

UPR Submission, **Mexico**, September 8, 2008

Submitted by: the International Indian Treaty Council, in ECOSOC Special Consultative Status;

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Basis of Review: International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESC); International Convention on the Elimination of all forms of Racial Discrimination (ICERD); Convention on the Rights of the Child (CRC)

1. Throughout the industrialized agricultural areas of Mexico, particularly where Indigenous Peoples live, the government of Mexico allows the use of dangerous and, it is believed, outlawed chemicals and pesticides affecting directly the lives and health of Indigenous Peoples as well as the public at large.

2. For example, in an investigation conducted by the International Indian Treaty Council in Sonora, Mexico, on Indigenous Yaqui ancestral lands, we took the testimony of an indigenous agricultural worker that he was told to bury large pesticide canisters because they indicated that the pesticide was banned. Other Yaqui family members, farm workers and midwives have presented testimony to the IITC about increasing levels of birth defects, cancers and deaths due to toxic exposure from indiscriminate aerial spraying, storage and use of highly toxic pesticides in communities and unsafe working conditions with no safely precautions or information about the dangers provided.

3. This current and ongoing investigation of the use of banned pesticides within and around Yaqui lands, if not proving conclusively that the toxic chemicals used by industrialized agriculture demonstrate clearly the dire consequences for Indigenous Peoples exposed to them.

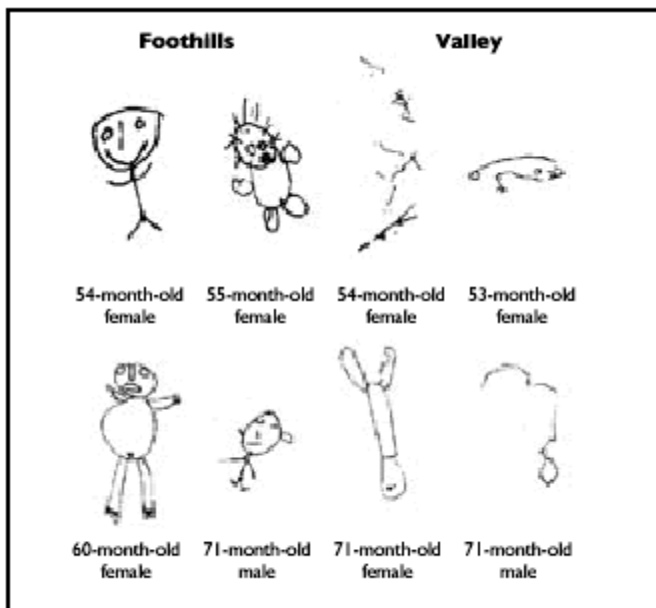
4. In 1997 a University of Arizona scientist conducted a study of the health effects of industrial agricultural pesticides in the homelands of the Yaqui Indians in Sonora, Mexico,¹ a few hours south of the border. Yaquis living or working near the fields are exposed to frequent aerial spraying of pesticides. For some, their only source of water is contaminated irrigation canals.

5. In addition to the impacts of pesticides sprayed from airplanes which affect all segments of the community, Yaqui farm workers who are not provided with any protective gear carry poisons home in pesticides-soaked clothing, unknowingly spreading the contamination to their children. This study detected 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

¹ Guillette, E.A., et.al. 1998. An anthropological approach to the evaluation of preschool children exposed to pesticides in Mexico, *Environmental Health Perspectives*. 106(6):347-53. Guillette's research continues, with a recent study of Yaqui girls: Guillette, et al., Altered Breast Development in Young Girls from an Agricultural Environment, 2006, *Environmental Health Perspectives*. 114(3): 471-74.

member of all ages. Deaths from acute pesticides poisoning are increasing. In addition, these toxics bio-accumulate, persist and travel in the environment, moving to the North, Arctic Indigenous Peoples (Alaska, Canada and Greenland) report high levels of contamination of mothers' breast milk and subsistence foods.

6. The study, done by Dr. Elizabeth Guillette,² combined with personal testimonies, provides strong and compelling evidence of the direct impacts of pesticide use on the physical and behavioral development of the Yaqui community's children. The comparison of Yaqui children in the valley (where pesticide use is heavy) with Yaqui children in the foothills of the Sierra Madre Occidental mountains (where pesticide use is minimal) showed dramatic differences in motor skills—eye-hand coordination and balance—as well as cognitive skills which were observed in recall, simple problem solving and ability to draw simple stick figures:



7. The inset is of drawings of a person by children living in the Yaqui Valley of Sonora, Mexico where pesticide use is intensive, compared to drawings by Yaqui children of the same age in the foothills areas where such exposure is minimal, pursuant to the study by Dr. Guillette. Valley children had significantly less stamina and hand-eye coordination, poorer short-term memory and were less adept at drawing a person (right) than were children in the foothills (left) where traditional methods of intercropping control pests in gardens and insecticides are rarely used indoors.

8. As part of the investigation the IITC has searched for the actual containers of these poisons to see what they are, their chemical composition and commercial name. After months of searches some canisters were recovered as a result of information received by an agricultural worker who

² The following references to the Guillette study are from Margaret Reeves, Yaqui Fields of Poison, PAN North America Magazine, The Magazine of Pesticides Action Network North America, Summer 2006.

had been ordered to bury them. There was no label on the containers. Other large containers are kept near fields, but most contain no label and a few are labeled “poison” or “danger.”

9. The same dire consequences of the use of these agricultural poisons are experienced by the Mayo Peoples of Sinaloa, and the Huichol Peoples of Nayarit, Mexico as well as many other Indigenous Peoples working and living around industrialized agriculture throughout the country.

10. Mexico has many State agencies charged with regulating the use of pesticides, including Inter-Secretarial Commission for the Control of the Processing and Use of Pesticides, Fertilizers and Toxic Substances (Comisión Intersecretarial para el Control del Proceso y Uso de Plaguicidas, Fertilizantes y Sustancias Tóxicas (CICLOPLAFEST)), created in 1987. It also has the Consumer Protection law concerning the proper labeling of such chemicals.

11. In 2004, the IITC communicated the situation of the dangerous and possible illegal use of these dangerous chemicals and pesticides to 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, as well as to Mr. Rodolfo Stavenhagen, the Commission’s Special Rapporteur on the Human Rights And Fundamental Freedoms of Indigenous Peoples.

12. The government responded to Mr. Ibeanu in 2005 (E/CN.4/2005/45/Add.1, pp. 2-3) stating that the matter had been referred to COPREFIS, the Federal Commission for Protection from Sanitary Risks of the Ministry of Health, an agency that the Mexican government reports has conducted training-of-trainers workshop, run in 2002 in the State of Sonora, the purpose of which was to ensure the proper management of pesticides in the Yaqui Valley area. We have spoken to our contacts in the community, and the community was not aware of any such training, nor were they informed that it would take place.

13. However, as we see it, is not the worker’s responsibility to ensure their safety with regard to Mexican law, including that the appropriate labeling, warning and instruction for use are observed by the large farmers and trans-nationals in the area. No such warnings, precautions or training are given Yaqui agricultural workers or the surrounding Yaqui community. Perhaps a more appropriate human rights response would have been assurances that the Yaqui Traditional Authorities would be contacted and that such training would in fact take place.

14. More fundamentally, the products are not labeled nor is their chemical composition known. We believe that Mexican environmental laws with regard to such matters are being violated, and that the perpetrators should be brought to justice in order that such practices cease. In this regard, more appropriate Mexican enforcement agencies for this matter would be COPREFIS, the Health Secretariat (Secretaría de Salud - SSA) and the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food (Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación - SAGARPA).

15. In 2006, the Mexican government responded to further communications to Mr. Ibeanu, only outlining the federal agencies involved in the regulation and use of pesticides, generally as stated above. The government made no mention of steps taken to investigate or correct the situation,

only stating that, “three cases of pesticide poisoning were reported in 2003 in the Yaqui valley, and five cases in 2004. According to reports issued by the Directorate-General for Health Regulation and Promotion, no complaints concerning illnesses deriving from pesticides or other toxins in the Yaqui valley have been filed with the local health authorities. Consequently, no studies or comparative analyses on the incidence of pesticide-related diseases has been carried out in the Yaqui Valley.”

16. In 2008 Mr. Ibeanu reported a further response from Mexico, (A/HRC/7/21/Add.1 5 March 2008, Page 17, paras 52 -53. Mexico responded by re-stating that SAGARPA, a federal agency had conducted training for trainers to attend the problem in the Yaqui area and that 4 of the attendees would be assigned to the Yaqui Tribe. These persons would train and inform the population exposed to pesticides on the risks to their health. Other training programs were offered to doctors in the area on pesticides poisoning, on pesticides used in the growing of vegetables, and stated that a centre was being established for the recycling of pesticide and chemical containers. The response also stated that it had begun a regulatory process (NOM-033-STPS-1999) on the use of phyllosanitarios or pesticides and their consumption where they are stored, transported or managed. Finally, the government announced a program of training for agriculturalists and commercial producers of agricultural pesticides in the Yaqui Valley and a program of verification for these types of establishments.

17. In spite of these efforts the training offered was merely on how a worker could protect him or herself, and the need for specialized clothing and protective gear that the worker could not afford. Mayo Indigenous workers reported that when they approached their employers on the need for this protective gear, they were told that they worked under the conditions offered by the employer or they would not work. And although the Mexican government also offered radio announcements on the “proper” use of pesticides, they are very few and far between, normally when people are asleep.

18. No enforcement efforts have been made by the Mexican government to hold those responsible accountable. A major problem is that there is aerial spraying of many of these toxics and the airborne drift poisons entire communities. And although the Yaqui Traditional Authorities have prohibited aerial spraying in their territories (see Attachment), it is still being done. Yaqui, Mayo and Huchole workers are still forced to spray from canisters on their backs that many times leak. Not only are they exposed to direct contact with these poisons, they still carry the poison on their clothes and bodies home to their families. These are highly potent industrial chemicals, not for small producers. Nothing has been done to hold the industrial farmers accountable, or to cease their practices.

19. In 1999, Ms. Fatma Zohra Ouhachi-Vesely, the prior Special Rapporteur on Toxics made the following observations on Mexico and pesticides that we believe are true today (E/CN.4/1999/46/Add.1, 11 January 1999, para 85.)

“Nevertheless, in a survey conducted by the Ministries of Health and the Environment on the management of chemical products in Mexico, entitled Use and Management of Chemicals in Mexico, the limitations of such checks are implicitly recognized in the following comments:

a) The regulation of the chemicals is not based on a risk reduction programme according to life cycle, there are therefore still gaps to be filled;

b) There is no harmonization in the classification of chemicals in the legal provisions; in relation to the Regulations on Materials and Dangerous

Residues Transportation, a classification used at international level and proposed by the United Nations was used; that same classification covers only aspects of acute toxicity relevant in case of accidents and does not include classification criteria for chronic effects;

c) There are no certified laboratories under programmes of quality control/assurance allowing the verification of compliance with the standards specifying concentrations of chemicals in products or environments;

d) Labelling of chemical products does not include enough information related to their risks and the way to minimize them;

e) Standards from other countries with realities differing from those of Mexico are frequently used.”

20. As Mr. Ibeanu has pointed out, the continued and indiscriminate use of these toxics affect the right to life, found in all the human rights conventions of which Mexico is a State Party, including the International Covenant on Civil and Political Rights (ICCPR, including the right to a remedy), the International Covenant on Economic, Social and Cultural Rights (ICESC) and the Convention on the Rights of the Child (CRC). They also violate the ICESC’s right to the highest attainable standard of health and the right to food, as well as the right to work. Indeed an emerging right, the right to information, based upon the UDHR and the ICCPR, is very much implicated by the Mexican government’s refusal to fully inform and protect.

21. The Committee on the Rights of the Child has demonstrated a deep concern over the limited enjoyment of rights by indigenous children, especially indigenous migrant workers, in particular their very limited access to education and health, their disproportionately high malnutrition rate and their infant and maternal mortality rates. The Committee was particularly concerned about the disproportionately high number of working children among indigenous children. (CRC/C/MEX/CO/3, 8 June 2006) and has repeatedly recommended to Mexico that Indigenous children especially require adequate health care and adequate labor conditions (Id, see also Mexico CRC/C/15/Add.1, para. 26).

“While welcoming the measures taken to encourage indigenous children to attend schools, the Committee remains deeply concerned at the limited enjoyment of rights by indigenous children, especially indigenous migrant workers, in particular their very limited access to education and health, their disproportionately high malnutrition rate and their infant and maternal mortality rates. It is particularly concerned about the disproportionately high number of working children among indigenous children. (CRC/C/MEX/CO/3, 8 June 2006, para. 72)

22. The ICESC Committee has also voiced concern regarding high percentage of children below the age of 16 who are engaged in child labour, primarily in the agricultural and industrial sectors where they reportedly often work under poor and hazardous conditions. (E/C.12/MEX/CO/4, 9 June 2006, para 22).

23. We hope that this information will be useful to the UPR process with a view to firm commitments from Mexico with regard to enforcement of its own laws and regulations on the indiscriminate use of deadly pesticides and other toxic agricultural chemicals.