

United Nations and others find adverse effects and global human rights violations

Pesticide Use Violates Human Rights



Illustrations by Meghan Taylor

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As is the case in many countries, the conversation about the use of pesticides has been especially vigorous in the past few years. Switzerland is a case in point: it is undergoing deep scrutiny of pesticide use, and the UN Special Rapporteur on Toxics, Baskut Tuncak, has now said publicly that pesticide companies' behavior is "seriously deficient" regarding human rights (especially those of children), and that the Swiss government should act more aggressively to phase out use of these hazardous chemicals. In February, 2019, enough signatures were collected to run a referendum in 2020 entitled, "For a Switzerland free of synthetic pesticides." The government's Parliament is on record as opposing the measure. Advocates for the measure point to widespread contamination of farmland and waterways.

GREATER PUBLIC AWARENESS, MORE POLICY DEBATES

Recently, the pesticide debate has ratcheted up several notches, not only in the U.S., but also globally, due to greater public awareness of the health and environmental threats of pesticide use, more and more research underscoring those

threats, and pointedly, the cascade of litigation against Monsanto (now owned by Bayer) for harm to individuals who have used its glyphosate-based products. Public awareness in Switzerland is also mounting in response to global developments, recent discoveries that small streams in Swiss agricultural areas are heavily polluted with pesticides, and broadening recognition that pesticides are linked to a plethora of harms to human health, pollinators, waterways, farmworkers, wildlife, ecosystems and biodiversity, and more. In 2017, a UN report found that human rights are adversely affected by pesticide use: not only has industrialized agriculture not succeeded in "eliminating world hunger," it has hurt human and environmental health and well-being.

Corporate disregard for the impacts of pesticide products (which is enabled by the Environmental Protection Agency [EPA] in the U.S.), rampant malfeasance, and undue influence on governmental regulation all underscore the "seriously deficient" description used by Mr. Tuncak. He commented in an interview with the website swissinfo.ch,

"There is a serious deficiency in terms of the human rights due diligence carried out by pesticide manufacturers and other chemical companies in terms of what happens after

the point of sale. . . . Most chemical companies have a very shallow approach to human rights due diligence.”

Mr. Tuncak admonished the Swiss government for failing to hold businesses accountable for ensuring chemical safety, and phasing out chemicals of concern. He also critiques countries broadly for their lack of accountability to the pledges made under the *Strategic Approach to International Chemicals Management* (SAICM) framework, saying that the agreement “hasn’t made a significant dent in phasing out highly hazardous pesticides in the past 13 years.”

In 2014 and again in 2017, Mr. Tuncak was appointed UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes. The *swissinfo.ch* interview with him touched on his UN charge to assess how pesticides impact human rights, and his thoughts about the responsibilities of governments and industry.

THE VULNERABILITY OF CHILDREN

His first comments in the interview went right to the heart of concerns about health impacts of pesticides:

“What really concerns me is the widespread exposure of children during sensitive periods of development and how chemicals are found to be more and more hazardous at lower and lower exposure levels over time. Health trends ranging from declining sperm count to rising breast cancer rates are increasingly being associated with exposure to these chemicals in childhood. Particularly concerning is the way multiple chemical exposures can combine and interact with each other to impact health. Yet the few risk assessments that have been completed focus on the risk of exposure to individual substances, and don’t consider the human rights of the child. We are discovering all kinds of nuanced effects of these chemicals on health, which increasingly is changing the way we think about diseases and disabilities that develop later in life. I find this widespread prevalence of childhood exposure very concerning not only based on the science, but also the values, principles and rights of children that are recognised by nearly 200 countries.”

The Swiss government has been a bit “all over the map,” and certainly inconsistent, on the matter of pesticide regulation. Critics note, for example, its glacial implementation of a narrowly focused pesticide reduction plan passed in 2017 that purports to reduce by 50% the risks of long-term soil and water pollution by adopting more-sustainable agricultural policies. At the same moment, the Federal Office of Agriculture (FOAG) issued a statement saying it is

not possible to dispense with pesticides altogether. On the ground, activists have advanced the *Clean Drinking Water and Healthy Food initiative*, which aims to cut subsidies to farmers who use pesticides or antibiotics, and the so-called *Neuchâtel Initiative*, which looks to ban pesticide use in the country, as well as importation of food containing pesticides—both of which should end up going to the ballot box.

In June, 2019, FOAG banned 12 pesticides that contain chlorpyrifos and chlorpyrifos-methyl, which are commonly used on potatoes, vegetables, berries, and grapes. Yet the ban, which affects a total of 26 products, also allows three of them to continue to be sold for another year. The Swiss parliament is currently considering two additional initiatives to restrict the use and sale of pesticides.

MOVING TOWARD SUSTAINABLE AGRICULTURE

Further, ARC2020—a multi-stakeholder platform of more than 150 civil society networks and organizations (from 22 European Union member states) that work on issues affected by the EU’s Common Agricultural Policy—has noted that Switzerland has made progress on the sustainable agriculture front, including reducing use of what Europeans refer to as Plant Protection Products (PPPs), which are synthetic pesticides, herbicides, fungicides, etc.

ARC2020 wrote in March 2019, “The strict Swiss regulatory regime places biodiversity at the heart of agricultural policy. Subsidies for Swiss farmers are pegged to compliance with regulations on pesticide use, nutrient budgets, crop rotation and livestock. Farmers are also required to set aside 7% of farmland for Biodiversity Promotion Areas (BPAs), such as grassland, hedgerows and wild-flower strips. Direct payments for ecosystem services are designed to compensate farmers for loss of income. Agroscope’s role is to develop direct and indirect alternatives to pesticides. ‘We only resort to synthetic plant protection products once all other measures have been exhausted.’”

THE RIGHT TO HEALTH, A LIVABLE CLIMATE, AND CLEAN AIR, WATER, AND FOOD

The human rights issues related to pesticide use comprise one aspect of a broader question being discussed across global societies—whether people have inherent rights to health, a livable climate, and clean oceans, air, water, and/or food. The UN Office of the High Commissioner on Human Rights website notes, “A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations or even live at a level commensurate with minimum standards of human dignity. At the same time, protecting human rights helps to protect the environment. When people are able to learn about, and participate in, the decisions that affect them,



they can help to ensure that those decisions respect their need for a sustainable environment.”

Beyond Toxics, an Oregon-based environmental organization, lays out the rationale for viewing pesticide use and other issues through a human rights lens: “Human rights norms are not arbitrary. They are ethical standards recognized by citizens in our country and by peoples around the world as moral duties and protections that everyone should be able to expect from their governments. If governments, or businesses regulated by governments, violate these norms, they are violating formally recognized standards of justice.”

MONSANTO CHALLENGED FOR ENGAGING IN ECOCIDE

In 2017, the International Monsanto Tribunal—which was established by the Monsanto Tribunal Foundation, an initiative of civil society groups—litigated Monsanto to hold it accountable for crimes against nature and humanity, and ecocide. The presiding judges, having heard testimony from experts, witnesses, and victims in The Hague, Netherlands, home to the UN International Court of Justice, delivered their legal opinion on Monsanto’s impact on issues including human rights, food access, environmental health, and scientific research. Their conclusion: that Monsanto has engaged in practices that have negatively affected people’s right to a healthy environment, to food, and to health, and that if ecocide were recognized as an international criminal law, the corporation would possibly be found guilty.

THE INTERSECTION OF HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION EXPANDS

On a different frontier, in the U.S. courts, the question of human rights in the face of the climate emergency is currently before the Ninth Circuit Court of Appeals in *Juliana v. United States*, a lawsuit brought by a group of 21 young people. The plaintiffs’ case “demands that the government step up to protect today’s children, and future generations, from the worst effects of climate change. It says they risk being deprived of their ‘rights to life, liberty, property, and public trust resources by federal government acts that knowingly destroy, endanger, and impair the unalienable climate system that nature endows.’”

In April 2019, a report, *The Human Right to a Clean and Healthy Environment in Climate Change Litigation*, by Samvel Varvastian, a legal researcher at Cardiff University, examined issues raised in lawsuits in the U.S., the Netherlands, Switzerland, Columbia, and Pakistan, and points to cautious optimism about the human rights bases of the suits. Environmental law professor at Wake Forest School of Law and former special rapporteur for Human Rights at the UN, John Knox, commented, “One of the valuable aspects of human rights is that they set out certain basic protections that we think are necessary for human dignity, equality and freedom.... And so while the challenges may change and evolve, the need to protect people’s basic human rights should remain a constant.”



The “rights” lens was posited, vis-à-vis pesticide use, back in 2004 by noted scientist and activist Sandra Steingraber, PhD, in a Rachel Carson Memorial Lecture held by Pesticide Action Network, UK, on the issue of human rights and people’s unwitting exposure to chemicals in air, food, and water. (Excerpts of this talk were published by Beyond Pesticides in “Contaminated Without Consent: Why our exposure to chemicals in air, food, and water violates human rights.”)

The human rights of farmworkers and their families, and child farmworkers, are often acutely at issue because of intensive pesticide use. Beyond Pesticides advocates for a precautionary approach to the use of chemicals, and asserts that organic approaches to agriculture and land management represent the real solutions to the threats of chemical-intensive agricultural production. It supports steps that bring the world closer to the day those are realized.

About Mr. Tuncak

Mr. Tuncak is the founder of Common Rights, a multi-disciplinary advisory firm on sustainable development and human rights. He is an attorney and chemist, specializing in toxic pollution related matters. Mr. Tuncak has nearly 20 years of professional experience in private and public sectors, divided between work as a research scientist with pharmaceutical and biotechnology companies and senior legal positions with non-profit organizations and research institutions. He has served as an advisor to various initiatives of the United Nations agencies, national governments, public-interest organizations and philanthropic donors and currently serves as UN special rapporteur on toxic substances. Mr. Tuncak is an adjunct professor at Boğaziçi University (Turkey).

See interview with Mr. Tuncak at bp-dc.org/human-rights.