



**Memo n°17 : Pedro Pablo MUTUMBAJOY**

**Victim Plan, Colombia**

**The Hague, October 15<sup>th</sup>-16<sup>th</sup>, 2016**

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## **Biography**

I was born on December 24, 1978 in a village called La Sevilla, Baja Bota Caucana, in the municipality of Santa Rosa, Cauca Department, and Republic of Colombia.

I am the son of humble parents, Gustavo Mutumbajoy and Braulia Gómez. There were 8 children: Joseph Devin, Cristobal, Romelia, Uvaldina, Ortencia, Pedro Pablo, Gloria and Juan. My father died in 1982. He was buried in a town called Santa Lucia, Putumayo. In 1982 my mother decided to move to Puerto Guzman and bought a small wooden house with a zinc roof. In this village there were houses made of yaripa (bamboo), straw and cardboard, mainly. My mother went to seek out new horizons in the Putumayo of the time.

In 1982 I started my primary education in the mixed rural school in Puerto Guzman with Professor Edilma Gonzalez. In 1987 finished I primary school and in 2008 my studies in the Amazon Educational Institution. In 2013 I finished Technology in Agricultural Business with the National Apprenticeship Service, SENA, in the same town.

In 1983 my mother bought a farm in a village called El Trebol, about forty minutes from Puerto Guzman where me and my with my three younger siblings grew up. In 1992 I spotted a young woman in the village of El Trebol called Yenny Vargas, from humble family. Over the days and months we started going out and then moved in together on June 15th 1993. We have four children: John Jairo, Diana Yineth, Yudy Paola and Yulied Alexandra.

Between the years 2000, 2006 and 2013 aerial spraying with glyphosate killed a countless number of species of living beings and we humans were threatened by terminal illnesses such as cancer as doctors have warned.

On December 20, 2012 we got married in a civil ceremony in the Town Hall of Villagarzón, Putumayo. On December 30, 2012 we had a ceremony in the Christian Pentecost Church with Pastor Rober Buchely.

In September 2013 I was a victim of the aerial spraying with glyphosate caused by the anti-narcotics police units over a forest plantation for commercial use. Damages were not paid. 350 trees have been studied by the Agricultural Department of the Municipality of Puerto Guzman.

On July 6, 2016 I got an invitation from The Hague for the International Monsanto Tribunal to be held on 15 and 16 October 2016. Neighbours and friends began to coordinate their support to accompany me through this event: Kristina Lyons, my neighbour Jorge Luis Guzman Rocha and Pedro Arenas from the Indepaz foundation.

I am a victim of aerial spraying with Monsanto's glyphosate perpetrated by the US and Colombian governments.

My name is Pedro Pablo Mutumbajoy Gómez and I live in a rural settlement known as El Trébol in the department of Putumayo, Colombia, which is a frontier region with Ecuador and Peru. This biodiverse region is part of the Andean-Amazonian foothills. It is also an epicenter of the more than fifty-year social and armed conflict in Colombia, and the U.S.-Colombia antinarcotics policy in the global War on Drugs, called Plan Colombia. I am a descendent of Inga indigenous people and I am also a peasant farmer.

I labor in diverse agricultural activities. My mother and I work to recover tropical humid forest, and we cultivate fast growing native timber-yielding trees and recuperate forest habitats in what used to be monoculture coca fields.

I come to the tribunal today to testify about a complex problem related to the use of glyphosate in a context of war. I am just one of millions of families that are victims of aerial fumigation with glyphosate conducted by the governments of the United States and Colombia over the last twenty years.

Coca crops replaced more than 600,000 hectares of forest between 1998 and 2012. In response to this, and following the criminalizing regime of the UN, the governments of the U.S. and Colombia established an antinarcotics policy aiming to eradicate illicit crops utilizing aerial spraying of a concentrated formula of glyphosate mixed with additives that augment its activity and ability to stick to plants in humid tropical climates.<sup>1</sup>

This formula was 100% more concentrated than commercially sold versions of glyphosate (See Vargas Meza 1999). No other country in the world has engaged in aerial spraying of herbicides as a counternarcotic strategy. Between 1994 and 2014, the governments of Colombia and the United States spent millions of dollars in forced eradication by aerial spraying.

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<sup>1</sup> The mixture of glyphosate utilized in aerial spraying is estimated to be 110 percent more concentrated than Monsanto's commercially available version called Roundup Ultra. Glyphosate was also mixed with two surfactants, polyethoxylated tallow amine (POEA) and Cosmo Flux 411F, to enhance the activity of the herbicide and make it stick to plants in a humid tropical climate (Vargas Meza 1999).

After twenty years of fumigations, the Antinarcotics Policy report that 1.86 million hectares have been affected by this policy, and that at least 22.3 million liters of glyphosate were applied to Colombian territory.<sup>2</sup>

In 2002, 83% of aerial spraying with glyphosate was concentrated in the southwestern region of the country where I live. However, coca cultivation, the consumption of cocaine in the United States and Europe, and rural poverty continue because coca remains a subsistence crop for poor farmers. Aerial fumigation not only affects illicit crops, but also douses forests, *selvas*, pastures, water sources, subsistence crops, and human bodies.

My own farm has been sprayed four times. Three of these fumigations occurred between 2000 and 2006 when I cultivated coca. The fumigations were conducted by crop duster planes accompanied by military helicopters to ward off attacks by the leftist guerrilla group, the Revolutionary Armed Forces of Colombia (*las FARC-EP*). The crop duster planes, helicopters, pilots, and glyphosate were supplied by U.S.-based multinational corporations, such as Monsanto, Dyncorp, Sikorsky Aircraft and others, as part of Plan Colombia funding and military contracts. These fumigations not only destroyed our means of economic subsistence, but also nearby food crops, such as plantains, yucca, and pasture grass for our cows. Three months after one of the fumigations hit our water sources and pasture grass, I witnessed a calf born with deformities: without back legs. This was something that we had never seen happen before.

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<sup>2</sup> See <http://www.agenciadenoticias.unal.edu.co/ndetalle/article/the-worst-of-glyphosate-is-its-aerial-aspersion.html>

No one has responded for the destruction of licit agriculture, livestock, fish, and silviculture, among other environmental damages caused by the fumigation of glyphosate. Not the Colombian and U.S. governments, and much less Monsanto.

A procedure exists to file complaints about these damages. The Anti-Narcotics Police that conduct the aerial fumigation operations also receive and make administrative decisions over the fate of these claims. In other words, they are judge and jury, and this does not guarantee a fair and transparent reparations process.

In September 2013, our farm was fumigated with glyphosate for the last time after we no longer had any illicit coca crops. This time they damaged my forest plantation, killing a quarter hectare or 350 timber-yielding trees. I planted this silviculture with the intention of recovering soils degraded by the monocrop coca. My farm is located 2 kilometers from the municipal town center. The Environmental Monitoring Plan (PECIG) that is supposed to regulate the fumigations and that prohibits the spraying of water sources, indigenous reservations, and areas populated by humans and animals, is not respected. It is important to mention that municipal council members have seen crop duster planes dumping tanks of glyphosate over rivers before flying back to the military base.

Our forest plantation is a long-term family project that is intended to produce timber-yielding wood for houses, and we consider it to be a stable source of income to provide for our family when we reach old age.

This last fumigation obliged us to seek help to file a complaint with the hope of receiving compensation for the damages caused, and also to avoid future fumigations of our silviculture by the State. We were not able to achieve either.

Complaints have been systematically rejected. Since 2001, when the Anti-Narcotics Police (DIRAN) established the complaint procedure, until 2015, the DIRAN received 17,643 complaints seeking compensation for damages caused to licit crops. 96% of these complaints have been rejected (Lyons forthcoming). There are no minimal conditions guaranteeing impartiality. As in my case, many families experience unjust process. The families affected by fumigation policy are generally

poor with little schooling, and they are unable to fulfill the evidentiary requirements stipulated by the DIRAN. Rural communities do not have access to or cannot afford GPS technology. Furthermore, the armed groups that occupy and dispute also prohibit this kind of technology, as well as the photographic evidence required by the DIRAN over the territory.

The destruction caused by the herbicides has not only provoked complaints in Colombia, but also affected Ecuadorian territory and motivated legal complaints there. In 2008, the Ecuadorian government presented a lawsuit against the Colombian government in the International Court of Justice for damage to public health and the environment of its border region and populations. The two countries signed a settlement in 2013. Colombia recognized that aerial aspersion of glyphosate might possibly generate negative impacts in Ecuador, and paid 15 million USD as an economic contribution to develop the neighboring border zone. It also promised to establish a special and agile complaint process for affected Ecuadorians, demonstrating that the Colombian government discriminates against its own citizens while respecting Ecuadorians.

A resolution to suspend aerial fumigation with glyphosate was finally issued by the Colombian government on May 29, 2015, but the national Environmental Licensing Agency (ANLA) did not officially suspend the fumigations until October 1<sup>st</sup> of this same year. The suspension occurred after the World Health Organization (WHO) reclassified glyphosate under the category 2A – a possible carcinogen to humans.

Despite this, the Colombian government approved the manual application of glyphosate to eradicate illicit crops in April 2016. At the same time, the National General Attorney has requested that aerial fumigations be reinitiated utilizing chemical substances that may be even more toxic.

Between 1994 and 2015, the United States and Colombian governments have caused an innumerable amount of problems for rural communities in Colombia. They have engaged in ecocide and caused illnesses. Monsanto is directly responsible for these acts because it sold the herbicide products to Colombia with full knowledge that they



would be used as chemical weaponry. We ask that these governments and Monsanto be held responsible. Monsanto is part of the U.S. military industrial complex, and it is violating human rights to food, a healthy and safe environment, the right to work, and the right to health. We ask for justice. Just as Monsanto, the United States, and Colombia engaged in economic business for military ends, we ask that together they pay reparations to the complaints that have been rejected by the Anti-narcotics Police.

References:

Lyons, K. forthcoming. “Chemical Warfare in Colombia, Evidentiary Ecologies, and SentiSenti-*actuando* Practices of Justice”. Article for a special edition on Toxic Politics in the 21st Century in *Science as Culture*.

Vargas Meza, R. 1999. *Fumigación y conflicto. Políticas antidrogas y deslegitimación del estado en Colombia*. Bogotá: TNI/Acción Andina.

DATOS DEL AFECTADO POR ASPERSIÓN AÉREA DE GLIFOSATO 16/09/2013	
NOMBRE	PEDRO PABLO MUTUMBAJOY GÓMEZ
IDENTIFICACIÓN	Cédula No. 76’271.305 de Piamonte
DIRECCIÓN	Puerto Guzmán, Carrera 2ª No. 10-06. Barrio Los Prados.
MÓVIL	3208089004

CONTENIDO DE LOS DOCUMENTOS DISPONIBLES EN LA CARPETA	
ARCHIVO	DESCRIPCIÓN
PPM QUEJA	15 de octubre de 2013. Pedro Pablo Mutumbajoy <u>radica el formulario de recepción de queja</u> por daños causados por una aspersión aérea con glifosato en plantación forestal de su propiedad, realizada el 16 de septiembre de 2013. Incluye documento con localización y área, especies maderables establecidas y en manejo, coordenadas e importancia económica, ecológica, ética y social de su proyecto. Presenta avalúo de daños realizado por el Secretario de Desarrollo Agropecuario del municipio. Hay fotografías del predio y mapa de localización.

<p>DIRAN ADMISIÓN</p>	<p>6 de noviembre de 2013. La Dirección de Antinarcóticos de la Policía Nacional expide el <i>Auto S-2013-058295 de Admisión de Queja No. 112247</i> en el cual:</p> <p style="text-align: center;"><u><i>Se admite la queja y se ordena la Certificación de Informe Previo.</i></u></p>
<p>DIRAN ORDENDEVISITA</p>	<p>28 de noviembre de 2013. Mediante el <i>Auto S-2013-062169 Decreto de Pruebas Queja No. 112247</i>, la Dirección de Antinarcóticos:</p> <p style="text-align: center;"><u><i>Ordena practicar Visita de Verificación de los daños.</i></u></p>
<p>DIRAN NOPROCEDENCIA</p>	<p>25 de febrero de 2014. Con el <i>Auto S-2014-011879 Decisión de Fondo Queja No. 112247</i>, <b>notificado el 18 de marzo</b>, la Dirección de Antinarcóticos:</p> <p style="text-align: center;"><u><i>Declara la no procedencia de la compensación económica.</i></u></p> <p>Con base en <i>Acta Visita de Campo No. 001 ARECI-GRUAQ de 16 de enero de 2014</i> y <i>Acta No. 067 del Grupo Técnico Interinstitucional Especial de Verificación del 7 de febrero de 2014</i>, argumentan:</p> <p style="text-align: center;"><i>“...se encontró presencia de cultivos ilícitos de coca en la coordenada (polígono) suministrada en la queja, se observó bosque nativo en buen estado y no había evidencia de afectación alguna, adicionalmente no había existencia de la actividad agrícola {sic} reportada en la queja”.</i></p> <p>Mencionan registros fotográficos pero no el perfil profesional de funcionarios que buscaron evidencias de actividad agrícola <u>en un predio silvícola.</u></p>
<p>PPM RECREPOSICIÓN</p>	<p><b>26 de marzo de 2014.</b> Pedro Pablo Mutumbajoy, tras consulta con el Personero Municipal, <b>radica Recurso de Reposición expresando su inconformidad con la declaración de no procedencia de la compensación</b> porque en su finca “...no hay una sola mata de coca, ni cultivo de árboles maderables mezclados con coca”. Tampoco acepta la afirmación de “que no se encontró evidencia de afectación”, “que no se evidencia la implementación agrícola reportada”, y reitera “que si existen cultivos de árboles maderables” por lo que solicita “verificar en terreno lo narrado” y “continuar con la reparación del daño”.</p>
<p>PPM PETICIÓNINF</p>	<p>2 de junio de 2014. Ante el silencio de la Dirección Antinarcóticos frente al recurso de reposición, Pedro Pablo Mutumbajoy dirige petición de información al jefe del Grupo Atención Quejas por Aspersión sobre el estado de su trámite. Y envía copia al consejo seccional de estupefacientes del Putumayo.</p>

<p>DIRAN RECREPOSICIÓN</p>	<p>10 de junio de 2014. Con el <i>Auto S-2014-033162 Decisión Queja No. 112247</i> la Dirección Antinarcóticos resuelve el recurso de reposición señalando, entre otros, lo siguiente:</p> <p>1) “...se dictó el <i>Auto S-2013-062169</i> del 28 de noviembre de 2013 donde se dispuso rechazar la reclamación y ordenar el correspondiente archivo de la queja”.</p> <p>NOTA: <u>El Auto S-2013-062169 no rechaza la reclamación</u>, ordena la visita de verificación. Ver archivo “DIRAN ORDENDEVISITA”.</p> <p>2) “...En el Área de Radicación de Cultivos Ilícitos se recibió el día <b>02 de abril de 2014</b>, el escrito de recurso de reposición con fecha de elaboración <b>26 de Marzo de 2014</b> [...] donde interpone recurso de reposición en contra del <i>Auto No. S-2013-011879 ARECI-GRUAQ</i> de fecha 25 de febrero de 2014”.</p> <p>NOTA: <u>El Auto S-2013-011879 no existe</u>, pero sí el S-2014-011879.</p> <p>3) Mencionan además que:</p> <p><i>...una vez revisada la diligencia de comunicación personal, se observa claramente que el auto recurrido le fue comunicado el día 17 de marzo de 2014 (por equivocación se colocó 17 de marzo de 2013) a las 08:30 AM; lo que permite evidenciar que desde la fecha de comunicación del auto, a la fecha de recibido en el Área de Erradicación de Cultivos Ilícitos, han transcurrido 7 días.</i></p> <p><i>Así las cosas, y de acuerdo con lo revisado respecto del escrito por medio del cual se interpone el recurso y a la constancia que reposa dentro del expediente; se concluye que el recurso de reposición no fue interpuesto dentro de la oportunidad legal.</i></p> <p><b>NOTAS:</b> La DIRAN confunde fechas, documentos y dependencias:</p> <p>a) <u>El 18 de marzo de 2014 fue notificado el Auto S-2014-011879</u> en la Oficina Jurídica de la Alcaldía. No el 17 de marzo, como dice la DIRAN. Ver sellos y manuscritos en “DIRAN NOPROCEDENCIA”, archivo.</p> <p>b) El recurso de reposición <u>fue radicado el 26 de marzo en la Oficina Jurídica de la Alcaldía, esto es, al 5º día siguiente a la fecha de notificación</u>. El 24 de marzo fue lunes festivo. Por esto:</p> <p style="text-align: center;"><b><u>El recurso se interpuso dentro de la oportunidad legal</u></b></p> <p>Ver sello y manuscrito en archivo “PPM_RECPOSICIÓN”.</p> <p>c) Entre la notificación real del <i>Auto S-2014-011879 rechazando la reclamación</i> (el 18 de marzo) y la recepción del Recurso de Reposición en el Área de Radicación de Cultivos Ilícitos (el 2 de</p>
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abril), transcurren ONCE días y NO SIETE como lo afirma el primer párrafo citado en este mismo punto 3).

Sin embargo, cuenta la radicación del recurso en la Alcaldía el 26 de marzo.

Lo anterior en tanto que la DIRAN reconoce al resolver el recurso de reposición:

*“Que se constituye en una garantía dentro del trámite de la reclamación, las actuaciones surtidas por parte de las Alcaldías Municipales y por ende de plena validez la diligencia de comunicación personal...” (Auto S-2014-033162).*