



## Pesticide Discussion Forum Summary Digest

Issue 7 of 2021  
Forum Date: 17<sup>th</sup> June 2021

### HAVING A RIGHTS-BASED APPROACH TO PESTICIDES MANAGEMENT

The rights perspective. The human rights perspective. What do we mean with that and what does that have to do with pesticide management or sound chemical management? Human rights are often presented as a catalogue of different rights. When you view these, you will quickly realise that some of these are highly relevant for this area. Our exposure to toxic substances from a multitude of sources directly implicates our human rights to life. It can prevent us from reaching the highest attainable standard of health. Exposure to toxics can also block access to physical integrity, to safe water and food, to adequate housing, and the right to a healthy environment. To exercise these rights, you also need the right to information as well as your right to access justice.

This document is a summary of the University of Cape Town's Division of Environmental Health's Pesticide Community of Practice held on the 17<sup>th</sup> of June 2021 entitled: "Having a rights-based approach to pesticides management". This digest presents the issues, points raised, and information shared by participants in response to the three questions prepared by the presenter, Ule Johansson. A total of 62 participants joined the live discussion and 3 people blogged their responses. From the members who attended, 65% were from Africa, 13% were from Europe, 6% were from Eastern Mediterranean, 5% were from America, 4% were from South-East Asia and 10% were classified as other.

#### About the Presenter



**Mr Ule Johansson** has a background as a lawyer and trained police officer. Over the past 29 years, Ule held different positions at the Swedish Chemical Agency (KemI), five years as a legal advisor, 8 years as head of division and for the past 16 years, has worked as an expert in development cooperation. These last 14 years he spent supporting governments in building institutional capacity, for example, drafting legislation, organizing institutions, training inspectors, developing communication tools, building systems for bans and restrictions, etc.

**DISCLAIMER:** The information below represents the opinions of members participating from different countries expressed during the discussion and shall not necessarily be taken to reflect the official opinion of the DEH, UCT, FAO, SIDA or KemI.

**PRESENTED BELOW ARE THE THREE QUESTIONS AND RESULTING DISCUSSION INPUTS FROM PARTICIPANTS:**

#### **Question 1: Which human rights are the most important for your pesticides management work and give examples of how they are present in your context?**

SECTOR	RESPONSES
ACADEMIA	<ul style="list-style-type: none"> <li>➤ The most important human right is to <b>ensure that the most vulnerable populations</b> (especially children) <b>are not exposed to hazardous pesticides</b> that could potentially cause acute and chronic health effects.</li> <li>➤ The <b>right to information</b> is important. There is an intensity and mis-regulation of agrichemical use and it is reflective of the broader population in general. What is also astounding is how much of this information is restricted under the guise of 'confidential business information'. Consumers and pesticide users have the right to access information. However, this right should be more than access. They also have the <b>right to understand/comprehend</b> what the information means and how to implement safety behaviours.</li> <li>➤ <b>Right to life</b> as a pesticide is designed to kill. Most dangerous pesticides i.e., insecticides do not recognize between the target (insect pests), human beings and wildlife.</li> <li>➤ The <b>right to good health</b> all applies to pesticide management. Pesticide exposures are associated with increased morbidities and mortalities in all population groups.</li> <li>➤ <b>Preventing poisoning</b> in humans and wildlife, worker protection, child worker protection, etc. are important.</li> <li>➤ In India and Kenya, the most important human right would be the <b>right to a clean environment</b> that is not contaminated by pesticides. The inequities due to class, ethnicity, gender, or migration status get amplified when there is an issue of agriculture and the use of pesticides in those fields.</li> <li>➤ In Kenya, the <b>right to healthy and nutritious food</b> as well as the right to shelter and clean water has been regulated (in our constitution and most sectoral laws). However, there are still huge disparities in the maximum benefits to the populations in Kenya.</li> <li>➤ <b>Right to access PPE.</b> In resource-poor settings, pesticide users are not able to access PPE</li> </ul>

<b>GOVERNMENT</b>	<p>often despite their awareness of the dangers to their health.</p> <ul style="list-style-type: none"> <li>➤ The <b>right to a healthy environment</b> is important, including Preservation of environment and biodiversity.</li> <li>➤ In Zambia, the following human rights are important: the right to a clean environment, the <b>right to information, the right to safe food, clean water, and health</b>. The Zambian constitution has provided these rights and the legislation have been made. For instance, labelling of pesticides- the labels are approved to ensure that the user of the pesticides receives correct information about the pesticides. With respect to safe food, pesticides residue is important to analyse before the pesticides are registered.</li> <li>➤ The benefits are an assurance of consumer's health, farmer, all through the chain.</li> <li>➤ The <b>rights to life, clean and safe environment</b>.</li> <li>➤ The <b>right to health is important</b>. Pesticide exposure and poisoning at work, in everyday life and in food violates our right to live and to health.</li> <li>➤ <b>Good regulation of agricultural products</b> could also bring income to the country. With good quality and safety of products, it is possible to challenge the international market and develop the country.</li> <li>➤ Pesticides can <b>affect a human being through adverse health effects or have direct fatalities</b>.</li> <li>➤ Pesticides can <b>affect the quality of life enjoyed by humans</b> through contamination of the environment in which <b>a human being lives and derives his life's essentials</b>. The human rights that are most important to pesticides management work are those to do with the right to life, the right to the highest attainable standard of health and the right to a healthy environment.</li> <li>➤ The <b>right to safe food</b> is important. This can be achieved by using fewer chemicals during production and ensuring the right chemical is used for a target pest and used in the right quantities.</li> <li>➤ In Senegal, the <b>right to health</b> and the <b>right to information</b> is pressing. A project named "basket of a housewife" intended as an alert and monitoring system for pesticide residue is underway in Senegal and carries out analyses of residues for the vegetables most consumed by the Senegalese. The main argument to justify the project is the right to health and that high levels of pesticide residues in food.</li> <li>➤ The <b>government is responsible to ensure that the rights of people are upheld</b> while farmers have a responsibility to ensure that their activities do not affect other people negatively.</li> </ul>
<b>PRIVATE</b>	<ul style="list-style-type: none"> <li>➤ In Zimbabwe, there is the <b>right to a safe, healthy environment and safe food</b> for all. Additionally, there is a right to non-abuse and protection from exposure to pesticides.</li> </ul>
<b>INTERGOVERNMENTAL ORGANISATIONS</b>	<ul style="list-style-type: none"> <li>➤ The <b>right to know the health and environmental</b> impacts of pesticides should be a starting point for all sectors of a community for proper precautions to be implemented.</li> <li>➤ The most important human rights are, the right to life, the right to health, the right to a clean and healthy environment.</li> </ul>
<b>NON-GOVERNMENTAL ORGANISATIONS</b>	<ul style="list-style-type: none"> <li>➤ The <b>right to life and the right to a healthy environment</b>. In Kenya, the vulnerable populations are continuously exposed to highly hazardous pesticides directly or indirectly (e.g., through pesticide drifts threatening their health). Once the right to a clean and healthy environment is observed, food will be produced in a sustainable manner.</li> </ul>
<b>OTHER</b>	<ul style="list-style-type: none"> <li>➤ In Zimbabwe, the <b>right to safe pesticides</b> is important to ensure a low mammalian risk.</li> <li>➤ Pesticide labels are required to provide sufficient information on <b>safe disposal practices as a right to a healthy environment</b>.</li> </ul>

**Question 2: When you think of different stakeholders such as, the government, the pesticide producer, the retailer, the shop keeper, the consumer and the farmer, who is the duty bearer and the right holder in pesticides management? Explain your answer.**

### DUTY-BEARER IN PESTICIDES MANAGEMENT

#### SECTOR RESPONSES

##### ➤ Government (n=13):

- As the government **regulates** legislation and policies, they should be the duty-bearer.
- Government has a responsibility to ensure that users of pesticides and **vulnerable populations are protected** from the adverse effects of pesticides (e.g., providing education and regulating pesticides use).
- The government is a duty bearer who must **provide proper legislation** that governs the operation of the pesticide producer (rights bearer).
- The government is a duty bearer to **protect farmers on the sale of toxic** and unsafe pesticides.
- Government must ensure that the **intended use of pesticides does not jeopardize** the rights of a consumer.
- Government is responsible to **ensure all human rights are enforced into legislation**.
- In South Africa, the Occupational Health and Safety Act requires that the manufacturers, suppliers, and employers ensure the safety of the employee and those affected by their activities.

- Regulatory agencies are duty bearers as they control what is put on the market.
  - Governments must ensure that **pesticide registration** happens when all the prescribed conditions are met as well as **regulate the pesticides after registration**.
  - Government in **collaboration with ministries, pesticide-related departments** etc., should be the duty bearer.
  - Government must **regulate the life-cycle process** (e.g., production, supplier, storage, use including export and import of pesticides).
  - The government/Ministry of Agriculture has the **responsibility to educate farmers and vendors** on proper pesticide management and handling.
  - Government are duty bearers **as they can be held accountable** for their actions and omissions.
  - Responsible to **provide further safety tests and restrictions** on pesticide products.
- **Producer/Manufacturers (n=10):**
- The producer has the **responsibility to place correct information on the label**.
  - Producers **provide the farmers with PPE** or **give them free training sessions** and subsidies to access them.
  - Companies need to **ensure that their products are safe** by providing full information about the product.
  - Producers are the main duty bearers since they make the product and **can make relatively safe products** and **attach information** to help protect the user.
  - Manufacturers should ensure that they **provide sufficient information** about the formulation.
  - **Sell** the products **to compliant retailers**.
  - Responsible can be **held accountable for their actions and omissions**.
  - Pesticide producers hold a vital position in the regulation of pesticides and waste from the pesticides they produce as part of the **polluter pays principle**.
  - Industry has a responsibility to **produce low-risk pesticides** and **educate the users**.
- **Intergovernmental Organisation (IGO) (n=1):**
- Considering high poisoning numbers and death due to pesticides in LMICs, IGOs are **responsible global agencies** (e.g., FAO and WHO) to control regulations.
- **Retailers (n=3):**
- Shop owners are duty bearers because **they need to provide information to pesticide users** about the pesticides they are selling.
  - Responsible for the **proper storage of pesticides** and advice for end-users on the correct use of the specific product.
  - In South Africa, retailers are responsible to **comply** with the Hazardous Substances Act and Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947.
  - Retailers are the **main source of information/advice to farmers** - hence the need for them to be properly trained, licensed, and monitored.
- **NGO's/non -state actors (n=2):**
- **Responsible for consumer and human rights**.
  - They have the **responsibility to provide accurate information** based on what is available.
- Counterinterview:
- Is the NGO a duty bearer for making sure farmers have correct information about pesticides? This is not their responsibility.
  - NGOs do not have access to CBI, risk assessments, etc.
  - NGOs are not financed for this.
- **End-users (n=4):**
- Parents and farmer organizations have **a role to ensure that children are protected** from exposure to pesticides.
  - Consumers must **set acceptable standards for the foods** they consume, like maximum residue limits (MRLs). They can choose to reject foods with pesticide residues. Therefore, to some extent, everyone has a role to play.
  - Consumers are users and therefore they become duty bearers as they **should use pesticides in a manner that does not put other people's rights at risk** (e.g., decanting a pesticide product in unmarked containers).
  - Users have the responsibility to **apply and store the pesticide as per the manufactures' material safety data sheet**.
- **Farmers (n=2):**
- Producers like farmers must **ensure that pesticides are applied as recommended** on the label.
  - Farmers must **ensure that they produce foods and use pesticides in a manner that does not threaten human health and the environment**.
- **Shop keepers (n=1)**
- Shop keepers (especially in some remote rural villages) have the **right to receive the correct information** from the manufacturers approved by the regulators.

➤ **Farmers (n=5):**

- As farmers use and handle pesticides, they have the **right to know about the risks associated** with the use of pesticides.
- The farmer is a rights holder who has a **right to be properly informed by the shopkeeper** (duty bearer).
- The farmer is **entitled to effectiveness** and other stipulations on the product.
- Pesticide users such as **farmers and vulnerable populations** are right holders as they have the right to a clean and healthy environment, and healthy foods, among others.
- The right to the **highest attainable standard of health** is important. In Eswatini, small scale farmers are highly exposed to roundup glyphosate without knowing the risk involved. This is mainly caused by a lack of information. Human rights are not considered and are not practised.

➤ **Consumers (n=4)**

- Though the rights-holder is the end-users, the current law in Zimbabwe gives the pesticide industry the power not to be asked and be responsible for any consequences caused by pesticides.
- Individuals including consumers of pesticides can make legitimate claims against the duty-bearers. This is central in the regulation of the exercise of power by ensuring that those who hold power can be held accountable by those who do not.
- In Zimbabwe, the Constitution in section 73 states that everyone has the right to an environment that is not harmful to health or wellbeing while the same section gives the government the duty to act reasonably in gives every individual the right to an environment safeguarding those rights.
- Consumers have a legitimate expectation to be protected from acts or practices that may adversely affect their right to life or good health/well-being.
  - Counterintuitive: Though consumers have the power to influence the market by demanding only products free of hazardous pesticides, the concern is how they will have access to this information in the first place because “industries” do not include such information on goods.

➤ **Retailers (n=2)**

- The retailer should inform consumers about pesticides and pass correct information to the shopkeeper.
- The retailer is a rights bearer who expects the duty bearer (pesticide producer) to provide the correct information.

➤ **Community (n=1)**

- The vulnerable community on the other end are the right holders.

**Question 3: What mechanism do you have to claim your rights or complain if your rights have been violated in relation to pesticides? Be specific when explaining.**

**PARTICIPANTS RESPONSES:**

**SOUTH AFRICA**

- ✚ There are both national and international mechanisms (e.g., FAO/WHO Code of Conduct) for claiming rights both as individuals and as a collective. Pesticide incidents and accidents have been provided for in terms of the OHS Act to be reported and investigated by government authorities. The Act further requires the employer to investigate the cause and report to the department within a specified time frame. The investigating officer recommends prosecution if the outcome of the investigation showed non-compliance.
- ✚ MRLs are tested for products destined for export, but products/produce consumed nationally are not tested for MRLs.
- ✚ The arrangement to have the pesticide register and list of banned products in South Africa is managed by a private entity. Other stakeholders must pay for the information which has huge implications on the right to information.

**ZAMBIA**

- ✚ The Environmental Management Act has a provision of the polluter pay principle and the right to compensation. However, there is a need for awareness and educational programs for the right holders to know and claim.

**UGANDA**

- ✚ There are human rights organisations in the country and regulatory bodies such as National Environmental Management Authorities and courts of law.

**SCOTLAND**

- ✚ Violations of elements of the International Code of Conduct on Pesticide Management can be reported to its custodian organizations, the FAO, and the WHO, who can intervene on the issues with relevant parties, although they have no power to act.
- ✚ If there are problems related to using registered pesticides in a country, regulators must be aware of those problems. They should always be informed, even though the responsibility is with another body (e.g., producer, importer, vendor etc.).

**ZIMBABWE**

- ✚ The violation should be dealt with the company first, if they do not respond, one will have to engage the police, or report to the relevant authorities (e.g., police, municipality) and it will end up in the Court of law. When your rights have been violated concerning improper disposal of pesticide waste by manufacturing companies in the eco-system, you can visit the City Health Department that has the mandate to verify the complaint and fine the polluter.
- ✚ When using household pesticides, you can lodge your complaint with the Pesticide Registrar if you feel that the product does not perform according to claims. The registrar can collect several samples from different retailers and verify the claims.
- ✚ If the product does not meet the claims, the Pesticide Registration officer will notify the manufacturer/retailer that the registration of the product is being withdrawn. In extreme cases, the complainant can take the retailer/manufacturer to a court of law. A manufacturer can be requested to withdraw or

modify some statements about the product if they are not accurate or exaggerated.

#### MALAWI

- ✦ Awareness of rights especially in connection to pesticides is still low. Therefore, voicing out through boycotts and protests to the violators of food safety standards would set a new bar as far as compliance is concerned.
- ✦ In Malawi, issues to do with violations suffered because of pesticide mismanagement. Violations are often reported to consumer rights bodies or the Pesticides Control Board, who in turn initiate investigations to establish facts on the ground.
- ✦ When evidence is gathered to confirm/prove a violation, judicial proceedings can be initiated by the sufferer with backing from the pesticides regulatory body and relevant rights bodies.

#### ESWATINI

- ✦ The environmental authority has a platform where the public can report forms of pollution and environmental abuse.
- ✦ Bystanders are affected by a pesticide application they have the right to report it.

#### PARAGUAY

- ✦ In 2019, there was a case of human right violation, pesticides, and the rights perspective in Paraguay, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24890>

#### KENYA

- ✦ In Kenya, there is environment courts and labour courts where one can go for cases of pollution and environmental abuse. The national environmental complaints committee and the national environment tribunal acts as an environmental ombudsman.
- ✦ In Kenya, the Environmental Management Act 1999 provides for fines in the case of environmental pollution.
- ✦ The constitution provides that any person whose right has been violated can seek redress at the Land and Environmental court.

- ✦ NGOs that can go to court on behalf of communities that are impacted.

#### RWANDA

- ✦ First, address the matter with the organisation concerned. Thereafter check the legislation stipulations in case of rights violation, If the violator does not accept to pay the damages, then the relevant justice channels should be pursued.
- ✦ The right holder must ensure the regulatory framework is clear and well-enforced to help those who are vulnerable.

#### INDIA

- ✦ In India, there is a provision to file a Public Interest Litigation on behalf of those affected.

#### SENEGAL

- ✦ Non-governmental organizations and civil society are the most solicited for questions concerning rights violations related to the use of pesticides.

#### NIGERIA

- ✦ The only credible role player to contact in Nigeria is the regulatory authority, the National Agency for Food and Drug Administration and Control.
- ✦ The judicial system is often biased when it comes to dragging the industry court. Additionally, the system of getting a court order is slow and it requires time and money that a vulnerable population cannot afford.

#### LMICs

- ✦ LMICs and HICs have different experiencing when approaching their rights. In HICs, large sums of fines and compensations take places compared to LMICs where 1000s of lives are impacted with little compensation. Most people in LMICs do not know their rights.

### Resources and Further Reading

1. [Right Holders and Duty Bearers - UNICEF Wiki \(advocate-for-children.org\)](#)
2. [Child Rights - Rights Holders and Duty Bearers \(europa.eu\)](#)
3. [Human Right and Toxic Waste \(unep.org\)](#)
4. [OHCHR | HRC Home](#)
5. [OHCHR | Special Rapporteur on toxics and human rights](#)

The Division of Environmental Health (DEH) Pesticide Discussion Forum is a bi-monthly online seminar for pesticide regulators and resource persons, as well as students in the postgraduate Diploma in Pesticide Risk Management (DPRM). Our aim is to provide support for managing pesticide risks and implementing risk reduction strategies. DEH is based in the School of Public Health and Family Medicine at the University of Cape Town (UCT).

This Digest was produced by: Tatum Louw | Forum Administrator | [tatum.louw@uct.ac.za](mailto:tatum.louw@uct.ac.za).

Prof Andrea Rother | Forum Moderator | [andrea.rother@uct.ac.za](mailto:andrea.rother@uct.ac.za)

Acknowledgement: Financial assistance from the Swedish International Development Cooperation Agency (SIDA), has been arranged by the Swedish Chemicals Agency (KemI)

If you are not a member, to join the Pesticide Discussion Forum, kindly the following form: <https://forms.gle/NzYH5REfUruLzjdm6>