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Title: Follow-up to the report of Okechukwu Ibeanu, Special Rapporteur on Toxic and Dangerous Products and Wastes and the effects of Pesticides on the Human Rights and Fundamental Freedoms of Indigenous Peoples

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Written Intervention submitted by the International Indian Treaty

In 1997 a University of Arizona scientist conducted a study of the health effects of industrial agricultural pesticides in the homelands of the Yaqui Indians in the state of Sonora, Mexico. Yaqui residents of the area are exposed without warning to aerial spraying of toxins. The only source of water for many Yaquis comes from poisoned water from irrigation canals. Yaqui farm workers are exposed to very high concentrations of these poisons and carry them home in pesticides-soaked clothing, spreading the contamination to their children. This study detected high levels of multiple pesticides in the cord blood of newborns and in mother's milk, and found severe birth defects, learning and development disabilities in Yaqui children living in these areas.

The Los Angeles Times recently reported on a declaration by scientists from five countries reporting a growing body of evidence confirming that humans are vulnerable to long-term harm from toxic exposures in the womb and during their first years.

“Convening in the Faroe Islands in the North Atlantic, toxicologists, pediatricians, epidemiologists and other experts warned that when fetuses and newborns encounter various toxic substances, growth of critical organs and functions can be skewed. In a process called “fetal programming,” the children then are susceptible to diseases later in life - and perhaps could even pass on those altered traits to their children and grandchildren.”¹

Unfortunately, this is not news to affected Indigenous Peoples. In 2006, the Yaqui Traditional Authorities hosted an international conference, coordinated by the International Indian Treaty Council in Potam Pueblo, Rio Yaqui, attended by over 300 participants from impacted Indigenous communities in Mexico, the United States, Alaska and Guatemala. Community members presented testimonies documenting the use of banned pesticides without

¹ Common Chemicals Pose Danger for Fetuses, Scientists Warn, Marla Cone, Los Angeles Times, Friday, May 25, 2007.

precautionary measures or protective gear, which were then presented to the Rapporteur by the IITC.

These include aerial spraying of fields with workers and families present, as well as communities, homes and schools. Severe birth defects, developmental abnormalities, stillborns and miscarriages, childhood leukemia and children born with tumors were among the most severe and rapidly increasing effects reported. Deaths among young children as well as farm workers and other adults from acute poisoning by exposure to toxic contamination via aerial spraying of crops, and the unmonitored and unregulated use and storage of dangerous pesticides in rural communities, were also documented.

Because these toxics bio-accumulate, persist and travel in the environment, Arctic Indigenous Peoples also report high levels of contamination of mothers' breast milk and subsistence foods. Recent studies done in Canada also documented higher than acceptable levels of these toxins in the blood and cells of a cross-section of young people. This is clearly a global problem affecting large numbers of Indigenous Peoples with permanently damaging and widespread impacts on the enjoyment of their human rights.

We greatly appreciated the concern of Special Rapporteur Madame Ouhachi-Vesely and her successor Mr. Okechukwu Ibeanu, UN Rapporteurs on the Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights, regarding the impacts of the export of banned pesticides for Indigenous communities in Mexico and other countries. Their willingness to accept the testimonies of Indigenous community members and to follow up on this information has been a very key factor in calling the attention of the international community to this situation.

During her visit to the United States in December 2001 Madame Ouhachi-Vesely expressed strong words for the US practice of exporting chemicals, pesticides, and waste banned domestically to developing nations. "Allowing the export of products recognized to be harmful is immoral," she said.

Industrialized countries such as the United States produce and export toxic chemicals to "developing" countries even after they have been banned in their own countries due to known serious health effects. Existing International Trade Policies as well as Environmental Conventions such as the Rotterdam Convention permit countries to export toxic chemicals and pesticides which have been banned for use in the producing country as long as the receiving countries are informed of the dangers. But no assurances are made by either the producing or receiving states that these warnings will reach the exposed workers, communities or families, that mandated regulatory measures to protect them will be enforced, or that the principle of free prior informed consent for Indigenous Peoples, as affirmed in general recommendation 23 of the UN Committee for the Elimination of Racial Discrimination, will be observed.

The International Journal of Occupational and Environmental Health noted that between 1996 and 2000, the United States exported nearly 1.1 billion pounds of pesticides identified as known or suspected carcinogens, an average rate of almost 16 tons per hour. Most were sent to the developing world for use in agriculture. According to the International Labor Organization,

65 to 90 percent of the children estimated to be working in Africa, Asia and Latin America are working in agriculture. These children are often continuously exposed to toxic pesticides in the fields, in their food and water, and in their homes.

Rapporteur Ibeanu expressed his concerns in a written statement presented at the May 2006 Yaqui conference at Potam Pueblo, Rio Yaqui. He confirmed that the use of such chemicals in communities left “individuals and communities unable to make informed choices”, in some cases “further aggravating conditions of poverty” because of their negative impacts on human health and the environment.

Mr. Ibeanu has reported on communications sent to him by the IITC, as well as the government of Mexico’s responses. To date no responsibility has been accepted by the government of Mexico for the use of banned pesticides or for the improper application of both banned and not banned. The US government has expressed no responsibility for their ongoing manufacture and export. However, the severity of the problem as a source of persistent human rights violations merits a full investigation and a meaningful and effective response from governments whose policies are allowing the situation to continue.

The North-South Indigenous Network Against Pesticides (formed after the visit of the Special Rapporteur to the US in 2001 and which now includes members in 18 countries) issued a statement at a recent meeting of the CEC, the North America Free Trade Agreement (NAFTA) Commission on Environmental Cooperation, on the severity of the problem. The Mexican Ministry for the Environment (SEMARNAP) wrote a letter in response asking that the pesticides complained of be identified. As both Mme. Ouachi-Vesely and Mr. Ibenau have repeatedly reported, many of these poisons are not labeled, or have had labels removed by the time they reach the communities where they are indiscriminately applied. Their identity can only be guessed at by their severe health impacts.

As reported by the Los Angeles Times²:

“Many governmental agencies and industry groups, particularly in the United States, have said there is no or little human evidence to support concerns about most toxic residue in air, water, food and consumer products. About 80,000 chemicals are registered in the United States.

“Yet the scientists urged leaders not to wait for more scientific certainty and recommended that governments revise regulations and procedures to take into account subtle effects on fetal and infant development.”

We call the attention of the Human Rights Council to the urgent need for a review of current relevant Standards as well as a comprehensive new Study on the widespread and devastating impacts of the production, export and unmonitored use of banned, prohibited and dangerous toxics, especially pesticides, on the human rights of Indigenous Peoples around the world.

² Id.

For exposed Indigenous communities, families and workers, a range of Human Rights are violated by these practices. These include the Rights of the Child under the Convention Article 24, the Rights to Health, Food Security, Development, Life, Physical Integrity, Free Prior Informed Consent and the Right of Peoples not to be Deprived of their own Means of Subsistence.

The development, health and potential of our Future Generations is at stake since nursing infants, young children and unborn babies still in their mothers' wombs are the most severely harmed.

We therefore urgently reiterate the call to the Human Rights Council made by 24 Indigenous organizations from 5 regions at the 2006 UN Working Group on Indigenous Populations to initiate a Study on the Global Human Rights impacts of the export, use and failure by states to monitor dangerous and banned pesticides and other toxics, including the impacts on the health and development of Indigenous Peoples. We also call upon the Office of the High Commissioner on Human Rights organize a Global Conference on this issue in early 2008, in conjunction with the relevant Special Rapporteurs, in order to evaluate the problem, assess the Human Rights impacts and relevant international and national standards and recommend remedies as required.

We once again take the opportunity to express our sincere appreciation to Special Rapporteur Ibeanu. We have taken note of his concern and commitment to bring to light the suffering of the most highly impacted communities and to assist us in addressing these critical human rights violations.

For all our Relations.