



Indigenous peoples and civil society

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Attention: Special Rapporteur on toxics and human rights, Marcos Orellana

Submission: "The impact of toxics on Indigenous Australian people"

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Situational Context

In a colonial system, such as Australia, people from the 'dominant culture' are born into a system of law, economics, politics, and culture that rarely questions itself, and so for those in the 'dominant culture' it can be difficult at first to see outside that culture. The pathway forward demands exploring the most appropriate way to support Indigenous peoples.

Professor of Race Relations, Yin Paradies, writes that:

*In settler-colonial societies, interest in colonisation is often focused on relatively distant colonial pasts where Indigenous peoples were 'displaced' (and other euphemisms for slavery, rape, torture, murder and genocide), **with relatively scant attention paid to ongoing colonial presence/presents in which systemic, structural, physical, epistemic and ontological violence continue to oppress, assimilate and eradicate Indigenous peoples.** This has resulted in vast over-representation of Indigenous peoples among, for example, the impoverished, unhealthy, imprisoned and homeless, as well as even greater under-representation among politicians, administrators, the wealthy, influential and famous. For Indigenous peoples from around the world, the 'slow violence' of colonisation exists alongside violent assaults and fatal neglect. There is also a growing realisation of the impossibility of justice through the law, of reconciliation, or of any answers at all from within settler-colonial states (Paradies, 2020).*

Colonialism continues, the systemic racism is compounded by our governments' lack of political goodwill and investment to close the gap on overwhelming Indigenous disadvantage. The politics of economics and unjust development continue to impact on the daily lives of Indigenous Australians. Indigenous Australians continue to speak back to intergenerational violence, trauma and genocide.

This is one of those stories, and with colleagues Dr McDuffie and Dr Hayes who despite the challenges in producing the documentary, [*On Australian Shores: Survivor Stories*](#) (Hayes & McDuffie, 2022), have remained faithful to the many individuals and families by giving voice to show '**how Black Lives don't matter**' in a first world country, privileged on the invasion, destruction of Indigenous people's, resources, lands and waters through the ongoing colonialism, structural violence, and systemic racism.

Questionnaire and Responses

1. *Is your Indigenous community (or one that you represent) suffering from the adverse effects of hazardous substances and toxic wastes? Please describe the case and circumstances of these effects in detail, including the source of the toxic exposure, the types of hazardous substances you are being exposed to, the degree of government/company consultation and consent to relevant activities, as well as any efforts made by the government/company to provide effective remedies.*

In the 1970s and 1980s, the Agriculture Protection Board implemented a weed-eradication program in the remote Kimberley region of Western Australia, with the purpose to kill non-native weeds, such as the Noogoora Burr and broad-leafed weeds. The Noogoora Burr, originating from South America and the Caribbean, had caused extensive damage to the sheep industry. In its seedling stage, the weed is also known to be poisonous to cattle (Pest and Disease Information Service, 2018) and another weed, Parkisonia, was also affecting the livestock (Shepherd, 2015). A weed eradication program was established for the whole region.

During the Second World War a lot of research was carried out on chemical herbicides, as a continuation of the “scorched earth” war practices that had been used since the dawn of times - depriving the enemy of food and cover (Fitzgerald, 2022). At the same time, farmers in Britain and the United States were battling insects and weeds destroying their crops, and DDT had already proven to be a formidable weapon against insects since 1939. 2,4,5-T (2,4,5-trichlorophenoxyacetic acid), and 2,4-D (2,4-dichlorophenoxyacetic acid) were part of the first generation of “miracle” weed killers, introduced as early as 1945, against broad-leafed weeds. Those highly toxic herbicides were found to be particularly effective for weed control, even at low dosages. In Australia, most of the weeds threatening agricultural and pastoral production had been introduced, and those new herbicides proved to be very effective against them. As a consequence, they were used in many places across Australia from the late 1940s onwards.

2,4,5-T and 2,4-D mixed together were principally used as a military weapon of mass destruction (WOMD, Agent Orange) during the Vietnam War, with the health impacts of the TCDD dioxin contained in 2,4,5-T already apparent at the time.

In terms of the local Kimberley context, Equal Wages legislation had been passed at the end of the 1960s, meaning a lot of Aboriginal people who used to live and work on the pastoral stations for rations of tea, flour, sugar, and blankets, were thrown out from the stations and pushed into the local towns of Derby and Broome, with very little means to support themselves and their families. Given the high levels of Aboriginal unemployment in the 1970s and 1980s, many Kimberley Aboriginal men, particularly in Derby, seized the opportunity of earning a decent wage through working on their Country for weeks at a time for the APB (McDuffie, 2019)

The men worked primarily with two pesticides: 2,4-D was used to spray for Noogoora Burr along the Fitzroy and Ord Rivers, and 2,4,5-T pesticide was used for broad-leafed

weeds on the Fitzroy and Ord Rivers, Christmas Creek station, and other locations (Harper, 2002). The combination of both pesticides is commonly known as Agent Orange, which was used during the Vietnam War. Whilst 2,4-D is still available on the market, the registration for 2,4,5-T was terminated by the Western Australian Government in 1991 (Doust et al., 2004).

According to the statements by former APB workers in the documentary, 2,4-D and 2,4,5-T chemicals were liberally mixed and sprayed by them with no protection equipment, no training, and no awareness of the high toxicity of the herbicides.

No precautions were taken, despite the department being aware of the toxicity of some of those herbicides. Pesticide and herbicide storage and spraying protocols had been put in place at the start of the 1980s (Health Education Unit, 1983). They were clear and detailed, listing a list of PPE (Personal Protective Equipment) workers should wear and how the liquids should be stored and handled. Why was this never communicated to the workers? They all insist they never received any training, and barely any PPE. And when they did get overalls, those were thoroughly inadequate for the Kimberley climate, and would get soaked anyway. How were those young men allowed to go out for days and sometimes weeks into the bush, spraying herbicides in shorts and thongs, mixing them up themselves by hand, and being told that these were harmless?

The other concern was, and still is, the environmental pollution that occurred due to the use of these toxic herbicides on Aboriginal land, particularly on the banks of the Martuwarra, Fitzroy River, a Living Ancestral Being, listed as a National Heritage site in 2011 (Kimberley Land Council, 2016).

2. *What are the adverse impacts of toxic and hazardous waste on your Indigenous community's (or the Indigenous peoples you represent) collective and individual rights, such as your rights to lands, resources, culture, health, livelihood, political and economic involvement, etc.?*

Over a relatively short period of time, many of the men working for the APB developed symptoms of ill-health: throbbing headaches, skin rashes, blisters, burns (O'Brien, 2002) and swelling were (and still are) commonly complained about. In 1983, Cyril Hunter, who had been spraying the herbicides for a few years as a leading hand, died of a suspected heart attack. By the time he passed away, at the age of 33, his skin was apparently bleached white (Fickling, 2002). Organ samples were taken, on the suspicion that the pesticides he was working with may have caused his premature death. To this day, these are still held in storage at a Perth pathology service and have not been returned to his family (Shepherd, 2015). One of Professor Anne Poelina's brothers, Terry, also passed away at a young age after spraying weeds for the Agriculture Protection Board.

Cyril's friend, work colleague, and neighbour, Richard Clements, another young man, died in very similar circumstances to Cyril, as related by his sister, Margaret Smith, in the documentary.

The APB workforce numbered about 300 men in total in the Kimberley. The worst of the impacts of the exposure to toxic herbicides happened when a group of young men in

their thirties all passed away suddenly, mostly from apparent heart attacks, in the 1980s, as mentioned above.

Many of those who did not die in their thirties developed cancers later on in life, and untreatable, painful skin diseases. One young man, Richard Greateorex, became blind. Their wives and partners suffered countless miscarriages, or had to abort their unborn babies due to catastrophic malformations.

Many could not have any children at all. Ex-APB employees also suffered from renal failure, headaches, chest pains, internal bleeding, and other unexplained ailments.

The toll has been immense intergenerationally as well. Those workers' children and grandchildren were born with malformations and disabilities, and skin conditions, which still affect them today.

When Cyril Hunter passed away from a heart attack in the 1980s, his son Nigel was only two. Nigel himself died at the age of 32 in 2013 after suffering from a rare cancer - as his mum Suzanne explains in the film, she used to wash his dad's clothes in the same washing machine, so he was exposed to the toxins as a young toddler. Auntie Lena Buckle lost her son in 1998, her daughter in 2011, and her grandchild, Kingsley, in 2010 (Shepherd, 2015), due to their exposure to the herbicides, as she explains in the film.

3. What specific actions has your country taken to protect the rights of Indigenous persons exposed to toxics, in particular women and children?

Very few actions. Concerns regarding the effects of herbicides on human health were raised in the press as early as the 1950s. The United States banned the use of 2,4,5-T on all food crops except rice in 1970. The New Zealand press reported on the adverse effects of 2,4,5-T on unborn babies and farmers' animals and crops in 1972. Numerous reports about high rates of miscarriages after the spraying of 2,4,5-T over forests in Oregon were republished in Australian newspapers - the then Australian Minister for Health, Mr Hunt, was questioned at length about this in Parliament. Several government enquiries about the dangers of 2,4,5-T took place from 1979 onwards. A Committee of Enquiry set up in 1982 under the Wran Government, by the then Agriculture Minister, Mr Jack Hallam, was highly criticised in the press in 1982 when it decided to keep meetings confidential, and refused to allow access to scientific reports and submissions. The European Commission itself called for a partial ban on 2,4,5-T in 1982. Given the depth of information, which was freely available and circulated in the mainstream media at the time, why were precautions not taken to ensure the health and lives of the APB workers, most of whom were Aboriginal, were not put at risk during that time?

In the early 2000s, thanks to the ongoing campaigning of former APB workers seeking justice, a series of reports (Harper, 2002; Armstrong, 2003) were commissioned by the Western Australian government to look into the impacts of the use of chemicals on APB workers. The Harper report, in 2002, after interviewing 90 former APB employees, concluded that illness did develop amongst the workers as a direct result of their exposure to herbicide sprays between 1975 and 1985. Dr Harper also believed that the workers had been exposed to high levels of dioxin through the importation of 2,4,5-T with unregulated dioxin contamination (Harper, 2002). Fire-damaged drums of 2,4,5-T

from a Singapore company had allegedly been imported to Australia in the early 1970s (O'Brien, 2002) by a Perth-based company, and may have contained 200 times more toxin than was legally permitted. Some of the former 2,4,5-T drums are still stored on a contaminated site in Derby, which Dr Alexander Hayes handled and took photographs of, and got a rash from, at the time of filming the documentary.

The Armstrong report (2004) found a 48% higher rate of cancer among the workers, but was not convinced by the claims of other illnesses. As Armstrong himself said in a 7:30 Report interview:

We didn't think that there was clear evidence of other ill effects, although we could not exclude that possibility. (Armstrong, 2012)

Following these investigations (Harper, 2002; Armstrong, 2003), a Kimberley nurse support and liaison service was established at the Derby Aboriginal Health Service to provide advice to former workers potentially affected by the chemicals. A Royal Perth Hospital clinical toxicologist also travelled to the Kimberley to provide education and advice to local doctors (Armstrong, 2003). Even though the Harper Report recommended compensation for the former APB workers and affected families (Harper, 2002), and a Parliamentary Inquiry found it was likely a "rogue" batch of 2,4,5-T had been imported to Australia (Doust et al., 2004), it is understood that only eight victims have received compensation to this day (Shepherd, 2015). Former Agriculture Minister, Kim Chance, shared his disappointment that they had not been compensated, calling for a "fresh look" into the matter (Shepherd, 2015).

For many Kimberley Aboriginal people, the failures of the Agriculture Protection Board to adequately protect their workers at the time, and the subsequent unwillingness of the Western Australian government to recognise the issue and compensate the affected families, illustrate the lack of duty of care of the government for some of its citizens, and the unacceptable cost of the region's development. When invasive weeds started to derail the production of wool, and to poison the cattle, the reaction was swift: use the strongest herbicides possible to fix the situation so this would not impact the local economy. This occurred at the cost of many people's lives, health, and well-being, and the legacy of this inequity remains ongoing today.

These stories of inter-generational cancer clusters, broken and destroyed individuals, families and community lives, have eroded these families' faith and confidence in governments to protect Aboriginal people and communities, and recognise them as human beings. These stories and witnesses are testament to crime scenes of genocide and biocide.

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