

PFII/2007/WS.3/4  
Original: English

UNITED NATIONS



NATIONS UNIES

DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS  
Division for Social Policy and Development

Co-organizers

Secretariat of the Permanent Forum on Indigenous Issues  
Government of Khabarovsk Krai and the Russian Association of Indigenous Peoples of  
the North (RAIPON)

**INTERNATIONAL EXPERT GROUP MEETING ON INDIGENOUS  
PEOPLES  
AND PROTECTION OF THE ENVIRONMENT**

**KHABAROVSK, RUSSIAN FEDERATION**

**AUGUST 27.-29, 2007**

**Environment Issues in the Latin American Region**

**Paper by**

**ESTEBANCIO CASTRO DIAZ  
KUNA YALA, PANAMA  
INTERNATIONAL INDIAN TREATY COUNCIL**

**INTERNATIONAL EXPERT WORKSHOP ON INDIGENOUS PEOPLES  
AND PROTECTION OF THE ENVIRONMENT  
KHABAROVSK, RUSSIAN FEDERATION  
27 – 29 August 2007**

**Environmental Issues in Latin American Region<sup>1</sup>**

**I. Introduction**

This document has been prepared for the “*United Nations International Expert Group Meeting on Indigenous Peoples and Protection of the Environment*” organized by the United Nations Permanent Forum on Indigenous Issues, the Association of Indigenous Peoples of the Russian North, Siberia and the Far East, and the Government of Khabarovsk. The objective of this paper is to contribute to the discussion on the main theme of the meeting.

This paper highlights the struggles of Indigenous Peoples in the protection of their environment against pesticides, oil exploitation and logging. It will provide examples of initiatives of Indigenous Peoples to seek remedies at national, regional and international levels to stop pollution to in their environment, their land and resources. It will also provide examples of the Yaqui people and the International Indian Treaty Council (IITC) initiatives to inform their communities about the negative impact of pesticides to their people and their environment.

It is impossible to cover in this paper the entire Latin-American region further. Given the word limit this paper will focus on the experiences of the Yaqui people and the IITC. The purpose of this paper is also to show the importance for indigenous peoples to have full and effective participation in all processes and levels of discussion that relate to indigenous peoples’ environment.

**II. Environmental Pollution in Latin American**

Despite the existence of Multilateral Environmental Agreements such as the Convention on Biological Diversity, Latin American countries continue prioritizing their economic development in the region instead of implementing their obligations to protect the environmental for future generations. Economic market oriented development has

---

<sup>1</sup> Prepared by Estebancio Castro Diaz, Kuna from Kuna Yala, Panamá. Consultant to Internacional Indian Treaty Council.

contributed greatly to the degradation of Indigenous Peoples lands, territories and biological and genetic resources. The seven Millennium Development Goals state in its explanation that although many countries have adopted principles of sustainable development and agreed to international accords to protecting the environment, land is still being degraded, forests are being lost and fisheries over used, plant and animal species are becoming extinct, and carbon emission is leading to climate change.<sup>2</sup>

Some Indigenous Peoples continue living in their traditional lands and territories in Latin America. It is still possible for Indigenous Peoples to practice their cultural beliefs and environmental customs when you look at a map and see where the biodiversity exists and Indigenous Peoples' live. This makes Indigenous Peoples target of transnationals, governments and other non-indigenous organisations who seek the commercial exploitation through oil exploration, mining, dams, and use of land for agricultural non sustainable use, logging, tourism and other development projects. These development projects result in the loss of biodiversity, land degradation, air pollution, water scarcity, the deterioration of the environmental ecosystems and the loss of traditional indigenous knowledge.

Environmental pollution comes from different sources but it is agreed internationally that environmental degradation is mostly originated from human activity. The USAID in its environmental analysis on Brazil found that "the four principle threats to the biodiversity and tropical forest resources of Brazil include unsustainable logging practices, habitat conversion driven by agricultural expansion, urban and industrial development, and poaching and animal trading. Other threats include increased flammability of forests, domestic and industrial energy demands and the introduction of exotic species".<sup>3</sup> These threats without doubt apply to most Latin American countries.

### **III. The Yaqui People and pesticide**

The Yaqui People have been exposed to industrial agriculture pesticides for many years. Yaqui people who work or live near agriculture fields are heavily exposed to frequent aerial pesticides, irrigation canals, and through lack of proper protection in dealing with pesticides and from carrying pesticide-soaked clothing without knowing that they are spreading the contamination to the their families including their children.

---

<sup>2</sup> Online Atlas of the Millennium Goals. World Bank website. Available on [www.devdata.worldbank.org/atlas](http://www.devdata.worldbank.org/atlas)

<sup>3</sup> USAID/Brazil Country Strategic Plan (FY 2003-2008) Environmental Analysis. USAID website. Available on [http://www.usaid.gov/locations/latin\\_america\\_caribbean/environment/docs/br2002.pdf](http://www.usaid.gov/locations/latin_america_caribbean/environment/docs/br2002.pdf)

The IITC has alerted the United Nations to this problem which affects Yaqui's human rights in Mexico. Testimonies from impacted community members have been submitted to UN human rights bodies by the IITC. The UN has questioned Mexico about its policies and practices in allowing dangerous and banned substances to be imported and used, affecting communities and families, and especially children, babies and unborn children<sup>4</sup>.

Testimonies from people like Mrs. Sandoval show us how dangerous are the effects of fertilizers. She gave her testimony to IITC in 2005 "When the woman was one month pregnant, her husband was working in the fields, and one day his job was to spray fertilizer with a manual pump that you carry on your back. All she did was wash the clothing, but with that, she absorbed the poison and harmed the baby. In fact, when the baby was born, he was affected. He was born with a harelip and a cleft palate. The pediatrician interviewed the mother and the father separately and asked them whether they had other such cases in the family or if they used drugs, and they said no. She also asked whether they worked in an agricultural field and whether they had applied chemicals to the land and the father said that yes, he had fumigated when the mother was one month pregnant. The doctor told them that was the cause"<sup>5</sup>.

The IITC found that Mexican law provides that Mexican citizens have the right to be safe in relation to pesticides. This is achieved by appropriate labeling, warning and instructions for use of pesticides which must be observed by large farm and transnationals in the area. Certainly, a reason for this communication is that no such warnings, labeling, precautions or training are given Yaqui agricultural workers or the surrounding Yaqui community<sup>6</sup>.

As IITC noted in its communication to Mr. Ibeanu the use of pesticides in Rio Yaqui, Sonora, Mexico, continue to pose serious health consequences to the surrounding communities and its environment that violate their most fundamental human rights to life and health, and as a Nation, to a safe and healthy environment<sup>7</sup>.

---

<sup>4</sup> See Pesticides and Our Tribal Health. IITC's information sheet on pesticides. Available online [www.treatycouncil.org](http://www.treatycouncil.org)

<sup>5</sup> Yaqui Communities Testimonies. Testimonies provided to Mr. Angel Valencia, representative of IITC before Yaqui communities. This testimony is from Mrs. Andrea Sandoval Barraza

<sup>6</sup> IITC general counsel Alberto Saldamando communication with Mr. Okechkwu Ibeanu, Special Rapporteur of the Commission on Human Rights on Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

<sup>7</sup> IITC general counsel Alberto Saldamando communication with Mr. Okechkwu Ibeanu, Special Rapporteur of the Commission on Human Rights on Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

#### IV. Analysis of the Impact

The testimonies provide much information about the negative impact on the Yaqui population. For example, it reverted the high levels of pesticides in the cord blood of newborns and in mother's milk, and found birth defects, learning and development disabilities, leukemia and other severe health problems in Yaqui children. Cancer and other serious illnesses are very high among family members of all ages. Deaths from acute pesticide poisoning are increasing. Research also carried out by Guillette about the onset of breast development in a group of peripubertal girls from the Yaqui Valley of Sonora, Mexico. They observed that girls from valley towns, areas using modern agricultural practices, exhibited larger breast fields than those of girls living in the foothills who exhibited similar stature, and genetic background. Further, girls from valley towns displayed a poorly defined relationship between breast size and mammary gland development, whereas girls from the Yaqui foothills, where traditional ranching occurs, show a robust positive relationship between breast size and mammary size<sup>8</sup>.

Indigenous communities in Colombia and Ecuador are also affected through similar contamination passed on through the food chain and the natural environment because these toxics bio-accumulate, persist and travel in the environment. The Special Rapporteur Stavenhagen highlighted his concerns of the gradual deterioration of the indigenous habitat and the impact of extractive activities on the environment in indigenous communities in Ecuador. All these activities have put them in serious danger of extinction. He also pointed out the effects of aerial fumigation of illicit crops on indigenous peoples in the border with Colombia<sup>9</sup>.

The UNEP 2006 Annual report confirms that the negative effects of pesticides do not exclusively affect human beings. They stated that Persistent Organic Pollutants are a group of chemicals which share four main properties. They are stable and persistent, last for years or decades before degrading into less dangerous forms, they are toxic and accumulate in the fatty tissue of human and wildlife, causing adverse effects on human health and the environment

---

<sup>8</sup> See Guillette et al, **Altered Breast Development in Young Girls from an Agricultural Environment**. • Environmental Health Perspectives, VOLUME 114 | NUMBER 3 | March 2006

<sup>9</sup> See Mr. Rodolfo Stavenhagen Report of the UN Special Rapporteur on the Situation of Human Rights and the Fundamental Freedom of Indigenous People. March 2007. Available online [www.un.org](http://www.un.org)

and they biomagnify through the food chain, and can evaporate and travel long distance via air and water<sup>10</sup>.

## V. International Instruments

International instruments which include the right to adequate health and environment and the fundamentals rights of Indigenous Peoples to Self determination, rights to lands, territories and resources must apply to Indigenous Peoples without discrimination. Yet the right to health and environment is often denied as a result of commercial exploitation in Indigenous Peoples' land and territories and the lack of legal recognition of Indigenous Peoples rights.

Human rights international instruments may not explicitly recognize the environmental rights of Indigenous Peoples. However, environmental rights are reflected in two UN international Covenants, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Political and Civil Rights (ICPCR). For example, ICESCR in its article 12 (1) states that the States Parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health<sup>11</sup>. Furthermore, article 12 (2) states that full realization of this right shall include "the improvement of all aspects of environmental and industrial hygiene".

At the regional level, the Organization of American States in its article 36 of its Charter affirms "Transnational enterprises and foreign private investment shall be subject to the legislation of the host countries and to the jurisdiction of their competent courts and to the international treaties and agreements to which said countries are parties, and should conform to the development policies of the recipient countries"<sup>12</sup>. In June 21 2007, the Federal Court of New York denied the demand presented by Chevron in order to avoid the jurisdiction of Ecuadorians Courts of Justice for environmental and social degradation<sup>13</sup>. Many transnational and foreign investors after exploiting the resources do not want to take

---

<sup>10</sup> See UNEP 2006 Annual Report. Available online [www.unpe.org/publication](http://www.unpe.org/publication)

<sup>11</sup> **See the International Covenant on Economic, Social and Cultural Rights**. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966. Entry into force: 3 January 1976, in accordance with article 27. Human Rights: A Compilation of International Instruments. Volume I. United Nations

<sup>12</sup> See Charter of the Organization of American States. Available online <http://www.oas.org/juridico/english/charter.html>

<sup>13</sup> See for more information: Amazon Defence Coalition, Texaco lost its demand against Ecuador in New York. Available online <http://www.texacotoxico.org/>

responsibility of cleaning the environment or providing compensation for environmental, cultural and social reparation.

The enjoyment of human rights for Indigenous Peoples are closely related to their right to land, territories, clean environment and the sustainable use of their natural resources. Their cultural, social and economic development is interdependent and indivisible. Indigenous Peoples frequently state the importance of the protection and the maintenance of the environment is for future generations. The Inter-American Court in the case of *Awas Tingni* found that “by virtue of the fact of their very existence, indigenous communities have the right to live freely on their own territories; the close relationship that the communities have with the land must be recognized and understood as a foundation for their cultures, spiritual life, cultural integrity and economic survival”<sup>14</sup>.

## **VI. National Remedies**

Indigenous communities and organizations often use the UN existing mechanisms such as the Special Rapporteur on the Situation of Human Rights and Fundamental Freedom of Indigenous Peoples, UN Permanent Forum on Indigenous Issues, UN Commission on Sustainable Development, Human Rights Council and other forums related to Indigenous issues in order to inform the international community about their struggles and concerns. Frequently, Indigenous communities are not heard in their own countries. In its communication with Special Rapporteur Ibeanu IITC included an example of the Mexican government’s growing recognition of the seriousness of the problem being, a letter from the Mexican (governmental) National Commission for the Development of Indigenous Peoples (CDI) to the Yaqui Traditional Authorities. In this letter the important work of the Special Rapporteur is cited in reference to the serious health effects of the use of pesticides particularly children and the unborn. Although this letter also cites some applicable human rights standards it does not promise any appropriate action or redress from the Mexican government<sup>15</sup>.

Francisco López Bárcenas, a Mexican constitutional lawyer, assisting IITC in its work in regard to local remedies informed that there were no local remedies available to the Yaqui

---

<sup>14</sup> I/A Court H.R., Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Judgement of August 31, 2001, Ser. C No 79 (2001), at para. 149.

<sup>15</sup> IITC General Counsel Alberto Saldamando communication with Mr. Okechkwu Ibeanu, Special Rapporteur of the Human Rights Council on Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. January 11, 2007.

Tribe. IITC filed the case in January of 2006 on behalf of the Traditional Authorities of the Yaqui Pueblos of Potam, Torim, Vicam, Rahum, and Huirivis. The case is before the Inter American Commission on Human Rights (IACHR) and seeks remedies for the violations of the human rights of the Yaqui Tribe as described by the American Convention on Human Rights, regarding their ancestral lands, water, and right of self determination by the Government of Mexico<sup>16</sup>.

## **VII. Recommendations**

The International Indian Treaty Council call upon the United Nations Permanent Forum on Indigenous Issues to adopt the following recommendations for the benefit of the United Nations Agencies and States members of the United Nations:

A. Integrating environmental issues into national and local development plans with the full and effective participation of Indigenous Peoples including in decision-making processes at all level.

B. Full implementation of Multilateral Environmental Agreements is essential to protect the environment and to ensure their imperative value for future generations.

C. Legal measures and frameworks recognizing indigenous peoples' customary law and its implementation in order to have control over biodiversity, lands, territories, biological and genetic resources.

D. The principle and the right to Free Prior Informed Consent is imperative to protect indigenous peoples lands, territories and their resources in order to maintain and protect their environment for future generations.

E. Under the principle of free, prior and informed consent, all persons who intend to use or apply pesticides or other chemicals to their crops must submit their plans and the products they intend to use, including their common and scientific names, their chemical contents, their known harm, their legal status (prohibited, restricted or allowed in Mexico and/or in other countries), and the recommended requirements for their use, to the authorities together with members of the community. After receiving this information and with sufficient time to study

---

<sup>16</sup> Alberto Saldamando, general counsel of IITC. Update on the OAS IACHR Yaqui Case. July 10, 2007.



it, the authorities shall grant permission or denial for their use in Yaqui territories, and shall also specify under what conditions their use would be permitted<sup>17</sup>.

## **VIII. Conclusions**

Industrial activities, the use of toxic pesticides, dams, and use of the land for agricultural non sustainable use, logging, tourism and other development activities have produced environmental pollution in Indigenous Peoples' lands, territories and their resources. These severe pollutions directly affect Indigenous communities and their unique spiritual and material relationship with their lands, territories, environment and biological and genetic resources. This environmental pollution often displaces indigenous communities to cities or other areas that they are not related to bringing poverty to indigenous communities, loss of traditional indigenous knowledge, and extinction of indigenous communities and the degradation of their land. Therefore, polluting indigenous peoples' environment violates the fundamental human right of Indigenous Peoples to live in safe and healthy environment.

Although there are some legal frameworks and multilateral environmental agreements in Latin America Indigenous Peoples still face lack of implementation of these instruments and a lack of remedies. Most of the time, Indigenous communities have to mobilize and address the international community to be heard by their respective countries. Latin American governments must act to promote the environmental benefit for humanity and to ensure that Indigenous Peoples enjoy the protection and rights they are entitled to enjoy under international law.

---

<sup>17</sup> Declaration on the use of pesticides in the Yaqui lands of Sonora, Mexico presented in Vicam Pueblo, Rio Yaqui, Sonora Mexico December 7, 2006. Available online [www.treatycouncil.org](http://www.treatycouncil.org)