuals died, and many others will die in the future, because of occupational diseases related to shipbreaking activities. For example, a medical study submitted to the Indian Supreme Court in September 2006 concluded that 16 per cent of the workforce handling asbestos in Alang showed symptoms of asbestosis, and was therefore at serious risk of developing mesothelioma in the future.

In relation to workers' rights, the former Special Rapporteur encouraged States to take steps to improve their regulatory and enforcement capacities in the field of labour law and worker safety, health and welfare, so as to strengthen the protection afforded to persons employed in the shipbreaking industry. States were also encouraged to eliminate obstacles which de facto prevent workers in shipbreaking yards from exercising their freedom of association and right to collective bargaining, and set up an effective and reliable system of labour inspections, with the participation of workers' representatives. Shipbreaking States should also take immediate steps, to the maximum of their available resources, with a view to realizing fully the right of workers to social security in the event of accidents and occupational diseases. Yard owners should take all appropriate measures, when needed through State support and international assistance and cooperation, to improve health and safety at work (inter alia by providing adequate personal protective equipment and safety training), promote better health care, housing and sanitation facilities for workers, and develop appropriate mandatory insurance schemes to protect workers in the event of accidents and occupational diseases.

In relation to data collection, the former Special Rapporteur urged ship-recycling States and yard owners to collect disaggregated statistical data on an annual comparative basis on workers who die or develop disabilities as a result of work-related accidents or occupational diseases, and make these data publicly available.

Activities"

(A/HRC/15/22) (2010)

"Review of the Work and The former Special Rapporteur reminded the Council of the extremely poor working practices and environmental conditions prevailing in most shipbreaking yards would continue to require the attention of the mandate holder. The former Special Rapporteur was of the view that the Convention alone is not sufficient to bring about significant improvements in the working practices prevailing in shipbreaking yards or in the elimination of the serious environmental

- Inadequate standards of protection
- · Monitoring and

Challenges faced by workers

References to occupational exposures

pollution that the yards generate.

Electronic and electrical appliances contain hundreds of different substances, many of which are highly toxic and pose significant risks to human health and the environment if they are not managed and disposed of in an environmentally sound manner. In developing countries, the vast majority of obsolete electrical and electronic equipment is dismantled in small-scale, informal workshops that separate their various components (i.e. plastic, ferrous metals, non-ferrous metals, glass) for recycling or reuse. During the process of breaking down old computers and other hightech devices, workers are exposed to hazardous substances, including toxic heavy metals such as lead, cadmium, beryllium and mercury, hazardous chemicals, such as brominated flame retardants, and other toxic plastic additives. Furthermore, unusable parts are usually disposed of in landfills or burned, causing widespread and long-lasting contamination of soil, air and surface and groundwater resources.

The report notes with concern the problems posed by pesticides in developing countries, due to the large number of persons employed in the agricultural sector, weak or non-existent regulatory regimes and little public awareness of the potential health and environmental harm caused by pesticide exposure. It is reported that as many as 25 million agricultural workers suffer serious or irreversible work-related diseases, including several forms of cancer, endocrine system disruption and reproductive and neurological disorders, linked to long-term exposure to hazardous pesticides.

Lead in paint was noted as a major source of lead exposure of workers and others. Inhalation of lead-contaminated house dust is the most common exposure pathway to lead-based paint for children and adults alike. However, residential renovation and paint removal can be significant sources of lead exposure for construction workers as well as residents. Dry sanding, abrasive blasting, and burning, welding, or heating surfaces covered with lead paint typically generate highly dangerous airborne lead levels.

"Mission to Kyrgyzstan" (A/HRC/15/22/Add.2) (2010)

High unemployment rates, decreases in living standards and lack of social protection force a large number of individuals to leave their villages to search for employment opportunities and a better standard of living abroad. About 400,000 citizens leave the country every year. Most choose to migrate, both legally and illegally, to Kazakhstan and the Russian Federation, where they are at risk of occupations.

Risks to agricultural workers from obsolete, prohibited or poor quality pesticides, such as DDT manufactured in China, were noted with concern. Such highly hazardous pesticides reportedly continued to be illegally imported into, and exported out of, the country due to the lack of adequate controls at the borders with China and Tajikistan. Such highly hazardous pesticides were noted as being frequently unlabelled, or are labelled with information that farmers or agricultural workers cannot read either because they are not in the worker's local language or because of insufficient literacy.

Studies showed accumulation of highly toxic mercury in various tissues and parts of the body

- enforcement gaps
- Exploitation of those most at risk
- Informal economy
- Opaque supply chains and the transfer of hazardous work

- Exploitation of those most at risk
- Inadequate standards of protection
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(hair, blood, urine) of workers and other persons analysed. Maximum levels were registered among workers employed in the mercury plant. High concentrations of mercury were also observed in children's blood and in the milk of nursing mothers. Although no comprehensive study was then carried out to assess the extent of mercury contamination, elevated mercury concentration, often exceeding maximum allowable concentration norms, have been recorded in air and water resources in areas surrounding large enterprises that are currently producing or had produced mercury in the Batken and Osh oblasts.

Information on chemical products sold in the country should be available, accessible, user-friendly, adequate and appropriate to the needs of all stakeholders. People handling hazardous chemicals, such as farmers and employees in the chemical or energy sector, should receive appropriate information and training on such chemicals and their intrinsic properties, and on how to use them in ways that minimize adverse health consequences.

"Mission to India" (A/HRC/15/22/Add.3) (2010) The purpose of the visit was to examine the progress made, and the difficulties encountered, by the country in implementing its obligations under human rights and environmental law to ensure the sound management and disposal of hazardous products and wastes. In particular, the aim of the mission was to gather first-hand information on the adverse effects that hazardous activities, such as shipbreaking and the recycling of electrical and electronic waste (e-waste), have on the enjoyment of human rights of the countless individuals working in these sectors or living close to the places where these activities take place.

Despite some progress noted, the former Special Rapporteur identified a number of key challenges. National legislation on waste management and health and safety at work was not effectively implemented, and the current institutional framework appeared inadequate to respond to the challenges posed to worker and others by the generation, management, handling, transport and disposal of toxic and dangerous products and wastes. The health and safety situation prevailing at the shipbreaking yards continued to remain critical, especially in Mumbai, where the working conditions and the quality of facilities remain highly inadequate for guaranteeing health and safety at work and an adequate standard of living for those employed in the shipbreaking sector.

Shipbreaking was noted to be of grave concern, noting that during the dismantling process, workers are exposed to a wide range of hazardous workplace activities, such as entry into confined, enclosed or other dangerous atmospheres, paint removal, oil/fuel removal and tank cleaning, which may cause death, permanent or temporary disabilities, and injuries. Furthermore, long-term exposure to toxic and hazardous substances and materials which may be present on ships sent for dismantling, such as asbestos, polychlorinated biphenyls (PCBs), heavy metals in paints, oils and oil sludge, may lead to serious or irreversible work-related illnesses and diseases, including lung diseases, several forms of cancer and asbestos-related illnesses.

At the time of the former Special Rapporteur's visit, the 128 yards that were operational provided employment to about 30,000 workers. In addition, over 500,000 workers were employed in associated downstream industries, such as re-rolling mills, foundries, scrap-handling yards, local goods stores and other small businesses.

- Inadequate standards of protection
- Monitoring and enforcement gaps
- Opaque supply chains and the transfer of hazardous work
- Exploitation of those most at risk
- Failures to realize the right to information
- Limited progress in prevention of exposure
- · Informal economy
- Restrained freedom of association
- Inaccessible remedies, justice and accountability

Most of the shipbreaking workers at Alang/Sosiya and Mumbai were migrant workers coming from poorer, less industrialized states of the Union, such as Uttar Pradesh, Orissa and Bihar. Many workers would go back to their villages for three to four months a year, usually during the monsoon season, to work in agriculture, likely exposed to a different type of occupational toxic substances. It was a largely uneducated workforce, relatively young (19-45 years old) and mostly male. Most of the workers are either illiterate or have attended primary levels of schooling. A large percentage of workers are married, but only 20 per cent of them live with their families.

The former Special Rapporteur noted the development of training opportunities for some workers. The Safety Training and Labour Welfare Institute, established in 2003 in Alang, provided a number of training programmes, seminars and workshop aimed at raising awareness on the risks associated with ship-dismantling activities and on the measures to adopt to minimize such risks. From 2003 to 2009, some 49,000 workers participated in training activities at the Institute. The "basic safety for all" programme was compulsory for all workers in the yards. The former Special Rapporteur also noted the progressive introduction and use of basic PPEs, such as helmets, gloves and goggles, reportedly contributing to the reduction in the number of serious accidents resulting in death or disabilities. The Special Rapporteur welcomed the efforts made by the local authorities and the shipbreaking industry to improve the health and quality of life of workers and their families in Alang/Sosiya.

Notwithstanding these positive developments, the health and safety situation prevailing at the shipbreaking yards continued to remain critical, as witnessed by the 12 fatal accidents that occurred in Alang/Sosiya during the course of 2009, and there are a number of identifiable shortcomings which need to be addressed. The former Special Rapporteur was particularly concerned about the quality of infrastructure facilities in Mumbai, which continue to be highly inadequate for guaranteeing health and safety at work and an adequate standard of living for those employed in the shipbreaking sector.

The informal nature of shipbreaking activities hampers the effective implementation of national labour standards aimed at guaranteeing job security and just and favourable conditions of work. There is no written contract of employment. Workers were hired either on a monthly basis or for a specific task on a vessel. They regularly change plots, depending on the arrival of ships and workload. Workers were paid monthly, usually at the daily rate. The average daily rate is 250 rupees a day (about US\$ 5). Working hours are from 8 a.m. to 5 p.m., but reportedly there is a two-hour compulsory overtime every day until 7 p.m. in most yards. Workers can be fired at any time with no prior notice and with no reasonable ground.

The former Special Rapporteur considered that the absence of a written contract of employment, and the possibility of dismissal overnight, are at the core of the vulnerability of shipbreaking workers, and de facto prevent the full and effective enjoyment of the core labour rights enshrined in articles 6, 7 and 8 of the Covenant.

With a few exceptions, the vast majority of the workforce in Mumbai do not receive any information on the hazards or risks to health and safety, nor do they receive any training on how

to avoid or minimize them. With regard to safety training, the former Special Rapporteur was of the view that existing training opportunities in Alang/Sosiya should be improved, considering the magnitude of the risks associated with shipbreaking activities and the hazardous substances workers are potentially exposed to. In Mumbai, workers do not receive any formal training from their employers, which makes them more prone to serious accidents and injuries. As far as PPEs are concerned, the former Special Rapporteur regrets that not all the workers in Mumbai receive helmets, gloves and goggles, and that only a fraction of them actually use them during work.

Due to the informal nature of working arrangements, workers are not covered by social protection schemes, and do not receive any benefit in case of work-related injuries or diseases. The compulsory insurance that the industry is required to have covers only death and permanent disabilities. In cases of minor accidents, employers usually pay for first aid and immediate medical expenses, but not for long-term medical treatment or for expenses linked to chronic work-related illnesses. Workers do not usually receive any wages or benefits when absent from work on medical grounds.

Health facilities in Alang/Sosiya do not possess sufficient human, technical and financial resources to provide any treatment other than first aid for minor injuries. The nearest hospital equipped to deal with life-threatening conditions is in Bhavnagar, more than 50 kilometres away. The Red Cross hospital in Alang, which the former Special Rapporteur visited, can count on only four medical doctors and nine beds to provide health care not only to some 30,000 workers in the yards, but also to the neighbouring villages of Alang (which has a population of about 18,000 people) and Sosiya (4,000 people). In Mumbai the situation is even worse, with no permanent facilities except first aid and ambulance services.

The former Special Rapporteur notes with concern that most workers, but reportedly also a number of yard owners, are not aware of the serious life-threatening work-related diseases which may result from long-term exposure to toxic and hazardous substances and materials present on end-of-life ships. In particular, it appears that the majority of the workforce and the local population do not know the adverse consequences of prolonged exposure to asbestos dusts and fibres and are not familiar with the precautions that need to be taken to handle asbestoscontaining materials.

The former Special Rapporteur also reported on the situation of workers handling electronic waste (e-waste). The term "e-waste" is generally used to describe obsolete, broken or discarded appliances using electricity, such as computers, mobile phones and household appliances. E-waste may contain a number of hazardous substances, which can be released in the workplace and in the surrounding environment during the separation and recovery process.

At the time, it appeared that only 3 to 5 per cent of e-waste is recycled in authorized recycling facilities. The vast majority of electrical and electronic equipment (EEE) was collected, dismantled and processed in the informal sector by some 80,000 workers, including women and children, who earn their livelihood by breaking down old computers and other high-tech devices to recover precious metals such as gold, copper and silver. The work is done largely by hand,

- Inadequate standards of protection
- Limited progress in prevention of exposure
- Monitoring and enforcement gaps

using rudimentary techniques. Workers recovering glass by hammering cathode ray tubes or heating PCBs to remove capacitors are a common sight in most workshops dismantling e-waste. Workers did not use any protective gear to guard against hazardous substances released during the breaking of obsolete EEE. The Delhi area is the main hub for informal recycling of e-waste in India, with about 25,000 workers engaged in the various stages of the process. The recycling business is based on a network of collectors, traders and recyclers. Each phase of the process adds value to the materials and creates job opportunities for a great number of people. The e-waste market was not centred in one main area, but spread around different zones, each handling a specific stage of the process (for example storage, component separation, plastic shredding, acid processing/leaching, open burning and residue dumping).

At the time, legislation on waste management has not proved effective in informal sectors, and was regarded as not providing sufficient protection for the estimated 80,000 persons working in the informal e-waste recycling sector and their families. The failure to incorporate the informal sector into Government strategies on the sound management and disposal of e-waste constitutes, in the former Special Rapporteur's view, a violation of the obligations undertaken by the State under articles 6, 7 and 11 of the International Covenant on Economic, Social and Cultural Rights. The former Special Rapporteur is concerned about the extremely dangerous recovery processes and techniques used in the informal e-waste recycling sector and their adverse effects on the right to health of those employed in small-scale informal workshops. Such health-threatening practices include the physical breaking of hazardous components, open-air incineration and acid leaching to extract gold and copper, and the melting of lead. Most of these activities involve physical dismantling by bare hands and basic tools. Workers were observed to not use any protective gear to prevent exposure to the hazardous substances contained in EEE; indeed, most of them possessed very little or no knowledge of the risks associated with the handling of these hazardous substances or the precautions to use to minimize their adverse health effects.

"Medical Waste"
(A/HRC/18/31) (2011)

Each type of hazardous medical waste presents hazards that jeopardise the enjoyment of human rights by workers and others. The 2011 thematic report contained several examples of the adverse impact that the improper management and disposal of medical waste continue to have on the enjoyment of human rights in many countries.

All individuals exposed to health-care waste are potentially at risk of being injured or infected, including medical staff: doctors, nurses, sanitary staff and hospital maintenance personnel; workers in support services linked to health-care facilities such as laundries, waste-handling and transportation services; and workers in waste-disposal facilities, including scavengers.

While all persons exposed to hazardous medical waste are at risk of health impacts, the main occupational groups at risk include hospital personnel, workers handling and transporting waste, persons working at waste disposal facilities, and scavengers. In many developing countries, nurses and (to a lesser extent) doctors do not receive adequate information on the hazards associated with the unsafe handling of hazardous medical waste, nor do they receive any training on how to eliminate, or reduce to a minimum, such hazards. Medical personnel often receive

- Exploitation of those most at risk
- Opaque supply chains and the transfer of hazardous work
- Disconnected efforts on occupational and environmental health
- Informal economy
- Failures to realize the right to information

- Inadequate standards of protection
- Exploitation of those most at risk
- Failures to realize the right to information
- Limited progress in prevention of exposure
- Monitoring and

health

environmental

limited instructions on the use of personal protective equipment, and are not aware of safety emergency procedures for dealing with spillages (for example, when mercury-containing equipment breaks) and accidents. In some health-care establishments, staff members are not vaccinated against common infectious diseases, such as tetanus and hepatitis. Hospital cleaners and waste handlers are in an even more vulnerable position than the medical staff that produce the waste. An increasing number of them are employed by external contractors rather than being directly employed by the hospital, and may not receive any information on the occupational risks to which they are exposed and on the correct procedures for handling, loading and unloading waste bags and containers. They are often poorly educated, and often do not receive any vaccinations or proper personal protective equipment. Disposable latex gloves may be provided, but they are usually thin and offer little protection. In many health-care establishments, it is not uncommon to see medical waste being transported by hand in bin bags, risking spills of toxic or infectious liquids, or staff injuries from protruding needles or other sharp objects.

Like hospital cleaners and waste handlers, operators of small-scale medical waste incinerators, garbage collectors and people working in municipal waste facilities, where large amounts of medical waste are mixed and disposed of with general household waste, are unlikely to receive proper training on the risks associated with the handling of hazardous medical waste or protective clothing, including gloves against needle-stick injuries. They do not usually receive any vaccinations against common infectious diseases.

Untreated medical waste can reach the recycling industry by a number of routes. In many developing countries, where hospitals have no recycling programmes, staff at healthcare facilities often sell medical waste to waste recyclers in order to supplement their incomes. This practice allows for the reuse and recycling of a large amount of non-hazardous hospital materials, such as empty bottles and containers or aluminium from vial caps. Other materials, such as syringes, blood bags or laboratory waste, are, however, extremely hazardous, and the practice puts whoever processes these products at risk. Waste recyclers usually have no formal education and possess very little or no knowledge of the risks associated with the handling of hazardous substances or the precautions to adopt to minimize their adverse health effects. They usually use no protective gear to prevent them from exposure to the hazardous substances contained in medical waste.

Medical waste is also sought out by scavengers, who put themselves at great risk by collecting it. In some countries, scavengers are often seen in hospital grounds, while others collect waste from municipal dumps or at illegal landfills. In December 2007, for instance, a large number of scavengers, mainly children, were suspected to have contracted hepatitis C as a result of needlestick injuries during the collection of used syringes and other clinical waste for recycling. Even in countries where there is less of a recycling industry, the practice of mixing medical waste with ordinary garbage exposes scavengers to a number of infectious diseases, such as hepatitis and tetanus, and to physical risks associated with the handling of infected needles and broken glass.

Information on the hazards associated with the handling of hazardous medical waste, access to training opportunities on the safety procedures to minimize hazards, and proper personal

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protective equipment were noted to constitute essential preconditions for the enjoyment of the right to safe and healthy conditions of work. In many health-care establishments around the world, the lack of adequate waste management plans to ensure the safe and environmentally sound segregation, collection, transport, treatment and disposal of medical waste continue to expose a significant number of people from a wide range of occupations to the risk of injury and illness.

The report notes that WHO has elaborated a number of policy, management and advocacy tools to minimize the risks that the improper management of health-care waste pose to health-care workers, patients, waste handlers, the community at large and the environment, and to facilitate the establishment and sustained maintenance of a sound system of health-care waste management.

In most developing countries and economies in transition, the lack of adequate technical resources for the safe and sound management of health-care waste, the limited funding for health-care waste management and the inadequate awareness of the direct and indirect risks posed by health-care waste constitute the main obstacles to the development of a comprehensive regulatory framework on health-care waste management and to its effective implementation.

The former Special Rapporteur recommended that States strengthen their legal framework on hospital hygiene and occupational health and safety, and provide adequate human, technical and financial resources to national authorities responsible for its enforcement. He also recommends that health authorities organize educational programmes and training opportunities to raise awareness about health, safety and environmental protection issues relating to medical waste management.

In view of the fact that persons working within and outside health-care establishments often receive limited information and training opportunities on the occupational risks to which they are exposed and on the correct procedures for handling waste in a safe manner, the former Special Rapporteur urged relevant national health authorities to include waste management in the curricula of future medical practitioners and nurses, to provide appropriate information on the occupational risks to which medical and paramedical staff may be exposed, and to organize training opportunities on safe health-care waste management for staff handling medical waste.

The former Special Rapporteur called on health-care establishments to take all appropriate measures to improve health and safety conditions for those handling medical waste in and outside health-care establishments. Such measures should include: (a) Access to information on the specific occupational risks to which different categories of workers are exposed, and the safety measures to minimize such risks; (b) The provision of appropriate personal protective equipment for persons handling hazardous health-care waste; (c) Access, on a voluntary basis, to vaccination against such common infectious diseases as tetanus and hepatitis; (d) The organization of training opportunities and safety workshops designed for and targeting different categories of hospital personnel (such as medical doctors, nurses, hospital cleaners and waste handlers); (e) Regular drills in emergency prevention, preparedness and response procedures.

References to occupational exposures

Challenges faced by workers

The former Special Rapporteur recommended a number of principles be taken into account while drafting and implementing such health-care waste management plans, some of which relate to the protection of workers in the healthcare sector from exposure to hazardous substances and wastes:

Prevention/minimization of hazards — The former Special Rapporteur called on States, healthcare facilities and the private sector to take all appropriate measures, including educational programmes and improved production processes, to ensure that the generation of hazardous medical waste is reduced to a minimum. Hospitals should, whenever feasible, replace hazardous chemicals/products (for example, mercury-containing devices) or disposable instruments (such as scissors and kidney dishes) with alternative products or reusable products. Prescription practices should also be changed so that unnecessary injections in cases where effective oral medical is available may be avoided.

Packaging and labelling — The use of internationally recognized symbols and signs is essential to ensure the safe handling of hazardous waste. A common system of labelling and coding of packaging should be used in all health-care establishments and be part of the waste management instructions for hospital workers who handle hazardous waste. Medical waste should be packaged in resistant and sealed bags or containers to prevent spilling during handling and transportation. If shipped abroad for treatment, medical waste should be labelled in accordance with international agreements (such as the Basel Convention).

Handling, transportation and storage — Medical waste should be handled and transported in such a way as to prevent unnecessary exposure to staff and others. Handling and transportation should be minimized to reduce the likelihood of exposure to the waste. Medical waste should be held in storage areas that are identified as containing infectious waste. Such areas should always be fitted with a lock in order to prevent access by unauthorized persons.

"Mission to Poland" (A/HRC/18/31/Add.2) (2011)

The former Special Rapporteur noted with concern that national authorities responsible for monitoring compliance with national legislation including in relation to health and safety at work frequently lacked adequate human, technical and financial resources to carry out their monitoring functions adequately. Small and medium enterprises were inspected only once every four years, and only big industrial and agricultural enterprises were subject to more regular controls. The former Special Rapporteur recommended that Poland allocate adequate human, technical and financial resources to the various agencies responsible for enforcing and monitoring compliance with national legislation on environmental protection, waste and chemicals management, and health and safety at work.

The former Special Rapporteur shared the concerns expressed by the Committee on Economic, Social and Cultural Rights that that Poland had not at the time taken the necessary measures to ensure that the Covenant is given full effect in its domestic legal order. In this regard, the Special Rapporteur noted that some of the economic and social rights enshrined in the Constitution, including the right to safe and healthy working conditions and the right to a healthy environment, could not be directly invoked before national courts and tribunals.

- Inadequate standards of protection
- Monitoring and enforcement gaps
- Failures to realize the right to information
- Limited implementation of ILO instruments

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> The former Special Rapporteur noted that Poland was not a party to a number of ILO conventions on health and safety at work, and called on the Government to consider ratifying these conventions, in particular the Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155) and the Convention concerning the Prevention of Major Industrial Accidents, 1993 (No. 174).

"Human rights and **Extractive Industries**"

(A/HRC/21/48) (2012)

The report surveys the human rights impacts to workers engaged in mining from exposure to hazardous substances. Mining is considered one of the world's most dangerous occupations. Workers are exposed to intense heat, toxic substances and fumes, unstable geological structures and intense sounds. Inadequate safety protocols in the handling, storing and disposal of toxic substances are contrary to international human rights treaties protecting the right to safe and healthy working conditions. For example, more significant health effects have been found among uranium miners who are exposed to high levels of radon. A well-known and potentially fatal respiratory disease affecting extractive industry workers is coal worker's pneumoconiosis, or black lung disease, which causes the lungs to inflame and stiffen from scarring. Another potentially debilitating and fatal outcome of exposure to coal dust is silicosis. Disturbingly, up to 12 per cent of coal miners develop these two deadly diseases.

Despite increasing global consensus of the dangers of mercury, the former Special Rapporteur expressed concern that miners and their families are still exposed to this hazardous substance and neurotoxin; miners in Brazil, Colombia, Guyana, Indonesia, the Philippines, United Republic of Tanzania and Zimbabwe were recorded with mercury levels of up to 50 times above the limits set by the World Health Organization (WHO).

A study by the National Institute for Occupational Safety and Health (NIOSH) and the National Cancer Institute of the United States of America showed a direct relationship between diesel exhaust and lung cancer. Underground miners are exposed to over 100 times the background concentrations of diesel exhaust, and the use of diesel-fuelled equipment is growing in the mining community. Not surprisingly, the study found that underground miners, who have the greatest exposure to diesel exhaust, have a higher lung cancer mortality rate than surface miners, as well as elevated oesophageal cancer and pneumoconiosis.

In most cases, children working in extractive industries constitutes one of the worst forms of child labour. The 2012 report notes ILO estimates that one million children worldwide are involved in mining and quarrying, and often with little or no pay; UNEP estimates put that number at between one million and two million. Children as young as 3 years work in dangerous conditions which expose them to hazardous substances, including mercury, lead and cyanide. The mines are often too remote to have regular labour inspections, and they do not have unionized workers, resulting in the so-called "frontier communities" where traditional social structures of society and ethical value systems have broken down.

Mercury intoxication has been called an epidemic among children working in gold mines. The report notes that one-fifth of the children covered by an International Labour Organization (ILO) survey reported having a health problem since they took up gold mining, primarily aches in limbs

- Inadequate standards of protection
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- Informal economy

Impacts on maternal health from exposure to hazardous substances, especially during the already immune-challenged gestation period, was also noted. The former Special Rapporteur expressed alarm at the discovery of elevated mercury levels in the breast milk of mothers in several countries. He expressed concerned that this may diminish the rights of infant children, reduce the practice of breastfeeding and increase the likelihood for women of diseases associated with exposure to these substances.

The report notes how women experience the impacts of artisanal and small-scale mining(ASM) differently, either because of their sex — their biological characteristics as a female —, but more often because of their gender — their sociocultural definition as women. The former Special Rapporteur emphasizes that due to the harmful effects of mercury on the female reproduction function, international human rights law requires States parties to put in place preventive measures and programmes to protect women of childbearing age from mercury exposure.

The former Special Rapporteur expressed concern about the extent of child slavery and child labour in the mining and quarrying industries and the impact on children as they face the same risks as adults, but lack the strength and judgment to protect themselves from sexual, moral, social and physical harm, including death and injuries resulting in disabilities. Poverty, lack of access to education, insufficient or non-existent legal frameworks, trafficking and debt bondage have been identified as root causes, manifestations and aggravating factors that lead to child slavery in the mining and quarrying sector. The former Special Rapporteur observed that unaccompanied minors are more likely to be exposed to harmful substances for want of parental protection in already exploitative environments.

The report notes several International Labour Organization (ILO) conventions concern the occupational hazards facing workers in extractive industries.³

Despite the robust and varied protection offered by the ILO conventions, the former Special Rapporteur stressed what he considered their three primary shortcomings. First of all, the lack of widespread ratification (ranging from 6 to 57 countries) of these conventions means that global commitment to the full extent of the standards articulated is difficult.

Secondly, implementation remains a substantial problem in States that have ratified some or all of these conventions. Indeed, several States parties to Convention No. 169 fail to adequately consult indigenous peoples prior to development and promotion of an extractive undertaking, despite the requirement under the Convention to establish or maintain procedures for consultation with affected indigenous communities, "with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands" (art. 15, para. 2). With regard to asbestos extraction, Convention No. 162 has been somewhat successful in reducing asbestos extraction and consumption around the world from an estimated 4.73 metric tons in 1980 to about 2.11 metric tons in 2003. However, despite the adoption of the resolution concerning asbestos in 2006, which endorsed the "elimination of future use of asbestos," extraction and use of asbestos remains alarmingly high (in some cases, production has increased), including in countries that have ratified the Convention.

Thirdly, the obligations contained in the conventions are often inadequate to address the problems related to hazardous wastes. For example, Convention No. 169 only requires consultation with affected indigenous and tribal peoples in decision-making on the extraction of natural resources and only provides for compensation for damage from harms caused by such extraction rather than mitigation, which could be accomplished through a robust free, prior and informed consent

³ Convention No. 148 concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration states that, "as far as possible, the working environment shall be kept free from any hazards due to air pollution, noise or vibration."33 • Convention No. 155 concerning Occupational Safety and Health and the Working Environment requires parties to establish a coherent national policy on occupational safety and health in order to improve working conditions. • Convention No. 162 concerning Safety in the Use of Asbestos obligates States parties to prescribe measures to protect workers from exposure to asbestos, including partial or total bans on future asbestos use, and thus its extraction; proper asbestos waste disposal; inspection and monitoring procedures of working conditions; and providing information on the hazards of asbestos to workers. • Convention No. 170 concerning Safety in the Use of Chemicals at Work compels States parties to protect workers from exposure to hazardous chemicals. Employers in States parties to the Convention are obligated to classify and identify hazardous chemicals so as to ensure that workers are not exposed to hazardous chemicals in excess of exposure limits, and to minimize risk. • Convention No. 174 concerning the Prevention of Major Industrial Accidents obligates States parties to "formulate, implement and periodically review a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents" (art. 4) and "establish a comprehensive siting policy arranging for the appropriate separation of proposed major hazard installations from working and residential areas and public facilities" (art. 17). • Convention No. 176 concerning Safety and Health in Mines establishes standards for all mining operations, excluding oil and gas extraction. Parties to the convention must consult with representatives of employers and workers to formulate a policy on safety and health in mines consistent with the minimum standards set out in the Convention. 34 • Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries recognizes the need for special safeguards of the rights of indigenous peoples to the natural resources, including mineral or sub-surface resources, pertaining to their lands, including the right to participate in the use, management and conservation of these resources and in the benefits of their extraction, 62.

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procedure. Likewise, the other conventions mentioned above contain critical qualifiers to obligations based on "national conditions and practice" which can result in reduced standards in some countries on the grounds that they lack the resources to meet obligations under one or more conventions.

report"

(A/HRC/24/39) (2013)

"Preliminary and scoping The report notes that, unlike most other areas of international environmental law, there is neither a framework Convention nor a comprehensive global regime on the regulation of toxic chemicals and wastes. Fewer than 30 of thousands of toxic substances are regulated through their lifecycle under international conventions.

> The report notes that the impact of substances on human health and the environment can be reduced by limiting or prohibiting the use of these substances in certain industrial processes, where substitutes or alternative processes exist. These restrictions were first designed to protect the health of workers. For example, the ILO adopted a Convention prohibiting the use of certain pigments of lead in industrial paint to prevent the exposure of workers to the risk of lead poisoning. In 1971, another Convention was adopted by the ILO to restrict the use of benzene or products of benzene in certain industrial activities, while demanding the replacement of these carcinogens produced by less harmful substitutes.

"Mission to Hungary" (A/HRC/24/39/Add.1) (2013)

In Hungary, when a reservoir containing red sludge collapsed, the most serious immediate effects were caused by the high alkalinity (pH 13+) of the sludge. The people of Devecser and Kolontár experienced serious first- and second-degree chemical burns to the skin; respiratory problems were also documented. In addition, the health of some 4,000 volunteers and rescue workers were similarly affected. The former Special Rapporteur attached great importance to the issue of occupational health during rescue operations, and reiterated the recommendation of WHO that personal protective equipment should be selected on the basis of the hazards identified, the protective qualities of the equipment and its suitability for the tasks performed. The former Special Rapporteur was concerned by information he received indicating that there are no special protocols for the rescue of children, the elderly, persons with disabilities or other persons in need of protection in the training programme developed for disaster management forces in Hungary.

The former Special Rapporteur recommended that the Government of Hungary: (a) Consider accession to the Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal and to contribute to its entry into force; (b) Consider ratifying the ILO Chemicals Convention, 1990 (No. 170) and the Prevention of Major Industrial Convention, 1993 (No. 174) to strengthen the framework for occupational safety. The former Special Rapporteur also recommended among other measures that the Government of Hungary in the mining law place emphasis on provisions that provide for meaningful engagement with affected communities and for the safety of workers, especially those dealing with harmful substances; and ensure that impact assessments use reliable baseline studies for both environmental contaminants and human health conditions, and are carried out by competent authorities to ensure an environmentally sound reflection of the impact of

- Inadequate standards of protection
- Disconnected efforts on occupational and environmental health
- Limited implementation of ILO instruments
- Inadequate standards of protection
- Monitoring and enforcement gaps
- Exploitation of those most at risk
- Disconnected efforts on occupational and environmental health
- Failures to realize the right to information
- Limited implementation of **ILO** instruments

contaminants on the environment and human health of proposed developments.

"Right to information on hazardous substances and waste"

(A/HRC/30/40) (2015)

The Special Rapporteur's report describes the rights of workers and others in relation to right to information. The report contains obligations of States and responsibilities of business enterprises in relation to the right to information. It clarifies that information on hazardous substances should be available, accessible and functional for everyone, consistent with the principle of non-discrimination, in order for States to meet their human rights obligations and businesses their corresponding responsibilities.

The Special Rapporteur noted with concern that workers are exposed to above-average levels of hazardous substances, with regular reports of inadequate training and adverse health impacts from preventable accidents and occupational exposure. The Special Rapporteur also noted the right of workers to remove themselves from situations they believe are hazardous, which is contingent on information about the known and unknown risks of the substances to which they are exposed.

The reports notes that in order to protect those most at risk, States must ensure that disaggregated information is available and accessible regarding the risks of hazardous substances to various population groups, such as workers, children or pregnant women. Similarly, the information should be monitored and disaggregated by sex and population group, such as workers in industries with exposure to hazardous substances, low-income communities, indigenous peoples or minorities, or other groups who are at high risk of adverse impacts. In addition, States must ensure information flows effectively to communities at risk to enable them to be aware of risks and options to prevent harm.

Disaggregated information on adverse effects linked to hazardous substances, such as cancer, can help to identify those at risk of disproportionate impacts, and help to provide an effective remedy. In addition, bio-monitoring initiatives can also help to provide disaggregated information, for example on hazardous substances in mother's breast milk passed onto children.

To help overcome the challenge of making information accessible to workers and others at risk, a long-standing tool nationally and internationally is classification and labelling. These laws help to ensure businesses, workers and the public have access to information about the risks associated with hazardous substances in the workplace. To this end, States have pledged to implement "hazard communication mechanisms",⁴ such as the Globally Harmonized System of Classification and Labelling of Chemicals, and to use safety data sheets. Training of workers is required for these tools to work effectively.

Failures to realize the right to information

Report

References to occupational exposures

"Impact of Toxics and Pollution on Children's Rights"

(A/HRC/33/41) (2016)

The illegal use of banned pesticides and toxic chemicals, as well as of counterfeit products, continues to be a major problem globally, a serious threat to children of the workers affected, to communities and to consumers. Tens of millions of children are engaged in hazardous work. where they are often exposed to toxic chemicals. For example, children around the world continue to work in artisanal and small-scale mines, where they are exposed to mercury and other toxic chemicals. The United Nations Children's Fund (UNICEF) has estimated that 40,000 children toil in mines, extracting a known carcinogen (cobalt) to be used in cell phones, laptop computers and cars by companies that undoubtedly have resources for human rights due diligence. Children working in agriculture continue to use hazardous pesticides despite the bans on such products in several countries, raising questions of double standards and discrimination.

Childhood exposure to toxics occurs without the child's (or parent's) consent. Even if a parent were somehow able to identify every product and possible source of exposure to toxics that might harm their child, they are often powerless to do anything about it, particularly when it involves food, water or air pollution. Young children lack the physical and/or mental ability to vocalize opinions and understand the dangers and potential consequences of toxics until long after harm has been inflicted. This, for example, is why children are not allowed to buy cigarettes or alcohol until a certain age in many countries and are prohibited from working in hazardous conditions.

As parents' exposure to toxic chemicals can affect the development of the child, this is inextricably linked to the realization of several rights of the child. Cases of children born with disabilities because their mothers worked with toxic chemicals before or during pregnancy, or harmed by toxic residues brought into the home from work ("take-home exposures") by their parents or others illustrate the importance of protecting not only women and girls of reproductive age, but the population at large.

Examples of addressing certain sources of exposure to toxics by young children include the European Union directive on the safety of toys, which prohibits the presence of substances in toys that are classified as carcinogenic, mutagenic or toxic for reproduction, and United States legislation to protect children working on tobacco farms from toxic pesticides. 101 Globally, a new treaty on mercury pollution holds promise, but only addresses one element of a much larger problem. States and businesses still have a long way to go.

The importance of upstream prevention is illustrated by the case of children working in cobalt mines in the Democratic Republic of the Congo. Reports describe children in Indonesia and Peru poisoned by mercury and suffering from birth defects due to small-scale gold mining. Companies that purchase or invest in such commodities have a responsibility to ensure that child rights are not violated as a result of their demand.

At the tail end of industrial activity, children are far too often found working at toxic waste dumps, burning plastics and cables to recover and recycle precious metals. Electronic waste (ewaste) is of particular concern. Children, sometimes as young as five, are involved in manual dismantling and burning of electronic products at e-waste sites in Africa, Latin America and Asia. Some are described as being among the most polluted places on earth. Infants living near waste

- Challenges faced by workers
 - Inadequate standards of protection
 - Limited progress in prevention of exposure
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- Exploitation of those most at risk
- Deliberate efforts to delay or obstruct protection from toxic exposure
- · Opaque supply chains and the transfer of hazardous work
- Disconnected efforts on occupational and environmental health
- Failures to realize the right to information
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- Informal economy

disposal sites, due to their hand-to-mouth behaviour, are among the most vulnerable groups, as soils and dusts are generally contaminated with lead and other toxics. In Latin America, many of these recycling and recovery operations take place in communities, not in clearly defined waste dumps. Children are found with record levels of toxic chemicals in their bodies at such waste sites. Young girls, still developing and approaching the age of reproduction, work as collectors or vendors in highly toxic environments, At La Chureca in Managua, Nicaragua, approximately half of all waste pickers were less than 18 years old. 134 In Guiyu, China, about 80 per cent of children suffer from respiratory diseases, and there has been a surge in cases of leukaemia and concentrations of lead in blood are high.

The Special Rapporteur offered various recommendations to stakeholders to protect the rights of the child from toxic chemicals, including that:

States should eliminate work by children where they are exposed to toxics and ensure safer alternative employment, and monitoring of children affected. States should ensure that children affected receive the necessary treatment and compensation. States should also ensure that women and girls of reproductive age are guaranteed protection from occupational exposure to toxics and the substitution of toxics with safer alternatives as the primary means of prevention;

International organizations should integrate the problem of toxic chemicals, pollution and waste into the work of their organization, based on their respective competencies, and monitor and report on the issue; and increase efforts to reduce the exposure of children and women of reproductive age to toxic chemicals, particularly of child workers and those living in high-risk situations.

"Mission to Republic of Korea"

(A/HRC/33/41/Add.1) in 2015)

During the mission, the Special Rapporteur examined the rights of workers who may develop diseases or other injuries on account of their exposure to hazardous substances. Workers in the Republic of Korea have the right to a healthy workplace.

(2016, mission carried out The report notes a long history of illness among workers in the electronics sector as a result of exposure to toxic chemicals. For example, a study of nearly 32,000 workers at IBM between 1969 and 2001 showed that "male manufacturing workers were around 60-80 per cent more likely to have died from cancers of the kidney, skin, brain and central nervous system". Given the prominent role of electronics in the Republic of Korea in recent decades, the Special Rapporteur paid close attention to how the Government and businesses were protecting and respecting the human rights of workers in the electronics sector to a safe and healthy workplace.

> In the electronics industry, chemical substances are used in the manufacture of devices, including in displays, semiconductor chips, casings and batteries and other component materials. There is a significant likelihood that workers may be exposed to hazardous substances, which can lead to serious health impacts such as cancer, infertility, birth defects, respiratory illness and disruption of hormone (endocrine) systems. Former workers in the electronics industry in the Republic of Korea began to be diagnosed with leukaemia around 2005. Yumi Hwang, a former Samsung Electronics employee, died of acute myeloid leukaemia in March 2008. She was diagnosed 20

- Inadequate standards of protection
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Challenges faced by workers

months after she began working, at the age of 19, as an operator in production line No. 3 at the Samsung Electronics Giheung Plant.

As of January 2015, more than 350 former workers in the electronics industry, of which approximately 130 have died, had alleged that they had developed various diseases. Victims had suffered from cancer, including lymphoma, malignant brain tumours, myelogenous leukaemia and non-Hodgkin's lymphomas, as well as aplastic anaemia, reproductive abnormalities and other health impacts. All former workers described to the Special Rapporteur were young females, including several in their early twenties. With many female workers of childbearing age, the alleged victims extend to the children of former workers. For example, the Special Rapporteur heard from a mother who had been pregnant during her employment and subsequently given birth to a child with birth defects. The Special Rapporteur heard testimony from former Samsung workers (all women) and their family members about tasks performed in the manufacture of semiconductor chips, such as dipping semiconductors into a chemical solution by hand to remove unnecessary parts and manually sorting and testing chips under high temperatures or voltages, releasing fumes. Former workers explained that they would still smell fumes from the workplace long after returning home. Neither the former workers nor the family members of the deceased could name the substances they had used in the workplace.

The former workers of Samsung Electronics also described the pressure that they worked under at the time to meet production targets. They explained that they were often in a state of chronic fatigue and stress due to their 12-hour rotating shifts, working six days a week in addition to preparing for regular mandatory exams outside of working hours (unpaid). They described the constant pressure placed on them to train and to pass tests to perfect their workmanship, along with pressures not to unionize and insufficient training on chemical safety.

Samsung would not disclose which substances were used during the time of employment of the alleged victims, claiming that it was confidential business information. Samsung explained that it does require suppliers to submit a letter of warranty that chemical formulas purchased do not contain hazardous substances. The Special Rapporteur reiterates that, under international laws, global policy frameworks and national law, health and safety information on hazardous substances should not be confidential.

Samsung Electronics claims no hazardous substances are used in its production processes. Information was not provided by the company to justify this claim, clarify the categorization of "hazardous" or to explain if and when changes to chemicals used in production processes were implemented.

There is strong evidence that hazardous substances are used in electronics manufacturing. Apple Inc. has stated that it has eliminated or plans to eliminate the use of certain hazardous substances in the production of its electronics. Of note, many of these substances were used in Apple's electronics supply chain during the period of employment of the alleged victims at Samsung Electronics. Also, Apple has stated that it has yet to phase out certain hazardous substances in power cords in the Republic of Korea due to an inability to obtain Government approval. The

Special Rapporteur is deeply concerned about the withholding of or failure to generate information about toxic chemicals in order to shield corporate liability.

In addition to the lack of transparency about hazardous substances used or released in the workplace, critical information about alleged victims was not disclosed by the Government, businesses or civil society to the Special Rapporteur. However, the Special Rapporteur had the opportunity to meet with several victims and victims' family members, Samsung Electronics, the Mediation Committee, and members of the Government. As of May 2016, Samsung Electronics claimed it had compensated 110 former workers affected with the specified diseases and had physically presented apology letters from the chief executive officer to those subject to compensation. The Special Rapporteur understands there are concerns regarding how the compensation process adhered to the recommendations of the Mediation Committee and encourages all parties to increase transparency and participation in this regard.

Also in January 2016, Samsung Electronics reversed its previous position on "prevention". It agreed with other parties to establish a three-member Ombudsman Committee to conduct an audit of the efforts of Samsung Electronics relating to prevention and propose recommendations for improvement. The Special Rapporteur welcomes the establishment of the Ombudsman Committee, and looks forward to its implementation with both transparency and meaningful public participation by all stakeholders. The Special Rapporteur also welcomes the acceptance by SK Hynix of including miscarriage and infertility in the scope of the agreement of what would be considered for compensation, in line with safety in working conditions, including the safeguarding of the function of reproduction. As of January 2016, SK Hynix had identified and compensated 39 former workers.

The long path to resolving cases illustrates the considerable difficulty workers face in demonstrating a sufficient causal relationship to realize their right to an effective remedy for the impacts of toxic chemicals. For a disease to be recognized as an occupational disease under article 5 (1) of Industrial Accident Compensation Insurance Act by the Korea Workers' Compensation and Welfare Service, there must be a "proximate causal relationship" between the worker's duties and disease. Article 34 of the Enforcement Decree of the Industrial Accident Compensation Insurance Act stipulates the specific conditions, in particular, that "causal relationship between the work-related injury and the disease should be medically recognized".

In contrast to the strict standard applied by the Korea Workers' Compensation and Welfare Service pursuant to article 34 of the Enforcement Decree of the Industrial Accident Compensation Insurance Act, courts in the Republic of Korea take a more lenient approach to the issue of causation. The Supreme Court has ruled that the claimant has the burden of proving the causal relationship; however, the causal relationship need not be proven medically or scientifically but can be inferred from the consideration of various situational factors.

Consideration of all the circumstances, such as the health of the worker at the time of employment, possible explanations for the disease, whether any hazardous substances existed in the workplace and the amount of time the worker spent in the workplace, makes possible the

• Inaccessible remedies, justice and accountability

In 2014, the Seoul Administrative Court held that the deduction can be made that there is a proximate causal relationship between the former workers' diseases and their duties. The Supreme Court also said that the question of whether a proximate causal relationship exists should be judged on the basis of the health and physical conditions of the worker concerned and not an average person. Most recently, the Seoul Administrative Court reversed the decision of the Korea Workers' Compensation and Welfare Service and acknowledged ovarian cancer to be an occupational disease. It further stressed that, for rare diseases such as ovarian cancer, a more relaxed standard for assessing causality should be applied.

Noting the disparity among the Korea Workers' Compensation and Welfare Service industrial accident compensation scheme, decisions by courts in the Republic of Korea, and the dispute resolution committees established by Samsung Electronics and SK Hynix, the Special Rapporteur is concerned about the difficulty in accessing compensation under that scheme due to the high burden of proof imposed on the claimants. The Government's criteria for work-related diseases were revised in 2013. The Special Rapporteur emphasizes that States are obligated to refrain from interfering with the enjoyment of the right to social security. The burden upon the claimant to prove causation between the health impacts from which workers suffer and the hazardous substances in the workplace can be a significant inconvenience and obstacle, often because of difficulty in using or accessing information.

The Special Rapporteur sincerely commended Samsung Electronics for its spirit of cooperation, openness and continuing dialogue with him. He acknowledged internal changes by Samsung Electronics and steps taken to realize the right of former workers to an effective remedy, and recommended that Samsung Electronics and other implicated businesses, among other steps ensure that all former workers and contractors harmed by toxic chemicals in the manufacture of their products are indeed compensated, at a minimum according to recommendations of the Mediation Committee.

One major chemical accident affecting workers in the Republic of Korea was the hydrofluoric acid leak in Gumi, which occurred on 27 September 2012 at the Hube Global chemical plant, killing 5 workers and injuring 18 others, including plant employees and emergency personnel. The damage on property, including restoration costs, amounted to 55.4 billion won. Another accident took place at the Samsung Electronics plant in Hwaseong City, where hydrofluoric acid first leaked on 27 January 2013. As a result, one person died and four were injured. Subsequently, on 2 May 2013, three external contract workers were partially exposed to diluted hydrofluoric acid at Samsung's semiconductor manufacturing facility in Hwaseong City. The workers received immediate first aid attention on site and were admitted to hospital for further examination.

The Special Rapporteur welcomed the recent enactment of the Liability Act to help ensure that victims have access to an effective remedy, as well as legislative changes to prevent accidents. He also notes the studies and measures implemented by Samsung Electronics to prevent the

- Exploitation of those most at risk
- Inaccessible remedies, justice and accountability

recurrence of similar accidents. He encouraged the State and businesses to ensure that protections apply to both employees and contractors.

With regard to legislation, the Special Rapporteur recommended that the Government of the Republic of Korea, among other steps:

Ensure that all laws and policies concerning hazardous substances and wastes provide the greatest protection to those who are at the greatest risk of harm, including children, women, the elderly, communities near sources of pollution or contamination, workers and others who are at elevated risk of harm;

Undertake a robust study on the existing recourse of victims, including workers and consumers, to an effective remedy for harm that may be due to hazardous substances and wastes, paying particular attention to the burden placed on victims to establish causation, and develop and implement solutions to address challenges facing victims in accessing an effective remedy, in consideration of the recommendations contained in the findings of that study and those of the national human rights institution, as recommended below;

Ensure that information is available to prevent exposure to hazardous substances, protect human rights and ensure that victims have the information necessary to realize their right to an effective remedy in administrative and judicial systems. The Special Rapporteur underlines that States have a duty, and businesses a responsibility, to ensure that information about hazardous substances is available and accessible, and that it functions to protect the rights of everyone;

Increase efforts to ensure that health and safety information about hazardous substances is never confidential, and for this purpose ensure the enforcement of existing legislation or the strengthening of said legislation where necessary;

Establish a centralized mechanism to monitor all human rights impacts of hazardous substances and wastes, paying particular attention to children, women, workers in all sectors and older persons, and guarantee that adequate and comprehensive prevention measures are taken as a result;

The Special Rapporteur also recommended that the national human rights institution: (a) Examine the challenges faced by victims of chronic exposure to hazardous substances, including workers and children, who may develop diseases many years after exposure, in establishing causation and accessing an effective remedy, and make recommendations to relevant ministries; (b) Closely examine challenges presented by victims of hazardous substances, including workers, in meeting their burden of proof in order to access an effective remedy under administrative and judicial proceedings.

- Inadequate standards of protection
- Limited progress in prevention of exposure
- Monitoring and enforcement gaps
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- Inaccessible remedies, justice and accountability

"Mission to Germany"

(A/HRC/33/41/Add.2) (2016, mission carried out in 2015)

The Special Rapporteur noted how, in realizing the workers' right to information, the EU's Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation has a number of noteworthy features. First, it contains tiered health and safety requirements for all industrial substances produced or imported at or above one ton per year. This pragmatic requirement, known as "no-data, no-market", shifts the burden of proof away from public authorities and onto relevant businesses. Second, it requires industry to share information on the use of hazardous industrial chemicals up and down the supply chain to help ensure that substances are being used safely and information is current. In this way, the right to information also contributes to workers' and consumers' rights. Third, health and safety summaries are made available to Governments around the world, enabling those with fewer resources to avoid duplication of efforts and enhance cooperation. Fourth, consumers have the right to contact businesses to inquire whether a chemical linked to cancer, hormone disruption or other health and environmental hazards are found in certain products if they are on the "candidate list". Finally, the information generated is enabling businesses to transition to safer chemicals and safer products. These are good practices for the realization of the right to information about industrial chemicals, and implementation of the Guiding Principles on Business and Human Rights.

One of the most innovative features of recent changes to European Union pesticides laws is the prohibition on the use of certain pesticides linked with cancer, reproductive effects, hormone (endocrine) disruption and other adverse health effects, and certain physical properties. The approach of European Union pesticides legislation is risk-based, in that the exposure levels and corresponding risks to worker health, as well as human health and the environment more broadly, cannot be adequately assured for certain pesticides with such properties. This approach to pesticides is grounded in the principle of precaution, provided in the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community.

The Special Rapporteur considers this approach of using hazard-based criteria to be in line with the universality of human rights and the uncontrollable risks that certain hazardous substances pose to those rights. It is a commendable step by the European Union to protect the human rights of everyone, including agricultural workers and children.

During meetings with Bayer, the business enterprise informed the Special Rapporteur that they had a human rights policy in compliance with the FAO International Code of Conduct on the Distribution and Use of Pesticides, and a stewardship policy that they say reflects the whole life cycle of a product. For each life cycle step, Bayer says it works on best management practices with the objective of human safety, worker/operator safety, residues in food, consumer safety and environmental aspects. It also claims to work as an industry on training materials to ensure the safe use of pesticides. The Special Rapporteur was pleased to learn of Bayer's phase-out policy to remove all highly hazardous pesticides considered to be carcinogenic from their portfolio by 2012, and of its process of "portfolio screening" (covering insecticides and fungicides in 2011 and herbicides in 2015). However, he was concerned to learn that highly hazardous pesticides remain in the Bayer portfolio with no target date for phase-out.

- Challenges faced by workers
 - Inadequate standards of protection
 - Limited progress in prevention of exposure
 - Opaque supply chains and the transfer of hazardous work
 - Failures to realize the right to information
- Inadequate standards of protection
- Limited progress in prevention of exposure
- Opaque supply chains and the transfer of hazardous work
- Failures to realize the right to information

The Special Rapporteur is concerned that, rather than substituting hazardous pesticides with safer alternatives, it would seem that Bayer prefers mitigation strategies that carry greater risks for workers and communities, such as wearing protective personal clothing and improvements on labelling. The Special Rapporteur considers that typically the only effective mitigation strategy for hazardous pesticides is a concerted effort to develop and adopt safer alternatives.

The Special Rapporteur also addressed the role of the German shipping industry in the abuses of human rights of workers in substandard shipbreaking facilities, particularly those in South Asia. German ship owners operate the world's fourth largest merchant fleet in terms of vessels and have been linked to widespread contamination of the food, water and air of local communities, in addition to fatalities and toxic chemical exposure among workers, including child and migrant workers, who dismantle ships in hazardous and deadly conditions. According to assessments by civil society, but disputed by the Government, in 2014, German ship owners sold a record high of 95 per cent of their end-of-life tonnage for substandard breaking on the beaches of South Asia. Despite recent progress, the extremely poor working practices and environmental conditions prevailing in many ship-breaking yards continue to be the source of widespread concern in the international community.

A major source of exposure to hazardous chemicals in Germany is in the workplace, and it is estimated that about 74,000 work-related deaths may be linked to workplace exposure to hazardous substances each year in the European Union – about 10 times more than workplace accidents.

While identification and controls for carcinogens are well developed with a specific Directive for Carcinogens and Mutagens at work, there is a need to extend protection against reproductive hazards. The European Union regulation protecting pregnant women in the workplace includes a list of chemicals that is very old and not updated, which means that many chemicals of concern, like endocrine disrupting chemicals or nano-materials, are missing. According to a study by the European Agency for Health and Safety at Work, around 15 per cent of European workers report handling chemical products for a quarter of their working time and 19 per cent report breathing in dust, fumes and smoke at their workplaces. This study highlighted nanoparticles, ultrafine particles, man-made fibres, carcinogenic, mutagenic and reprotoxic substances, dermal exposures, exposures in waste management and the increasing use of allergenic and sensitizing substances as emerging risks.

Specific occupations of emerging concerns include the growing waste management industry, construction and service activities such as cleaning or home nursing. In addition, there are a growing number of workers in small and medium-sized enterprises and subcontracted jobs, where

- Monitoring and enforcement gaps
- Exploitation of those most at risk
- Informal economy
- Deliberate efforts to delay or obstruct protection from toxic exposure
- Opaque supply chains and the transfer of hazardous work
- Inadequate standards of protection
- Limited progress in prevention of exposure
- Monitoring and enforcement gaps
- Deliberate efforts to delay or obstruct protection from toxic exposure
- Disconnected efforts on occupational and environmental

REACH may not adequately protect workers, because the risks of daily exposure are primarily assessed for industrial chemicals at higher tonnage thresholds, whereas the majority of chemicals to which workers are exposed are at the lower thresholds. Since the level of hazardous substance exposure for workers is at much higher levels than the permissible exposure levels for consumers, information about adverse effects of chronic exposure is critical.

In Germany, 16,165 suspected cases of occupational skin disease were recorded in 2004, representing a quarter of all registered occupational diseases. Other skin diseases include chemical burns ranging from rashes to full thickness skin damage requiring grafts. Chromate is the most dominant allergen, followed by epoxy resins and cobalt in the German construction industry. The German trade union IG Bergbau, Chemie, Energie says that information needs to feature more prominently on the European Chemicals Agency database, so workers can better access health and safety information.

Although asbestos is prohibited in Germany, it is still found in buildings and ships. Specialized training and qualifications are required to dispose of asbestos safely, for instance, in demolition or renovation, particularly for informal workers.

It was brought to the Special Rapporteur's attention that Germany has not put in place any specific measures to protect informal workers from the risks of hazardous substances. Currently the trade union IG Bauen-Agrar-Umwelt is campaigning for informal and migrant workers to receive basic health and safety instructions prior to working.

BASF informed the Special Rapporteur of its global standards for workers' safety. BASF assured the Special Rapporteur that all plants were built according to the same standards and safety levels for workers. The company's goal is to reduce work-related accidents by 80 per cent by 2020.

In both areas of private liability — the Environmental Liability Act and Law on Pharmaceuticals — a shift in the burden of proof to reflect a victims-based approach is welcomed. However, in the area of occupational health and safety, the Special Rapporteur heard of the immense challenges still faced by workers who fall ill from toxic chemicals to access any remedy.

The Special Rapporteur is particularly concerned that European Union business enterprises, beyond Germany businesses, are exporting their manufacturing activities — and the risks to workers of toxic chemicals — to developing countries. Post-production, European Union businesses can import a product that claims to be "free of hazardous substances" even though hazardous substances were used in the supply chain outside the European Union.

This practice is comparable to the supply chain of clothing that originates, for example, from a garment factory in Bangladesh that fails to respect workers' rights, including against sexual violence, and unlawfully targets labour leaders with intimidation, threats and violence. It is also similar to the global trade and supply chain in cobalt, a key component in rechargeable lithium-

health

- Failures to realize the right to information
- Inaccessible remedies, justice and accountability
- Opaque supply chains and the transfer of hazardous work
- Restrained freedom of association

- Inaccessible remedies, justice and accountability
- Limited progress in prevention of exposure
- Exploitation of those most at risk
- Opaque supply chains and the transfer of

Report	References to occupational exposures	Challenges faced by workers
	ion batteries, which may originate from artisanal miners in the Democratic Republic of the Congo, including child labourers who suffer health consequences from prolonged exposure to cobalt without even the most basic protective equipment.	hazardous work
	These two examples also highlight one of the major problems of REACH where business enterprises are seriously challenged in tracing the use of industrial chemicals throughout the supply chain, despite the reporting requirements of the Regulation.	
marg who	Among the recommendations of the Special Rapporteur was one to increase information for marginalized persons and those in vulnerable situations, especially pregnant women and those who work or live with children, about protection measures, especially endocrine disrupting chemicals.	• Exploitation of those most at risk
		 Failures to realize the right to information
"Pesticides and the right to food"	Human rights standards require States to protect vulnerable groups, such as farm workers and agricultural communities, children and women from the impacts of pesticides.	 Inadequate standards of protection
(A/HRC/34/48) (2017) (Report written in collaboration with the Special Rapporteur on the right to food)	Agricultural workers are routinely exposed to toxic pesticides via spray, drift or direct contact with treated crops or soil, from accidental spills or inadequate personal protective equipment. Even when following recommended safety precautions, those applying pesticides are subject to higher exposure levels. Families of agricultural workers are also vulnerable, as workers bring home pesticide residues on their skin, clothing and shoes.	Limited progress in prevention of exposure
	Studies in developed countries show that annual acute pesticide poisoning affects nearly 1 in every 5,000 agricultural workers. Globally, however, it is unknown what percentage of farmworkers experience acute pesticide poisoning owing to a lack of standardized reporting. Poor enforcement of labour regulations and lack of health and safety training can elevate exposure risks, while many Governments lack the infrastructure and resources to regulate and monitor pesticides.	 Monitoring and enforcement gaps Failures to realize the right to information Inaccessible
	The exposure risk of children engaged in agricultural work is particularly alarming. Although little data are available, the International Labour Organization estimates that about 60 per cent of child labourers worldwide work in agriculture, and children often make up a substantial portion of the agricultural workforce in developing countries. Their increased sensitivity to the hazards of pesticides, the inadequacy of protective equipment and their lack of experience may leave them particularly exposed. Seasonal and migrant workers are also more vulnerable, as they may work temporarily at various agricultural sites, multiplying their exposure risk to pesticides. Language barriers may further prevent these workers from understanding labels and safety warnings, they may experience poor working conditions without access to adequate safety equipment and they may have difficulty accessing medical care and compensation for pesticide-related diseases. Workers may also have little control over the types of pesticides used.	remedies, justice and accountability Opaque supply chains and the transfer of hazardous work

Challenges faced by workers

"Guidelines for good practices in relation to the human rights obligations related to the environmentally sound of hazardous substances and wastes"

(A/HRC/36/41) (2017)

The Special Rapporteur articulates a human rights-based approach to hazardous substances and wastes, including pollutants, toxic industrial chemicals and pesticides, which requires a specific focus on the protection of those most vulnerable or at risk; children, the poor, workers, persons with disabilities, older persons, indigenous peoples, migrants and minorities, while taking into account gender-specific risks. Designing laws and policies to protect those most at risk has been management and disposal shown to have a ripple effect for the broader community. States must ensure that laws, policies and institutions aimed at assessing and mitigating the potential impacts of toxics are based on the needs of the most vulnerable.

> In 2013, the International Labour Organization (ILO) estimated that nearly 2 million workers per year — between 3 and 4 workers per minute — die prematurely from occupational diseases linked to toxic chemicals. Laws in most countries permit workers to be exposed to levels of toxic chemicals hundreds of times higher than the exposure allowed among the general public and often do not take into account real-world exposure scenarios or gender-specific and other sensitivities. Workers are frequently unable to exercise their right to freedom of association and collective bargaining, which is necessary to secure a healthy workplace.

> The report notes how information on toxics is essential in order to prevent adverse impacts, to ensure the realization of freedom of expression and to enable individuals and communities to participate in decision-making processes and to seek and obtain remedy. Health and safety information about toxic chemicals must never be confidential. Information must be available, accessible, functional and consistent with the principle of non-discrimination in order for human rights to be respected, protected, enjoyed and fulfilled. Despite notable improvements in many countries over recent decades, the right to information remains insufficiently realized in the area of hazardous substances and wastes, particularly with respect to protecting the most vulnerable from adverse impacts of exposure, whether from consumer products, at the workplace or via food, water, air or other sources.

> Workers should have the right to remove themselves from conditions they believe are unsafe, and the right to information regarding occupational health and safety. However, necessary information on safety precautions or health risks linked to toxic chemicals is often unavailable or inaccessible to workers. Information may be in a foreign language, and labelled pictures may be indecipherable or too small to be legible. States continue to allow the use of industrial chemicals and pesticides under the presumption that personal protective equipment will be used, and that it will be used as effectively as expected. However, workers often do not have access to necessary protective equipment of reasonable quality, and the conditions under which they are expected to use the equipment are often completely unreasonable; thus, risk assessments are inaccurate. Workers are exposed to substances whose health effects have not been studied adequately. Adverse health impacts from chronic occupational exposure to toxic chemicals may not manifest as a disease for several years. Due to these and other factors, only a small percentage of workers have access to an effective remedy for violations of their rights.

- Inadequate standards of protection
- Exploitation of those most at risk
- Restrained freedom of association

- Failures to realize the right to information
- Limited progress in prevention of exposure
- Inaccessible remedies, justice and accountability

⁵ Updated figures are available in the present report at para. 3.

Child labourers, female workers, migrant workers and residents of low-income communities are significantly more vulnerable to toxic impacts due to unique sensitivities, cumulative impacts or unequal protections under the law. One of the worst forms of child labour is that in which children work with, or are exposed to any level of, hazardous substances. The World Health Organization (WHO) has published studies showing that children who work with hazardous substances have shorter average lifespans. Children are also at risk through the transmission of their parents' occupational exposures, in particular from their mother while they are in the womb or through breast milk. States must ensure that workers are able to enjoy the right to safe and healthy working conditions. States must protect the right of workers to just, decent and favourable conditions of work by preventing occupational exposure to toxic chemicals, a right that is indivisible from the right to the highest attainable level of physical and mental health and the right to physical integrity. States must ensure that workers have access to information and effective remedy for violations; they must also ensure that migrant workers enjoy the same rights as nationals of the State of employment regarding protection from toxic exposure.

 Exploitation of those most at risk

The report recommends States uphold human rights through legislation to protecting against infringements resulting from toxic exposures at work. Many States have established constitutional rights and legislation of direct relevance to toxics in the workplace. Legislation in place covers particular life-cycle stages, different types of substances, different product categories, information requirements and other aspects relevant to the State's duty to protect.

The report recommends States translate evidence of potential impacts on the enjoyment of human rights into timely and effective measures to respect, protect and fulfil each right implicated. The ability to protect the human rights to life and to health and to realize the right to access to the benefits of scientific progress and its applications hinges upon the ability to translate evidence into protective laws and policies. As discussed above, States must make expeditious progress in the realization of the rights to life and to health, taking all possible measures to protect those rights. However, despite evidence of risks and impacts, there have been instances where the procedures of some States have enabled private interests to use scientific uncertainties as a basis for delaying action to reduce risks. This has led to extreme delays, some lasting decades, in translating evidence of hazard and risk into measures necessary to protect workers, children and others most at risk. This is an unfortunate exploitation of scientific uncertainty by private interests. Scientific uncertainty will always exist. Several States have adopted the principle of precaution to help ensure that action is taken despite those uncertainties. The principle of precaution is essential to the progressive realization of numerous human rights implicated by hazardous substances and wastes.

- Inadequate standards of protection
- Limited progress in prevention of exposure
- Deliberate efforts to delay or obstruct protection from toxic exposure

The report notes that businesses should identify and assess the actual and potential adverse human rights impacts in which they may be involved either through their own activities or as a result of their business relationships. They should identify actual and potential impacts throughout the life cycle of their products, including supply and value chains. Traceability of supply chains and the life cycle of products is essential to identifying human rights abuses linked to the exposure of

- Limited progress in prevention of exposure
- Monitoring and

Report References to occupational exposures

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workers and communities to toxics.

The importance of the supply and value chain and a lifecycle approach is emphasized in terms of the protection of human rights from toxic exposures. In addition to the pesticide manufacturers, downstream businesses are implicated in the value chain of food and agricultural production in which such hazardous substances are used. For example, according to UNICEF, "exposure to toxic chemicals is likely to be the single greatest health risk to pregnant and nursing workers in the palm oil sector". Approximately 50 per cent of all consumer products around the world use palm oil, implicating large numbers of consumer product companies.

Air pollution is also of grave concern to child, women and older workers as well as local communities. Illnesses related to haze resulting from the clearing of forests and peat lands for palm plantations not only affect workers and communities near plantations, but can have transboundary impacts. Although the burning of forests and the use of certain pesticides are illegal, compliance and enforcement is poor and such practices continue. Other food and agriculture sectors noted as facing challenges in preventing human rights abuses include coffee, cocoa, cotton and tobacco production.

The Special Rapporteur notes that hazardous substances continue to be used in the manufacturing sector and as components of a variety of consumer products, implicating the rights of workers, local communities and consumers, as well as the rights of those who may be exposed to postconsumer waste. Concerns about human rights abuses linked to toxic chemicals have been raised in the context of the electronics sector and the textile, leather and other garment industries. Researchers have also identified a myriad of adverse health impacts linked to toxic chemicals in cosmetics, personal care products, cleaning products, detergents and other household consumer products.

Retailers are able to demand compliance with human rights from their suppliers upstream to ensure that no community, consumer or worker suffers abuses due to hazardous substances linked to products they sell. Indeed, in response to consumer demands for products free of toxic chemicals and for ethical conduct by businesses, certain retailers are exceeding the standards provided by national and international laws. For example, retailers have prohibited the inclusion of certain chemicals of concern in their products.

The guidelines for good practices are intended to assist States in ensuring that their laws and other practices are in line with their human rights obligations. In this vein, the Special Rapporteur recommended that States and other stakeholders apply a number of principles, including that: States must ensure that their practices relating to hazardous substances and wastes ensure equality, do not discriminate against any vulnerable group, including children, the poor, workers, persons with disabilities, older persons, indigenous peoples, migrants and minorities, and take into account gender-specific risks.

enforcement gaps

 Opaque supply chains and the transfer of hazardous work

Inadequate standards of protection

- Opaque supply chains and the transfer of hazardous work
- Inadequate standards of protection
- Exploitation of those most at risk

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"Mission to the United Kingdom of Great Britain and Northern Ireland"

Report

(A/HRC/36/41/Add.1) (2017)

The mission of the Special Rapporteur to the U.K. examined several worker rights-related issues. For workers who develop diseases from exposures to toxic chemicals at work, compensation, health care and other aspects of their right to an effective remedy can very often be unattainable. It is calculated that less than 1 per cent of sick workers receive compensation in the United Kingdom for non-asbestos-related occupational diseases.

While the Health and Safety Executive has conservatively estimated that approximately 13,000 new cases of occupational disease arise each year, including cancers related to chemical exposure, alarming shortcomings in the United Kingdom compensatory system exclude many claimants due to disability thresholds, minimum exposure times and lack of recognition of elevated risks due to multiple exposures. The United Kingdom Industrial Injuries Advisory Council generally imposes a non-legal, non-scientific "relative risk" test, which requires that the condition be twice as common in the affected group as in the general population. Considering that this threshold is very difficult to meet, fewer occupational diseases are officially recognized in the United Kingdom compared with other countries that apply different criteria.

In an example dating back to the 1980s, farmers and agricultural workers who believe they were affected by the use of organophosphate-based or "OP" pesticides in sheep dipping activities have faced severe difficulties in accessing an effective remedy. At the time, the United Kingdom Government ran a mandatory programme requiring farmers to chemically treat their sheep with pesticides to combat sheep scab. Most farmers used organophosphate-based dips to comply, as they were the only licensed products available initially. Organophosphate compounds were initially developed as neurotoxic chemical warfare agents due to their ability to inhibit blood cholinesterase activity.

Over the next two decades, farmers reported a range of debilitating health problems, which they believed to be the result of poisoning from the organophosphate-based products, with symptoms including nausea, anxiety, pulmonary oedema and long-term neurological damage. Victim support groups compiled a list of more than 500 farmers believed to have suffered from ill health as a result of their exposure, although campaigners claim the real number to run in the thousands. Victims struggled to access appropriate treatment under the public health regime, as organophosphate poisoning was not considered to be a medical condition. Some were allegedly wrongly diagnosed as suffering from psychological issues and given medications that exacerbated their suffering. A number of individuals who were medically tested by the Government claim they experienced serious difficulties in obtaining the release of their medical records. The difficulty in establishing causation between chronic ill health and the use of organophosphate-based pesticides has seen many legal claims fail.

In 2015, an internal report of the Health and Safety Executive of May 1991 was released under a freedom of information request, which established that government officials had warned of the dangers of exposure to organophosphate-based pesticides. Yet in the same month, the Minister of Farming demanded that local authorities clamp down on farmers who refused to use the chemical. The release of the internal report triggered calls by more than a dozen Members of Parliament for

- Inaccessible remedies, justice and accountability
- Deliberate efforts to delay or obstruct protection from toxic exposure
- Failures to realize the right to information
- Limited progress in prevention of exposure

Officials of the Department for Environment, Food and Rural Affairs explained that no precaution could ever offer 100 per cent protection from any exposure to organophosphate-based pesticides, and explained the difficulty in predicting exposure levels. In the May 1991 report, manufacturers of the sheep-dipping chemicals were criticized for providing inadequate protective measures and instructions for the use of the product. At the time, legislation and guidance to ensure the protection of agricultural workers using the organophosphate-based pesticides placed the burden on farmers to protect themselves. Since 1995, the sale and supply of organophosphate-based pesticides have been restricted to appropriately trained and certified users. The Veterinary Medicines Regulations 2006 introduced a requirement for sheep dipping to be supervised by a holder of a certificate of competence.

The United Kingdom Government stated that it has invested a considerable amount of time and public money to understand all the risks relating to those compounds and determine how they could be minimized, and that it has been unable to identify any causal link between exposure to organophosphate-based pesticides and the symptoms reported. The Special Rapporteur was also referred to a statement on organophosphates issued by the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment in 2014, which concluded that exposures to cholinesterase-inhibiting organophosphates that are insufficient to cause overt acute poisoning do not cause important long-term neurological toxicity in adults. However, a number of medical experts have spoken out about the use of organophosphate-based sheep dips and the high number of incidents of chronic ill health within the farming community. One independent study, which reviewed the available evidence concerning the neurotoxicity of low-level occupational exposure to organophosphate-based pesticides, found that 13 out of 16 studies showed evidence of neurological problems following long-term, low-level exposure. The United Kingdom Government stated that the Committee had reviewed this study, reaching its conclusion in 2014.

While the United Kingdom has certain specific laws and common law rules to protect human rights in the context of business activities, for example the Health and Safety at Work Act 1974 and the Gangmasters (Licensing) Act 2004, comprehensive legislation to hold businesses to account for human rights abuses is lacking. While legislation provides for the criminal prosecution of a business enterprise, it is very difficult to prove the intent of a business, and the criminal justice system tends to focus on individual criminal liability, which can be difficult to attribute to a company. The Parliamentary Joint Committee on Human Rights, mandated to examine human rights matters within the United Kingdom, has recommended that the Government bring forward legislation to impose a duty on all companies, including parent companies, to prevent human rights abuses, with failure to do so becoming an offence, as under the Bribery Act 2010. The United Kingdom also appears to suffer from insufficient expertise and resources to efficiently combat corporate crime.

The Special Rapporteur made a number of recommendations to the Government, including one that the Government examine the obstacles to the right to effective remedy by workers and other victims

- Inadequate standards of protection
- Limited progress in prevention of exposure
- Inaccessible remedies, justice and accountability

Report	References to occupational exposures	Challenges faced by workers
	suffering from toxic exposure, including causation, and ensure that victims of United Kingdom companies operating abroad are able to access justice and remedy in the United Kingdom.	
"Mission to Sierra Leone" (Mission carried out in	During his country visit to Sierra Leone, the Special Rapporteur met local residents and workers, paying particular attention on the impact of the agriculture, mining and waste sectors on workers and their communities. The Special Rapporteur noted with concern issues regarding workers in agriculture and mining sectors.	• Inadequate standards of protection
2017)	The agriculture sector is linked with challenges including in relation to the monitoring and use of agro chemicals and their potential impact on agriculture workers communities living around areas where chemicals are used and the potential contamination of food and water sources. A study on the use of pesticides in Sierra Leone rice crops provided very concerning results. In his visit to rural communities, the Special Rapporteur heard complaints of contamination potentially related to the activities of business enterprises engaged in large-scale oil palm farming.	 Limited progress in prevention of exposure Monitoring and enforcement gaps
		• Exploitation of those most at risk
		• Informal economy
		 Disconnected efforts on occupational and environmental health
		• Failures to realize the right to information
(Mission carried out in 2017) potential health impacts spreading of Associated CC398, an antibiotic regraw pork. The Special consequences of antimic The Special Rapporteur and health through coogiven the transnational activities, a 2016 project	During his country visit to Denmark, the Special Rapporteur was informed on concerns regarding potential health impacts of antibiotic use in livestock. These antibiotics increase the potential of spreading of Associated Methycillin Resistant Streptococcus Aureus (LA-MRSA or MRSA)	 Inadequate standards of protection
	CC398, an antibiotic resistant 'superbug', in the food chain, and among workers exposed to the raw pork. ⁷ The Special Rapporteur remains seriously concerned by the vast human health consequences of antimicrobial resistance on workers and more broadly. ⁸	Limited progress in prevention of exposure
	The Special Rapporteur acknowledges the efforts of Denmark in promoting occupational safety and health through cooperation with other governments, to which he attaches great importance given the transnational production and disposal chains of Danish businesses. Among other activities, a 2016 project in Bangladesh established an expert group on Occupational Safety and Health (OSH Unit), in the Department for Inspection of Factories and Establishments (DIFE) of	• Exploitation of those most at risk
		 Opaque supply chains and the

http://eprints.lancs.ac.uk/80079/1/ENVINT_D_16_00107.pdf.
 See https://countercurrents.org/2017/03/13/the-pig-industry-and-the-usage-of-antibiotics-in-denmark/.
 http://www.who.int/drugresistance/documents/surveillancereport/en/.

Challenges faced by workers

the Government of Bangladesh. The Special Rapporteur welcomes this cooperation and. However, the Special Rapporteur was disappointed to note that cooperation efforts on the protection of workers did not include support to the shipbreaking industry in Bangladesh or elsewhere, despite the substantial impacts of Danish businesses in this sector on the rights of foreign workers. The Special Rapporteur encourages further efforts to ensure all Danish businesses ensure all workers are protected from exposure to toxic substances in their supply chains, among other concerns for workers' rights.

The Special Rapporteur was disturbed by the lack of attention to the continued exportation of hazardous pesticides banned by Denmark to countries that have lower levels of protection against the adverse impacts of such pesticides on the human right to health, among others. In some cases, products produced with such banned pesticides and other toxic chemicals can be imported back into Denmark.

The Danish company Cheminova is one of the main producers of one such pesticide, Malathion, an insecticide to be used against chewing and sucking insect pests in crops. Evidence is publicly available on the serious risks posed by Malathion to the environment, especially water sources and biodiversity and to human health. An analysis conducted in 2016 by the World Health Organization International Agency for Research on Cancer (IARC)¹⁰ concluded that Malathion is probably carcinogenic to humans while identifying strong evidence that exposure to malathion-based pesticides is genotoxic. For these reasons Malathion is not commercialized in the EU, including Denmark. Yet, only in 2017, Cheminova A/S, a multinational pesticide producer based in Denmark exported Malathion to over 40 countries outside the EU. In 2015, the Special Rapporteur expressed his concerns on the extreme impacts on the rights to food and water, and livelihoods of communities in Guatemala, when 500 to 1000 kg of fish were killed in Peten River, Guatemala, reportedly due to the heavy contamination of local waters by Malathion. The practices of Cheminova in countries with weaker normative frameworks have been criticized in the past.

The exposure of communities and workers in States with weaker regulations to chemicals banned in Europe is an unacceptable demonstration of double standards. ¹⁴ As previously addressed, additional legal instruments should be considered in Denmark in order to ensure companies respect human rights throughout their operations and conduct human rights due diligence in relation to their domestic and international operations and supply chains, always using the highest levels or protection when operating in different jurisdictions.

- transfer of hazardous work
- Failures to realize the right to information
- Limited progress in prevention of exposure
- Exploitation of those most at risk
- Opaque supply chains and the transfer of hazardous work

⁹ http://www.pesticideinfo.org/Detail_Chemical.jsp?Rec_Id=PC32924.

¹⁰ https://monographs.iarc.fr/ENG/Monographs/vol112/mono112-07.pdf.

¹¹ See Export Notifications, European Chemical Agency.

¹² See GTM 4/2015.

¹³ Pesticide export to institutionally vulnerable countries, who is responsible? An assessment of the practices and strategies of a Danish company in Brazil.

¹⁴ A/HRC/33/41/Add.2 — include UK mission, pesticides report by SR food.

In Greenland, controversy marked the implementation of military activities especially due to the difficulties in accessing information on the full nature of operations implemented by the US forces. Concerns existed, for example, on the impact of the contamination generated by the crash near of a US B-52 bomber loaded with nuclear weapons near the Thule Aribase. The local workers involved in the clean-up operation claimed long-term health problems resulted from their exposure to the radiation and legally challenged the Danish Government for allegedly failing to monitor the health consequences of their exposure to toxics.

The Special Rapporteur also noted the potential adverse health risks for workers who may be employed in the developing mining industry of Greenland.

In January 2018, the Special Rapporteur and the Working Group on Business and Human Rights brought to the attention of the Government of the United Kingdom, Government of Denmark, the Government of Brazil, and the Government of Bangladesh information received concerning the alleged transboundary movement of The North Sea Producer, an end-of-life ship owned by the UK registered North Sea Production Company, a single-ship joint venture between the A.P. Moeller Maersk (headquartered in Denmark) and Odebrecht (headquartered in Brazil) The ship, containing hazardous substances and wastes, arrived in August 2016 in Chittagong, Bangladesh for dismantling (shipbreaking). A similar letter was also addressed to the companies involved.

At the yard where the North Sea Producer was supposed to be dismantled, shipbreaking work is carried out without workers having access to necessary safety equipment as well as use of proper safety and procedures. Work reportedly is carried out manually by workers with torch cutters. Oxygen and gas are pumped through a device that creates a 1500°C flame that can cut through steel coated with paints that contain hazardous substances such as heavy metals. Reports also indicate that workers do not use necessary protective clothing, some moving with bare feet and sandals in the tidal mudflat used as the dismantling area. Most workers live in unhealthy conditions in wood and sheet metal shacks right next to the walls of the shipyard. Coughs, headache and breathing problems are reported among workers in dismantling yards in the same area in Bangladesh.

Apart from highlighting the poor working conditions of the workers, this issue also exhibited the challenges in realizing the right to decent work, including transfer of hazardous work to developing countries, exploitation of those most at risk (migrant workers), capitalizing on the

- Inadequate standards of protection
- Limited progress in prevention of exposure
- Monitoring and enforcement gaps
- Exploitation of those most at risk
- Failures to realize the right to information
- Inaccessible remedies, justice and accountability
- Inadequate standards of protection
- Limited progress in prevention of exposure
- · Monitoring and enforcement gaps
- · Exploitation of those most at risk
- Informal economy
- Deliberate efforts to delay or obstruct protection from toxic exposure
- Opaque supply chains and the

"Shipbreaking": **Government of the** United Kingdom, Government of Denmark. the Government of Brazil, and the Government of Bangladesh, and 2 companies (North Sea **Production Company**, A.P. Moeller Maersk, and Odebrecht)

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"Electronics Industry": Government of the People's Republic of China, Government of the United States of America, and 2 companies (Catcher Technology Co. Ltd. and Apple Inc.)

(2018)

informal sector to skirt international obligations, as well as what may amount to deliberate efforts by business enterprises to delay or obstruct protection from toxic exposure of workers.

In May 2018, the Special Rapporteur and others brought to the attention of the Government of the People's Republic of China information received concerning the alleged unsafe working conditions at Catcher Technology's factory in Suqian, northern Jiangsu Province, People's Republic of China, and the implications for the human rights of the affected workers. A similar communication was also addressed to the Government of the USA and two companies: Catcher Technology Co Ltd and Apple Inc. At the time of drafting this report, there were no responses received from the Governments regarding the allegations.

Catcher Technology Co Ltd. (Catcher), headquartered in Taiwan, Province of China, is a world leader in the light metal industry, specializing in notebook computers, digital cameras, and disc drives. Catcher manufactures products for many well-known consumer electronics companies including Apple Inc. (Apple), an American technology company headquartered in Cupertino, California, United States of America. This communication highlighted various challenges faced by workers in relation to their health and exposure to hazardous substances and wastes including:

The exposure of workers to hazardous substances and polluted indoor air: On 25 May 2017, an incident of toxic gas poisoning at the A6 workshop of the factory resulted in the hospitalization of 90 workers, with five workers admitted to intensive care. An investigation conducted by the Administrative Committee of the Suzhou-Suqian Industrial Park confirmed that poisonous gas permeated throughout the workshop, triggering adverse reactions among operator personnel. In addition, there is severe indoor air pollution at the factory, with some workers suffering from respiratory illnesses as a result.

Workers are at risk of other health and safety hazards: The surface of the factory floor is often covered in oil, resulting in instances of workers slipping and falling. In addition, workers at the Computer Numerical Control (CNC) machining workshop of the factory are exposed to excessive loud noise, placing them at risk of irreversible hearing loss. In addition, the main door of the CNC machining workshop only opens 30 cm wide, posing a safety hazard, particularly in case of emergencies.

Workers' right to information is not protected: The workers have insufficient information regarding the toxic substances they handle or could be exposed to and their potential hazards. For instance, workers are inadequately informed of the hazards of exposure to cutting fluid and of any relevant protection methods. While factory regulations require providing a 24-hour training to workers prior to starting work, the training offered is neither adequate nor effective. Training sessions are frequently less than an hour long and workers are handed questionnaires, the answers to which are read out by the staff. Such a practice restricts workers from fully understanding the nature and potential hazards of the toxic substance they handle or could be exposed to. Furthermore, information is not available regarding the exposure levels of workers to various toxic chemicals that are commonly used in electronics production and relevant information about the use of toxic chemicals at the factory.

transfer of hazardous work

- Inadequate standards of protection
- Opaque supply chains and the transfer of hazardous work
- Limited progress in prevention of exposure
- Failures to realize the right to information
- Inaccessible remedies, justice and accountability

Workers are not provided with adequate Personal Protective Equipment (PPE): Excluding some workers who wear glasses, all other workers in the workshop operate machinery with no eye protection. The CNC machining workshop provides workers with a pair each of rubber and cotton gloves every day. However, the cotton gloves appear to be have been previously used as they would be given to the workers while they were already damp and water-stained. The cutting fluid which CNC machine operators come into contact with is absorbed quickly by the cotton gloves along with other chemicals, oils, and fluids, thus eroding the rubber gloves worn inside. This results in the workers' hands making direct contact with the cotton gloves soaked in cutting fluid. The inadequate equipment has resulted in irritation and peeling off of skin on the hands of many workers. In addition, for workers who use pressure guns in the production process, the cutting oil splashes onto their heads. Single-use paper face masks provided by the factory only protect the workers' mouths and faces and the cutting fluid often splashes into the workers' eyes resulting in complications like eye pain, blurred vision and bloodshot eyes for prolonged periods.

Workers face inadequate access to health and sanitation facilities: Workers at the factory are responsible for paying for their physical examinations. Workers do not undergo physical examinations after they resign making it difficult to determine if they have contracted an occupational disease as a result of working at the factory. Workers applying through labour dispatch companies are not given social insurance during their probationary work period. Workers do not have access to healthcare services and have to pay for any occupational treatment out of pocket for the first three months of work, as Catcher only distributes social insurance cards three months after the contract commences. While there is legal provision for access to treatment for occupational illnesses, many workers remain vulnerable due to inadequate access to contractual documents from the employer, insufficient or lack of regular health checks for workers, and unsatisfactory or lack of workplace evaluations which would be evidence for the worker to prove the link between exposure and the illness.

The bathrooms in the factory's housing area do not have adequate hot water facilities even during the winter. Workers have on occasion fallen ill due to inadequate heating and insufficient shelter from the wind in the shower areas. There are also no emergency hallways or exits in the workers' dormitories.

The food provided to workers is unsanitary: For instance, there have been many occasions where workers have suffered from diarrhoea after eating at the factory cafeteria. The factory does not permit workers to leave the factory area during lunchtime and workers therefore cannot purchase their own food.

"Tobacco industry": Government of Zimbabwe,

10 companies and the Governments of their countries of domicile

In May 2018, the Special Rapporteur and others brought to the attention of the Government of Zimbabwe information received concerning alleged human rights violations resulting from exposure of workers including children, to toxic chemicals while working in tobacco farming farms in Zimbabwe, specifically in Mashonaland West, Mashonaland Central, Mashonaland East, and Manicaland. A similar communication was also addressed to 10 companies and to the Governments of their countries of domicile. At the time of drafting this report, there were no responses received from the Governments regarding the allegations.

- Opaque supply chains and the transfer of hazardous work
- Exploitation of those most at risk

Report References to occupational exposures

Challenges faced by workers

Companies:

Alliance Once International Inc.

British American Tobacco (BAT) PLC

Chidziva Tobacco Processors (Private) Limited

China National Tobacco Corporation & Tian Ze Tobacco Company

Contraf Nicotex Tobacco GmbH (CNT)

Imperial Brands PLC

Japan Tobacco Inc & Japan International SA

Northern Tobacco (Private) Limited

Premium Tobacco International DMCC

Universal Corporation Countries of domicile:

Germany

Japan

People's Republic of China

Switzerland

United Arab Emirates

United Kingdom

United States of America (2018)

In 2018, there are approximately 100,000 registered tobacco farmers, comprising both large-scale and small-scale farmers. It is alleged that workers involved in tobacco production in Zimbabwe face serious health and safety risks. Workers allegedly have insufficient information, training, and equipment to protect themselves from exposure to pesticides and other toxic chemicals. Reports of workers hired on large-scale farms suggest that many workers, including some children, are coerced into working hours that are in excess of agreed time without overtime compensation. Some workers allege that they are denied their wages and forced to go weeks or months without pay. Workers who have refused to work overtime without additional pay have allegedly been dismissed or have been threatened with dismissal.

Workers reportedly suffer from nausea, vomiting, loss of appetite, stomach pain, headaches, dizziness, skin irritation (particularly of the face), chest pain, blurred vision, eye irritation, respiratory irritation, and other symptoms of Green Tobacco Sickness (GTS), a type of nicotine poisoning that occurs while handling tobacco plants. Some of these adverse health impacts are reportedly developed from the application of pesticides on the tobacco farms. Long-term and chronic health effects of pesticide exposure include respiratory problems, cancer, depression, neurologic deficits, and reproductive health problems.

It is reported that neither government officials nor company representatives have provided workers with adequate information about nicotine poisoning and pesticide exposure, or with sufficient training or comprehensive education to protect themselves. Some workers reportedly are not provided with, and often lack the means to procure equipment necessary to protect themselves, despite legal provision requiring employers to ensure that workers handling hazardous substances, including pesticides, are informed about the risks of the work, and provided with proper protective equipment.

It is alleged that in the tobacco industry in Zimbabwe children are involved in work on farms and other parts of the production process and do so in hazardous conditions, often performing tasks that threaten their health and safety or interfere with their education. It is reported that during the labour-intensive planting and harvesting seasons, high rates of absenteeism are recorded in schools near tobacco farms as children are engaged in work either as individuals or as part of their families.

Children are allegedly exposed to pesticides while working on tobacco farms in Zimbabwe. Some children mix, handle, or apply pesticides directly. Others are exposed when pesticides are applied to areas close to where they were working, or by re-entering fields that had been very recently sprayed. Many children report immediate illness after having contact with pesticides. It is further reported that children work long hours handling green or dried tobacco leaves and as a result suffer specific symptoms associated with acute nicotine poisoning and pesticide exposure. Allegedly, the symptoms of GTS are clearly visible in child labourers, and monitoring systems are inadequate to detect health impacts of chronic exposure to pesticides and other toxic chemicals.

- · Informal economy
- Inadequate standards of protection
- Limited progress in prevention of exposure
- Failures to realize the right to information