



International Indian Treaty Council
Consejo Internacional de Tratados Indios

100 E. Ajo Way
Tucson, AZ 85713
Phone: (520) 833-9797

www.treatycouncil.org
Email: info@treatycouncil.org

***GUIDANCE INFORMATION FOR CONSIDERATION BY THE
JOINT MEETING ON PESTICIDE MANAGEMENT AS A BASIS
FOR AMMENDING THE INTERNATIONAL CODE OF
CONDUCT ON PESTICIDE MANAGEMENT***

“PESTICIDES AND THE RIGHTS OF INDIGENOUS PEOPLES”

Submitted by the International Indian Treaty Council September 28, 2023

“The airplanes spray chemicals on the crops, and it affects the town and its inhabitants. In and around the whole town there are large tanks holding hazardous chemicals. Many people have died here. One little boy did not understand the serious consequences; he went swimming in a canal when they were spraying, and it had chemicals. He got leukemia. Another man also died from the same disease because he had fertilizers in his house. A young man died last month because he slept where they stored toxic substances. He absorbed it all, and he didn’t last long at all. Nothing could be done to save him”. -- Testimony submitted by a 48-year-old mother of 6 from Potam Pueblo, Rio Yaqui Sonora Mexico, 2006

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of Indigenous Peoples without their free, prior and informed consent. --Article 29, U.N. Declaration on the Rights of Indigenous Peoples

“The overwhelming and disproportionate impact of toxics on indigenous peoples infringes on recognized collective and individual rights, including the rights of indigenous peoples to culture, land and natural resources, free, prior and informed consent, food, water, a healthy environment, life, health and personal integrity, among others. These violations are widespread and systematic and must stop now.” -- “The impact of toxic substances on the human rights of Indigenous Peoples”, Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana, 28 July 2022, para. 6.

Table of Contents

II. INTRODUCTION.....	3
III. PESTICIDES ARE POISON.....	6
IV. PESTICIDES AND ADVERSE IMPACTS ON THE RIGHTS OF INDIGENOUS PEOPLES	10
A. The Right to health including for Indigenous children, maternal, reproductive, and intergenerational health.....	10
B. Indigenous Peoples’ Rights to their Means of Subsistence, Food Security/Food Sovereignty, and the Productive Capacity of their Environment	17
C. Indigenous Peoples’ Rights to their Cultural Heritage, Spiritual and Religious practices	21
D. Global Transport impacting the health and food systems of Indigenous Peoples in the Arctic	23
E. Barriers to reporting, redress and exercise of FPIC.....	26
V. SHORTFALLS IN THE INTERNATIONAL NORMATIVE FRAMEWORK: THE UN CHEMICAL CONVENTIONS	27
VI. SHORTFALLS IN IMPELATION OF REGULATIONS ON THE NATIONAL LEVEL.....	30
VII. INDIGENOUS PEOPLES CALL FOR POLICY CHANGE	36
A. Rio Yaqui Traditional Authorities Declaration, 2006	36
B. Rio Yaqui Children’s Letter to the CRC, 2016.....	37
C. National Congress of American Indians, 2014	38
D. Indigenous Women’s Reproductive Health Symposiums, 2010, 2012 and 2018.....	39
E. The 47th Anniversary IITC Conference, 2022	41
F. The 6th International Indian Peoples Corn Conference, 2023.....	42
VIII. UN HUMAN RIGHTS BODIES AND EXPERTS ADDRESS HUMAN RIGHTS VIOLATIONS, SUPPORT THE CALL FOR POLICY CHANGE	43
A. The UN Committee on the Elimination of Racial Discrimination (CERD).....	44
B. The UN Committee on the Rights of Child	44
C. The UN Permanent Forum on Indigenous Issues (UNPFII).....	46
D. Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 39, (2022) on the rights of Indigenous Women and Girls	48
E. UN Special Rapporteurs on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (AKA the Special Rapporteur on Toxics and Human Rights).....	49
F. The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)	53

IX. CONCLUSION..... 53

II. INTRODUCTION

In December 2001, the International Indian Treaty Council (IITC) hosted a meeting between Indigenous Peoples and the first United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (AKA the Special Rapporteur on Toxics and Human Rights), Ms. Fatma-Zohra Ouhachi-Vesely. This meeting occurred during the Special Rapporteur's official country visit to the United States. Representatives of impacted Indigenous Peoples from Guatemala, Mexico, the US and Alaska, presented their experiences with the deadly and devastating impacts of pesticides in their territories. Tears of outrage, pain, and sadness were shed as their testimonies were shared and received. The Indigenous participants also realized the urgent need to come together, share information and develop joint strategies to address this critical issue creating so many harms to so many of their families and Peoples.

A core concern for Indigenous Peoples, is the practice of the United States and other developed countries exporting pesticides that have been banned for use in their own countries, due to their known deadly health impacts. Unfortunately, this practice continues to be permitted under both U.S. and international law, in particular the UN Rotterdam Convention. Participants shared how this practice was impacting them regardless of their countries or regions of origin.

In her concluding remarks during her US visit, Ms. Ouhachi-Vesely stated that ***“just because something is not illegal, it may still be immoral. Allowing the export of products recognized to be harmful is immoral.”***¹

Since that first meeting with the UN Special Rapporteur in 2001, IITC has assisted members of impacted Indigenous communities, including parents, midwives and health workers, farm workers and other food producers, to submit over 100 testimonies documenting impacts to UN Treaty and Human Rights bodies as well as UN Special Rapporteurs. These testimonies, some of which are excerpted in this Guidance Document, demonstrate multiple egregious and inter-related violations of the recognized rights of Indigenous Peoples including their rights to, *inter alia*,

¹ UN Special Rapporteur on adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Ms. Fatma-Zohra Ouhachi-Vesely on her first official country visit to the United States, 2001, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G03/102/29/PDF/G0310229.pdf?OpenElement> [accessed September 24, 2023]

health, development, workers' rights, subsistence and food security, culture, Free Prior and Informed consent, biodiversity, rights of women and children, and life.

Heeding the call from Indigenous women from impacted communities, IITC and partners including the Foro Internacional de Mujeres Indigenas (FIMI) organized three international symposia on Environmental Toxics and Reproductive Health in 2010 (California USA), 2012 (Alaksa) and 2018 (New York City in the margins of the UN Permanent Forum on Indigenous Issues (UNPFII). They were attended by Indigenous women from North, Central, South America, the Arctic, Caribbean, and Pacific regions.

The outcome documents adopted by consensus at each of these gatherings confirmed and reconfirmed the devastating impacts of the use of pesticides on the reproductive and intergenerational health of Indigenous women, and condemned the export and import of pesticides that have been banned in the exporting countries as "Environmental Violence"²

During the Expert Group Meeting (EGM) of the UN Permanent Forum on Indigenous Issues (UNPFII) in January 2012 on "Combatting Violence Against Indigenous Women and Girls," the International Indian Treaty Council, in conjunction with the Native Village of Savoonga in Alaska, was invited to present an expert paper titled "Indigenous Women and Environmental Violence: A rights-Based Approach Addressing Impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations".³ This was the first time that the term "Environmental Violence" was presented at a UN forum to describe a pervasive form of human rights violation caused by the deliberate exposure by states

² *"Environmental contaminants causing disease, birth defects and death are deliberately released into the environment because they are toxic to living things (i.e., pesticides), or as a result of industrial or military processes that are judged by States and corporations to pose an "acceptable risk" and "allowable harm." States and corporations deny "provable" impacts despite the clear evidence that they cause a range of serious health and reproductive impacts which disproportionately affect Indigenous women and children. This constitutes "environmental violence" by States and corporations and must be identified as such by Indigenous Peoples and human rights bodies."* -- REPORT OF THE INTERNATIONAL INDIGENOUS WOMEN'S ENVIRONMENTAL AND REPRODUCTIVE HEALTH SYMPOSIUM, APRIL 27TH – 29TH 2012, CHICKALOON NATIVE VILLAGE, ALASKA, Co-hosted by the International Indian Treaty Council (IITC) and Indigenous Women's Initiative for Environmental and Reproductive Health, Alaska Community Action on Toxics (ACAT), Chickaloon Native Village and International Indigenous Women's Forum (FIMI), Submitted to the 11th Session of the United Nations Permanent Forum on Indigenous Issues as a Conference Room Paper by the International Indian Treaty Council.

³ This paper can be downloaded in its entirety from the UNPFII website under documents submitted for the Expert Group Meeting available at http://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf

and corporations of women and girls to environmental contaminants including toxics pesticides that are well-known and well-documented to cause illnesses, reproductive system cancers, disabilities, birth defects, untold suffering and death.

The term “Environmental Violence” was formally recognized in the report of the 2012 UNPFII EGM to the UNPFII 12th session.⁴ It was also included in the Lima Declaration from the International Conference of Indigenous Women in October 2013, which called for “zero tolerance” for any form of violence against Indigenous women and girls, including environmental violence. It is now being used by the UN Special Rapporteur on Human Rights and Toxics⁵ and the CEDAW’s General Comment 39 on Indigenous Woman and Girls adopted in September 2022.

In a historic advance, on November 26, 2010, the United Nations Food and Agriculture Organization (FAO) adopted its new Policy on Indigenous and Tribal Peoples. It affirmed the UN Declaration on the Rights of Indigenous Peoples as the “highest international standard” in this area, FPIC as a “core principle”. It recognized FAO’s responsibility to observe and implement UNDRIP.⁶ These principles have provided the basis for Indigenous Peoples participation in UN FAO since that time.

In 2017, IITC first proposed to FAO as well as the UN Committee on Food Security that the Code of Conduct be amended to include references to Indigenous Peoples rights. These proposed amendments are based on already-adopted language and are consistent with a range of existing international standards and commitments by states and UN agencies including the rights affirmed in the UN Declaration on the Rights of Indigenous Peoples.

For Indigenous Peoples, the International Code of Conduct on Pesticides Management and related national and international standards, including the UN Rotterdam Convention, must reflect and include internationally recognized human rights standards that safeguard the rights of Indigenous Peoples and Human rights

⁴ Combating violence against Indigenous women and girls: article 22 of the United Nations Declaration on the Rights of Indigenous Peoples, Report of the International Expert Group meeting, E/C.19/2012/6, 28 February 2012.

⁵ Current UN Special Rapporteur on Toxics and Human Rights Marcos Orellana’s 2022 report on the impacts of toxic substances on the human rights of Indigenous Peoples states “Exposure to toxic substances is a form of environmental violence against Indigenous peoples,” available at <https://www.ohchr.org/en/press-releases/2022/10/exposure-toxic-substances-form-environmental-violence-against-indigenous> [accessed July 2, 2023]

⁶ FAO Policy on Indigenous and Tribal Peoples, <https://www.fao.org/3/i1857e/i1857e.pdf>

in general in relation to the production, use, transport and trade of pesticides and other toxic substances.

The United Nations Permanent Forum on Indigenous Issues also supported amendments to the CoC in their 2022 report to the UN Economic and Social Council (ECOSOC). In another historic advance, the Joint Meeting on Pesticides Management invited IITC to formally present and address this issue at their annual meeting in Rome in November 2022. As a result, the JMPM adopted by consensus the following recommendations on November 18th, 2022:

The JMPM recommends the initiation of the process of revision of the Code of Conduct on Pesticide Management (CoC) taking into account the issues discussed in the meeting such as Indigenous Peoples, Human Rights, etc.

The JMPM recommends the development of separate FAO/WHO guidance documents on Risk, Communication and Indigenous Peoples, and a guidance note on Nanopesticides.

This guidance document will present the impacts of the use, storage, disposal, import and export of toxic pesticides on Indigenous Peoples rights, lives, intergenerational health, ecosystems, territories, waters, and food systems. It has been developed in response to the above JMPM resolutions and is intended for their review and approval as a basis for further works towards amending the International Code of Conduct on Pesticides to safeguard Indigenous Peoples rights, intergenerational health and ways of life.

III. PESTICIDES ARE POISON

Pesticides are linked to a range of human rights violations constituting Environmental Violence committed upon Indigenous Peoples by both State and non-state actors. Pesticides are linked to “cancer, endocrine disruption, reproductive effects, neurotoxicity, kidney and liver damage, birth defects, and developmental changes.”⁷ Well-documented reproductive health impacts of Highly Hazardous Pesticides (HHP) include high pesticide levels in breast milk and cord blood, infant mortality, severe birth defects, infant and childhood cancers such as leukemia, arrested physical, mental and reproductive development including atrophies of the uterus in newborn girls, developmental impacts in children, malformation of sexual

⁷ *Impacts of Pesticides on Wildlife*, Beyond Pesticides, available at <https://www.beyondpesticides.org/programs/wildlife> (last visited Apr. 13, 2023)

organs in infants of both sexes, premature and late menses, sterility in both sexes, early menopause and endometriosis.⁸

The use of Pesticides impacts Indigenous Peoples around the world, contaminating their lands, waters, food, and ecosystems, undermining their reproductive and intergenerational health, and threatening their cultures and ways of life with profound and devastating results. Many Indigenous Peoples live in rural areas, living off the land and waters through farming, herding, hunting, fishing, and gathering. Their cultural practices are also based on their close relationships and use of traditional lands, waters, animals, fish, and plants.

Many Indigenous territories are heavily exposed to pesticides and other agrochemicals from industrial agriculture. “Green Revolution” policies put in place by many countries in the 1940’s also promote high usage of toxic pesticides and fertilizers. Detrimental health impacts of toxic pesticides are often multiplied due to simultaneous exposures to other toxic contaminants from mining and extractive industries carried out on or near the lands and territories of Indigenous Peoples in many countries. The agricultural industry accounts for about 85 percent of the use of pesticides to control “unwanted organisms, or pests, including weeds, insects, fungi, bacteria, and rodents.”⁹ Pesticides are inherently hazardous,¹⁰ and are manufactured for the explicit and sole purpose of killing living things. A hazardous

⁸ United Nations Committee on the Rights of the Child, 69th Session (May 18 – June 5, 2015), “Consideration of the Fourth and fifth Periodic Reports of Mexico under Article 44 of the United Nations Convention on the Rights of the Child.” Co-submitted by the International Indian Treaty Council/Consejo Internacional de Tratados Indios (Non-Governmental Organization in General Consultative Status to the United Nations Economic and Social Council), and the Affiliates of IITC in Mexico (April 15, 2015). Available at http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/MEX/INT_CRC_NGO_MEX_20330_E.pdf; and Byrne, S. et al. “Persistent organochlorine pesticide exposure related to a formerly used defense site on St. Lawrence Island, Alaska: Data from sentinel fish and human sera,” *Toxicology and Environmental Health* 78 (976-992); and Mitro, SD et al. “Cumulative chemical exposures during pregnancy and early development,” *Current Environmental Health* 2, no. 4 (2015):367-378; and Weldon, RH et al., “A pilot study of pesticides and PCBs in breast milk of women residing in urban and agricultural communities of California,” *Environmental Monitor* 13, No. 11 (2011), 3136-44; and Reuben, S., “Presidents Cancer Panel Report: Reducing Environmental Cancer Risk,” National Institutes of Health (2010); and Gore, A. et al. “The Endocrine Society’s Second Scientific Statement on Endocrine-Disrupting Chemicals,” *Endocr Rev* 36, no. 6 (2015): E1-E150; and Marquez EC and K Schafer, “Kids on the Line: How Pesticides Are Undermining the Health of Rural Children. A Report of Pesticide Action Network North America.” (2016)

⁹ Agricultural Pollution Pesticides, World Bank, <https://documents1.worldbank.org/curated/en/689281521218090562/pdf/124345-BRI-p153343-PUBLIC-march-22-9-pm-WB-Knowledge-Pesticides.pdf> [accessed September 24, 2023]

¹⁰ *Highly Hazardous Pesticides (HHPs)*, UN Environment Programme, <https://www.unep.org/explore-topics/chemicals-waste/what-we-do/emerging-issues/highly-hazardous-pesticides-hhps> [Mar. 28, 2023].

substance is defined as “a physical or chemical agent capable of causing harm to person, property animals, plants or other natural resources.”¹¹

It is estimated that roughly “2 million lives and 53 million disability-adjusted life-years were lost in 2019 due to exposures to selected chemicals.”¹² Now, a majority of children are born “pre-polluted” from exposure in the uterus.¹³

The costs for hazardous materials entering our lives are astronomical. In 2016, it was estimated that more than 170 billion (USD) per year in the European Union are spent on costs related to “neurobehavioral deficits caused by certain exposure to chemicals.”¹⁴ Additionally, the “the size of the global chemical industry exceeded 5 trillion USD in 2017 and it is projected to double by 2030.”¹⁵

HHPs constitute a relatively small share of all pesticides but are of particular concern due to their severe adverse effects on human health and the environment. HHPs present particularly high levels of acute or chronic hazards to health or environment according to internationally accepted hazard classification systems, their listing in relevant binding international agreements or conventions, or under conditions of use in a country.¹⁶ Many HHPs continue to be imported, exported, stored and applied around the world with a very uneven application of regulation and oversight, even where mandated by national laws. A number of HHPs already banned in their countries of origin continue to be manufactured, exported and used, mainly in the Global South. While many countries have banned some HHPs, global progress on restricting and phasing-out HHPs has been far too slow. The human rights of those directly impacted are seldom considered in relevant standards and policies. Recent statistics show that in fact while use of pesticides in the global North has decreased in recent years, their use in the global south has increased considerably.¹⁷ The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

¹¹ *Hazardous substance*, UN Environment Programme, LEO Thesaurus, <https://leap.unep.org/knowledge/glossary/hazardous-substance> [Mar. 28, 2023].

¹² J. Wolf, A. Prüss-Ustün & C. Vickers, *The Public Health Impact of Chemicals: Knowns and Unknowns: Overview*, World Health Organization (2021, Addendum), <https://www.who.int/publications/i/item/WHO-FWC-PHE-EPE-16.01-eng>

¹³ *Hazardous Chemicals: Environmental Impact and Health Effects*, World Future Council, <https://www.worldfuturecouncil.org/adverse-health-and-environmental-impacts-of-hazardous-chemicals/> (Mar. 28, 2023).

¹⁴ *Hazardous Chemicals: Environmental Impact and Health Effects*, World Future Council, <https://www.worldfuturecouncil.org/adverse-health-and-environmental-impacts-of-hazardous-chemicals/> (Mar. 28, 2023).

¹⁵ *Hazardous Chemicals: Environmental Impact and Health Effects*, World Future Council, <https://www.worldfuturecouncil.org/adverse-health-and-environmental-impacts-of-hazardous-chemicals/> (Mar. 28, 2023).

¹⁶ Highly Hazardous Pesticides, <https://www.unep.org/explore-topics/chemicals-waste/what-we-do/emerging-issues/highly-hazardous-pesticides-hhps>. (accessed September 24, 2023)

¹⁷ The use of pesticides in developing countries and their impact on health and the right to food, <https://www.europarl.europa.eu/cmsdata/219887/Pesticides%20health%20and%20food.pdf>, p. 2.

along with the International Rotterdam Convention allows for the continued production and export of banned pesticides in developed countries, such as the USA, to developing countries so long as the country buying this product is informed of its banned status.¹⁸ However, the Indigenous Peoples at the bottom of the use chain are not informed about the hazards nor involved in related decision making.

Indigenous Peoples are at high risk from exposure to HHP due to their close relationship with the natural environment for their food sources and cultural practices. Companies and governments seldom provide accurate information to the impacted Indigenous Peoples about the risks of exposure or the required safety measures and equipment required for use. They also fail to monitor and ensure the enforcement of safeguards and regulations in Indigenous territories. Although the United Nations Declaration on the Rights of Indigenous Peoples has been adopted as the minimum standard for the “survival, dignity and wellbeing” of the world’s Indigenous Peoples, the range of rights it affirms that are violated by the use of HHP in Indigenous lands and territories, including FPIC are seldom considered in international and national-level policies regarding pesticide use.

Another ongoing obstacle to policy change is the lack of disaggregated data highlighting the specific health and other impacts on Indigenous Peoples. Nevertheless, the key studies that focus on Indigenous Peoples, notably the groundbreaking work of Dr. Elizabeth Guillelte in Rio Yaqui Sonora Mexico, clearly demonstrate the devastating impacts of HHPs and other pesticides on the health and development of Indigenous children as well as on the reproductive and maternal health of Indigenous women and girls.¹⁹ Numerous testimonies and reports based on the lived experiences of impacted Indigenous Peoples collaborate and expand upon the impacts reported in scientific studies and medical reports.

Clearly, policy changes are needed to ensure that the internationally recognized rights of Indigenous Peoples including to Free Prior and Informed Consent, are upheld, respected, safeguarded and enforced in all levels of decision-making regarding the use of HHP and other toxic pesticides.

Finally, although not the primary focus of this Guidance Document, we affirm that the millennial knowledge, science and practices of Indigenous Peoples related to the

¹⁸ Beyond Pesticides, <https://beyondpesticides.org/dailynewsblog/2022/08/u-s-exportation-of-banned-and-highly-restricted-pesticides-continues-to-inflict-serious-harm/> (accessed September 24, 2023)

¹⁹ Altered Breast Development in Young Girls from an Agricultural Environment, Elizabeth A. Guillelte, Craig Conard, Fernando Lares, Maria Guadalupe Aguilar, John McLachlan, and Louis J. Guillelte Jr. , 1Department of Anthropology, University of Florida, Gainesville, Florida, USA; 2Center for Bioenvironmental Research, Tulane–Xavier Universities, New Orleans, Louisiana, USA; 3Dirección del Area de Recursos Naturales, Instituto Tecnológico de Sonora, Ciudad Obregón, Sonora, Mexico; 4Department of Zoology, University of Florida, Gainesville, Florida, USA

control of what are today called “pests” can offer safe, time-tested and proven alternatives to boost food production without damaging biodiversity human and environmental health. The potential value of Indigenous Peoples’ knowledge in this regard as the basis for a comprehensive and inclusive understanding of what is now called “Agro-ecology” has been mainly overlooked in policy development on the international and national levels.

IV. PESTICIDES AND ADVERSE IMPACTS ON THE RIGHTS OF INDIGENOUS PEOPLES

A. The Right to health including for Indigenous children, maternal, reproductive, and intergenerational health

Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right. -- UN Declaration on the Rights of Indigenous Peoples Article 24

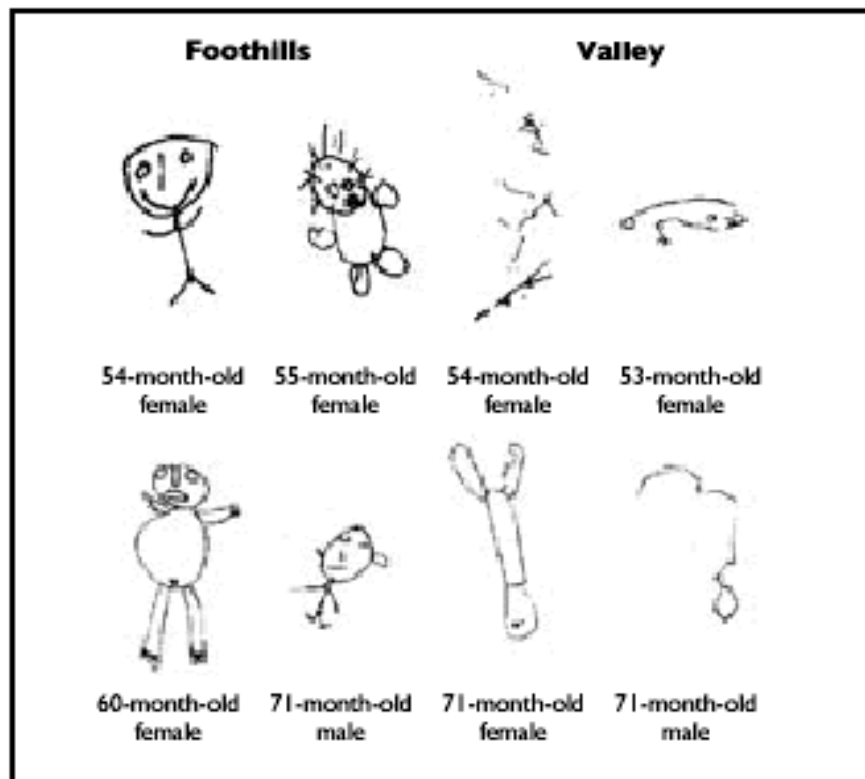
Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration. 2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protections and guarantees against all forms of violence and discrimination. – UN Declaration on the Rights of Indigenous Peoples Article 22

Numerous testimonies and scientific studies contained herein will show a link between pre-and post-natal exposure to pesticides and devastating impacts on maternal, reproductive and inter-generational health. These include sterility, reproductive system cancers, abnormal breast development causing decreased lactation capabilities, catastrophic birth defects resulting in stillbirths and permanent severe disabilities as well as life threatening childhood diseases such as leukemia, effects and impaired intellectual and neurological development.

In Sonora Mexico, Yaqui Indigenous women and girls working in the fields or living in or near agricultural areas have been exposed to frequent aerial and ground spraying of pesticides by outside agribusiness companies since the Mexican government’s implementation of the “Green Revolution” in the late 1940’s. For some families, their only source of water has been contaminated irrigation canals. In addition to the impacts of pesticides sprayed from airplanes affecting entire communities, Yaqui male and female farm workers are not provided by growers with any protective gear in the fields. Workers unintentionally carry poisons home in

pesticides-soaked clothing and skin, unknowingly spreading the contamination to their families.

In 1997, Dr. Elizabeth Guillette, a scientist from the University of Arizona, carried out a study of the health effects of industrial agricultural pesticides in the homelands of the Yaqui Indians in Sonora, Mexico. Dr. Guillette's study documented the resulting high levels of pesticides found in the cord blood of newborns and in mother's milk. It provided strong and compelling evidence of the detrimental impacts of pesticide exposure on the development of exposed Yaqui 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 and insecticide use is minimal to none) showed dramatic differences in motor skills—eye-hand coordination and balance. It showed marked developmental differences included in cognitive skills which were observed in recall, simple problem solving and ability to draw simple stick figures of people.²⁰



A follow up study published in 2006 by Dr. Guillette et al., **Altered Breast Development in Young Girls from an Agricultura Environment,**

²⁰ Ibid.

included some of the Yaqui girls who had participated in her previous study, now young teenagers and pre-teens. It documented abnormal breast development in young girls whose mothers had prenatal exposure to toxic pesticides.²¹ It also reported levels of pesticides including in cord blood of Yaqui mothers and infants born in the same time frame of the girls who participated in the study.²²

Testimonies collected from Yaqui mothers of Sonora Mexico over the past 20 years further confirm the prevalence of birth defects caused by prenatal pesticide exposure. The following testimonies of Indigenous women, translated from Yaqui into Spanish and then into English, are two of many examples submitted to IITC:

Testimony of Mrs. Flor Reyna Osuna, (mother of the young woman Flor Osuna García) and Jesús Gonzales, (midwife) December 15, 2011:

Mrs. Flor Reyna, the mother of a young woman who was born with deformities says that currently the young woman is 30 years old and is 1.20 meters [3'11"] tall. She says that when her daughter was born, the child's body was WATERY and JELLY-LIKE. The girl, due to her scant growth, is unable to move her legs. She can only move her arms. Her vital organs are atrophied. Studies conducted on her reveal that the girl developed deformities while in her mother's womb. The physicians, as an important conclusion of the studies conducted, consider that the young woman's housing location, on the periphery of agricultural lands and exposed to spraying with agrochemicals, quickly leads to CONGENITAL DISEASES. Also, some biochemists specializing in clinical analysis have analyzed certain products. As a result, they have reached important conclusions: mixtures of two or more chemicals applied in inhabited areas also lead to CANCERS.

²¹ "We examined the onset of breast development in a group of peripubertal girls from the Yaqui Valley of Sonora, Mexico. We 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 [e.g., weight, height, body mass index (BMI)], 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". Altered Breast Development in Young Girls from an Agricultural Environment, Elizabeth A. Guillette, Craig Conard, Fernando Lares, Maria Guadalupe Aguilar, John McLachlan, and Louis J. Guillette Jr. , 1Department of Anthropology, University of Florida, Gainesville, Florida, USA; 2Center for Bioenvironmental Research, Tulane-Xavier Universities, New Orleans, Louisiana, USA; 3Dirección del Area de Recursos Naturales, Instituto Tecnológico de Sonora, Ciudad Obregón, Sonora, Mexico; 4Department of Zoology, University of Florida, Gainesville, Florida, USA

²² Ibid. "A study of newborn children from the Yaqui Valley performed close to the period these children were conceived reported elevated pesticide levels, with cord blood values of lindane, heptachlor, benzene hexachloride, aldrin, and endrin all exceeding World Health Organization established limits (International Programme on Chemical Safety 2005)"

The midwife, Jesús made the following comments: These deformities are the product of tumors produced by chemicals when young women are exposed to their application while working in the field without personal safety measures or other similar protection.²³

Testimony of Mrs. Xóchitl Valdés, (mother of the girl)

Girl: Mariana López Valdés

Interviewer: Francisco Villegas Paredes, DECEMBER 20, 2011.

*The girl's mother stated that her pregnancy was very delicate. She was constantly going to the doctor. Even some midwives told her that her girl was not developing well. When the girl was born, she had deformities on her face, principally to her lips. She also stated that the girl's grandfather, **Mr. Manuel Valdés** works in agriculture and would generally leave chemical residues behind at his house. Some doctors told him, based on studies conducted on the girl that the agro-chemicals are having a direct effect. The contact she had with the residues while still young caused deformations to some parts of her body when she was a fetus. The girl is alive. She is 1 year 6 months old, and her deformities are growing.²⁴*

There have been many documented deaths of children in Rio Yaqui associated with pesticides. Just two of these heartbreaking cases, accompanied by terrible suffering of the children in question before their deaths, are presented below:

Cristian's Molina's mother (below left) worked in the fields in Potam Pueblo, Rio Yaqui when she was 17 years old and pregnant with Christian with no protection from the overhead spraying of pesticides. Christian was born with unformed bones and never grew. He is shown here at age 13, a few months before he died on May 15, 2008. His family was too poor to buy a wheelchair, so he is in a baby stroller.

Juan Antonio Rodriguez is shown (above right) with his grandmother. He also died a few months after this picture was taken at age 2. He was born and lived in the Vicam Switch community in Rio Yaqui where the planes spraying pesticides turned around over the homes, still discharging their chemicals which you could

²³ "Indigenous Women and Environmental Violence" A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations. Submitted to the United Nations Permanent Forum on Indigenous Issues Expert Group Meeting "Combating Violence Against Indigenous Women and Girls", January 18 – 20, 2012, United Nations. Headquarters, New York by Andrea Carmen, International Indian Treaty Council and Indigenous Women's Environmental and Reproductive Health Initiative, and Viola Waghiyi, Native Village of Savoonga, St. Lawrence Island, Alaska and Alaska Community Action onToxicsTheme2:"ContextualizingViolence" available at https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf

²⁴ Ibid

smell in the air. He was born with cirrhosis of the liver. A doctor who examined him confirmed in a written diagnosis that the cause of the illness that killed him painfully at such an early age was prenatal pesticide exposure.



In neighboring Guatemala, similar adverse health impacts by pesticides are experienced by Indigenous Maya communities. In 2015 the La Pasión River, running through parts of the Sayaxché, Petén, Guatemala reeked because of dead fish in the river. The communities around the river were under watch and were cautioned not to use the river as a source of water for human consumption and household needs, nor for fishing. This disaster affected 18 communities, 6,475 people; 505 families with complementary humanitarian needs and 678 children under 5 years of age. Investigations into the disaster revealed that a company by the name Reforestadora de Palmas del Petén, (REPSA), was responsible. Its oxidation pools overflowed into nearby waterbodies.²⁵ This overflow emptied Malathion into nearby rivers. Toxicology studies by the University of San Carlos confirmed elevated levels of the pesticide, and other agro-chemicals in the river.²⁶ “Malathion, like other organophosphate pesticides, can negatively affect the nervous system, causing nausea, dizziness, or confusion. At the highest levels of

²⁵ La Pasión: Desastre ecológico y social, <https://cmiguate.org/la-pasion-desastre-ecologico-y-social/> (accessed July 2, 2023)

²⁶ Palm Oil Industry Tied to Ecocide in Guatemalan River, <https://upsidedownworld.org/archives/guatemala/palm-oil-industry-tied-to-ecocide-in-guatemalan-river/> (accessed July 2, 2023)

exposure, as with any organophosphate, malathion can cause seizures, respiratory paralysis and death. Studies suggest that children are more vulnerable to the harmful effects of malathion than adults.”²⁷ As a consequence of the event, Guadalupe Verdejo of the World Health Organization (WHO) explained that they found rashes on the skin of those affected by the river contamination and that the real effects could be seen in six months or more. Among the diseases that could be generated are cancer, diarrhea, infertility and miscarriages.²⁸

Further south in Argentina, comparable devastating health impacts were reported by the Asociación de Mujeres Abogadas Indígenas de Argentina (AMAI) to the Expert Group Meeting organized by United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes of the United Nations Chemical Conventions, in particular the Rotterdam Convention, January 19-20, 2019:

Between 12 and 15 million people are exposed daily to spraying of toxic agrochemicals in different localities throughout the country, which have become known as “fumigated towns.”

Human rights organizations, environmentalists, lawyers, journalists and people committed to civil society have been denouncing and noting an increase of genetic damage and chronic non-communicable diseases in fumigated towns, in children, rural workers and in fumigated rural schools linked to sustained environmental exposure to toxic agrochemicals, such as cancer, birth defects, endocrine system disorders, neurodegenerative disorders, infertility, miscarriages, respiratory and skin diseases (Red de Médicos de Pueblos Fumigados, 2018; Campamentos Sanitarios del Instituto de Salud Socioambiental de la Facultad de Medicina de la Universidad Nacional de Rosario; Grupo de Genética y Mutagénesis Ambiental (GEMA) de la Universidad Nacional de Río Cuarto (UNRC), among others). Many children die in the country as a consequence of acute exposure to toxic agrochemicals, such as Nicolás Arévalo and José Rivero, from Puerto Lavalle, Corrientes and Rocío Pared, from Mburucuyá, Corrientes, just to mention the most recent cases. Their deaths are still unpunished to this day.²⁹

²⁷ La Pasión: Desastre ecológico y social, <https://cmiguate.org/la-pasion-desastre-ecologico-y-social/>

²⁸ Contaminación de río la Pasión es un tema político, <https://www.prensalibre.com/guatemala/comunitario/contaminacion-de-rio-la-pasion-es-un-tema-politico/>, (accessed July 2, 2023)

²⁹ Report submitted by AMAI - Asociación de Mujeres Abogadas Indígenas de Argentina to the Expert Group Meeting, for the Human Rights Legal Review by the United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes of the United Nations Chemical Conventions, in particular the Rotterdam Convention, January 19-20, 2019.

More recent studies conducted in 2020 and 2022 illustrate additional evidence of negative and devastating health impacts on Indigenous communities. The Mato Grosso region of Brazil, more specifically the Jurena Basin is home to the Tirecatunga Indigenous Peoples. Studies conducted by Center for Environmental Studies and Occupational Health (NEAST) of the Institute of Collective Health of the Federal University of Mato Grosso (ISC/UFMT) and Operação Amazônia Nativa (OPAN) on the Tirecatunga Indigenous lands reveal adverse health impacts by pesticides. These include respiratory problems, cancers, congenital malformations, miscarriages, and kidney disease. For instance, “the prevalence rate of congenital malformation in 2017 was 11.8/1000 live births for indigenous people from the Juruena Basin, 8.3/1000 live births for indigenous people from other locations, and 6.3/1000 live births for non-indigenous people in Mato Grosso.”³⁰

In addition, Indigenous Peoples in various regions are facing multiple sources of contamination and exposure to toxic chemicals, often compounding the impacts. The health impacts of such multiple and combined toxic exposures are seldom studied or documented. The following testimony was submitted to IITC by **Saro Legborsi Pyagbara**, an Ogoni Indigenous leader from Nigeria, during the 54th Session of the UN Human Rights Council in Geneva Switzerland:

The Ogoni Indigenous People in Nigeria have been seriously impacted from the well-known activities of multi-national oil companies, especially Shell corporation, carried out in our territories without our consent over many decades. We are exposed to many chemicals related to the ongoing oil spills in our lands affecting our health, food and water. On top of that we are also exposed to the toxic pesticides widely used by agro- industry in our region as well as DDT used for mosquito abatement. The Ogoni People are never asked for our consent or permission, and we are not told about the known health impacts of these chemicals, or what their combined effects might be. No one, not the national government nor the companies, measures the combined effects of these sources of toxic contamination on our People, especially on our children, maternal health, and unborn babies who are born with many birth defects to this day. To fill this gap, my organization is currently conducting a study on the specific impacts of Pesticides in the Ogoni territories, including when they are combined with other sources of toxic exposures, and we look forward to sharing the outcomes in the future.”³¹

³⁰ Impacts of cotton monoculture on health and the environment in Mato Grosso, 2022, <https://amazonianativa.org.br/2022/12/06/impacts-of-cotton-monoculture-on-health-and-the-environment-in-mato-grosso/> (accessed July 3, 2023)

³¹ Testimony of Saro Legborsi Pyagbara, representative of the Africa Indigenous Foundation for Indigenous Sustainable Development, co-founder and former President of the Movement for the Survival of the Ogoni People (MOSOP), September 26, 2023, Geneva Switzerland

B. Indigenous Peoples' Rights to their Means of Subsistence, Food Security/Food Sovereignty, and the Productive Capacity of their Environment

“From a traditional perspective, the health of our Peoples cannot be separated from the health of our environment, the practice of our spirituality and the expression of our inherent right to self-determination, upon which the mental, physical and social health of our communities is based.” -- Faith Gemmill, Gwich'in, Arctic Village Alaska

Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. -- UN Declaration on the Rights of Indigenous Peoples, Article 29

Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities. -- UN Declaration on the Rights of Indigenous Peoples, Article 20

Indigenous Peoples around the world do not consider themselves as separate from the natural world, the plants, animals, and all the natural elements that sustain them and define their cultural identities, food systems, sacred responsibilities to future generations and their very existence. Their relationship to the natural world and their traditional ecosystems and biodiversity is fundamental, reciprocal, and inter-generational, and is the basis for their ways of life and knowing.

The natural world includes “all of the living and non-living things that surround us, including the air, water, plants, soil and wildlife,”³² and that “wildlife includes, but is not limited to, bees, birds, small mammals, fish, other aquatic organisms, and the biota in the soil.”³³

Therefore, everything within our biodiversity and food systems are impacted by pesticides, which are by definition man-made chemicals intended to kill living things. Pesticide use on land also makes its way to waterways, killing fish,

³² *Highly Hazardous Pesticides (HHPs)*, UN Environment Programme, <https://www.unep.org/explore-topics/chemicals-waste/what-we-do/emerging-issues/highly-hazardous-pesticides-hhps> (Mar. 28, 2023).

³³ *Highly Hazardous Pesticides (HHPs)*, UN Environment Programme, <https://www.unep.org/explore-topics/chemicals-waste/what-we-do/emerging-issues/highly-hazardous-pesticides-hhps> (Mar. 28, 2023).

amphibians, shellfish, and waterfowl which are essential elements of Indigenous Peoples food systems.³⁴

In addition to the impacts on a range of larger species, pesticides also undermine the biodiversity contained in soil that is a requirement for sustaining food systems and all life. Pesticides “kill or harm soil invertebrates like earthworms, ants, beetles and ground-nesting bees” in 71% of cases studied.³⁵ Further, there are “negative effects across all studied pesticide classes, which shows that pesticides – as a set of chemical poisons – pose a clear hazard to soil life and are incompatible with healthy soil.”³⁶ It goes without saying that growing food crops in unhealthy contaminated soil, will mostly likely result in contaminated crop yields lasting.³⁷ Anecdotal information from Indigenous farmers as well as numerous scientific studies confirm that pests become resistant while helpful soil enrichers such as worms, bacteria and natural pest-controlling species are depleted by pesticides use. Greater and greater concentrations of pesticides are therefore required to produce crops, creating a cycle of depletion and chemical dependency eventually resulting in soil that is virtually dead. Sprayed pesticides also accumulate in the sediments of streams and rivers, further endangering flora, fauna and human health.³⁸

Pesticide use has also been directly linked to alterations in organism behaviors and impact an organism’s ability to survive.³⁹ For example, for birds, mere exposure to certain pesticides can “impede singing ability making it difficult to attract mates and reproduce” and “affect[s] bird’s ability to care for offspring, causing their young to die.”⁴⁰ Pesticide use also threatens the survival of essential pollinators such as bees and butterflies, “near-infinitesimal levels of systemic pesticides result in sublethal effects, impacting mobility, feeding behaviors, and navigation.”⁴¹

³⁴ Lizzy Rosenberg, *Pesticides Can Affect Marine Life in More Ways Than One*, Green Matters (Aug. 19, 2021), <https://www.greenmatters.com/p/pesticides-marine-life>

³⁵ Center for Biological Diversity, Pesticide and Soil Health, <https://www.biologicaldiversity.org/campaigns/pesticides-and-soil-health/> (accessed September 24, 2023)

³⁶ *Ibid*

³⁷ Soil Contaminants, <https://www.soils.org/about-soils/contaminants/> (accessed September 24, 2023)

³⁸ Impacts of Pesticides Use in Agriculture: their benefits and hazards, 2009, [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2984095/#:~:text=Effect%20on%20soil%20fertility%20\(beneficial,fun%2C%20then%20the%20soil%20degrades](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2984095/#:~:text=Effect%20on%20soil%20fertility%20(beneficial,fun%2C%20then%20the%20soil%20degrades) (accessed September 24, 2023)

³⁹ *Impacts of Pesticides on Wildlife*, Beyond Pesticides, <https://www.beyondpesticides.org/programs/wildlife> (last visited Apr. 13, 2023).

⁴⁰ *Impacts of Pesticides on Wildlife*, Beyond Pesticides, <https://www.beyondpesticides.org/programs/wildlife> (last visited Apr. 13, 2023).

⁴¹ *Impacts of Pesticides on Wildlife*, Beyond Pesticides, <https://www.beyondpesticides.org/programs/wildlife> (last visited Apr. 13, 2023).

The links between pesticide use and the alarming decline of pollinator populations essential for maintaining food production is well documented. The Yaqui Beekeepers Association, based in Vícam Estación, Mexico, have firsthand knowledge of the bee decline in their lands. **Felipe de Jesús Molina Valencia** is a beekeeper with more than 30 years of experience and presented this testimony to IITC affiliate in Rio Yaqui Jitto Bat Natika Weria on June 30, 2023:

One of the main problems faced by beekeeping is the contamination by chemicals that are applied to crops, mainly to wheat and corn in the area. We have found boxes with few bees because during the collection of nectar they are fumigated and some manage to reach the box, others do not. December, January and February are the months when honey production is low, due to the fumigations, but also to the imbalance suffered by the bees because of the toxic substances. Some bees manage to survive, others die. Currently the boxes must be kept away from fumigations, but bees require green areas and to move across long distances to collect nectar. The longer the distance, the greater the work in the hive. The boxes near the crops had to be removed because of the contamination suffered by the bees, they had to take the boxes to the mountains, where there was no nectar. I think that was also part of the reason why the organization disintegrated, because they could not meet the sale commitment.

Likewise, frogs, toads, and fish vital to Indigenous Peoples food systems as important natural sources of insect control, are greatly impacted because they absorb toxic chemicals through their skin.⁴² Due to the combined impacts of climate change, pesticides and other environmental toxics, many amphibians, like bees and butterflies, are now facing extinction. Pesticide use is also a “leading contributor” to fish population decline.⁴³ Although harm is most widely caused by pesticide use near bodies of water including “wetlands, lakes, ponds, rivers and streams,” any use of pesticides on land anywhere eventually impacts waterways due to the inherent cyclical dependence between water and land.⁴⁴

Pesticide runoff into water bodies in Indigenous communities have huge implications on Indigenous fishery. For example, in the Bay of Lobos, a Yaqui Community in Sonora Mexico, the local fishing cooperative, Sociedad Cooperativa Pesquera de las Comunidades Yaquis, has firsthand knowledge of this. Founded in the 1960’s, this Coop is one of the main national legally constituted Indigenous organizations and owns 80 kilometers of virgin bay, with no aquaculture park

⁴² Current status of pesticide effects on environment, human health and it’s eco-friendly management as bioremediation: A comprehensive review, 17 August, 2022, <https://www.frontiersin.org/articles/10.3389/fmicb.2022.962619/full#B286>

⁴³ Lizzy Rosenberg, *Pesticides Can Affect Marine Life in More Ways Than One*, Green Matters (Aug. 19, 2021), <https://www.greenmatters.com/p/pesticides-marine-life>.

⁴⁴ Lizzy Rosenberg, *Pesticides Can Affect Marine Life in More Ways Than One*, Green Matters (Aug. 19, 2021), <https://www.greenmatters.com/p/pesticides-marine-life>.

projects in it and is a primary basis of subsistence for the Yaqui Indigenous Peoples in Sonora Mexico. **Jorge Bibiano Gutiérrez Muñoz**, a member of the Fishing Cooperative, gives us his testimony about the growing problem his community is facing caused by run offs containing pesticides from the agricultural canals that drain into the Bay:

It is important to mention that the community faces a very serious pollution problem. I am referring to Drain Collector No. 2, which leads to a network of drains born 30 kilometers away, so it drags various pollutants that reach the Bay of Lobos. “Dren Colector No. 2” divides the community and thus causes direct contamination for our families, but also the contamination of fish, which at certain times of the year, causes different types of fish to be found dead, which is of great concern to us because as fishermen our basic food are the products of the sea (fish, shrimp, crab, and different types of shells). The industrial sector of the city of Obregon (Sonora) also uses those drains to empty their waste there. Another problem is the number of hectares that investors plant and the large amount of chemicals that they throw on the ground, which when it rains also fall into the drain and reach our community. We have already informed health services about this problem, but there has been no response. There have also been cases of cancer in both young people and adults.

Another example of loss of fishing livelihood, includes the Indigenous Q’eqchi fishers in the El Estor Guatemala, who rely heavily on Lago Izabal for their livelihood. However, the lake heavily contaminated from both mining and agriculture runoff, which is having an impact on their ability to subsist, and an increase in health concerns.⁴⁵ This has resulted in folks not only getting sick from drinking and eating fish from the lake but also loss of livelihoods.⁴⁶ Contaminated water and fish inevitably result in changed diets, and the loss of knowledge of traditional fishing grounds; younger generations lose touch with traditional foods, fishing as a cultural practice and their connection to their customary fishing grounds.

Aside from the impacts on fauna, the effects of pesticides on plant life must also be noted. The benefits of the use of agrochemicals in farming for instance are countered by the danger of phytotoxicity in plants. Studies show that “chemically treated seeds, are often exposed to substantially greater chemical concentrations than the mature plants during cultivation.”⁴⁷ The use of pesticides influences plant growth, development, metabolism, and its defense system. For instance, “spraying high quantities of pesticides (dimethoate) shortens root and shoot length. Due to

⁴⁵ *Guatemala: Water pollution and the rights of Q’eqchi Peoples in El Estor*, Minority and Indigenous Trends 2023: Focus on Water, <https://trends.minorityrights.org/guatemala/>

⁴⁶ Ibid

⁴⁷ Current status of pesticide effects on environment, human health and it’s eco-friendly management as bioremediation: A comprehensive review, 17 August, 2022, <https://www.frontiersin.org/articles/10.3389/fmicb.2022.962619/full#B286>

increasing levels, dimethoate concentrations in the root are higher than in the shoot, ... Pesticide use also influences plant physiology.”⁴⁸ The direct and indirect effects of pesticides on flora...are well documented.”⁴⁹

For instance, studies conducted on medicinal plants found on the Indigenous lands such as that of the Tirecatunga People, in Brazil, Matto Grosso area, found that some medicinal plants were contaminated, the results are as follows:

*The types of products collected and their locations were defined with the Indigenous people's participation. The plants studied were: breozinho, the Brazilian orchid tree (pata de vaca), negramina, birici, mangava brava, douradinha, licorice root, zanata, and barbatimão. Residues were detected in 88% of the analyzed samples. Eleven(11) different pesticides were found among the samples, with an average of four pesticides detected per sample. Most pesticides are classified as insecticides (45%), fungicides (36%), and herbicides (18%). Five of the 11 pesticides registered (45%) are banned in the European Union (atrazine, carbofuran, chlorpyrifos, thiamethoxam, and acetamiprid). The main pesticides detected in the Cerrado's plants were: atrazine, Chlorpyrifos, pyraclostrobin, malathion, and chlorpyrifos. These pesticide residues indicate environmental contamination within the Tirecatunga Indigenous Land.*⁵⁰

It must also be noted that several of the chemicals detected have long been banned in developed countries such as Europe because of its highly hazardous nature and danger to human and environmental health.⁵¹ Findings such as these undermine the rights of Indigenous Peoples to food security, medicines, and directly impacts their means of subsistence.

C. Indigenous Peoples' Rights to their Cultural Heritage, Spiritual and Religious practices

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions.... Article 31, UN Declaration on the Rights of Indigenous Peoples

⁴⁸ Ibid

⁴⁹ Pesticide toxicity: a mechanistic approach, Nov 2018, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6295629/>

⁵⁰ Impacts of cotton monoculture on health and the environment in Mato Grosso, 2022, <https://amazonianativa.org.br/2022/12/06/impacts-of-cotton-monoculture-on-health-and-the-environment-in-mato-grosso/> (accessed September 24, 2023)

⁵¹ Ibid

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters, coastal seas and other resources and to uphold their responsibilities to future generations in this regard. -- Article 25, UN Declaration on the Rights of Indigenous Peoples

Indigenous Peoples' unique spiritual connection to their lands and its resources, and their interdependence on it for sustenance, puts them at a disproportionate disadvantage from the effects of environmental impacts caused by pesticides. Indigenous peoples see all living beings, animals, plants, water, as sacred spiritual beings. Hunting, fishing, gathering, planting, and harvesting are cultural and spiritual experiences that cannot be separated from essential cultural and spiritual practices including ceremonies, songs and dances, clan identities and creation stories. So "when pesticide contamination undermines the ability to produce abundant food, the exchange with spirits becomes equally affected."⁵² Additionally, areas that are contaminated may no longer be accessible to Indigenous People for their spiritual and religious ceremonies. Traditional foods, plants and other medicines required for ceremonies may also not be accessible or usable.

Traditional cultural activities carried out specifically by Indigenous women, which include food gathering, preparation and production as well as the activities related to the creation of traditional cultural items and art forms, create additional exposure to environmental toxins. For instance, A Native woman in California, USA, shared the following:

*Pesticides are particularly dangerous to traditional native basket weavers. The Forest Service, Caltrans, governmental agencies, as well as the general public spray pesticides without thought to the natural environment, plants and animals, as well as those of us that work in the forests, parks, rivers, lakes, and oceans. Weavers are affected when gathering in areas sprayed with pesticides, we are constantly at risk as we breathe in, handle and ingest these toxins as we gather, weave and split reeds with our teeth. These pesticides also affect the life and quality of plants, making them less bug resistant, more fragile, smaller and harder to find, including food sources for animals and traditional medicines for practitioners.*⁵³

⁵² Ibid

⁵³ "Indigenous Women and Environmental Violence" A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations, citing, testimony was presented by Monique Sonoquie, Chumash, of the Traditional California Indian Basket Weavers and Indigenous Youth Foundation, https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf

Luis Buitimea Matus, a traditional musician and lawyer from the Yaqui Nation, illustrates the impacts of pesticides on cultural practices in his territory. Mr. Matus is a role model in his community and is the captain of chapayekas, traditional musician within the culture of the Yaqui Nation, of the dance of the Deer. He currently serves as a pajkola and a matachin. He gave his testimony about the Yaqui culture and the materials that the members of each of the villages use for the traditional ceremonial dances:

The cocoons or tenebois (leg rattles used by some ceremonial dancers during Yaqui ceremonies) are very important material in the Yaqui culture, since they are used for the main dances of the Yaqui nation (deer dance, pajkola, and the holy lent). This material is very scarce nowadays. Many years ago, the dancers had no problem weaving the cloth for the chapayekas, deer dance and pajkola. The vegetation of the Yaqui nation hosted butterflies that stayed throughout the different seasons, and along with it came the production of cocoons or tenebois. In the 90s the Yaqui nation began to lose it. If it was found, it was in low quantities, compared to the 80s. Nowadays some dancers, especially pajkolas, have replaced the tenebois with soda caps. The Yaqui nation should call, together with the authorities, for companies to no longer fumigate. Butterflies have already left for the mountains, and they will not return while companies continue to fumigate, because those chemicals are affecting our pueblos, our people, our animals, and our traditional culture.

In addition to the physical killing of butterflies and the cocoons used for spiritual ceremonies as illustrated above, developmental and neurological impacts of ...pesticides and industrial chemicals, have a on the long-term ability of Indigenous peoples to retain and pass on their complex cultural systems which include oral histories, stories, songs language and ceremonies to the next generations. This is a primary responsibility of Indigenous women for girls and young women throughout their learning years, and for young children of both sexes.⁵⁴ Indigenous children who are exposed to large and consistent quantities of dangerous pesticides, pre- and post-natal, will have diminished capacity to retain language, songs, stories and ceremonies required for inter-generational cultural vitality memory and identity of their Peoples.⁵⁵

D. Global Transport impacting the health and food systems of Indigenous Peoples in the Arctic

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic

⁵⁴ Ibid.

⁵⁵ Ibid

pollutants and that contamination of their traditional foods is a public health issue – Preamble, UN Stockholm Convention on Persistent Organic Pollutants

Indigenous Peoples that live far from any industrial agriculture or sites of pesticides production yet are also severely impacted as pesticides are transported atmospherically and through ocean currents, resulting in contaminating foods far from the points of production and use.⁵⁶ The arctic region is well known for this because contamination concentrates in cold environments.”⁵⁷ Ocean and wind currents, carry contamination to the Arctic, known as ‘global distillation.’ Some of these contaminants or Persistent organic pollutants (POPs) are long-lasting pesticides and industrial chemicals that bioaccumulate through the food web, are capable of long-range transport and are toxic to humans and wildlife...The highly toxic organochlorine (OC) pesticides DDT, toxaphene, chlordane, endosulfan, and lindane, and other POPs such as PCBs have been found in human and animal tissue as well as human breast milk in the Arctic at levels several times higher than in the rest of the world. The levels keep rising long after certain of these substances have been banned. For instance, even though DDT agricultural uses have been banned for 30 years in the U.S, it is still accumulating in the Arctic in peregrine falcons, orcas, and human beings.⁵⁸

Global transport of pesticides has a severe impact on Indigenous Arctic Peoples as noted in the Stockholm Convention preamble. Persistent organic pollutants (POPs) “bioaccumulate in high quantities in the bodies of fish, marine mammals and other components of the traditional diets of the Indigenous Peoples in the Arctic.”⁵⁹

⁵⁶ Arctic Pollution 2009, <https://www.amap.no/documents/download/1156/inline> (accessed July 3, 2023)

⁵⁷ Ibid

⁵⁸ ALTERNATIVE REPORT REGARDING LACK OF IMPLEMENTATION OF CERD CONCLUDING RECOMMENDATION 30 [CERD/C/USA/CO/6] REGARDING THE UNITED STATES IN FEBRUARY 2008 AND IMPACTS OF THE CONTINUED PRODUCTION AND EXPORT OF UNREGISTERED PESTICIDES *Jointly Submitted by the International Indian Treaty Council; Advocates for Environmental Human Rights; Alaska Community Action on Toxics; Native Village of Savoonga, Alaska; Native Village of Gambell, Alaska; the North-South Indigenous Network Against Pesticides, and International Indigenous Women’s Initiative for Environmental and Reproductive Health*, July 10, 2014, citing Arctic Monitoring and Assessment Programme Report, 2009

⁵⁹ “Indigenous Women and Environmental Violence” A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations, Submitted to the United Nations Permanent Forum on Indigenous Issues Expert Group Meeting “Combating Violence Against Indigenous Women and Girls”, January 18 – 20, 2012, United Nations Headquarters, New York by Andrea Carmen, International Indian Treaty Council and Indigenous Women’s Environmental and Reproductive Health Initiative, and Viola Waghiyi, Native Village of Savoonga, St. Lawrence Island, Alaska and Alaska Community Action on Toxics

Tribal leaders from St. Lawrence stated that:

*The Indigenous Arctic peoples are suffering the most from these chemicals because the chemicals – DDT, endosulfan, lindane, perfluorinated compounds and toxic flame retardants, to name a few—are long lasting, and drift North on wind and water currents from where they are applied in the Southern latitudes. That means these chemicals are also in our traditional foods and affecting our health and the health of our children.*⁶⁰

Statistics from the Alaska Birth defect registry present higher incidents of birth defects and neonatal death, two times higher than that of the entire United States; Native infant are at twice the risk of birth defects as white infants born in Alaska. Mothers living in areas with “high hazard ranking are 43% more likely to have a low-birth-weight baby, 45% more likely to give birth prematurely and more likely to have babies afflicted with intrauterine growth retardation.”⁶¹

The following chart shows the results of studies conducted on women from Kenya, Czechoslovakia, Mexico, Philippines and Alaska related to pesticides in breast milk. Levels of pesticides and the industrial chemicals PBDEs (polybrominated diphenyl ethers—used as flame retardants in furniture, mattresses and electronics) were highest in the breast milk of a Yupik woman from Arctic Alaska. ⁶²

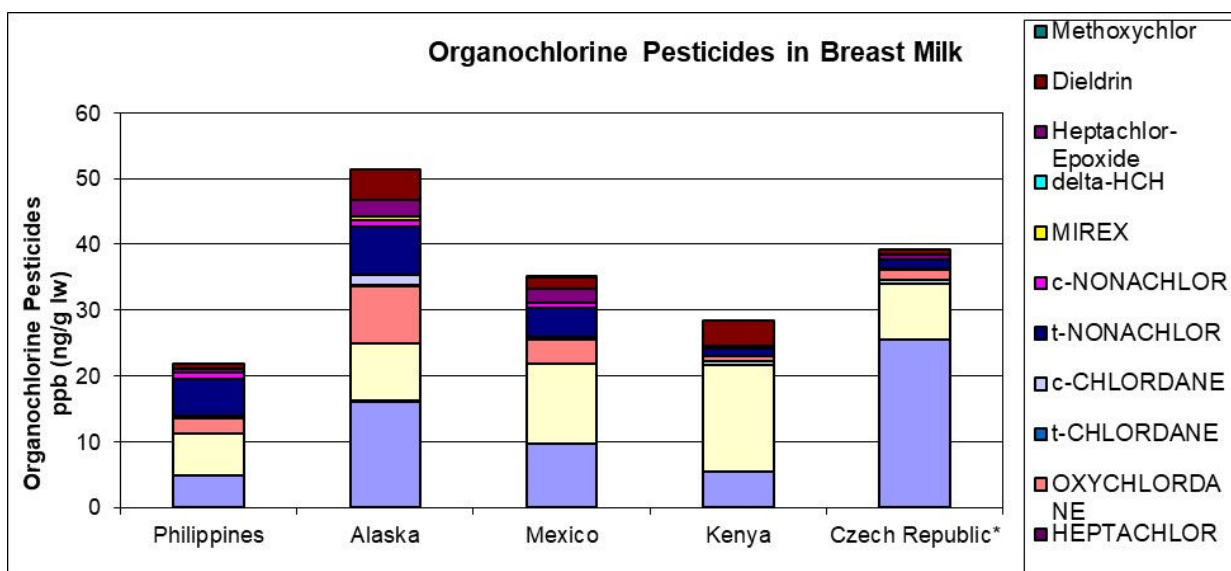
Theme 2: “Contextualizing Violence,”

https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf, citing Alaska Community Action on Toxics. 2009. Persistent Organic Pollutants in the Arctic: a report for the delegates of the fourth conference of parties of the Stockholm Convention; http://www.akaction.org/Publications_FactSheets_and_Video.htm; Christopherson, S., M. Hogan, & A. Rothe. 2006. Formerly Used Defense Sites in the Norton Sound Region: Location, History of Use, Contaminants Present, and Status of Clean-up Efforts. Prepared for Alaska Community Action on Toxics; Gilbreath, S. and Philip Kass. 2006. Adverse birth outcomes associated with open dumpsites in Alaska Native villages. *American Journal of Epidemiology* 164(6):518-528.

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid citing Commonwealth. 2009. Report: Monitoring Mother Earth by Monitoring Mother’s Milk, www.ipen.org



E. Barriers to reporting, redress, and exercise of FPIC

Indigenous Peoples’ ability to seek redress, access justice, and participate in decision making affecting them has been very limited due to “State discrimination, corruption, and a lack of protective laws” as affirmed in the 2022 report of Marcos Orellana, the UN Special Rapporteur on Toxics and Human Rights.⁶³ Indigenous Peoples’ lack of political power, economic standing, information, and access to participate in decision making on pesticide use impacting their Peoples prevent any semblance of Free Prior and Informed Consent (FPIC) in most countries.

Many times, the agro-chemical and agro-business companies responsible for the indiscriminate and unprotected storage and application of toxic pesticides in Indigenous Peoples’ territories are the only source of employment within many miles, resulting in economic dependence for entire families and communities who depend on these jobs for survival. Often, they are owned by wealthy and powerful political families with private security forces, a fact well known to workers and community members. Providing testimonies, challenging practices that they know are putting them in danger, or even asking questions about what they are being exposed to and the potential health impacts can place Indigenous workers at risk of losing their employment or even more detrimental consequences. Fear of reprisal

⁶³ The impact of toxic substances on the human rights of indigenous peoples, report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana, para 3, 28 July 2022

results in many impacted workers, families and community members being unwilling to speak out, according to Indigenous advocates difficulties in collecting testimonies about violations “on the record” in countries such as Mexico and Guatemala.

For example, **Francisco Villegas Paredes**, Director of the Yaqui community organization Jittoa Bat Natika Weria based in Vicam, Sonora Mexico stated in a testimony provided to IITC on August 6, 2023, in reference to the oral statement provided to Jittoa by Ms. Juana Reyna, quoted in Section VI, below.

All the inhabitants of Vicam Pueblo know that the owner of the TEPEYAC Company is the Bours Family, who is related to the national political sphere. Eduardo Bours Castelo was Governor of the State of Sonora from 2000 to 2006, the period when land grabbing also began and, together with it, monoculture and vast irrational application of pesticides. As an established practice by order of the producers, the workers were forced to incinerate the waste, while non-incinerated containers were buried in the same agricultural area. This practice is widespread throughout the agricultural sector in the Yaqui Nation, but workers have not been willing to provide written testimonies regarding this practice.

Likewise, Jose **Dionicio Canahui Rodrigeuz**, an Achi Maya Human Rights advocate from Guatemala, reported the reluctance of impacted Indigenous workers and community members to provide statements or testimonies in a report titled “Difficulties in Collecting Testimonies” to IITC on August 8, 2023. He reported that despite “sufficient evidence of serious diseases and even many people’s deaths due to cancer as a result of the use of banned pesticides that are unrestrictedly sold on the market in Guatemala”, agricultural workers and their families are reluctant to speak about these impacts. He specifically cited:

Fear by workers that bosses or owners of the farms will harass, discriminate against, stigmatize or label them as troublemakers, which can be result in a temporary or permanent loss of employment, which may result in hunger and major financial distress for their families” as well as “fear of repression, criminalization, persecution and even the loss of life in the face of the anger or hostility by the big companies that control the market of deadly pesticides.

V. SHORTFALLS IN THE INTERNATIONAL NORMATIVE FRAMEWORK: THE UN CHEMICAL CONVENTIONS

“Highly hazardous pesticides should be phased out because they pose unacceptable harms to internationally accepted human rights. However, there is no instrument for such action. The Rotterdam Convention on the

Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade has been paralyzed by the failure of its Conference of the Parties to list hazardous pesticides, despite the repeated advice of its scientific body.” -- Presentation by Dr. Marcos Orellana, current UN Special Rapporteur on Toxics and Human Rights to the 21st Session of the UNPFII, April 27, 2022.

Despite Indigenous Peoples’ decades of advocacy at UN Chemical Conventions as well as human rights bodies where they have consistently presented the grave impacts of pesticides on their communities’, gaps in international law remain and the rights of Indigenous Peoples continue to be violated. At the international level, the use and trade of pesticides are governed by, *inter alia*, the Rotterdam and Stockholm Conventions and the International Code of Conduct on the Management of Pesticides.

The objective of the Stockholm Convention is to protect human health and the environment from persistent organic pollutants (POPs).⁶⁴ 9 of the 12 POPs that were banned or phased out when the Convention was implemented were pesticides. Other pesticides have been added to the list since that time, such as lindane and endosulfan. The Preamble of the Convention recognizes the serious health concerns including “particular impacts upon women and children and, through them, upon future generations;” and that “Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue.”⁶⁵

However major challenges remain. The chemical industry remains a strong political force in this process, exerting constant and well-funded pressure on States to avoid or delay adding new chemicals. Despite the recognition of impacts on health of women, children and Indigenous Peoples in the Convention’s preamble, Human rights including the Rights of Indigenous Peoples most often take a back seat to industry concerns or are not addressed at all in the States’ deliberations. Also, there is no formal mechanism for the participation of Indigenous Peoples in the implementation of the Convention. This continues to be a key demand of Indigenous Peoples participating in this process, along with unqualified recognition of human rights.⁶⁶

⁶⁴ UN Stockholm Convention, Protecting human Health and the environment from persistent organic pollutants, <https://www.pops.int/TheConvention/Overview/tabid/3351/Default.aspx> (accessed September 24, 2023)

⁶⁵ Ibid

⁶⁶ “Indigenous Women and Environmental Violence” A Rights-based approach addressing impacts of Environmental Contamination on Indigenous Women, Girls and Future Generations, Submitted to the United Nations Permanent Forum on Indigenous Issues Expert Group Meeting “Combating Violence Against Indigenous Women and Girls”, January 18 – 20, 2012, United Nations

The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade is an important tool to protect human health and the environment by controlling trade in hazardous chemicals and pesticides that meet the requirements of the Convention. However, as with the Stockholm Convention, there is no formal mechanism for the participation of Indigenous Peoples or to address the human rights abuses caused by the export of hazardous substances when they are used in the lands and territories of Indigenous Peoples without their free prior and consent. In fact, the Rotterdam Convention specifically allows for the export of pesticides and other chemicals that have been banned for use in the producing State as long as the receiving (importing) State is properly notified. There is no provision to ensure that Indigenous Peoples are afforded the right of Free Prior Informed Consent as stipulated by Article 29 of the UN Declaration of the Rights of Indigenous Peoples, CERD General Recommendations XXIII and other human rights standards. Also, there is no formal process for consideration by State parties of the widespread, brutal Human Rights impacts caused by this practice, putting this UN Convention directly at odds with several existing UN human rights standards.⁶⁷

As noted above, UN bodies focusing on the rights of Indigenous Peoples including the UNPFII and the EMRIP, UN Treaty Bodies such as the CERD and CRC, and past and current UN Special Rapporteurs on Toxics and Human Rights have joined the long-standing calls by Indigenous Peoples for a change in international standards and conventions which continue to allow pesticides banned for use in the producing country to be exported to other countries. This practice has been identified as Environmental Racism, Environmental Violence and discrimination by various sources including several cited in this Guidance Document.

We conclude this section by highlighting two very significant advances in the international arena underscoring the links between human rights and environmental degradation. Although they do not specially address pesticides, it is our recommendation that they be taken into account in the development and adoption of proposed amendments to the International Code of Conduct on Pesticides Management.

Headquarters, New York by Andrea Carmen, International Indian Treaty Council and Indigenous Women's Environmental and Reproductive Health Initiative, and Viola Waghiyi, Native Village of Savoonga, St. Lawrence Island, Alaska and Alaska Community Action on Toxics Theme 2: "Contextualizing Violence," p. 25, https://www.un.org/esa/socdev/unpfii/documents/EGM12_carmen_waghiyi.pdf, citing United Nations Stockholm Convention on Persistent Organic Pollutants, 5th Conference of the Parties, April 25th 29th, 2011, Geneva Switzerland, Global Indigenous Peoples Caucus Closing Statement, Presented by Monique Sonoquie, International Indian Treaty Council.

⁶⁷ Ibid

A. Preambular Paragraph 11 of the Paris Agreement on Climate Change, adopted in 2015 at the UN Framework Convention on Climate Change 21st Conference of the Parties (COP 21). It was the first legally binding Environmental Agreement to recognize and include the essential requirements to uphold human rights obligations in taking action to combat climate change as follows: *“Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations...”* -- Preamble, the Paris Agreement, adopted by consensus of 196 States on December 12, 2015 ⁶⁸

B. UN General Assembly adopted a resolution on July 28, 2022, in keeping with a similar resolution adopted by the UN Human Rights Council in 2021, recognizing the right to a clean, healthy, and sustainable environment as a human right. The UNGA resolutions called upon States, international organizations, businesses, and other stakeholders to “scale up efforts” to ensure a clean, healthy, and sustainable environment for all. The resolution (A/76/L.75) also notes that the right to a clean, healthy, and sustainable environment is “related to other rights and existing international law,” and affirms that its promotion “requires the full implementation” of the multilateral environmental agreements (MEAs) “under the principles of international environmental law.”

VI. SHORTFALLS IN IMPLEMENTATION OF REGULATIONS ON THE NATIONAL LEVEL

While many national governments may have pesticide control laws based on the code of conduct's standards, the challenge is adequate and consistent monitoring and implementation.⁶⁹ Studies looking at these challenges particularly in developing countries conclude:

Modern pesticides approval/registration procedure and/or inadequate resources to implement and enforce existing schemes, lack of legislation on working conditions and lack of post-registration monitoring of pesticides. Access to acutely toxic

⁶⁸ Available at https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf

⁶⁹ Pesticides in developing countries and the International Code of Conduct on the Distribution and the Use of Pesticides, J. Brodesser*, D.H. Byron*, A. Cannavan*, I.G. Ferris*, K. Gross-Helmert*, J. Hendrichs*, B.M. Maestroni*, J. Unsworth**, G. Vaagt*** and F. Zapata**, <https://www.iaea.org/sites/default/files/21/08/nafa-2006-ages-coc.pdf>, (accessed September 24, 2023)

*(cheaper) pesticides is easy, and faulty equipment, poor-quality products and adulteration render products more hazardous or ineffective and contribute to overdosing.*⁷⁰

Further very few countries uphold the obligation to obtain FPIC from the impacted Indigenous Peoples as affirmed in the UN Declaration, although no state now officially opposed the Declaration as adopted by the UN General Assembly in 2007, and reaffirmed in the outcome document of the General Assembly' World Conference on Indigenous Peoples adopted by consensus by the states in September 2014.

The continued approval and use of banned pesticides from Developed Nations and sold to developing countries continues to violate the rights of Indigenous Peoples whose governments do not warn them about the hazards of pesticide use or enforce required protective measures to safeguard the health of workers, their families, or surrounding community members. There are also other issues around enforcement of national legislation such, poor waste management facilities, poor monitoring of the agricultural sector, and poor enforcement of labor rights for workers in the field.

Numerous cases have been documented and reported by Indigenous Peoples related to the lack of implementation of National regulations as well as International human rights standards to which states are obligated regarding the use of highly hazardous and banned pesticides.

The following case, reported by the United Confederacy of Taino People of the Caribbean, illustrates this situation in that region specifically addressing Boriken (aka Puerto Rico), currently a territory of the United States:

The use of illegal pesticides in the Caribbean, received public attention in 2015, including by the Associated Press, when a family of four, from Wilmington, Delaware vacationing in St. John, US Virgin Islands almost died after the condo unit under the apartment they had rented was fumigated with methyl bromide, a highly restricted pesticide, and banned in the USA by the US Environmental Protection Agency (EPA) for residential use since 1984. Nine months after this incident and several investigations later by applicable agencies, authorities concluded that the use of banned pesticides is not an isolated case in United States territories in the Caribbean.

⁷⁰ Ibid

On August 18, 2016, the EPA and two Puerto Rico distributors, Superior-Angran LLC and Superior Angran Caribbean, Inc. settled a \$210,000 fine, for illegally distributing methyl bromide in Puerto Rico and the US Virgin Islands. The investigation revealed that Superior Angran bought two pesticides that contained methyl bromide, which use is highly restricted and banned for indoor use, without verifying that they were going to be used and applied within the guidelines and uses permitted by law. They sold them to applicators in Puerto Rico and the US Virgin Islands without obtaining the required certifications from the applicators. Superior Angran did not inform the EPA the quantities it had distributed in Puerto Rico and the US Virgin Islands, nor did it inform on the quantities of methyl bromide it exported to the Island of Tortola in the British Virgin Islands. Besides the fine, Superior Angran, LLC and Superior Angran Caribbean, Inc., were expected to pay for capacity building training to facilities' applicators (those for hospitals and schools) in Puerto Rico.

On October 28, 2016, El Nuevo Día, one of the main newspapers in Puerto Rico, reported that the EPA had fined two Puerto Rican companies, Merced Exterminating Services and Comején Exterminating, both from San Juan, for illegally applying methyl bromide. In its press release, the EPA noted the companies applied pesticides containing methyl bromide in places they should have not, without enough personal protective equipment for the applicators and without the supervision of a regulatory authority. Hence, violating the “Federal Insecticide, Fungicide, and Rodenticide Act” The EPA also stated that both companies failed to maintain appropriate records and to obtain the required certifications regarding the use of pesticides that contain methyl bromide, in violation of the Clean Air Act.⁷¹

Other testimonies, such as that of **Mrs. Juana Reyes** from the Gasolinera neighborhood in Vicam Pueblo Rio Yaqui, illustrate similar challenges in Latin America region. Mrs. Reyes provided an oral testimony to Jittoa Bat Natika Weria, community organization, before she passed away from breast cancer in November 2010. She believed that her breast cancer developed due to the proximity of her house to the **TEPEYAC** Company, which is in the business of selling and storing **solid and liquid fertilizers and agrochemicals**. According to community members this company has been operating for 30 years on the side of international

- ⁷¹ Except from a report submitted by Tai Pelli, United Confederation of Taino People, “Environmental Violence in the Caribbean; Toxic Pesticides and Waste, particularly in the archipelago of Borikén (Puerto Rico) and Kiskeya (the Dominican Republic) to Expert Group meeting for the Human Rights Legal Review by the United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes of the United Nations Chemical Conventions, in particular the Rotterdam Convention, January 19-20, 2019, Centro Cultural de España , Ciudad de México México, *Hosted and Coordinated by the International Indian Treaty Council (IITC) and the Center for the Autonomy and Development of Indigenous Peoples (CADPI, Nicaragua) with the Fund for Development of Indigenous Peoples of Latin American and the Caribbean.*

highway 15 and is surrounded by houses, in violation of Mexican government laws which stipulate that pesticides must be stored outside residential areas and under health protection controls.

Mrs. Reyes stated that the bad odors emitted by the chemicals are unbearable, adding that “I have even vomited.” She added that *“the doctor who diagnosed me with cancer recommended that I look for another house far away from the Company. Those of us who live in this neighborhood have noticed that the employees wash their stationary tanks at midnight, emanating unbearable odors. Some neighbors complained to the manager of the company about this, and to date we have not seen any results.”*⁷²

Testimony of **Francisco Javier Villegas Paredes**, member of the Yaqui Tribe of Vicam Pueblo, Mexico Agronomist and Parasitologist by profession, provided to IITC on July 4, 2023, further attests to the lack of implementation, monitoring and enforcement of national regulations and laws regarding pesticide use in the Yaqui Indigenous territories in Mexico:

*The Yaqui Nation has remained immersed in a cycle of irrational pesticide applications by investors who have monopolized Yaqui lands under the lease system. My testimony focuses on the work of the government regulators to carry out control and monitoring of the applications made season after season in the national territory. The Ministry of Agriculture and Rural Development (**SADER**) is a Federal Institution that encompasses Agricultural Activities and therefore has a big role in the environmental disturbance. The Center for the Support of Rural Development (**CADER**) is a body under **SADER** and is directly responsible for the application and supervision of toxic agrochemicals.*

*COFEPRIS (Federal Commission for the Protection against Health Risks) is also part of the work to be carried out in the area of environmental incidents, related to the issue of aerial spraying. The more than 80 testimonies collected in the Yaqui Nation, show the inability to put a stop to the health problem, on the one hand of Dr. Novelo of COFEPRIS and the Head of the **CADER** based in Vicam, since they made commitments with the Traditional Authorities of the Yaqui Nation to conduct supervision to guarantee the health of the members of the communities. When we talk about regulation we refer to series of standards and laws that must be complied with – the products applied must be within the accepted list, that includes a technical opinion by a professional, allowed wind speed, the installation of the airstrip must be 10 kilometers outside the perimeter of the community which*

⁷² Testimony of Mrs. Juana Reyes presented to Jittoa Bat Natika Weria community organization in June 2010

includes children's schools, in addition to the high toxicity of the pesticides prohibited in the country of origin and applied in our Yaqui territory.

*Also, the incineration of crop residues such as waste dumps or containers of toxic agrochemicals is under the supervision of **CADER** (Center for the Support of Rural Development). Although it is prohibited, the institution does absolutely nothing in the Yaqui Nation to deal with this problem. The effects of this practice that continues today are many cases of asthma that especially affect babies, children and the elderly when the burning occurs, and certainly this practice is allowing more harmful chemicals to be absorbed by the entire population.⁷³*

In a positive development, on December 31, 2020, Mexican President Andres Manuel Lopez Obrador issued a Decree announcing that Mexico will phase out the “use, acquisition, distribution, promotion, and import of the chemical called GLYPHOSATE and the agrochemicals used in our country containing this substance as their active ingredient.” The Presidential Decree went into effect on January 1st, 2021, and established a transition period until January 2024 for private companies to replace Glyphosate with sustainable, culturally appropriate alternatives to “safeguard human health, the country’s biocultural diversity, and the environment”.



*Large-scale Growers Buring Pesticide-treated crops, Vicam Pueblo, Rio Yaqui
May 31, 2019*

⁷³ Testimony of Francisco Javier Villegas Paredes, member of the Yaqui Tribe of Vicam Pueblo, Agronomist and Parasitologist by profession, July 4, 2023.

Currently the Mexican government is carrying out the Yaqui Justice Plan, officially announced in Vicam Pueblo in September 2021 by Mexican President **Andrés Manuel López Obrador**. The topic of Development and the problem of pesticides is included in the plan, although many Yaqui assert that in this area little to nothing has actually been done by the Mexican government.

Testimony presented on July 4, 2023, by **Angel Valencia**, former agricultural worker and IITC Pesticide Program advisor from Potam Rio Yaqui Sonora Mexico, has reported the ongoing deadly impacts which continue to this day:

In 2006 my cousin Gonzalo Murillo Murillo died of leukemia. He was less than 35 years old, leaving a wife and two young daughters. He worked cleaning the large pesticide storage tanks and also worked in the days carrying the tanks on his back in the fields, spaying the fields. The owners did not provide him with any protection at all for working with these chemicals, or any place to wash his hands. His clothes were soaked with pesticides when he went home. When he got too sick to work his family took him to the hospital, but nothing could be done. The doctors said he had leukemia, his wife told me. His blood was poisoned. He died within two months after he got sick. Another friend of mine Angel Choque was a tractor driver who loaded the pesticides into the sprayers, lifting the containers and pouring the containers into the tanks with his bare hands, without any gloves or other protection. He also sprayed the pesticides by hand with the tanks on his back. His fingernails and hair fell out. He got very weak. He also was diagnosed with leukemia by the doctor his family said. He was about 45 years old. They didn't know and the owners of these big companies that rent the land never told us that these chemicals were dangerous or that we needed special protection to use them. Other workers that I knew died like that, women as well as men.

Sad to say, today nothing has changed in Rio Yaqui. Today you still see the young men spraying in the fields Yaqui wearing the tanks on their backs. No masks or gloves, just maybe a cotton bandana covering their nose and mouth. The airplanes are still spraying overhead. No one has told them what they are using or what the effects are. The Yaqui people are still dying this way.⁷⁴

Indigenous community members where toxic pesticides are sold, used and stored consistently report the challenges in identifying the chemicals being used and their known effects. Highly hazardous Pesticides are often sold under names such as “Ninja” and “Poderoso” in both Mexico and Guatemala. Pesticide storage tanks are labeled with skulls and crossbones or with no warning at all in Rio Yaqui. Even if

⁷⁴ Testimony of Angel Valencia, former agricultural worker and IITC Pesticide Program advisor, Potam Rio Yaqui Sonora Mexico, July 4, 2023.

the actual chemical contents are listed, most impacted community members have no way to understand the known dangers, impacts or required precautionary measures. FPIC remains a challenge under these circumstances.

VII. INDIGENOUS PEOPLES CALL FOR POLICY CHANGE

Indigenous Peoples have been highlighting the deadly impacts of pesticides in their communities for decades, particularly the impacts of the export of banned pesticides by the U.S. and other countries on Indigenous Peoples in Mexico, Guatemala, Ecuador, and other countries, as well as in the Arctic region where many of these chemicals accumulate. They consistently proposed and called for policy changes on the national and international levels that would protect, respect and safeguard their rights. The following examples illustrate such proposals and calls.

A. Rio Yaqui Traditional Authorities Declaration, 2006

In 2006, after the 1st International Indigenous Peoples Conference on Pesticides in Potam Rio Yaqui, the Traditional Yaqui Authorities made a historic declaration on the use of pesticides in the Yaqui lands of Sonora, Mexico which stated in part:

1) 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 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.

2) Under no circumstances shall the aerial application (flyovers) of pesticides, fumigants, or other chemicals be allowed. Those products that are allowed under Point No. 1 would be by ground application.

3) The implementation of adequate training programs for workers or other persons who come into contact with pesticides so that they will be aware of the risks and how to avoid them if they have to use such products in their work.

4) The companies shall ensure that all workers shall have equipment and means of protection and adequate security to protect themselves and their families from harm, and that all the requirements for the use of these chemicals are met.

5) *The movement of the application equipment, storage tanks, and the used residues of the pesticides outside of communities and populated areas.*

6) *Monitoring through a commission of technicians designated by the tribe and supported by the federal government to carry out the supervision of the pesticides applied and report crimes and problems to the traditional authorities and to other indicated agencies.*

7) *Medical and/or financial support for all persons and families who have suffered harm from the effects of the pesticides such as cancers, leukemia, and birth defects, among others, including for the families of those who already died, whether they are insured by the government or directly by the companies involved.*

8) *That the federal government guarantee that there is potable water that is not contaminated by pesticides in the Yaqui communities, including a program of regular testing of the canals, wells, and rivers that the communities use to ensure a monitoring of the condition of the existing water.⁷⁵*

B. Rio Yaqui Children's Letter to the CRC, 2016

In response to the recommendations of the Committee on the Rights to the Child to Mexico in 2015, students from Lázaro Cárdenas del Río Elementary School and Shelter, Torim, Rio Yaqui Sonora, Mexico, sent a letter thanking the UN Committee on the Rights of the Child, the Mexican Government and the Yaqui Traditional Authorities on April 30, 2016, stating.

We express our appreciation to the UN Committee on the Rights of the Child for its concerns with the health of the Yaqui children and those of the entire world, and the harm that chemical products cause us. We thank you for the recommendations you made to Mexico on June 6th, 2015, where you put an end to the harm that affect all families. As boys and girls, we have the right to WATER, AIR, LAND, and HEALTHY FOOD. We do not want those airplanes spraying over our school, our homes; we have siblings and friends who are sick. We want to be happy. The products smell really bad, we cannot breathe. We want Mexico to carry out those recommendations; our Traditional Authorities in conjunction with the educational system are willing to work together so that we can have a better life and health.

⁷⁵ From the DECLARATION OF THE TRADITIONAL YAQUI AUTHORITIES ON THE USE OF PESTICIDES IN THE YAQUI LANDS OF SONORA, MEXICO, DECEMBER 7, 2006



Lázaro Cárdenas del Río Elementary School students participate in a workshop on Pesticides in Torim Pueblo, Rio Yaqui, April 15, 2016

C. National Congress of American Indians, 2014

In 2014, the National Congress of American Indians (NCAI), representing hundreds of Federally recognized Tribal governments in the United States, adopted a resolution by consensus, urging Congress to Pass Meaningful Federal Chemicals Policy Reform to Protect Present and Future Generations:

WHEREAS, toxic exposures continue to threaten our health and well-being due to ineffective and outdated federal law—the Toxic Substances Control Act of 1976 (TSCA) and the Federal Insecticide, Fungicide and Rodenticide Act of 1972 (FIFRA), which regulates chemicals used in commerce; and

WHEREAS, FIFRA allows the production and export of pesticides that are banned for use in the United States, harming communities where they are produced as well as where they used and where they travel due to global transport through the environment—particularly in the arctic; and

WHEREAS, today there are more than 80,000 chemicals on the market, most of which have never been tested for safety for human health and the environment; and

WHEREAS, many of these chemicals contaminate our traditional foods, environment, bodies, and homes and negatively impact our reproductive health; and

WHEREAS, research has demonstrated that American Indian and Alaska Native Peoples are at higher health risk from certain substances that are toxic, persistent, and bioaccumulate in the environment, the food web, and in the human body; and

WHEREAS, studies show that developing children, youth, elders, and those with chronic illnesses are particularly vulnerable to health-harms caused by exposure to persistent and toxic chemicals; and

WHEREAS, Indigenous Peoples are exposed to these chemicals without our free prior and informed consent, resulting in a number of violations of our human rights and treaty rights including our rights to health and subsistence; and that can cause harm current and future generations; and

WHEREAS, American Indian and Alaska Native peoples are concerned about a greater exposure to health risks due to our reliance on traditional, subsistence foods integral to our physical, spiritual, and cultural sustenance.

NOW BE IT THEREFORE RESOLVED, NCAI calls upon Congress to amend, strengthen and clarify Toxic Substances Control Act and the Federal Insecticide, Fungicide and Rodenticide Act by including provisions that:

- 1. require expedited action to eliminate the worst chemicals;*
- 2. ensure the protection of Indigenous Peoples and our most vulnerable members and require swift action to address “hotspot” communities that are disproportionately exposed to toxic chemicals through air, water, and land contamination, as well as through our traditional foods;*
- 3. require that chemical manufacturers prove the safety of their products before they are introduced into the environment and require substitution of safe alternatives to replace harmful chemicals;*
- 4. recognize tribal authority, same as state authority, to regulate protection from toxic exposures to chemicals that endanger human health and well-being, and the human rights of tribal citizens and future generations;*
- 5. allow tribes and states to adopt and enforce their own chemical laws, and protect the ability of tribes and states to enact stricter standards where local conditions warrant; and*
- 6. are consistent with the rights affirmed in the United Nations Declaration on the Rights of Indigenous Peoples to subsistence, health and free prior and informed consent, and other relevant provisions;⁷⁶*

D. Indigenous Women’s Reproductive Health Symposiums, 2010, 2012 and 2018

The “*DECLARATIONS FOR HEALTH, LIFE AND DEFENSE OF OUR LANDS, RIGHTS AND FUTURE GENERATIONS*” from the 3 International Indigenous Women’s Symposiums on Environmental and Reproductive Health and Environmental Violence held in 2010, 2012 and 2018 have each called for a change in the current laws that allow the international trade of pesticides that have been banned for use in the exporting country, and called for States and UN bodies to

⁷⁶ The National Congress of American Indians Resolution #ANC-14-005, TITLE: Urge Congress to Pass Meaningful Federal Chemicals Policy Reform to Protect Our Present and Future Generations, adopted by consensus

uphold the recognized rights of Indigenous Peoples in the use of pesticides including FPIC. . The Declaration from the 2018 Symposium held in New York City right before the UNPFII 17th session was attended by Indigenous women from all 7 regions of the world, The Declaration was presented to the UNPFII formally during the session, and contained the following calls to action:

We call on States to fully implement and uphold, without qualification, the UN Declaration on the Rights of Indigenous Peoples, including, inter alia, Article 29 regarding the right of Indigenous Peoples to the protection of their environments and the State obligation to ensure Free Prior and Informed Consent regarding hazardous materials, as well as Article 32 affirming FPIC regarding development activities on our lands, and Articles 20, 23, 24 and 31 affirming our collective rights to health, use of traditional medicines, cultural heritage, and subsistence practices.

We once again call upon States to eliminate the production, import, export and use of pesticides, industrial chemicals and toxic by-products that disrupt the endocrine system, affect learning and neurological development, cause reproductive system cancers, undermine reproductive and maternal health, and affect the well-being of our future human generations and our relatives of the natural world.

For the UN Food and Agriculture Organization to implement the call by Indigenous Peoples and the Chair of the UNPFII to revise the FAO Code of Conduct on Pesticides to include the right to FPIC for Indigenous Peoples affected by pesticides including those that continue to be exported by countries that have banned them.⁷⁷

⁷⁷ *The 3rd DECLARATION FOR HEALTH, LIFE AND DEFENSE OF OUR LANDS, RIGHTS AND FUTURE GENERATIONS*”, Adopted by the 3rd International Indigenous Women’s Symposium on Environmental and Reproductive Health: Advancing Research and Assessing Impacts of Environmental Violence on Indigenous Women and Girls APRIL 14 – 15, 2018, COLUMBIA UNIVERSITY LAW SCHOOL NEW YORK CITY, NEW YORK, Organized and sponsored by the International Indigenous Women’s Forum (FIMI), the International Indian Treaty Council (IITC), the Institute for the Study of Human Rights (Indigenous Peoples’ Rights Program) at Columbia University and el Fondo para el Desarrollo de los Pueblos Indígenas del América Latina y el Caribe (FILAC), Co-sponsored by: MADRE; Alaska Community Action on Toxics; Tribal Link; and Columbia University’s Center for Gender and Sexuality Law, Native American Law Students Association, If/When/How: Lawyering for Reproductive Justice, Law School, Center for the Study of Social Difference and Center for the Study of Ethnicity and Race.
Submitted to the 17th Session of the United Nations Permanent Forum on Indigenous Issues, APRIL 18, 2018

E. The 47th Anniversary IITC Conference, 2022

On March 3, 2022, delegates representing 61 Indigenous Peoples and Nations from North, Central and South America, the Arctic and the Caribbean attending the International Indian Treaty Council (IITC) 47th Anniversary Conference at Lake Atitlán, Panajachel, Sololá, Guatemala, adopted by consensus the following resolution “to defend the inherent rights and ways of life of Indigenous Peoples and support the continuity of life for future generations:

8. IITC re-affirms our commitment to amend the FAO Code of Conduct on Pesticides to include the rights to FPIC as affirmed in Article 29 of the UN Declaration on the Rights of Indigenous Peoples re FPIC and disposal of toxic materials...

25. IITC will continue to push at the international level to halt the manufacture, use and transport of harmful pesticides and to highlight their detrimental impacts in our territories, emphasizing that corporations find ways to circumvent restrictions on banned chemicals such substituting the use of Paraquat for Roundup, and noting that although Mexico committed to cut in half the use of banned pesticides, they are currently importing 111 different restricted, banned and extremely harmful pesticides.⁷⁸

In its proposal calling for policy change the IITC reiterates that while the International Code of Conduct on the Management of Pesticides for the Rotterdam Convention, in its current version and approved in 2013, is now focused on risk reduction. It calls on countries to identify and, if necessary, withdraw the use of highly toxic pesticides, and to pay attention to vulnerable groups such as children, women and persons infected by HIV/AIDS, it does not mention Indigenous Peoples or their internationally-recognized rights.

In 2017 the IITC presented its amendments to the International Code of Pesticide Management to include references to Indigenous Peoples and Safeguards for the Rights of Indigenous Peoples, in particular the right to Free Prior and Informed Consent as affirmed in the UN Declaration on the Rights of Indigenous Peoples Article 29. In 2022, IITC added a “chapeau” paragraph based on Preambular

⁷⁸ excerpts from the International Indian Treaty Council 47th Anniversary Conference Resolution
CONFERENCE RESOLUTION ON ENVIRONMENTAL HEALTH AND FOOD SOVEREIGNTY,
Adopted by consensus on March 3, 2022

Paragraph 11 of the 2015 Paris Agreement and a footnote referencing the UN General Assembly's July 2022 resolution recognizing the right to a clean, healthy, and sustainable environment. IITC's proposals for amendments to the Code of Conduct on Pesticides Management as presented to the November 2022 JMPM session are included as an annex to this Guidance Document.

F. The 6th International Indian Peoples Corn Conference, 2023

From August 28-30, 2023 Indigenous Peoples from 8 countries in North, Central and South America gathered at Diné Nation, near Tooh' Diné Bi Keyah (Shiprock, New Mexico). On the final day they adopted, by consensus, a Declaration with calls to collective action and commitments that addressed strategies for work in UN bodies, including:

*Amending the International Code of Conduct of Pesticides Management to include the rights of Indigenous Peoples to FPIC regarding the use of pesticides on their lands and territories, and challenging national and international laws and Conventions which allow countries which have banned the use of deadly and dangerous pesticides in their own countries to produce and export them to developing countries where they are often used with little to no regulation in the lands of Indigenous Peoples in violation of Article 29 of the UN Declaration on the Rights of Indigenous Peoples.*⁷⁹

⁷⁹ **THE DECLARATION OF TOOHN' DINÉ, August 30, 2023, Recommendation 6) d, page 4,**
<https://www.iitc.org/wp-content/uploads/https://www.iitc.org/wp-content/uploads/FINAL-Declaration-of-Dine-Bi-Keyah-August-30-2023rev1-2.pdf>



Youth farmers from the US, Belize, Panama and Guatemala at the 6th International Indigenous Corn Peoples Conference, August 29, 2023

VIII. UN HUMAN RIGHTS BODIES AND EXPERTS ADDRESS HUMAN RIGHTS VIOLATIONS, SUPPORT THE CALL FOR POLICY CHANGE

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration. – the UN Declaration on the Rights of Indigenous Peoples, Article 42

For over 20 years, impacted Indigenous Peoples, including the Yaqui, have continued to call the attention of the international community and request for intervention and policy change to halt the continuing numbers of death and deformities in their children including by addressing the continued practice of exposing them to the indiscriminate and unregulated use of pesticides that are well known to be too dangerous to use in the countries that export them.

Since 2001, International Indian Treaty Council (IITC) has submitted over 100 cases of death, illness, birth defects and untold human suffering to the UN Special Rapporteurs on Toxics, Rights of Indigenous Peoples, Right to Health and Right to Food. It has also submitted reports to various sessions and two Expert Ground Meetings of the UN Permanent Forum on Indigenous Issues; to the UN Working

Group on Human Rights, Transnational Corporations and other Business Enterprises; to the UN Stockholm Convention Conference of the Parties; to the Committee on the Elimination of Racial Discrimination in its Periodic Reviews of the United States in 2008, 2014 and 2022; to the UN Commission on Human Rights; and to the Human Rights Council.

In response to Indigenous Peoples advocacy over the past 20 years in the international arena, several UN Treaty bodies and experts focused on Indigenous Peoples' Rights, as well as human rights overall, have addressed related rights violations and have called for national and international policy changes regarding the use and international trafficking of banned and Highly Hazardous Pesticides.

A. The UN Committee on the Elimination of Racial Discrimination (CERD)

In its 2008⁸⁰ and 2014⁸¹ concluding Observations addressing the United States of America, the UN Committee on the Elimination of Racial Discrimination (CERD), called on the US to prevent the transnational corporations it registers from having negative impacts on the enjoyment of rights of Indigenous Peoples in other countries. The CERD's recommendations were based on joint submissions by IITC with others addressing the human rights impacts of the US export to México and other countries of pesticides which it does not allow to be used in its own country. These recommendations were again reiterated in the CERD's Concluding Observations for latest review of the US issued in August 2022.⁸²

B. The UN Committee on the Rights of Child

⁸⁰ CERD/C/USA/CO/6... February 2008, Consideration of Reports Submitted by States Parties under Article 9 of the Convention: Concluding observations of the Committee on the Elimination of Racial Discrimination, Advance Unedited Version, Paragraph 30.: ***“In light of article 2, paragraph 1 (d), and 5 (e) of the Convention and of its general recommendation no. 23 (1997) on the rights of indigenous peoples, the Committee encourages the State party to take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in the State party which negatively impact on the enjoyment of rights of indigenous peoples in territories outside the United States. In particular, the Committee recommends that the State party explore ways to hold transnational corporations registered in the United States accountable. The Committee requests the State party to include in its next periodic report information on the effects of activities of transnational corporations registered in the United States on indigenous peoples abroad and on any measures taken in this regard.*”**

⁸¹ CERD/C/USA/CO/7-9, <https://www.ohchr.org/en/documents/concluding-observations/cerdcusaco7-9-concluding-observations-combined-seventh-ninth>

⁸² Observations/cerdcusaco10-12-concluding-observations-combined-tenth-twelfth, CERD/C/USA/CO/10-12, para. 42, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FUSA%2FCO%2F10-12&Lang=en , (accessed September 24, 2023)

In April 2015, the International Indian Treaty Council submitted a report to the 69th session of the UN Committee on the Rights of the Child (CRC) for its periodic review of Mexico.⁸³ It included 39 testimonies documenting direct impacts on child and maternal health with 25 cases of documented deaths attributed to pesticides in Rio Yaqui, Sonora Mexico. IITC also sent a delegation to the review in June 2015 in Geneva Switzerland. Delegates included a traditional midwife (patera) from Rio Yaqui, who presented the alarming number of severe birth defects and newborn mortalities she had witnessed firsthand in the small Yaqui communities she served in Sonora Mexico. IITC's submission also included testimonies detailing birth defects, child and infant fatalities and life-threatening illnesses such as leukemia in families working in the fields and/or who lived adjacent to the agricultural areas where aerial applications were done regularly.

The CRC in its concluding observations published on June 8, 2015, stated that, *“The import and use of pesticides or chemicals banned or restricted for use in third countries, which particularly affect indigenous children in the state of Sonora, is also a reason of deep concern.”*⁸⁴

The CRC recommended that Mexico:

- (a) Assess the impact of air, water, soil and electromagnetic pollution on children and maternal health as a basis to design a well-resourced strategy at federal, state and local levels, in consultation with all communities and especially indigenous peoples, to remedy the situation and drastically decrease the exposure to pollutants.*
- (b) Prohibit the import and use of any pesticides or chemicals that have been banned or restricted for use in exporting countries.*
- (c) Further examine and adapt its legislative framework to ensure the legal accountability of business enterprises involved in activities having a negative impact on the environment, in the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights.*⁸⁵

⁸³ United Nations Committee on the Rights of the Child, 69th Session (May 18 – June 5, 2015), “Consideration of the Fourth and fifth Periodic Reports of Mexico under Article 44 of the United Nations Convention on the Rights of the Child.” Co-submitted by the International Indian Treaty Council/Consejo Internacional de Tratados Indios (Non-Governmental Organization in General Consultative Status to the United Nations Economic and Social Council), and the Affiliates of IITC in Mexico (April 15, 2015)., http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/MEX/INT_CRC_NGO_MEX_20330_E.pdf

⁸⁴ UN Committee on the Rights of the Child (CRC), *Concluding observations on the combined fourth and fifth periodic reports of Mexico*, 3 July 2015, CRC/C/MEX/CO/4-5, para. 51, available at: <https://www.refworld.org/docid/566fc4d14.html> [accessed 25 September 2023]

⁸⁵ Ibid at para. 52

In a historic advance, based on IITC's submission, the CRC also recognized "Environmental Health" for the first time as a right protecting children and maternal health under Article 24 of the Convention on the Rights of the Child.

More recently, August 2023, the CRC reiterated the susceptibility of children to environmental hazards, in its General Comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change.⁸⁶ It noted that, "exposure to toxic pollutants...can easily disrupt the maturational processes of the brain, organs and the immune system and cause disease and impairments during and beyond childhood..."⁸⁷ and that "States should consistently and explicitly consider the impact of exposure to toxic substances and pollution in early life...."⁸⁸

The CRC also stated specifically that, "Indigenous children are disproportionately affected by biodiversity loss, **pollution** and climate change...." ⁸⁹ Further they recommended that "States should closely consider the impact of environmental harm, such as deforestation, on traditional land and culture and the quality of the natural environment, while ensuring the rights to life, survival, and development of Indigenous children...."⁹⁰

The CRC General Comment reiterated that, "Children have the right to a clean, healthy and sustainable environment."⁹¹ Further, it called on states to take immediate action including,

"(g) Closely regulate and eliminate, as appropriate, the production, sale, use and release of toxic substances that have disproportionate adverse health effects on children, in particular those substances that are developmental neurotoxins." ⁹²

C. The UN Permanent Forum on Indigenous Issues (UNPFII)

⁸⁶ UN Committee on the Rights of the Child (CRC), General comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change*, 2022 August 2023, CRC/C/GC/26, para. 24, available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-26-2023-childrens-rights-and> [accessed 25 September 2023]

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ibid at para. 58, emphasis added.

⁹⁰ Ibid

⁹¹ Ibid at para. 63

⁹² Ibid at para. 65(g)

The UNPFII first addressed the detrimental impacts of toxic pesticides used in Indigenous Peoples territories in 2012 in the Report of their Expert Group Meeting on Combatting Violence against Indigenous Women and Girls, and again in their 2014 report on Reproductive and Sexual Health. Their landmark recommendations in 2014 and 2017 calling for a legal review of the United Nations chemical conventions, in particular the Rotterdam Convention, to ensure that they are in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child.⁹³

In 2018, the Permanent Forum recommended that a “legally binding regime for toxic industrial chemicals and hazardous pesticides” be created to protect the rights of everyone, but with emphasis on Indigenous Peoples.⁹⁴

*The Forum recommends the creation of a global, legally binding regime for toxic industrial chemicals and hazardous pesticides, the vast majority of which are currently unregulated under existing conventions, to protect the rights of everyone, including indigenous peoples, from the grave threats to human rights presented by the ongoing chemical intensification of the global economy. Such a regime should have strong accountability and compliance mechanisms and be in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples.*⁹⁵

The Permanent Forum made a similar recommendation in 2019 and specifically named the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade:

The Permanent Forum reiterates the recommendation contained in paragraph 47 of its report on its seventeenth session and calls upon Member States to begin work on a global, legally binding regime for toxic industrial chemicals and hazardous

⁹³ UN Permanent Forum on Indigenous Issues, Recommendations on Health, 16th session (2017), para. 46, available at <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/health/recs-health.html>, (accessed September 24, 2023)

⁹⁴ Report on the seventeenth session, U.N. Permanent Forum on Indigenous Issues, U.N. Doc. E/201843*-E/C.19/2018/11* at ¶47 (Apr. 16-27, 2018), <https://www.iitc.org/wp-content/uploads/Report-on-ForumEnglish-1.pdf>.

⁹⁵ Report on the seventeenth session, U.N. Permanent Forum on Indigenous Issues, U.N. Doc. E/201843*-E/C.19/2018/11* at ¶47 (Apr. 16-27, 2018), <https://www.iitc.org/wp-content/uploads/Report-on-ForumEnglish-1.pdf>.

*pesticides under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.*⁹⁶

Further, in 2022, the Permanent Forum called on FAO and WHO to amend the International Code of Conduct on Pesticide Management “to take into account the free, prior and informed consent of Indigenous Peoples.”⁹⁷ This call was reiterated in the UNPFII’s 2023 report.⁹⁸

D. Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 39, (2022) on the rights of Indigenous Women and Girls

IITC was an invited expert presenter on the issue of Environmental Violence including the international trade in banned and highly hazardous pesticides impacting reproductive Health at the Expert Group Meeting organized by CEDAW and FIMI in Tlaxcala Mexico in September 2022. CEDAW’s General Recommendation 39 on Indigenous women and girls was issued on October 26 2022, and affirmed the importance of the right to a clean environment for Indigenous women and girls, including access to justice, information and participation⁹⁹. It also addressed the unique relationship of Indigenous women and girls to the environment and recognized environmental discrimination and violence caused by environmental contamination as follows:

*Indigenous women and girls refer to “Mother Earth”, a concept that reflects the vital link that they have with a healthy environment and their lands, territories and natural resources. Human-caused pollution, contamination, deforestation, burning of fossil fuels and loss of biodiversity threaten that link. The failure of States to take adequate action to prevent, adapt to and remediate these serious instances of environmental harm constitutes a form of discrimination and violence against Indigenous women and girls that needs to be promptly addressed.*¹⁰⁰

⁹⁶ Report on the eighteenth session, U.N. Permanent Forum on Indigenous Issues, U.N. Doc. E/2019/43-E/c.19/2019/10 at ¶49 (Apr. 22-May 3, 2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/144/80/PDF/N1914480.pdf?OpenElement>.

⁹⁷ U.N. Permanent Forum on Indigenous Issues, U.N. Doc. E/2022/43-E/C.19/2022/11 at ¶82 (Apr. 28-May 6, 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/355/75/PDF/N2235575.pdf?OpenElement>.

⁹⁸ U.N. Permanent Forum on Indigenous Issues, U.N. Doc. E/2023/43-E/C.19/2023/7 at ¶81 (Apr. 17-28, 2023), <https://social.desa.un.org/issues/indigenous-peoples/unpfii/unpfii-twenty-second-session-17-28-april-2023>

⁹⁹ General Recommendation No. 39 (2022) on the rights of Indigenous women and girls, U.N. Doc. CEDAW/C/GC/39 at ¶60-61 (Oct. 31, 2022), para. 60, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGC%2f39&Lang=en.

¹⁰⁰ Ibid

E. UN Special Rapporteurs on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (AKA the Special Rapporteur on Toxics and Human Rights)

IITC presented our growing collection of community testimonies as well as the Studies of Elizabeth Guillette to each of the independent expert holding this mandate since our 2001 meeting with Ms. Ouhachi-Vesely, with very few results in the international recognition of this problem.

However, in 2014, after this issue was again raised at its Expert Group Meeting on Sexual and Reproductive Health, including the IITC's presentation highlighting the continued deaths of children in Río Yaqui due to prenatal exposure to toxic pesticides, the UNPFII expressed the need to address the disconnect between the UN chemicals conventions, in particular the Rotterdam Convention and UN Human Rights norms and Standards. The UNPFII's report from that session contained the following recommendation:

16. Considering their impact on the sexual health and reproductive rights of indigenous peoples, the Permanent Forum calls, in paragraph 62 of the report, for “a legal review of United Nations chemical conventions, in particular the Rotterdam Convention, to ensure that they are in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities.”¹⁰¹

Subsequently, for the country review of México by the 69th session of the UN Committee on the Rights of the Child in May 2015, IITC submitted a Report which included 39 testimonies confirming birth defects, cancers and other severe impacts on maternal and children's health in Yaqui Indigenous communities in Sonora, México caused by the indiscriminate application of highly toxic pesticides, including many that are banned for use in the US but are exported from that country to México. The CRC's Concluding Observations (Committee of the Rights of the Child)¹⁰² recognized for the first time the term “Environmental Health” as a right protected by the Convention of the Right of the Child and presented strong

¹⁰¹ Report on the thirteenth session of the UN Permanent Forum on Indigenous Issues, (12-23 May 2014), para. 16 [E/2014/43-E/C.19/2014/11]

¹⁰² CRC/C/MEX/CO/4-5 Committee on the Rights of the Child Concluding observations on the combined fourth and fifth periodic reports of México.

recommendations calling on México to halt the importation and use of pesticides that have been banned by the exporting country.

Other advances in the international human rights arena are also of direct relevance. For example, at the 16th session of the UNPFII (April 24- May 5, 2017) participants again raised the importance of the 2014 recommendation especially in light of the 2015 recommendations of the UN Committee on the Rights of the Child. Concern was expressed by UNPFII members and Indigenous Peoples that the previous UNPFII recommendation on this matter had not been implemented in large part due to the need to identify an expert with recognized competency in this area of human rights who could be approached to carry it out. The agreement of Mr. Baskut Tuncak, UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, to assist in carrying out this review was a significant advance which was noted in the updated recommendation adopted at that session as follows:

*46. On the basis of the Permanent Forum's continued concern about the impact of environmental toxins and the export and import of banned pesticides on the reproductive health of indigenous women and girls, the Forum reaffirms its call, contained in its report on its thirteenth session, for a legal review of the United Nations chemical conventions, in particular the Rotterdam Convention, to ensure that they are in conformity with international human rights standards, including the United Nations Declaration on the Rights of Indigenous Peoples and the Convention on the Rights of Persons with Disabilities (E/2014/43-E/C.19/2014/11, para. 16; see also E/C.19/2014/8, para. 62). The Forum recommends that the Convention on the Rights of the Child, in particular article 24, and its recognition of environmental health as a right protected under the Convention also be considered in the legal review. The Forum invites the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to carry out a review within his mandated area of expertise and to present his conclusions to the Forum at its seventeenth session.*¹⁰³

Special Rapporteur Tuncak presented his preliminary report to the UNPFII 17th session on April 16th, 2018. His preliminary report highlighted significant gaps between UN Chemical Conventions and the United Nations Human Rights Framework, in particular with regards to Indigenous Peoples:

As we all know, exposure to hazardous substances is harmful. The harm is not when

¹⁰³ Permanent Forum on Indigenous Issues Report on the sixteenth session (24 April-5 May 2017) Implementation of the six mandated areas of the Permanent Forum with reference to the United Nations Declaration on the Rights of Indigenous Peoples, Health [E/2017/43-E/C.19/2017/11, para 46]

cancer or another adverse health impact materializes; but, rather, when exposure happens without consent. This toxic trespass is violence and should be viewed as a violation of anyone's physical integrity, particularly of children and indigenous peoples, who have unique rights in this regard, that must be respected and protected. The existing chemicals and waste Conventions operate with the presumption that favors, rather than discourages chemical exposure, including by children during critical periods of development. ¹⁰⁴

This preliminary report also confirmed that “...***Indigenous peoples such as the Yaqui have suffered grave adverse impacts on their health and dignity from the ongoing use of highly hazardous pesticides. These pesticides are often imported from countries that have banned their use domestically because of uncontrollable and unreasonable risks.***”¹⁰⁵

January 19-20, 2019, IITC co-hosted with the Center for the Autonomy and Development of Indigenous Peoples (CADPI, Nicaragua) and the Fund for Development of Indigenous Peoples of Latin American and the Caribbean (FILAC), in coordination with Special Rapporteur Tuncak, an Expert Group to obtain additional information, reports and testimonies for this legal review and study in Mexico City. Some of those inputs are excerpted in this Guidance Document.

Special Rapporteur Tuncak provided an update on the progress of his report to the UNPFII's 18th session. April 22 May 3, 2019, based on the information he had received from the EGM and well as his own calls for input. A follow-up EGM was also held with the Special Rapporteur during this UNPFII session for additional inputs from Indigenous Peoples representing all 7 socio-cultural regions.

Despite this notable and increasing progress in international recognition, it was heartbreaking to the Yaqui Nation, as noted in IITC's 2019 intervention following the Special Rapporteur's report, presented by Pascua Yaqui Tribal Chairman Peter Yucupicio that stated that even as his legal review progressed, in that same year, at least 4 more children in the Yaqui Pueblos of Sonora Mexico had died as a result of the continued use of banned and highly toxic pesticides. One was Angel Agustin Valdez who died on December 31, 2018. He had suffered for the entire 3 years of his life with leukemia, which he was born with due to prenatal exposure to toxic pesticides.

¹⁰⁴ Statement of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the Seventeenth session of the UN Permanent Forum on Indigenous Issues (UNPFII), 16 April 2018, UN Headquarters, New York, New York, Agenda Item 3: Follow up to the recommendations of the Permanent Forum

¹⁰⁵ Ibid

We note with great appreciation the historic significance of Special Rapporteur Tuncak's public statement issued on July 9th, 2020, at the conclusion of his study. He declared that ***“the practice of wealthy States exporting their banned toxic chemicals to poorer nations that lack the capacity to control the risks is deplorable and must end”***. He confirmed that “wealthier nations often create double standards that allow for the trade and use of prohibited substances in parts of the world where regulations are less stringent, externalizing the health and environmental impacts on the most vulnerable... It is long-overdue that States stop this exploitation.” Noting the racialized aspects of this practice on developing and third world countries in Asia, Africa Latin America, he added that, “Failing to address this longstanding exploitation is discrimination, pure and simple.”

His statement was endorsed by 35 other UN Human Rights Council experts including the UN Special Rapporteur on the Rights of Indigenous Peoples, Francisco Cali Tzay. It confirmed that in 2019 at least 30 States (countries) exported hazardous substances that had been banned in their own countries due to health and environmental reasons to Latin America, Africa and Asia.

We also highlight the historic importance of the report of the current Special Rapporteur on Toxics and Human Rights Dr. Marcos Orellana's to the 77th session of the UN General Assembly in 2022 titled the impact of toxic substances on the human rights of Indigenous Peoples.¹⁰⁶ This report confirmed that,

In various Countries, agribusinesses are taking over indigenous peoples' lands and cultivating a pesticide-dependent agriculture. As a result, indigenous peoples may be forced to live alongside such farms, regularly exposing them to hazardous pesticides. Furthermore, countries that have banned or have old stocks of highly toxic pesticides allow local production for export. ¹⁰⁷

He also addressed the dangers of aerial spraying as reported by Indigenous Peoples who live and die with this practice:

*40. Aerial fumigation indiscriminately spreads toxic substances on crops and waters on which indigenous peoples depend for material and spiritual sustenance. Pesticide dust or droplets drift through the air and harm non-target crops, as well as soils, waters, vegetation and wildlife.*¹⁰⁸

¹⁰⁶ Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Marcos Orellana on the impact of toxic substances on the human rights of indigenous peoples [A/77/183]

¹⁰⁷ Ibid para 36

¹⁰⁸ Ibid para. 40

Very importantly, Special Rapporteur Orellana also highlighted the shortfalls and gaps in the International Normative Framework:

The international normative framework on chemicals and wastes has yet to explicitly embrace and articulate an integrated and holistic human rights-based approach. This shortcoming limits indigenous peoples' enjoyment of human rights. It also exacerbates the gaps in protections of human health and the environment that have resulted from the fragmented and ad hoc development of this framework over the past four decades."¹⁰⁹

F. The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

In its 2016 Study on Indigenous Peoples Right to Health, EMRIP also recognized the impacts of pesticides on Indigenous health and their environment:

52. The development-related activities of States or third parties, such as multinational corporations, may also compromise indigenous peoples' underlying determinants of health, such as food, safe drinking water and sanitation. This can occur through the displacement of indigenous peoples from traditional lands or from land or water contamination, which in turn results in infringements of the right to health and other rights, including the right to life.

*53. Contamination can also occur through the use of pesticides that are banned in certain States but that are nevertheless exported and used elsewhere. impact of colonization and dispossession of lands, territories and resources.*¹¹⁰

IX. CONCLUSION

It is imperative that international bodies, UN agencies, State Parties to relevant UN Conventions achieve an improved understanding about the impacts of pesticide use, in particular HHP, on the rights of Indigenous Peoples. Conducting further case studies based on the development of disaggregated data, scientific studies and Indigenous Peoples' own testimonies and reports will lead to improved understanding among policy makers and those directly impacted about the scope of the problems, its severity and causes. This can be the basis for the development of effective solutions with the direct involvement of the impacted Indigenous Peoples.

¹⁰⁹ Ibid para. 89

¹¹⁰ Right to health and indigenous peoples with a focus on children and youth, Study by the Expert Mechanism on the Rights of Indigenous Peoples/, HRC/33/57, August 10, 2016, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/177/09/PDF/G1617709.pdf?OpenElement> (accessed September 24, 2023)

Added to the extensive health and environmental impacts that are already well documented by scientists and reported as lived experiences by Indigenous Peoples addressing the impacts of toxic pesticide, detailed national and international export and import data will also inform sustainable and meaningful solutions and remedies. However, the most urgent need is to actually change national and international policies and practices in order to prevent more deaths, disabilities and extreme suffering, constituting egregious human rights violations, based on the extensive information that already exists. More Indigenous children should not have to die or be born with life-impacting disabilities before action is taken.

It is very encouraging and most welcomed that the Joint Meeting on Pesticides Management supports the initiation of a process to amend the code of conduct on pesticides to include the rights of Indigenous Peoples. However, sustained commitment to complete this process will require political will at the global and national levels to ensure that the changes are implemented, and impacts are felt by Indigenous Peoples and their families “on the ground”.

This Guidance Document confirms and supports the urgent need for a shift in policies governing the use of pesticides including but not limited to those that fall into the categories of HHP or POPS as well as those that have been banned for use in the exporting country due to their well-known detrimental and deadly impacts. Policy changes that serve to safeguard human rights and the rights for Indigenous Peoples specifically, along with improved consistent monitoring and enforcement on the national level, are urgently required.

Finally, the international community should agree to a transitional shift in agricultural methods to promote a safe and healthy environment, including by promoting, supporting and facilitating sustainable alternatives to the use of pesticides based on principles of agro-ecology as well as Indigenous Peoples' time-tested knowledge, science and practices.



Working for a toxic-free world for future generations

The International Indian Treaty Council (IITC) is an organization of Indigenous Peoples from the North, Central and South America, the Caribbean, Arctic and Pacific regions working for sovereignty and self-determination and the recognition and protection of Indigenous Treaties, traditional cultures and sacred lands. In 1977 IITC became the first Indigenous organization to receive Consultative Status with the UN Economic and Social Council (ECOSOC) and in 2011 IITC was the first to be upgraded to “General Consultative Status” in recognition of its work in a wide range of UN bodies and processes including human rights, sustainable development, environment, bio-diversity, health, culture, traditional knowledge, food sovereignty and climate change.

This document was produced by the International Indian Treaty Council with the much-appreciated contributions of Indigenous Peoples from Latin America, North America, the Caribbean, Arctic and Africa regions as well as UN Experts and bodies. Requests to duplicate, publicize or excerpt from this document will need to be approved by the IITC. Please contact the co-authors with requests: Monica Coc Magnusson, IITC Consulting Attorney via mcmag08@gmail.com, and Andrea Carmen, IITC Executive Director, via andrea@treatycouncil.org. Thank you.



International Indian Treaty Council
Consejo Internacional de Tratados Indios

100 E. Ajo Way
Tucson, AZ 85713
Phone: (520) 833-9797
Fax: (520) 833-9799
Email: info@treatycouncil.org
www.treatycouncil.org

Proposals for the inclusion of references to Indigenous Peoples and Safeguards for Human Rights in the International Code of Conduct on Pesticide Management

Submitted by the International Indian Treaty Council (IITC), an Indigenous organization with General Consultative Status to the United Nations Economic and Social Council, on August 20, 2022

Recalling the Resolution by the United Nations General Assembly 61/295 dated September 13, 2007, in which it approves the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration).

Reaffirming what article 2 of The Declaration states: Indigenous Peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Considering that article 41 of The Declaration establishes that: The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Considering also that article 42 of The Declaration states: The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Highlighting the approval of FAO policy on Indigenous and Tribal Peoples in the year 2010, in which it recognizes that: As an organization which specializes in rural poverty reduction and food security, it is imperative for FAO to consider indigenous peoples as fundamental stakeholders and partners in development. It also recognizes that indigenous peoples are disproportionately impacted by environmental degradation, politico-economic marginalization and development activities that negatively affect their ecosystems, livelihoods, cultural heritage and nutritional status.

Reaffirming what is established in Article 29, 2nd paragraph of The Declaration: States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior, and informed consent.

Although the International Code of Conduct on the Management of Pesticides for the Rotterdam Convention, in its current version and approved in 2013, is now focused on risk reduction, calling on countries to identify and, if necessary, withdraw the use of highly toxic pesticides, and to pay attention to vulnerable groups such as children, women and persons infected by HIV/AIDS, it does not mention Indigenous Peoples. Indigenous Peoples could be vulnerable, and when they are not, there are vulnerable groups within Indigenous Peoples (Indigenous women, Indigenous children and Indigenous people with disabilities). Where there has not been specific nor explicit recognition in the regulatory instruments, it has been very difficult to guarantee that Indigenous Peoples be recognized as one of the most vulnerable as defined within the UN processes.

Based on the foregoing, the International Indian Treaty Council (IITC) presents for consideration by the guiding bodies of the Food and Agriculture Organization (FAO) and the World Health Organization (WHO), the following inclusions to the 2013 text of the International Code of Conduct on the Management of Pesticides referencing Indigenous Peoples:

Article 1: Objectives of the Code.

Paragraph 1.2: Include at the end of the paragraph: “**and indigenous peoples**”

Article 2: Terms and Definitions.

On the paragraph designated as “Public Interest Group”, add at the end: “**indigenous peoples.**”

Article 3: Pesticide Management.

Paragraph 3.6: Include the reference to indigenous territories the following way:

*Pesticides whose handling and application require the use of personal protective equipment that is uncomfortable, expensive or not readily available should be avoided, especially when they are to be used in hot climates(s) **or in indigenous peoples’ territories**, by small-scale users and farm workers.*

Paragraph 3.8: Include the reference to indigenous peoples the following way:

*Concerted efforts should be made by governments to develop and promote the use of IPM/IVM. Furthermore, lending institutions, donor agencies and governments should support the development of national IPM/IVM policies and improved IPM/IVM concepts and practices. These should be based on strategies that promote increased participation of farmers, (including women's groups), extension agents and on-farm researchers, communities, **indigenous peoples** and relevant entities from the public health and other sectors.*

Article 5: Reducing health and environmental risks.

Paragraph 5.1.3: Include reference to people who live in indigenous territories the following way:

carry out health surveillance programs of those who are occupationally exposed to pesticides, in particular, to the persons and peoples who live in indigenous territories that are exposed to pesticides, and investigate, as well as document, poisoning cases;

Paragraph 5.5.2: Include the reference to indigenous lands and territories, the following way:

take all necessary precautions to protect workers, bystanders, nearby communities, and the lands and territories of neighboring indigenous peoples and the environment.

Article 10: Labelling, packaging, storage and disposal

Paragraph 10.3.1: Include the reference to the UN Declaration on the Rights of Indigenous Peoples, the following way:

packaging, storage and disposal of pesticides conform in principle to the relevant FAO, UNEP, WHO guidelines or regulations (36,37,38,49,51,53,54,55), Article 29, paragraph 2 of the UN Declaration on the Rights of Indigenous Peoples, or to other international instruments where applicable.

Paragraph 10.6: Likewise, include the reference to the UN Declaration on the Rights of Indigenous Peoples, the following way:

Governments should ensure that the treatment and disposal of hazardous pesticide waste are carried out in an environmentally sound manner that complies with national and regional regulations, relevant international standards and Multinational Environmental Agreements, in particular the Basel Convention and what is established in Article 29 paragraph 2 of the UN Declaration on the Rights of Indigenous Peoples.

Annex 1: International instruments in the field of chemical management, environmental and health protection, sustainable development and international trade, relevant to the Code

Part B: International policy instruments that provide a general policy context for pesticide management

A reference to the UN Declaration on the Rights of Indigenous Peoples should be included at the end, the following way:

United Nations Declaration on the Rights of Indigenous Peoples, and more specifically Article 29, adopted by the United Nations General Assembly on September 13, 2007¹

Adopted by consensus of the IITC Board of Directors in Sturgis South Dakota, June 19, 2018.

¹ Res (A/61/295 and Add. 1)

In addition, **on March 3rd, 2022**, the International Indian Treaty Council's 47th Anniversary Conference at Panajachel Sololá Guatemala, with participants representing Indigenous Peoples from the Arctic, Latin America, Caribbean, and North America, adopted by consensus the following text to include in the preamble of the Code of Conduct on Pesticides affirming the need to protect and safeguard Human Rights for all potentially impacted constituencies. This text is based on the paragraph contained in the 2015 UNFCCC Paris Agreement preamble. It's inclusion in the Code of Conduct is also supported by the UN General Assembly's decision on July 28, 2022, recognizing that a clean, healthy, and sustainable environment is a **universal human right and affirming** that its promotion requires the full implementation of multilateral environmental agreements.

"Parties should, when taking action to use, store, dispose of import and export pesticides, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,"
