



# General Assembly

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## Human Rights Council

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Agenda item 3

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

## **Written statement\* submitted by Center for Global Nonkilling, a non-governmental organization in special consultative status**

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

[22 August 2021]

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\* Issued as received, in the language(s) of submission only.



## **Upholding human rights in the “Global Industry Standard on Tailings Management” as part of environmentally sound management and disposal of hazardous substances and wastes (A/HRC/48/61)**

The Center for Global Nonkilling (CGNK) wishes to bring to attention of the Human Rights Council some of the problematic human rights issues of the “Global Industry Standard on Tailings Management” (see UNEP/EA.5/14) that has been endorsed by the United Nations Environment Programme (UNEP). CGNK has already noted in previous occasions the need for “enforcing environmental rights, by providing adequate supervision and restoration of critical facilities, including abandoned mine tailings dams” (A/HRC/WG.6/35/ESP/3, para. 18).

In the recent document “Safety First: Guidelines for Responsible Mine Tailings Management” (2020), published by Earthworks with the endorsement of over 150 civil society organizations, a warning that mine tailings dams are “failing with increasing frequency and severity” was made. This is related to the fact that today, “depending on the metal concerned, about three times as much material needs to be moved for the same ore extraction as a century ago, with concomitant increases in land disruption, groundwater implications and energy use” (UNEP-IRP, “Decoupling Natural Resource Use and Environmental Impacts from Economic Growth”, 2011). As an example, average concentration of copper has gone from 1.8% in 1930 to 0.5% in the 2010s.

The 2021 report “Breaking Free From Mining – A 2050 blueprint for a world without mining on land and in the deep sea” by Seas At Risk recalls the 2019 critical failure of a mine tailings dam in Brumadinho, Brazil, that killed over 270 people and released 10 million cubic meters of tailings; and the 2015 tailings dam failure in Mariana, within the same region, releasing 32 million cubic meters of tailings, killing 19 people and polluting 650 km of rivers with heavy metals such as arsenic, lead and mercury before reaching the Atlantic. Many other tailings dams around the world continue to threaten life, livelihoods, and the environment (i.e., the Riotinto dams in Huelva or the San Finx dam in Galicia, both in Spain).

In response to the Brumadinho disaster, the United Nations Environment Programme (UNEP) together with the International Council on Mining & Metals (ICMM) and Principles for Responsible Investment (PRI) co-convened a seven-person expert panel to write the “Global Industry Standard on Tailings Management” in a process that was called the Global Tailings Review (GTR). The Standard was released on August 5, 2020, followed by the dissolution of the GTR. However, the process has been denounced as being deeply flawed by members of the expert panel itself and independent external experts.

Two out of the seven members of the expert panel, Dr. Andrew Hopkins and Dr. Deanna Kemp, have written a book that is highly critical of the Standard that they helped to write and of the process by which it was written. The 176-page book is called “Credibility Crisis – Brumadinho and the Politics of Mining Industry Reform” and was published in 2021 by Wolters Kluwer (see review by Dr. Steven Emerman in “Dams and Levees: Bulletin of the US Society on Dams”).

Both authors have warned that the UN sponsored standard is unsound for a number of reasons, including (1) the lack of a ban on the upstream construction method; (2) the lack of a ban on riverine or deep-sea tailings disposal; (3) a consequence-classification method that does not recognize the expected loss of a single life as an extreme event that should require dam construction to the highest standards; (4) limited consideration of the chronic impacts of chronic tailings dam failure (such as blowing of radioactive dust); (5) limited consideration of financial assurance for tailings dam closure and financial insurance to cover catastrophic dam failure; and (6) limited consideration of the rights of project-affected people.

Such grave flaws in the results and process are a direct consequence of the power imbalance among co-convenors, including lack of adequate participation by the United Nations Environment Programme (UNEP), which should reconsider its endorsement of the resulting standard. In their book “Credibility Crisis”, Dr. Andrew Hopkins and Dr. Deanna Kemp, state that the Global Tailings Review (GTR) co-convenor ICMM “consistently pushed back

on expansion of the rights of project-affected peoples” that had been proposed by the expert panel, and by doing so have seriously undermined the human rights of communities affected by such projects and societies at large. From a technical perspective, the standard sustains life-threatening technologies and disregards community consent.

For these reasons we urge the HRC, UN Member States and other NGOs to:

1. Advise the United Nations Environment Programme (UNEP) to reconsider and withhold its endorsement of the “Global Industry Standard on Tailings Management” until an investigation on the flaws of process and results have been conducted.
2. Advise the United Nations Environment Programme (UNEP) to initiate a revision of the “Global Industry Standard on Tailings Management” that is consistent with the advancement of human rights, particularly the rights of affected communities. It is suggested that the human rights safeguards of “Safety First: Guidelines for Responsible Mine Tailings Management” and the United Nations High Commissioner for Human Rights “Guiding Principles on Business and Human Rights” be considered.

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Fundación Montescola, NGO(s) without consultative status, also share the views expressed in this statement.