



Republika ng Pilipinas

Komisyon ng Karapatang Pantao ng Pilipinas

(Commission on Human Rights of the Philippines)

THE PEOPLE'S RIGHT TO CHEMICAL SAFETY

A Fifteen-Point Human Rights Agenda

from the Commission on Human Rights

CHR (IV) 2014-007

*"We generate our own environment. We get exactly what we deserve.
How can we resent a life we've created ourselves? Who's to blame,
who's to credit but us? Who can change it, anytime we wish, but us?"*

Introduction

Acting on the growing concern over issues of chemical use and the fear of their adverse effect on public health and the environment, the Commission on Human Rights (CHR), as the national human rights institution in the Philippines mandated, among others, to monitor Government compliance with its international human rights obligations, issues the following Human Rights Agenda to serve as guide in the matter of the people's right to chemical safety.

Thousands of chemicals and chemical processes are used in the production of the food we eat, the manufacture of the things we wear, use and play, our means of transportation, and many others. However, progress in chemicals management has not been sufficient globally and the environment worldwide continues to suffer from air, water and land contamination, impairing the health and welfare of millions.²

It is on this note that chemical use must be carefully examined, specifically how it affects workers, consumers, and the environment in general. While not all chemicals are harmful to man and the environment, it is imperative to safeguard human health and the environment to achieve sustainable development and elevate the standard of living as solemnly enshrined in the

¹ Richard Bach, American writer, author of *Jonathan Livingston Seagull*, 1936

² Strategic Approach to International Chemicals Management (SAICM)

1

Karapatang Pantao: Likas Sa Atin, Tungkulin Natin

Commonwealth Avenue, U.P. Complex, Diliman, 1101, Quezon City, Philippines

Tel. Nos. 927-0172 • 928-2018 • 928-5655

1987 Philippine Constitution and in related international human rights instruments ratified by the country.

The right to chemical safety encompasses broad and pressing aspects in people's lives – food safety, consumer protection, proper waste management, occupational safety, chemical accidents and chemical exposure, among others. Each is a substantial topic with a common link to chemicals.

Accordingly, a plethora of rights are involved, *inter alia*, the right to the highest attainable standard of health, right to healthy natural and working environments, maternal and child health, right to adequate standard of living, right to know, people participation, right to remedy, and ultimately, right to life. The right to health alone “embraces a wide range of socio-economic factors that promote conditions with which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.”³ Most affected vulnerable sectors of society are women of child-bearing age, children, elderly, indigenous peoples, farmers, workers, persons with disabilities, and persons with chemical sensitivities.

International Action

Taking cue into these real and pressing threats of worldwide proportions, to life and the environment, the United Nations General Assembly called for a global meeting coined as the “Earth Summit”⁴ to come up with strategies to halt and reverse the effects of environmental degradation “in the context of increased national and international efforts to promote sustainable and environmentally sound development in all countries.”⁵ The result was the adoption of Agenda 21 and the Rio Declaration on Environment and Development.⁶

³ paragraph 4, General Comment No. 14, issued by the UN Committee on Economic, Social and Cultural Rights during its 22nd session on April 25 – May 12, 2000

⁴ held on June 3-14, 1992 at Rio de Janeiro, Brazil

⁵ Chemicals, Environment, Health: A Global Management Perspective; Edited by Philip Wexler, Jan van der Kolk, Asish Mohapatra, Ravi Agarwal; CRC Press; 2012. See un.org/esa/sustdev/documents/agenda21/English/A21_press_summary.pdf

⁶ both were adopted by the UN Conference on Environment and Development during the Earth Summit

There are several multilateral agreements to address this matter. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal⁷ in 1992, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade⁸ in 1998 and the Stockholm Convention on Persistent Organic Pollutants (POPs)⁹ in 2001, all have the common objective of protecting human health and the environment from hazardous chemicals and wastes. Together, these conventions cover key elements of “*integrated life-cycle management approach*” or the so-called “*cradle-to-cradle*” management of hazardous chemicals. The Philippines is a State party to all three conventions.

On the specific issue of chemicals management, the International Conference on Chemicals Management, in its first session,¹⁰ adopted the “*Strategic Approach to International Chemicals Management (SAICM)*”¹¹ composed of three important

⁷ In the late 1980s, a tightening of environmental regulations in industrialized countries led to a dramatic rise on the cost of their hazardous waste disposal. Searching for cheaper ways to get rid of their wastes, “toxic traders” began shipping hazardous wastes to developing countries.” When this was revealed, international outrage led to the drafting and adoption of the Basel Convention. The Convention was principally devoted to setting up a framework for controlling the “transboundary” movements of hazardous wastes across international frontiers. It also defined “environmentally sound management.” Finally, a control system based on prior written notification (shipments made without consent are illegal), was put in place. The Basel Convention is the most comprehensive global environment agreement on the transboundary movement and disposal of hazardous and other wastes. (See: www.unesco.org/new/fileadmin/.../HQ/CI/.../e_waste_guide_pacific.pdf)

⁸ The Rotterdam Convention prevents unwanted trade in the chemicals included in the legally-binding prior informed consent (PIC) procedure. The Convention’s approach is to stop problems with hazardous chemicals before they start, by impeding exports of unwanted hazardous chemicals to countries that cannot manage them. Doing so will help reduce: accidental deaths and injuries among users who to often are unequipped to handle chemicals safely; damage to the environment; the creation of dangerous, forgotten stockpiles of obsolete and unwanted hazardous chemicals, particularly pesticides; and growth in the world’s toxic waste disposal problem. The Rotterdam Convention entered into force in 2004. (Towards Responsible Trade. See: www.pic.int/Portals/5/...TowardsResponsibleTrade/towardsresptrade.pdf)

⁹ The Stockholm Convention is a global treaty to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically and accumulate in the fatty tissue of humans and wildlife. Exposure to Persistent Organic Pollutants (POPs) can lead to serious health effects including certain cancers, birth defects, dysfunctional immune and reproductive systems, greater susceptibility to disease and even diminished intelligence. The Stockholm Convention requires Parties to take measures to eliminate or reduce the release of POPs into the environment. The Stockholm Convention entered into force in 2004. (See: chm.pops.int/TheConvention/Overview/tabid/3351/Default.aspx)

¹⁰ Held on February 4-6, 2006 in Dubai, United Arab Emirates

¹¹ SAICM is a policy framework to promote chemical safety around the world. This “2020 goal” was adopted by the World Summit on Sustainable Development in 2002 as part of the Johannesburg Plan of Implementation

documents: the Dubai Declaration on International Chemicals Management, the Overarching Policy Strategy and the Global Plan of Action.¹² SAICM is a landmark initiative in international cooperation to protect human health and the environment.

On a different note, the Philippines is also a State party to various ILO Conventions in Chemical Safety at the workplace. These are ILO Convention 155¹³ concerning Occupational Safety and Health, ILO Convention 170¹⁴ on Safety in the Use of Chemicals at Work,¹⁵ ILO Convention 174¹⁶ on the Prevention of Major Industrial Accidents¹⁷ and ILO Convention 139¹⁸ known as the Occupational Cancer Convention.¹⁹

Close to heart is the Manila Declaration on Green Industry in Asia.²⁰ In this Declaration, steps were laid down to create and establish policies, regulatory and institutional frameworks, where appropriate, which are conducive to shifting towards resource-efficient and low-carbon industries, consistent with the sustainability business principle.

¹² The Dubai Declaration on International Chemicals Management expresses the high-level political commitment to SAICM; the Overarching Policy Strategy sets out the scope, needs, objectives, financial considerations underlying principles and approaches and implementation and review arrangements of the Dubai Declaration; and the Global Plan of Action serves as working tools and guidance document to support implementation of SAICM and other relevant international instruments and initiatives

¹³ 22 June 1981

¹⁴ 25 June 1990

¹⁵ ILO Convention 170 and its accompanying Recommendation No. 177 represent international efforts to upgrade the national measures and harmonize regulatory standards. They emphasize the need to establish a coherent national policy of chemical safety ranging from the classification and labeling of chemicals to the control in all aspects of the use of chemicals.

(See: http://www.saicm.org/ich/index.php?option=com_content&view=category&layout=blog&id=235&Itemid=645&limitstart=5.)

¹⁶ 22 June 1993

¹⁷ ILO Convention 174 and its accompanying Recommendation No. 181 aims to protect workers, the public and the environment from major industrial accidents, in particular through the prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents. It applies to major hazard installations with the exception of nuclear installations and radioactive materials processing, military installations and transport outside the site of an installation other than pipeline. ILO Policies, Conventions, Recommendations and Codes of Practice (See: <http://www.jrl-solutions.com/files/documents/64/ILOPolicies,Recommendations,Conventions.pdf>.)

¹⁸ 24 June 1974

¹⁹ ILO 139 and its accompanying Recommendation No. 147 provides for efforts to replace cancer-causing agents with safe products. (See: www.ilo.org/safework/info/WCMS_118358/lang--en/index.htm)

²⁰ adopted on the occasion of the International Conference on Green Industry in Asia held in Manila Philippines on September 9-11, 2009

All these agreements find basis in the human right to health recognized in numerous international human rights instruments. Article 25.1 of the Universal Declaration on Human Rights²¹ affirms: "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services." The International Covenant on Economic, Social and Cultural Rights²² provides the most comprehensive article on the right to health in international human rights law. In accordance with article 12.1 of the Covenant, States parties recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," while article 12.2 enumerates, by way of illustration, a number of "steps to be taken by the States parties ... to achieve the full realization of this right." Additionally, the right to health is recognized, *inter alia*, in Article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination²³ of 1965, in Articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination Against Women²⁴ of 1979 and in Article 24 of the Convention on the Rights of the Child²⁵ in 1989.²⁶

National Laws/Efforts

No less than the 1987 Philippine Constitution declares that,

*"The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."*²⁷

This right unites with the right to health, which is provided for in the preceding Section of the same Article in the Constitution, to wit:

*"The State shall protect and promote the right to health of the people and instill health consciousness among them."*²⁸

²¹ The Universal Declaration of Human Rights was adopted by the General Assembly by a vote of 48 (which included the Philippines) none against and eight (8) abstentions on December 10, 1948

²² or ICESCR which the Philippines ratified on June 7, 1974

²³ or ICERD ratified by the Philippines on September 15, 1967

²⁴ or CEDAW ratified by the Philippines on July 19, 1981

²⁵ or CRC ratified by the Philippines on July 26, 1990

²⁶ paragraph 2, General Comment No. 14 (2000), issued by of the Committee on Economic, Social and Cultural Rights

²⁷ Section 16, Article II (Declaration of Principles and State Policies), 1987 Philippine Constitution

²⁸ Section 15, Ibid.

Other provisions in the Declaration of Principles and State Policies such as the promotion of a just and dynamic social order through xxx an improved quality of life for all,²⁹ respect for human dignity and human rights,³⁰ protection of the life of the mother and the life of the unborn from conception,³¹ promotion and protection of the youth's physical xxx well-being and protection of the rights of workers,³² among others, clearly affirms the Philippines' commitment to the right to health and welfare of its citizens.

As early as June 6, 1977, Presidential Decree No. 1151 entitled, "*Philippine Environmental Policy*"³³ was passed. Accordingly, Presidential Decree No. 1152, passed on the same day, provided for "*The Philippine Environment Code.*"

The Philippines boasts of hundreds of laws, executive issuances, department orders and local ordinances on the protection of the environment and promotion of the health of the people. Among these notable laws are the Food, Drug and Cosmetics Act,³⁴ National Pollution Control Decree of 1976,³⁵ Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990,³⁶ The Consumer Act of the Philippines,³⁷ Philippine Mining Act of 1995,³⁸ The Philippine Fisheries Code of 1998,³⁹ Philippine Clean Air Act of 1999,⁴⁰ Ecological Solid Waste Management Act of 2000,⁴¹ and the Philippine Clean Water Act of 2004,⁴² among others.

²⁹ Section 9, Ibid.

³⁰ Section 11, Ibid.

³¹ Section 12, Ibid.

³² Section 18, Ibid.

³³ Section 3 of Presidential Decree No. 1151 declares that, "**Right to a Healthy Environment – In furtherance of these goals and policies, the Government recognizes the right of the people to a healthful environment. It shall be the duty and responsibility of each individual to contribute to the preservation and enhancement of the Philippine environment.**"

³⁴ Republic Act No. 3720

³⁵ Presidential Decree No. 984

³⁶ Republic Act No. 6969

³⁷ Republic Act No. 7394

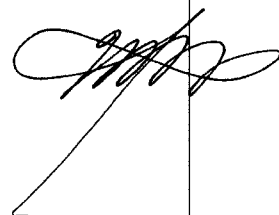
³⁸ Republic Act No. 7942

³⁹ Republic Act No. 8550

⁴⁰ Republic Act No. 8749

⁴¹ Republic Act No. 9003

⁴² Republic Act No. 9275



State Obligation

By adopting these conventions and declarations and national laws, the Philippines is under obligation to comply and fulfill the provisions set forth therein. Thence, individuals, civil society groups, and citizens' organizations are empowered to demand safer products and services, safer working conditions, and a safer environment in which to live.

On the issue of the right to health, for instance, violations of the State "obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to health of others; the failure to protect consumers and workers from practices detrimental to health, e.g. by employers and manufacturers of medicines or food; the failure to discourage production, marketing and consumption of tobacco, narcotics and other harmful substances; xxx.⁴³"

"In order to create a favorable climate for the realization of this right, States parties should take appropriate steps to ensure that the private business sector and civil society are aware of, and consider the importance of, the right to health in pursuing their activities.⁴⁴"

Recognizing the vastness of the issues at hand, the Commission respectfully recommends the following human rights agenda for all stakeholders on the issue of chemical safety.

Fifteen-Point Human Rights Agenda on Chemical Safety

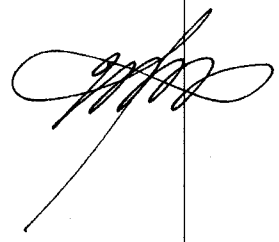
The Commission on Human Rights urges the government, the various industries, the civil society and the Filipino people to commit to building a toxic-free society for all. Towards this, we seek the translation of the following goal of the Strategic Approach to International Chemicals Management (SAICM) into a national policy and plan of action in order to adequately protect and advance the people's right to chemical safety:

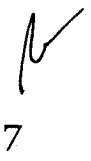
⁴³ paragraph 51, General Comment No. 14 (2000), Ibid.

⁴⁴ paragraph 55, Ibid.

9/22/02






7

“The achievement of the sound management of chemicals throughout their life cycle so that, by 2020, chemicals are produced and used in ways that minimize significant adverse impacts of human health and the environment.”

With “toxic-free society” as our ultimate goal, the CHR adopts a 15-point human rights agenda on chemical safety that, by and large, reflect the paramount importance of applying the principles of precautionary approach, pollution prevention, public participation, polluter pays, sustainable development, environmental justice and other key elements of chemical safety such as green design, toxic use reduction and substitution, “no data, no market,” and freedom of information, among others.

Review/Amendment of Existing Legislation on Chemical Safety

However vast and comprehensive these laws may be, there is still a need to address, through legislation, specific concerns such as toxics elimination and substitution in products, product labeling and accountability of manufacturers from the production, reuse, recycling, and disposal of their commodities.

Presently at Congress, there are bills filed seeking to improve the mandatory labeling requirements on certain products such as food, beverages, toys and PVC products to elaborate on ingredients and place warnings, if necessary. These flow from the right to information of the people who have the right to know the contents of what they eat and use. Further, there are bills seeking to strengthen and make independent the National Consumers Affairs Council, created under the auspices of the Consumer Act, by placing it under the Office of the President instead of the Department of Trade and Industry.

The Commission supports these legislative proposals specifically on mandatory labeling of chemical ingredients in products. In addition, safety data sheets must also be required.

The Commission further recommends laws increasing the accountability of manufacturers by ensuring that they have programs that guarantee safe production, trade, transport, use and disposal of their products. Corporations must be required to

practice safe and efficient "cradle-to-cradle" management of their commodities in accordance with the precautionary and toxics substitution principles. Industries must be held responsible for testing and demonstrating the safety of their products and introduce to market only those products which have been tested fully for their safety. Legislation that supports toxics source reduction through the "polluter pays" principle is likewise imperative.

There is also a need to review existing legislations specifically on the imposable penalties for violations of the right to chemical safety. On the other hand, incentives may be given to industries, which are committed and have demonstrated "clean production" methods, including reducing or eliminating hazardous inputs and outputs. Incentives for manufacturers to embrace "cradle-to-cradle" product design must also be promoted and supported.

Furthermore, there is need for the translation into domestic law and harmonization of the provisions of multilateral chemicals conventions and declarations, ratified or adopted to by the Philippines.

Full Implementation of the Law

There is a need to immediately and strictly implement existing laws on chemical safety. Worthy to note is that most of the special laws abovementioned contain penal provisions.

The Consumer Act, for one, is a very good piece of legislation that guarantees the right to chemical safety of the buying public. This law covers important aspects such as consumer product quality and safety and proper labeling and fair packaging. There are also provisions for seizure and condemnation of mislabeled hazardous substances, liability of defective products and others. While the work of the Department of Trade and Industry as the implementing agency is fully recognized, the Commission is aware that sale and exchange of sub-standard commodities and products containing highly hazardous substances are still flagrant particularly, food, beverages, food supplements, toys, school materials, pesticides, animal feeds, cosmetics and other beauty products, paints, plastics and other customary articles. A holistic review of the implementation of this vital law is recommended to ensure the full protection of basic consumer rights to include

N

9

strengthening of measures that will protect consumers against hazards to health and safety and ensure observance of other fundamental consumer rights.

Strengthening of Existing Institutions/ Enhancing Analytical Capability

Established institutions such as the Philippine Council for Sustainable Development (PCSD),⁴⁵ which was specifically created to ensure compliance with the provisions of Agenda 21 and the Rio Declaration, Department of Trade and Industry (DTI), National Consumer Affairs Council (NCAC), Food and Drug Administration (FDA), Department of Health (DOH), Department of Agriculture (DA), Department of Environment and Natural Resources (DENR), Department of Science and Technology (DOST), Department of Labor and Employment – Occupational and Safety and Health Center (DOLE-OSHC), Department of Education (DEPED), Metro Manila Development Authority (MMDA), Bureau of Fire Protection (BFP), National Disaster Risk Reduction and Management Council (NDRRMC), National Codex Organization (NCO), Fertilizer and Pesticides Authority (FPA),⁴⁶ Environmental Management Bureau (EMB), Inter-Agency Committee on Environmental Health,⁴⁷ Inter-Agency Technical Advisory Council,⁴⁸ all local government units and other various government agencies all have stake on ensuring the right to health of the people through chemical safety.

We emphasize the role of local government units as the first line of defense against human rights abuses and violations in relation to the environment. In fact, Presidential Decree No. 1160 gives authority to Barangay Captains to enforce Pollution and Environmental Control Laws.

The National Codex Organization (NCO),⁴⁹ for example, is an excellent mechanism for informed discussions, deliberations

⁴⁵ created by virtue of Executive Order No. 15 (1992) and strengthened under Executive Order No. 370 (1996) both under the Ramos Administration

⁴⁶ created under Presidential Decree No. 1144 (1977)

⁴⁷ created under Executive Order No. 489, series of 1991

⁴⁸ created under Republic Act No. 6969 or the Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 chaired by the Secretary of DENR and has for its members the Secretaries of DOH, DTI, DOST, DND, DFA, DOLE, DF, DA and the Director of the Philippine Nuclear Research Institute, and representative from an NGO on health and safety (appointed by the President)

⁴⁹ serves as the national focal body on Codex-related concerns and responds to the recommendation of the Codex Alimentarius Commission (CAC) of which the Philippines is a

and decisions on Codex food safety standards and other texts that would impact on the country's food industry and economy.⁵⁰ The NCO has various sub-committees and task forces that deal on specific concerns such as food additives and contaminants, pesticide residues, food labeling, residue of veterinary drugs in food, food hygiene and animal feeding, among others.

There is a need to strengthen these institutions in order for them to properly address issues of chemical safety each within their respective mandates. Institutions responsible for information exchange on toxic chemicals must be supported. Foremost, their capacities in chemical risk assessment and management must be enhanced.

On the other hand, the Commission also recommends a review of the functions, powers and mandates on chemical safety of these various agencies in order to avoid duplication and unnecessary bureaucratic processes that toil on their efficiency and expediency. As an option under Agenda 21,⁵¹ the need to establish and strengthen, where appropriate, a national coordinating mechanism to provide a liaison for all parties involved in chemical safety activities (for example, agriculture, environment, education, industry, labor, health, transportation, police, civil defense, economic affairs, research institutions, poison control centers, trade and industry, disaster risk reduction agency and others) may be considered. This is to institutionalize coordination and systematic efforts towards chemical safety.

Risk Assessment and Comprehensive Research

“Assessing the risks to human health and the environmental hazards that a chemical may cause is a pre-requisite to planning for its safe and beneficial use.⁵²”

Two major problems, identified in the Agenda 21,⁵³ are lack of sufficient scientific information for the assessment of risks

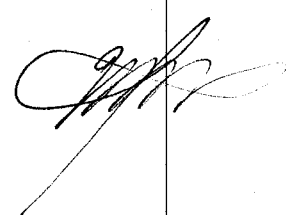
member. The CAC is an international body organized by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) to establish food standards for the protection of consumer health and ensure fair practices in food trade.

⁵⁰ Joint DA-DOH Administrative Order (DA-AO No. 01 S2005/DOH-AO No. 2005-0028) dated November 25, 2005

⁵¹ paragraph 19.59 (a), Agenda 21

⁵² paragraph 19.11, first sentence, Ibid.

⁵³ Chapter 19, Ibid.



entailed by the use of great number of chemicals and the lack of resources for assessment of chemicals for which data are at hand.

There must be mechanism to increase collaboration among governments, industry, academia and relevant non-governmental organizations involved in the various aspects of risk assessment of chemicals and related processes, in particular the promotion and coordination of research activities to improve understanding of the mechanisms of action of toxic chemicals.⁵⁴

Major research efforts must be launched “in order to improve methods for assessment of chemicals as work towards a common framework for risk assessment and to improve procedures for using toxicological and epidemiological data to predict the effects of chemicals on human health and the environment, so as to enable decision makers to adopt adequate policies and measures to reduce risks posed by chemicals.”⁵⁵ “Approximately 100,000 chemical substances are used in commerce but only a small percentage have been assessed, including commonly used pesticides.”⁵⁶

Research must include safe/safer alternatives, including non-chemical alternatives, to toxic chemicals that pose an unreasonable and otherwise unmanageable risk to the environment or human health and to those that are toxic, persistent and bio-accumulative and that cannot be adequately controlled.⁵⁷

Finally, the “*precautionary principle*” provided under Rio Declaration must be a fundamental principles in all policies, programs and actions of government and at times, may override risk assessments and research. , Said principle states that, “In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”⁵⁸ A key challenge for government is to find the balance of benefits and risks when taking national decisions on chemicals.

⁵⁴ paragraph 19.14, Ibid.

⁵⁵ paragraph 19.20, Ibid.

⁵⁶ Agenda 21 Press Summary: Sustainable Development Knowledge Platform; United Nations (See: Sustainabledevelopment.org/content/dopuments/1716A21_press_summary.pdf)

⁵⁷ paragraph 19.21 (a), Ibid.

⁵⁸ Principle 15, Rio Declaration on Environment and Development

The Public's Right to Know

The right to know is one of the core rights being emphasized in this Human Rights Agenda. The people have the right to know when they are dealing with and using hazardous chemicals. Proper and relevant labeling of chemical ingredients in all products must be enhanced. As earlier recommended, more stringent policies on labeling must be set in place.

The CHR further supports the implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS), led by the Department of Trade and Industry, as an essential tool for chemical hazard communication, especially for workers and farmers.⁵⁹

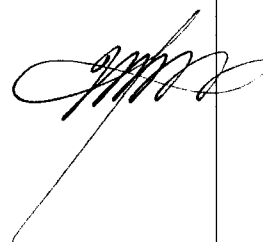
The CHR calls for the establishment of a mandatory and publicly accessible Pollutant Release and Transfer Registers (PRTRs) which, according to the United Nations Institute for Training and Research (UNITAR), "are inventories of pollution from industry and other sources that have proven to be an effective tool for environmental management in many countries by providing government, industry, and the public with information on releases and transfers of toxic chemicals to air, water, and land." This is a concrete step to ensure transparency and accountability in the production, use, transport, manufacture, recycling and disposal of chemicals.

Special Protection to Women and Children

Especially vulnerable to chemical hazard are women and children. Cancer, reproductive and birth defects are most common adverse effects of chemical exposure. Children at home, school or play come in contact with dangerous chemicals. Food, toys, school materials, smoke emissions – hazards come from the most common things within reach of children.

Special protection measures must be set in place in homes, schools, day care centers, amusement parks, medical facilities and other places frequented by women and children.

⁵⁹ Joint DAO 01, series of 2009, involving 8 executive departments, re national implementation of GHS



The role of schools cannot be overemphasized. Schools must be proactive in ensuring that their environment are safe for children. All school materials and facilities must be safe from hazardous chemicals. Food offered in canteens and cafeterias must strictly meet food safety standards. Care must be made when dealing with chemicals in science laboratories.

All programs must take into consideration the special needs and vulnerabilities of women and children and ensure that they are given adequate protection from undue exposure to hazardous chemicals.

After the advances our government has taken in the phase-out of mercury, the CHR now calls upon the authorities to cause the phase out of lead, a toxic metal that attacks the brain and the nervous system, from lead-added paints and other sources of human exposure such as in lead-tainted toys and other children's articles. More particularly, all institutions, facilities of learning, places frequented by children and especially homes, must be safe from toxic chemicals such as lead, mercury and other hazardous substances.

Chemical Accident Prevention and Preparedness

In 2008, MV Princess of the Stars, carrying five highly toxic chemicals in two containers consisting of endosulfan and various pesticides, sank in the shores of Romblon. With due help from European experts who assessed the human and environmental risks, the containers were removed, undamaged, from the hold.

Taking lesson from this tragedy, there is a need to capacitate relevant government agencies such as the Philippine Coast Guard, National Disaster Risk Reduction and Management Council, Bureau of Fire Protection, local government units and other relevant government agencies that are always faced with the task of directly dealing with chemical accidents and chemical hazards with appropriate training and technology transfers.

In this regard, the CHR supports the ongoing multi-stakeholders' effort, led by the Department of Environment and Natural Resources with assistance from the United Nations Environment Programme, to strengthen the capability of the government, industry and community to develop a Chemical



Accident Prevention and Preparedness (CAPP) program to reduce and eliminate injuries and deaths caused by chemical accidents.

Education and Information

“The broadest possible awareness of chemical risks is a prerequisite for achieving chemical safety. The principle of the right of the community and of workers to know those risks should be recognized.”⁶⁰

Communities and individuals must have the right to know when they are dealing with toxic chemicals, what to do when exposed to chemicals and how to avoid undue risks to health and life. Relevant government agencies, schools, industries, local government units, civil society groups and the media bear the responsibility of informing the public of these significant information affecting them.

Dialogues must be open on chemical safety issues to fan out information and gather data that may be necessary for future decisions and plans.

Again, vulnerable sectors - women, children, indigenous peoples, elderly, persons with disabilities, urban poor, workers and those living in hazard areas must be taken into consideration.

Zero Waste Resource Management

Hazardous chemicals coming from improper waste management are like disasters waiting to happen. Wastes include household, healthcare, agricultural, and industrial wastes.

This is a real and major threat in the country. Many health risks come from improper waste disposal and management. Due to lack of access to basic sanitation, many die of waste-related diseases. The health impacts are particularly severe for the urban poor. “The health and environmental impacts of inadequate waste management, however, go beyond the unserved settlements themselves and result in water, land and air contamination and pollution over a wider area.”⁶¹

⁶⁰ paragraph 19.8, Agenda 21

⁶¹ paragraph 21.38, Ibid.

Hence, the CHR, consistent with Agenda 21,⁶² recommends that minimizing wastes be a top priority, followed by maximizing reuse and recycling, and promoting environmentally sound management.

“Environmentally sound management must go beyond the mere safe disposal or recovery of wastes that are generated and seek to address the root cause of the problem by attempting to change unsustainable patterns of production and consumption.”⁶³ This, again, implies the application of the integrated life cycle approach.

In line with the spirit and intent of the Clean Air Act and the Ecological Solid Waste Management Act, the CHR calls upon the National Solid Waste Management Commission, national government agencies and local government units to actively promote Zero Waste resource management and reject polluting technologies such as incinerators and its variants that burn resources, undermine recycling and recycling jobs, and contaminate communities with health-damaging pollutants. On this note, the CHR lauds the government-led project, as implemented by the Department of Environment and Natural Resources, with support from the Global Environmental Facility and the United Nations Industrial Development Organization, to safely destroy the country’s stocks of polychlorinated biphenyls (PCBs) using a non-combustion technology and enjoins stakeholders, particularly PCB possessors and generators to fully support it.

The Right to Remedy / Role of the Courts

The Courts hold a special role in the protection of the people against chemical hazards and ensuring the promotion of their right to health. It is a bastion of justice and a final refuge to victims. From the landmark case of Oposa vs. Factoran, Jr,⁶⁴ the Supreme Court has made positive pronouncements on care for the environment as part of the twin concepts of inter-generational justice and inter-generational responsibility.

⁶² paragraph 21.5 (a-c), Ibid.

⁶³ paragraph 21.4, Ibid.

⁶⁴ G.R. No. 101083, July 30, 1993

On several occasions, the Supreme Court has upheld enactments by the legislature protecting the environment from chemical hazards as well as laws that regulate projects and activities of transnational corporations operating in the country in order to promote the health of the people.⁶⁵ Local ordinances which protect the environment were also upheld by the Court.⁶⁶

In other instances,⁶⁷ the Supreme Court has withheld or has not renewed licenses and/or registration where it was found that the corporation has violated laws protecting the environment. Restraining orders and/or injunctions as well as closure and damages were even ordered in several occasions.⁶⁸ Heads or officers of some corporations, in some cases,⁶⁹ were even found criminally liable for negligence in their operation and violation of environmental laws were made to pay for damages.

Finally, the Supreme Court has granted in several instances⁷⁰ the claims of families of employees with the Employees' Compensation Commission and/or Workmen's Compensation Commission saying that exposure to harmful elements at the workplace and the pollution in the environment has directly caused or otherwise contributed to the decline of health of the employee and his subsequent death.

⁶⁵ Province of Rizal vs. Executive Secretary, G.R. No. 129546, December 13, 2005

⁶⁶ Tano vs. Socrates (G.R. No. 110249, August 21, 1997) and Social Justice Society vs. Atienza, Jr. (G.R. No. 156052, March 7, 2007)

⁶⁷ Ysmael vs. Deputy Executive Secretary, G.R. No. 79538, October 18, 1990

⁶⁸ Pollution Adjudication Board v. Court of Appeals (G.R. No. 93891, March 11, 1991), Technology Developers, Inc. vs. Court of Appeals (G.R. No. 94759, January 21, 1991), Republic vs. Marcopper (G.R. No. 137174, July 10, 2000) and Laguna Lake Development Authority vs. Court of Appeals (G.R. Nos. 120865-71, December 7, 1995)

⁶⁹ Mustang Lumber, Inc. vs. Court of Appeals (G.R. No. 104988, June 18, 1996), Loney vs. People (G.R. No. 152644, February 10, 2006), Macasiano vs. Diokno (G.R. No. 97764, August 10, 1992), and Republic vs. Marcopper (G.R. No. 137174, July 10, 2000)

⁷⁰ Anicia vda. de Galang vs. Workmen's Compensation Commission and Procter and Gamble, Inc. (G.R. No. L-42531, March 30, 1977), G.B. Francisco, Inc. vs. Workmen's Compensation Commission (G.R. No. L-42565, November 21, 1978), Angeles vda. de Sison vs. Workmen's Compensation Commission and Philippine National Railways (G.R. No. L-42817, November 29, 1978), Gloria D. Menez vs. Employees' Compensation Commission, Government Service Insurance System (G.R. No. L-48488, April 25, 1980), Bayani Dator vs. The Employees' Compensation Commission and Government Service Insurance System (G.R. No. L-57416, January 30, 1982), Sylvia Panangui and Olivia Panangui vs. The Employees' Compensation Commission and Government Service Insurance System (G.R. No. L-56259, March 18, 1983), Mariwasa Manufacturing, Inc. vs. Workmen's Compensation Commission and Octavio Vidanes, Jr. (G.R. No. L-40608, January 31, 1984), Emilia vda. de Inguillo vs. Employees' Compensation Commission and Procter and Gamble, Inc. (G.R. No. L-51543, June 6, 1989), Employees' Compensation Commission and Government Service Insurance System vs. Court of Appeals and Lilia Arreola (G.R. No. 121545, November 14, 1996)

The designation of “green benches” as well as the promulgation of the “*writ of kalikasan*” as additional remedies affirm the judiciary’s sincere advocacy over the issue of chemical and environmental safety of the people.

We laud the Supreme Court and the judiciary in their positive actions on issues of health and the environment and their recognition of the international human rights obligations of the State under international law.

We further challenge the courts to be more sensitive to the international human rights obligations of the Philippines especially on the “right of everyone to the enjoyment of the highest attainable standards of physical and mental health” and “the improvement of all aspects of environmental and industrial hygiene”⁷¹ just as it did in the case of Laguna Lake Development Authority vs. Court of Appeals⁷² involving the responsibility of the city government to take care of its garbage and the right of the people living near the dumpsite to a pollution-free environment.

Participatory Approach in Decision-Making

The human rights based approach requires participation and transparency in decision-making. All sectors must be heard.

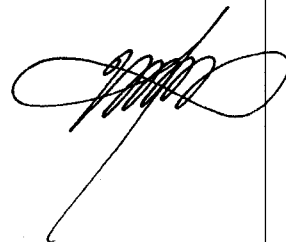
Principle 10 of Rio Declaration appropriately states that,

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely-available. Effective access to justice and administrative proceedings, including redress and remedy, shall be provided.”

Women and children, indigenous peoples who hold special attachment to their land as well as the elderly and persons with disabilities must be considered in all decisions affecting them. Taking into consideration the recent issue on aerial spraying, many

⁷¹ Article 12, International Covenant on Economic, Social and Cultural Rights

⁷² G.R. Nos. 120865-71, December 7, 1995



concerns may have been threshed out had decisions been made with transparency and participation of relevant sectors of society.

Chemical Safety and Healthcare

“First do no harm” is the most recited health care dictum.

But, is our health care system chemically safe? Of all institutions in society, it is, without doubt, the health care system that must be chemically safest of all. Most often than not however, patients find themselves at the mercy of the health care provider they go to. The chemicals as well as devices used are often at the sole discretion of the hospitals and health centers.

The healthcare sector is necessarily at the forefront of responding to cases of exposures requiring emergency care. It is naturally the first called to respond. Yet the role of the healthcare sector should not be limited to treatment. It is in the position to address chemical safety because many products used in health care do contribute to chemical exposures – including cleaners and disinfectants, blood pressure monitors containing mercury, flame retardants in furniture, formaldehyde and solvents in furniture and laboratories, and plastic-softening phthalates in tubes.

The healthcare sector can use its expertise not only to treat patients exposed to chemicals but to prevent them from ever being exposed in the first place. A key to initial step toward this prevention is championing the citizens’ right to know exactly what chemicals are inside the products their hospitals are using. Hence, actions should be taken in ensuring that chemical and pharmaceuticals companies as well as medical device providers give full disclosure of the chemicals used in their products. Health and safety implications of the said products should also be included in the disclosure. Hospitals, health care providers, medical practitioners and the patients themselves must be properly informed of the contents of the solutions and devices used.

Toxic substances and devices must be banned in the same way that mercury was previously mandated to be phased out by DOH⁷³ in all health care facilities, including schools. In accordance

⁷³ through the issuance of DOH Administrative Order 2008-0021, July 30, 2008

19

with international standards, the Philippines must ensure that Filipino patients get the best and safest healthcare they deserve.

On the other hand, doctors, nurses and other medical practitioners must also be protected against exposure to toxic chemicals and devices. Medical wastes, as toxic as they are, must be properly disposed.

Chemical Safety in Agriculture

As a primary economic factor in the country, agriculture must be ensured safe. Chemicals used as pesticides and fertilizers must be safe for the production of crops and safe for use by the farmers and the community.

There is a need to adopt a policy on safe chemical use in agriculture given the widespread use of toxic chemicals in the country's vast agricultural lands. Sound policy and management interventions in pesticide and fertilizer regulations in the country can improve the health and well-being of the people, reverse ecosystem degradation, ensure the health of the future generations and enhance the future contributions of ecosystems to human well-being.

In particular, the current indiscriminate application of agricultural chemicals through aerial spraying must be carefully looked into and the earlier recommendation of the CHR to shelve the practice of aerial spraying until and unless a comprehensive and multi-stakeholders research and dialogue has been completed.


Sustainable solutions, through the adoption of alternative agricultural practices using natural and organic materials and processes, must be made a priority.

Chemical Safety in the Workplace

Section 18, Article II of the 1987 Philippine Constitution declares that,

“The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.”

ILO Conventions 155, 170, 174 and 139 are comprehensive norms on the matter of chemical safety in the workplace. All efforts



on legislation, policy and programs affecting the labor force must be consistent with these conventions. Industries must guarantee chemical safety of their employees and take responsibility for negligence. For workers' safety and health at the workplace, the CHR supports the push for a national and global ban on cancer-causing asbestos by labor and environmental groups.

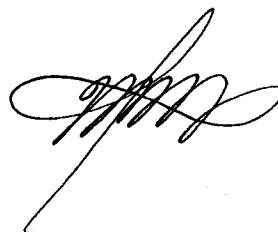
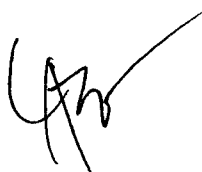
Recognizing the susceptibility of waste workers to toxic exposure, especially among waste handlers, pickers and recyclers, the CHR proposes that government and non-government organizations take action to promote occupation safety and health, including providing popular information and education tools and ensuring source separation so that the waste and recycling streams are not contaminated with hazardous materials.

International Cooperation to include Ban of Toxic Trade

Finally, the problem of chemical management need not be dealt with in isolation. The community of nations finds the need to institutionalize cooperation between and among nations. In fact, many of the conventions provide for cooperation and support to developing countries.

Hence, it is respectfully recommended that the Philippines seek ways to establish beneficial international cooperation engagements on areas of training to increase ability to avoid toxic chemicals and products, increase analytical and technical capabilities for risk assessment of relevant government agencies, on information exchange, on appropriate technology transfers, on ensuring the prohibition of illegal transboundary movements of hazardous chemicals and other toxic wastes, and other appropriate areas of cooperation.

Also, we urge the government to actively participate in chemical treaty negotiations and related international processes to protect the public health and the ecosystems from chemicals of major public health concern such as the Intergovernmental Negotiating Committee meetings to prepare a global legally binding instrument on mercury, Global Alliance to Eliminate Lead in Paints (GAELP), Polychlorinated Biphenyls Elimination Network (PEN) and other processes to regulate flame retardant chemicals, electronic and electrical waste (e-waste), highly hazardous pesticides, etc.



Lastly, the Commission on Human Rights acknowledges that the trade of toxic wastes, products and technologies, collectively toxic trade, also forms a disincentive towards attaining a Zero Waste resource management. Foreign generated toxic wastes, such as electronic wastes or e-wastes can end up in a developing country such as the Philippines from developed countries such as Japan, the United States and Europe.⁷⁴ The authorities, must therefore, take further actions in preventing toxic trade from occurring.

To further safeguard the national interest against toxic waste dumping from overseas, the CHR calls upon the Executive Department to transmit the 1995 "Basel Ban Amendment" to the Senate for immediate ratification. The Basel Ban Amendment, which prohibits the export of toxic wastes whether for disposal or recycling can effectively address toxic waste exports. The CHR also calls on the authorities to promptly reject toxic trade provisions, provisions that will facilitate toxic transfers, in any multilateral agreement, be it an environmental or trade treaty.

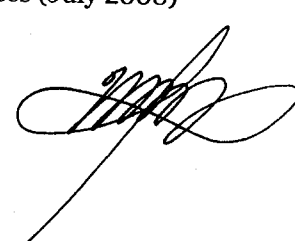
Conclusion

The CHR does not call for a total ban on the use of chemicals in the country. Responsible chemical use has undoubtedly raised living standards, worked miracles in the medical field and improved life for many.

However, we find it imperative for strong chemicals regulations to be put in place and strictly enforced and monitored to fully realize our people's rights to health, to a quality of life and to sustainable development.

The Commission on Human Rights therefore calls for a health-based and human rights-based policies on chemicals in the Philippines that will guarantee our people's right to chemical safety, taking into consideration the integrated life cycle approach, the precautionary principle and the public's right to know and meaningful participation.

⁷⁴ UNEP/UNU: Recycling – From e-waste to resources (July 2008)

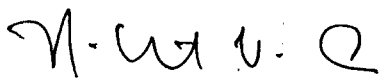


We do not need another Bhopal or Fukushima tragedy to remind us of the adverse affects of chemicals to life, health and the environment. Intentionally or unintentionally, all of us, without exception, are victims of improper use of chemicals or the use of hazardous ones. Everyday, we are overwhelmed with chemicals. Everyday, the state of health of man and the environment are threatened. Everyday, we face the danger of extinction. We owe to ourselves and our children the proper care of the environment. As aptly stated by the Supreme Court in the celebrated case of Oposa vs. Factoran, Jr.,

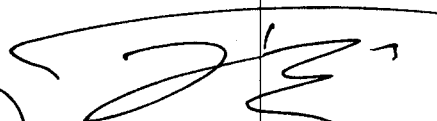
Issued this 14th day of November 2014, Quezon City, Philippines.



LORETTA ANN P. ROSALES
Chairperson



MA. VICTORIA V. CARDONA
Commissioner



NORBERTO DELA CRUZ
Commissioner



JOSE MANUEL S. MAMAUAG
Commissioner