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Report

An overview from
a gender and
reproductive rights
perspective

Reproductive health and glyphosate



in the context of
the armed conflict

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Introduction



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The appropriateness of applying glyphosate through aerial spraying as part of the Illegal Crops Eradication Program (Programa de Erradicación de Cultivos Ilícitos - PECIG) has been a regular part of the public debate in Colombia because of the effects the spraying has had not only on ecosystems, but also on the health of those exposed to it, including reproductive health.

There is no question that the history of glyphosate use in Colombia has stretched throughout the different stages of the armed conflict and played an important role in its dynamics. However, this discussion has for a long time lacked a perspective that considers the protection of reproductive rights as human rights. The Center for Reproductive Rights and the Epidemiological and Public Health Group of Universidad del Valle would like to contribute to this discussion from a gender perspective and with an approach based on reproductive rights, in order to help the entities of the Integral System of Truth, Justice, Reparation and Non-Repetition (Sistema Integral de Verdad, Justicia, Reparación y No Repetición - SIVJRNR) with the work they are currently undertaking to clarify and investigate what took place.



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1. Context



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Since 1992, the Colombian government began a program through its National Council of Narcotics (Consejo Nacional de Estupefacientes - CNE) to carry out aerial spraying of the herbicide glyphosate with the purpose of eradicating illegal crops in rural areas.¹ The regulations for the PECIG were established through CNE Resolution 001 of 1994, with some amendments over time up to and including Resolution 013 of 2003. The PECIG also includes an Environmental Management Plan² devised by the Interagency Technical Advisory Committee of the CNE.

Within the framework of these resolutions, it is estimated that at least 1.8 million hectares have been sprayed in Colombia.³ Since spraying began, there has been a public debate in Colombia on the appropriateness of using glyphosate given the herbicide's potential impacts on ecosystems and human health, including on reproductive health. By means of Resolution 0006 of 2015, the CNE suspended the use of glyphosate in eradication operations throughout the country, finding that it posed a potential risk to human health and the environment after the International Agency for Research on Cancer (IARC) classified it as a substance that is probably carcinogenic to humans. Likewise, the National Environmental Licensing Agency (Agencia Nacional de Licencias Ambientales, hereinafter ANLA) moved to suspend spraying based on the precautionary principle in environment matters.⁴

Currently, the program is suspended as ordered under Ruling T-236 of 2017 handed down by the Constitutional Court. The

Court cautioned the CNE and the ANLA that recommencing spraying activities was contingent on the implementation of a participatory, impartial and thorough decision-making process to assess potential impacts on the health of those living in the areas to be sprayed, as well as the spraying's impacts on ecosystems. The process must include the following components: (i) compliance with the environmental precautionary principle; (ii) a process for receiving complaints and grievances by an independent entity; and (iii) permanent review and alert mechanisms when risks are reported.⁵ According to writ 387 of 2019, the government had not submitted a plan to comply with this order. Therefore, restarting the PECIG has not yet been authorized.⁶ In other words, the mechanism cannot be reactivated without a responsible decision-making process grounded in communities' rights to health and the environment.

2.

Glyphosate and its impact on reproductive health



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El tiempo

Although research have been conducted over the years into the effects of glyphosate on human health, a study was needed to draw scientific conclusions based on available evidence. Specifically, there were multiple reports of damage caused to reproductive health, defined as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes.”⁷ This potential damage is related to possible cases of miscarriages associated with glyphosate exposure.⁸

In order to contribute to the Truth Commission’s work of clarifying the facts of what happened, the Center for Reproductive Rights and the Epidemiological and Population Health Group of Universidad del Valle formed a partnership to conduct a study titled “Efectos del glifosato en la salud reproductiva humana” [the effects of glyphosate on human reproductive health]. The study used systematic review and expert consultation methodologies, including review of in vitro, animal and human studies. It was completed during the first half of 2020. Its objective was to produce a document providing evidence and conclusions on this subject that could be made

available to the entities of the Integral System of Truth, Justice, Reparation and Non-Repetition (hereinafter SIVJRNR).

The main finding of the study was that there are “clearly consistent indications that glyphosate is harmful to reproductive health,”⁹ including its impact on fertility (hormone levels, histological normality of reproductive tissue and spermatogenesis), miscarriage and perinatal and trans-generational effects (i.e. harmful effects from glyphosate on the next generation that impact fertility). In this regard, the investigation concluded the following:

The studies analyzed through a systematic review of the literature indicate a **predominance of studies with findings demonstrating glyphosate’s negative impacts on reproductive health.** Although these results are mainly based on studies on animals in vitro, with research on humans remaining disputed, they **provide strong evidence for applying the precautionary principle when making decisions so as to prevent exposing women in an reproductive age, their children and their partners to glyphosate.**¹⁰

Additionally, the study found that most investigations in this area are conducted within toxicology and biomedical conceptual frameworks, suggesting the need to increase the number of studies with more integral approaches that consider aspects related to social and ecological systems, i.e. that integrate the findings with the context (including social and political context) in which glyphosate exposures takes place.

In line with these findings, it should be recalled that the International Federation of Gynecology and Obstetrics (FIGO) issued a statement on this issue in 2019,¹¹ declaring that there was evidence to support the effect of chemical exposures on health, especially on cancer rates, neurodevelopmental disorders, pregnancy outcomes or possible birth defects. Therefore, based on the precautionary principle, it recommended that glyphosate exposure to populations should end with a full global phase out.

3. Cases of miscarriages



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Natalia Botero

as a result
of the use of
glyphosate

There have been reports of miscarriages as a result of exposure of pregnant women to glyphosate when it was sprayed by State agents.

The first is the case of Yaneth Valderrama, a woman from Caquetá. On September 28, 1998, three small planes and four helicopters from the National Police fumigated several plots of land in the region, including Yaneth's family farm, which was covered by the herbicide. At that time, she was four months pregnant. Following the fumigation, she received first-aid from the village health advocate, who bathed her with soap and water and ordered she be sent to the city of Florencia to receive professional medical care. On September 30, she was admitted to the María Inmaculada Departmental Hospital in Florencia with staining on her skin, difficulty breathing and walking, and intense pain in her bones and muscles, among other symptoms. A uterine curettage was performed because she was diagnosed with an incomplete miscarriage. Her health steadily declined, and she had to be taken to the emergency room toward the beginning of March 1999. Yaneth Valderrama died on March 23, 1999. She was diagnosed with "multisystemic organ failure, septic shock, acute respiratory distress syndrome, community-acquired pneumonia, nosocomial pneumonia, pyramidal and extrapyramidal neurological syndrome, autoimmune disease, and Wegener's granulomatosis." After unsuccessfully seeking redress before the Colombian legal system, her

relatives brought her case before the Inter-American Commission on Human Rights, which declared it admissible on June 21, 2018.¹²

The Inter-American Commission declared the case admissible for possible violations of the American Convention on Human Rights with regard to the rights to life (article 4), humane treatment (article 5), movement and residency (article 22), equal protection (article 24), judicial protection (article 25), and economic, social and cultural rights (article 26), all in relation to article 1.1 of the Convention.

The second case is that of Doris Yaneth Alape. Between April 15 and May 30, 1999, the Antinarcotics Police carried out a massive spraying campaign using glyphosate. The wind carried the chemical over crops, water sources, animals and homes, contaminating the intake of the aqueduct, sickening people and animals, and damaging crops. At least 26 people ingested the pesticide in the water, and several women suffered miscarriages. Doris was affected by the fumigation, as she was pregnant at the time of the events. Following several days of symptoms of poisoning, she gave birth at only 28 weeks. Her son died on June 1, 1999. Doris experienced other effects on her physical health that prevented her from being able to work.¹³

The Inter-American Commission declared the case admissible for possible violations of the American Convention on Human Rights with regard to the right to life (article 4), humane treatment (article 5), and judicial guarantees (article 8); the rights of children and adolescents (article 19); and the rights to private property (article 21) and judicial protection (article 25), as well as economic, social and cultural rights (article 26), all in relation to article 1.1 of the Convention.

These cases are known because the relatives of the women affected have sought justice. However, there are other reports indicating that more events similar to these have probably not attained the same level of visibility because they have not been documented. For example, a recent report from Dejusticia documenting the impact of glyphosate spraying in the department of Caquetá noted that, according to one of the individuals interviewed, "many women also had miscarriages around the dates of the fumigations."¹⁴ Other investigations have also referred to miscarriages in the areas of southern Colombia and northern Ecuador that were subject to fumigation.¹⁵

4. Violation of reproductive rights



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Andrés Cardona

through the use of
glyphosate by the
Colombian State

Reproductive rights involve acknowledging, respecting and guaranteeing every individual's ability to decide freely as to whether or not to procreate, including when and how frequently, as well as their freedom to decide responsibly as to the number of children they want to have.¹⁶ These rights include and protect people's ability to make decisions freely and entail State obligations to provide comprehensive information, as well as to provide the resources and access to health services necessary to make these decisions effective.¹⁷ International human rights standards recognize that reproductive rights are closely associated with other rights, including the right to life,¹⁸ the right to equal protection and nondiscrimination,¹⁹ the right to dignity²⁰ and to freedom from torture and cruel treatment,²¹ the right to information,²² the right to informed consent,²³ the right to autonomy and privacy,²⁴ and the right to privacy and confidentiality.²⁵

In Colombia, the Political Constitution protects reproductive rights by establishing "the right to decide responsibly on the number of children" (article 42) and the right to equality and prohibition of discrimination against women (articles 13 and 43). Reproductive rights have been recognized as fundamental²⁶ and inextricably related to other rights.²⁷

The relationship between reproductive rights and the right to health is particularly significant, as the latter includes reproductive rights²⁸ with obligations to respect, protect and guarantee that apply to the Colombian State.²⁹ Specifically, the immediate obligation to respect reproductive health³⁰ "requires States to refrain from directly or indirectly interfering with the exercise by individuals of the right to

sexual and reproductive health." Thus, **States must refrain from any carrying out any actions that directly or indirectly entail any undue interference in the exercise of the reproductive rights of persons.**

In this regard, the Constitutional Court has ruled with regard to the health effects of glyphosate fumigation, finding as follows: "**Miscarriages (...) are significant impacts that the State must avoid as it moves toward fulfilling its constitutional duty to ensure the fundamental right to health.**"³¹

Based on the above standards and considering that the scientific evidence cited above concludes that exposure to glyphosate can have adverse effects on the health of persons, cases in which the indications are that reproductive health has been harmed as a result of the use of glyphosate by the Colombian State represent a violation of the rights to reproductive health, as well as a failure to perform the obligation to respect the right to health. Additionally, such facts can represent violations of other closely-related rights, such as the rights to life, dignity, integrity, autonomy and privacy.

It should be recalled that State obligations to guarantee the reproductive health of girls and women apply for those affected by conflicts.³² States are also required to address all violations of the rights of women perpetrated in the context of the armed conflict³³ and must provide appropriate reparations, including compensation, restitution, rehabilitation, measures of non-repetition, and measures to promote their physical and psychological recovery.³⁴ The CEDAW Committee has established that "*besides*

providing redress to women for the gender-based violations suffered during the conflict, transitional justice mechanisms have the potential to ensure a transformative change in women's lives."³⁵ *Individual reparations are not enough, as "reparation measures should seek to transform the structural inequalities which led to the violations of women's rights, be suitable to women's specific needs and prevent their re-occurrence."*³⁶

The Colombian State therefore has an obligation to provide comprehensive reparations to persons whose reproductive health has been affected by the use of glyphosate under policies intended to combat illegal crops. In the particular case of women who experience miscarriages caused by exposure to glyphosate, reparations must take into account the specific impacts on their physical, emotional and social health as a result of glyphosate use, including the impacts on their life projects as a result of not being able to carry their pregnancies to term and become mothers. Reparation measures must also be extended to the relatives of the women affected, who are also victims of these events. Moreover, reparation measures that address the future needs of the persons affected should be considered, including access to medical treatment to enable them to exercise their reproductive capacity or allow them access to other options to exercise their maternity or paternity, such as adoption.

5. Recommendations



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Therefore, the Center for Reproductive Rights and the Epidemiological and Population Health Group of Universidad del Valle make the following recommendations:

- a. To identify and recognize as human rights violations, and specifically, as violations of reproductive rights, the impacts to reproductive health experienced by women and girls as a result of the glyphosate spraying carried out by the Colombian government under policies intended to combat illegal crops.
- b. To consider how these violations of reproductive rights have specifically affected young, adolescent and adult women, including by considering intersectional factors such as being a woman of African descent, black, palenquera, indigenous, disabled or facing conditions of poverty, among other things.
- c. To assess the scope of the physical, emotional and social damages resulting from the impacts glyphosate usage has had on victims, their families and their communities, including impacts on life projects and how they relate to forced displacement.
- d. With the participation of victims, to determine forms of reparation that include measures to improve effective access to the sexual and reproductive health information and services they need to exercise their reproductive freedom and recommence their life projects.
- e. To consider measures to improve effective access to sexual and reproductive health information and services for persons in rural areas of Colombia as part of reparation actions.
- f. To recommend that the national government apply the precautionary principle by no longer utilizing glyphosate spraying in the future.

Endnotes

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