MISSION OF PAUL HUNT, THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

CLOSING REMARKS TO THE PRESS, FRIDAY 18 MAY 2007, QUITO, ECUADOR

I would like to warmly thank the Government for inviting me to Ecuador. I also thank the UN Development Programme (UNDP) for organising an excellent schedule of meetings. Special thanks are also due to the Ministry of Foreign Affairs and Pan American Health Organisation.

I have met with the Ministers of Foreign Affairs and Coordination for Internal and External Security, as well as senior officers in both Ministries. Also, the Scientific Commission of Ecuador, the Ombudsman, senior officials in the Ministries of Finance and Health, the Governors of Sucumbios and Orellana, senior public officials in Lago Agrio, as well as the UN Country Team. On Wednesday 16 May, I visited three communities in the northern zone. Additionally, I have met with many representatives of civil society.

Prior to arriving in Quito, I met with the UN Department of Political Affairs in New York, as well as the Organisation of American States and the Pan American Health Organisation (PAHO) in Washington DC.

I take this opportunity to warmly thank all those, including civil society, who have given their time and advice.

These are my *preliminary* conclusions and recommendations. They will be amplified by a report to the United Nations as soon as possible.

I confirm that I am not a member of the UN secretariat. Rather, I am appointed by the UN Human Rights Council to provide right to health advice, as an independent expert, to the UN General Assembly and UN Human Rights Council.

The focus of my mission was aerial spraying of glyphosate, combined with additional components, along the Colombia-Ecuador border. (As a short hand I will use the term glyphosate for this combination of glyphosate and additional components.) The mission did not take samples or do laboratory tests: it was not a scientific mission. Rather, it reviewed the existing scientific evidence, took personal testimonies, consulted with experts, collected additional information – and examined all this material through the lens of the human right to health.

The right to health includes access to both health care and the underlying determinants of health, such as safe water, adequate sanitation and a safe environment.

General right to health issues

I met with non-governmental organisations (NGOs) to find out their concerns about other right to health issues in Ecuador unrelated to the aerial spraying. The NGOs raised a wide range of serious right to health concerns. Their gravity explains why the Government recently declared the health sector to be in a state of emergency.

Shortly, I will write to the Government about some of the serious issues raised by the NGOs, such as:

- the absence of an inclusive health system, including health care and the underlying determinants of health, responsive to local and national priorities, and accessible to all, including indigenous peoples, Afro-Ecuadorians, refugees, internally displaced persons, and those living in poverty;
- the serious neglect of mental health care;

- discrimination against people living with HIV/AIDS;
- the high incidence of gender-based violence, as well as inadequate support for those affected;
- high maternal mortality rates;
- inadequate access to, and information about, contraceptives, including emergency contraception;
- environmental contamination arising from the oil industry;
- discrimination against sexual minorities in the provision of health services.

I will make my letter public, as well as any reply from the Government.

The northern zone and Plan Ecuador

The aerial spraying of glyphosate along the northern border has to be seen in the context of the conditions of the people - refugees, indigenous peoples, Afro-Ecuadorians, internally displaced persons and other disadvantaged groups - living in the northern zone.

I was deeply impressed by the spirit of the people and communities I met in the northern border. But I was also shocked by what I found. Clearly, the northern zone is suffering from many years of profound, systemic neglect, exacerbated by environmental degradation. Frankly, I was dismayed that such desperate conditions could exist in a middle-income country like Ecuador.

The present Government deserves great credit for recognising the gravity of the situation and adopting Plan Ecuador. This multi-sectoral Plan - with its emphasis on enhanced coordination - represents a huge stride in the right direction.

I also commend the UN coordination and contribution that is taking shape in the northern border zone, such as the inter-agency HIV/AIDS initiative in Sucumbios.

As Plan Ecuador is rolled-out I hope it will be possible to make some refinements. For example, I recommend that the Plan is made as participatory as possible. Genuine participation by ordinary people will strengthen the Plan. The world is littered with 'top-down' plans that failed because the drafters - well intentioned and in a hurry - did not listen to the people.

It is very important that the Government allocates adequate funds for the Plan otherwise it will become just another paper exercise. Also, I strongly urge Ecuador's development partners to provide 'matching-funds' and technical assistance for Plan Ecuador, consistent with their human rights responsibilities of international assistance and cooperation.

I also recommend that the Government establish an accountability mechanism for the Plan – that is, a small, independent unit that keeps a close eye on whether or not the Plan is reaching its targets and achieving it objectives. This independent mechanism would help to identify where the Plan is working and where there are difficulties. It might report annually to the Government. To be credible, it must be independent of Government.

A human-rights based approach to Plan Ecuador should be adopted.

As the Special Rapporteur on the right to health I am especially alarmed by the completely inadequate health system available to individuals and communities in the north. For example, the system has failed to respond to the health needs arising from the aerial spraying of glyphosate.

It is imperative that Plan Ecuador addresses the lamentable condition of the health system as swiftly as possible.

An excellent *first* step would be to establish an integrated primary health care system in the northern border area of Sucumbios – that is, about six sub-centres of primary health care, plus 10-15 mobile health teams consisting of one doctor and one nurse, with appropriate transportation. As well as providing essential medicines, the mobile health teams would also provide basic health information and education to communities. One ambulance and radio phones would also be needed to refer emergencies to other health facilities, for instance if a woman has complications during pregnancy.

I cannot give a blueprint here. A swift situational analysis is needed. A detailed plan should be prepared, ensuring coordination with existing initiatives. Despite the urgency, the views of communities and individuals must be sought. Because of its simplicity, this proposal could be implemented quite swiftly and without huge cost.

In the neighbouring province of Napo, a comparable system has already been introduced in coordination with PAHO – and with good results.

PAHO could be invited to provide technical assistance. Ecuador's development partners could be invited to provide 'matching-funds', consistent with their human rights responsibilities of international assistance and cooperation.

In short, integrated, accessible, affordable primary health care would help to deliver Plan Ecuador. Part of a broader health strategy and plan, it would reduce suffering and save lives.

Aerial spraying of glyphosate

In my opinion, there is an overwhelming case that the aerial spraying of glyphosate along the Colombia-Ecuador border should not re-commence. The studies already identified in earlier reports should be undertaken and completed. These are needed for a number of reasons, not least in relation to compensation. As President Uribe of Colombia is reported to have said on 30 April 2007, where damage is proven, compensation should be paid.

My UN report will set out the legal reasons for my opinion.

In summary, Colombia has a human rights responsibility of international assistance and cooperation, including in health. Consequently, as a minimum, Colombia must not jeopardise the enjoyment of the right to health in Ecuador. It must 'do no harm' to its neighbour.

There is credible, reliable evidence that the aerial spraying of glyphosate along the Colombia-Ecuador border damages the physical health of people living in Ecuador. There is also credible, reliable evidence that the aerial spraying damages their mental health. Military helicopters sometimes accompany the aerial spraying and the entire experience can be terrifying, especially for children. (Some children told me that, while they were in their school, it was sprayed.)

This evidence is sufficient to trigger the precautionary principle. Accordingly, the spraying should cease until it is clear that it does *not* damage human health.

It would be manifestly unfair to require Ecuador to prove that the spraying damages human health because Ecuador does not have access to essential information that is required to make that assessment. For example, Ecuador does not know the precise composition of the herbicide that Colombia is using. Thus, Colombia has the responsibility to show that the spraying damages neither human health nor the environment.

When Colombia's international human rights responsibilities are read, in this way, with the precautionary principle, there is no doubt in my mind that Colombia should not recommence aerial spraying of glyphosate on its border with Ecuador. This legal argument may also apply to other relevant parties. In summary, to ensure conformity with its international human rights responsibilities, Colombia should respect a ten-kilometre no-spray zone along the border.

I accept that glyphosate is used in Ecuador, but there are at least two important distinctions between the Ecuadorian use of glyphosate and its use on the border by Colombia. First, I am informed that the Government of Colombia (or others on its behalf) adds some components to the glyphosate, in contrast to Ecuadorian policy and practice. Second, the general practice in Ecuador is to *manually* and *directly* apply the herbicide, whereas in Colombia *aerial* spraying is used on an extremely widespread basis. Thus, any suggested equivalence between Ecuadorian and Colombian practice is misleading and disingenuous.

Conclusion

The glyphosate aerial spraying issue has become deeply politicised. When an issue becomes politicised in this way, human rights are always among the first victims. The health and lives of ordinary people – especially the most disadvantaged and poor – are forgotten or obscured.

It is imperative that when considering this very important issue the human right to health – at root, the well-being of disadvantaged individuals and communities - is placed at the centre of all decision-making.

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