

# Stop Experimenting on Us! Judicial Stories of Pesticide Resistance in Argentina

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This paper focuses on two paradigmatic court decisions on pesticide spraying in Argentina's agricultural zone and offers a socio-legal approach based primarily on legal sources. The first case was brought by a small town in the province of Santa Fe where spraying in the surrounding fields was stopped, and has paved the way for a growing number of similar cases in the last decade. The second case, involved a much larger area, namely the entire territory of the province of Entre Ríos, where more than a thousand rural schools are affected by the use of pesticides. The article proceeds in two sections which analyses each of the cases and identifies the legal innovations involved as well as the challenges that remain.

**keywords:** *environmental law, pesticides, Argentinian court cases*

## Introduction

Environmental, ecological and climate justice is a highly topical issue in Latin America. From different disciplines such as sociology and political ecology, an important number of studies are being carried out on socio-environmental conflicts and extractivism.<sup>1</sup> Jurists have also begun to pay attention to this topic, environmental judicial processes are challenging a large part of legal institutions and concepts: how to rethink the theory of justice? How to incorporate the intergenerational variable? How to resolve conflicts from more ecocentric positions? These are just some of the questions that have gained strength in recent years.

Durkheim, in his classic work *La division du travail social*,<sup>2</sup> turned his attention to the phenomenon of law in order to think about the

<sup>1</sup> Cecilia Gárgano, *El campo como alternativa infernal. Pasado y presente de una matriz productiva ¿sin escapatoria?* (Buenos Aires: Imago Mundi, 2022)

<sup>2</sup> Émile Durkheim, *De la division du travail social* (Paris: F. Alcan, 1902)

social bond. The legal text to some extent materialises but, at the same time, by materialising, it also crystalises certain ideas. These ideas, pillars of legal thought in many cases, begin to break when they encounter problems of a new wording. These fissures are the focus of this paper, as spaces in which debates on damages, risks, certainties and scientific controversies creep in and end up generating deep revisions of legal categories which, although they are considered pillars of the system, are exceeded by contemporary problems. The same legal system thus allows for institutional and normative scaffolding that validates extractivism. Nevertheless, in parallel, it contains tools that allow arguments to be made about the violation of the rights to health and to the environment.

The pesticide stories in Argentina are stories of injustice. At the same time, the courts are the only place where, for the moment, the victims – those who have access to justice – are obtaining some decisions in their favour.<sup>3</sup> This paper looks at two of these stories, and first to introduce them it will provide some context about the great transformation of the Argentine territory by the introduction of soy production.

Since 1996, the expansion of genetically modified crops in Argentina has grown rapidly, as has the application of pesticides. Since then, the National Secretariat of Agriculture authorised the use of different genetically modified seeds tolerant to pesticides such as glyphosate. The export of soy and its derived products to different latitudes (China, European countries, etc.) was Argentina's way out of the socio-economic crisis of 2001 and transformed the use of territories through deforestation, canalisation of wetlands, etc. This list of socioenviron-

<sup>3</sup> As the literature on this topic has already noted, court cases cannot always provide a real answer to the problems at hand. See: Amalia Leguizamón, *Seeds of Power. Environmental Injustice and Genetically Modified Soybeans in Argentina* (Durham: Duke, 2020); and Marta Conde, Mariana Walter, Lucrecia Wagner, Gretel Navas, 'Slow justice and other unexpected consequences on litigation in environmental conflicts', *Global Environmental Changes* **83** (102762) (2023): 1–10. However, the growing number of spraying cases shows that there are situations where it is possible, at least on a small scale, to keep pesticides away from populations.

mental problems illustrates this process well: soybean expansion generated an enormous – and cruel – transformation in a big part of our territory at the cost of displacement of peasants and indigenous peoples and the destruction of our fauna and flora. The transformation was nuanced. On the one hand, the type of cultivation changed in the territories of the humid pampa where agricultural activity was traditionally developed: under soybean domination, other crops became marginalised. On the other hand, the agricultural frontier expanded, and new territories began to be cultivated at the cost of deforestation, particularly in the north of the country, for example in the provinces of Chaco, Santiago del Estero and Formosa.<sup>4</sup>

Today, rising food prices are once again seen as an opportunity to expand exports and in May 2022, glufosinate-ammonium tolerant HB4 wheat was approved in Argentina. China, the United States, Brazil, Paraguay, Canada, New Zealand and Nigeria had already approved this Argentinian biotech development shortly before. A country's dependency on such commodities can be harmful.<sup>5</sup> While animals and humans in faraway places are fed from such agricultural production and some countries are advancing sustainability goals based on biofuels,<sup>6</sup> others suffer the consequences of the increasing use of toxic pesticides in their territories.

It is estimated that more than 500 million litres of pesticides are used in Argentina each year. The feeling of living in a sort of *open-air laboratory* quickly generated resistance and social mobilisations.<sup>7</sup> Dif-

<sup>4</sup> Sociological studies have been developed that focus on the transition that is taking place in some of these territories from resistance to the transgenic model to adaptation to it. See: Pablo Lapegna, *La argentina transgénica. De la resistencia a la adaptación, una etnografía de las poblaciones campesinas* (Buenos Aires: Siglo XXI, 2019).

<sup>5</sup> Maristella Svampa and Enrique Viale, *Maldesarrollo. La Argentina del extractivismo y el despojo* (Buenos Aires: Katz Editores, 2014); Darío Aranda, *Tierra arrasada. Petróleo, soja, pasteras y megaminería. Radiografía de la Argentina del Siglo XXI* (Buenos Aires: Sudamericana, 2015)

<sup>6</sup> Almost all biodiesel exports made with soybean oil are destined for the European Union and soybeans are exported mainly to China.

<sup>7</sup> Michel Callon, Pierre Lascoumes and Yannick Barthe, *Agir dans un monde incertain. Essai sur la démocratie technique* (Paris: Editions du Seuil, 2001)

ferent ways of saying *Stop experimenting on us!* can be heard in assemblies, neighbourhood meetings and civil society organisations as well as some expressions related to this type of interrogation: are we part of some *environmental experimentation*?<sup>8</sup> The search for possible answers connects (i) victims mobilised by the effects on their health and environment; (ii) NGOs; and (iii) experts with contradictory positions on different aspects of the problem. Scientific controversies also relate to, and confront the data obtained by health professionals and popular epidemiology exercises carried out by the people affected.<sup>9</sup>

While it is true that there are laws and institutions that make this economic and social structure possible, it is also true that the rights of future generations and precautionary principles can be found in resistance movements.<sup>10</sup> This is based on the human right to live in a healthy environment, for people now and in the future. These rights and principles are part of the legal system in Argentina. In 1994 the reform of the national constitution incorporated the right for people and future generations to live in a healthy environment into its constitutional pact. A few years later, in 2002, the precautionary principle was incorporated into Argentinian general environmental law.

This paper aims to analyse two paradigmatic court cases that demonstrate the resistance against pesticide spraying. The first case concluded with the first successful decision in 2009 that started a series of similar cases in Santa Fe province and beyond. The second court case points to a change of scale: from the similar cases to the Santa Fe province case demanding the prohibition of spraying in

<sup>8</sup> Marie-Angèle Hermitte, *Le droit saisi au vif. Sciences, technologies, formes de vie. Entretiens avec Francis Chateauraynaud* (Paris: Éditions Petra, 2013)

<sup>9</sup> Phil Brown, 'Epidemiology and toxic waste contamination', *Lay and Professional Ways of Knowing Journal of Health and Social Behavior* 33 (3) (1992): 267–72.

<sup>10</sup> It is important to highlight that as there are processes of resistance that can be identified; there are also analyses that focus on how these resistances are gradually transformed into processes of adaptation. Thus, for example, the ethnographic work recently carried out in the province of Formosa; Lapegna, *La Argentina transgénica*.

small lived-in areas, to the only legal action to involve the whole territory of Entre Ríos province where more than a thousand rural schools are located. Currently, these schools, provide education to children living in non-urban areas and are surrounded by crops, especially soybeans, which creates significant risks for students and teachers. The profile of these schools is very particular: they have few students. However, they are a key space for education in rural areas and this conflict has generated a debate on the issue. The vice-president of the Agrarian Federation, Elvio Guía weighed in on this issue with a highly emblematic phrase: ‘It is much easier to relocate schools than to change the mode of production’.<sup>11</sup> Is it necessary to free up land for global market use if it comes at the cost of destruction of the already decadent rural life of the country and the intoxication of the territory and its inhabitants and biodiversity?<sup>12</sup> This analysis of resistance and paradigmatic court cases, however, reveals a constant search for possible alternatives, in particular by strengthening agroecology.

This paper will focus on two out of around fifty court rulings on this subject.<sup>13</sup> In general, fumigation cases are brought together against producers who spray in prohibited or unregulated areas and against provincial states for their lack of authority over sprayers. These cases push for changes in current regulations on pesticides and generate more incentives for agroecology. The first case banned spraying around a neighbourhood in a city called San Jorge in Santa Fe Province. The principal characteristics of these cases inspired more judicial actions in similar conflicts as well as to argue for changes in pesticides regulations. And the second case in this paper,

<sup>11</sup> <https://latinta.com.ar/2019/05/entre-rios-insolita-defensa-agrotoxicos/>

<sup>12</sup> There is research on the effects of pesticides on particular ecosystems, for example: Rafael Lajmanovich, María Repetti, Ana P. Cuzziol Boccioni, ... Paola Peltzer, ‘Cocktails of pesticide residues in *Prochilodus lineatus* fish of the Salado River (South America): First record of high concentrations of polar herbicides’, *Science of the Total Environment* **870** (162019) (2023).

<sup>13</sup> This number of judgments is obtained from searches in the most consulted judgment databases in Argentina as well as in the web pages of the courts of some provinces, since not all of them have this information available.

a decade later, changed the scale of the approach taken by involving more than a thousand rural schools in Entre Rios Province. This is the only one case where a province-wide problem was central for judicial action. Both provinces are located in the central part of Argentina where the agricultural frontier has been constantly expanding over the past years and where resistance are being strengthened.

The methodology of this paper is based on tools that correspond to a socio juridical and qualitative approach. The paper looks at the following: (i) regulations from different regulatory spaces, in particular, national and provincial levels; (ii) court rulings; (iii) specific legal doctrine; (iv) expert reports; (v) documents from non-governmental organisations. I combined this first methodological strategy with eight semi-structured interviews with actors who provided relevant data in relation to the problem addressed. I gave special consideration to judges, lawyers, parties to legal cases, members of non-governmental organisations and experts.

## **Section I**

### *The opening case: don't make my daughter sick anymore!*

The notorious 'San Jorge' case took place in a context in which there were social mobilisations in different territories, groups of affected people and non-governmental organisations that, for the last sixteen years, were rallying under the slogan *Paren de Fumigarnos* (Stop Fumigating Us) in the Province of Santa Fe and giving voice to this problem. Similarly, in other provinces, other groups did the same, such as the case of the *Madres de Barrio Ituzaingó* (Mothers of Barrio Ituzaingó) in the city of Córdoba. In 2006 locals began to draw links between the increase in cancer and other illnesses with the exposure to these types of pesticide toxins through popular epidemiology surveys. The local inhabitants tried to relate their own observations with the analyses carried out in different areas of scientific research<sup>14</sup>.

<sup>14</sup> Constanza Rendón et al., '*Saber científico y problemáticas ambientales: un*

Gradually, a series of health professionals, particularly rural doctors, gynaecologists and paediatricians, joined this dispute and provided data that made it possible to associate many of the pathologies that increased year by year with exposure to this type of substance. Four years later, the *Red de Médicxs de Pueblos Fumigados* (Network of Doctors from Fumigated Towns) emerged, who, since 2010, have been meeting periodically in different parts of the country to share knowledge, experiences and data.

At the same time, a number of scientists began to join this network of actors, both from the field of medicine, as in the case of Andrés Carrasco,<sup>15</sup> and from the fields of biology, chemistry, biochemistry, etc., warning about the consequences and environmental impacts of this type of substances.<sup>16</sup> By 2009, the articulation of voices had already made significant progress and the issue began to occupy a space on the agenda of public discussion. Andrés Carrasco's public interviews were particularly important because they allow us to identify two issues. On the one hand, it took the voice of a scientist for the public to start paying attention. Even if some colleagues tried to invalidate his work, his voice was considered valid by many. On the other hand, this reveals the central and hegemonic place that science continues to oc-

*análisis comparativo entre perspectivas científicas y de comunidades locales en regiones sojeras de Argentina*, in Gabriela Merlinsky (ed.), *Cartografías del conflicto ambiental en la Argentina* (Buenos Aires: Fundación CICCUS, 2020); Mariano Starosta and Ulises De La Orden, *Desierto verde. Entrevistas seleccionadas. La investigación para la película sobre producción de alimentos y toxicidad de los agroquímicos* (Buenos Aires: Untref, 2013)

<sup>15</sup> Andrés Carrasco became an emblem in the resistance against pesticides. Shortly after making his research public, he began to work strongly with communities and social organisations committed to the issue. He passed away in 2014 and since then the day of 'Ciencia Digna' is commemorated in tribute to his work every 16 June, his birthday. More information: <http://uccsnal.org/>

<sup>16</sup> The most recent report by a long-established and highly regarded scientist was published in 2021 and seeks to replenish the state of knowledge on pesticide toxicity: Horacio Beldoménico, *Impacto de los plaguicidas en los alimentos, el ambiente y la salud en Argentina. Revisión bibliográfica y propuestas superadoras* (Ciudad de Rafaela Provincia de Santa Fe, 2021): [https://agenciatierraviva.com.ar/wp-content/uploads/2021/12/Informe\\_Plaguicidas\\_11\\_2021.pdf](https://agenciatierraviva.com.ar/wp-content/uploads/2021/12/Informe_Plaguicidas_11_2021.pdf)



copy today, as well as the concomitant invisibility of any other type of knowledge in circulation: experiences, popular epidemiology exercises that proliferate in the territories, ancestral knowledge, etc.

In this context of the increasing public awareness about the agro-toxin contamination, a first legal case arose which, initiated by the concern and actions of a woman from the town of San Jorge, in Santa Fe Province, allowed different social organisations to link up and generate a series of novel legal instances that catalysed the possibility of constructing an alternative to this production model. Around October 2008, Viviana Peralta began to link some of her daughter, Ailén's, health problems to the activities taking place in the fields in front of her home, particularly, the fumigations carried out for the cultivation of soy. She began to associate the recurrent bronchospasms that her daughter has suffered from only five days after she was born with the use of toxic products on the other side of the road in the fields. Her doctor also informed her: 'A pulmonologist from Rosario told me: 99% of it is because of the fumigation, but there is nothing you can do about it. You should ask them to buy you a house in the centre and move. But we built this house with my husband. They do evil, let them go, I don't...' <sup>17</sup>

The need to resist arises, and this resistance extends beyond Viviana, who began to be supported by the neighbours of San Jorge, as well as by the Santa Fe NGO, *Centro de Protección de la Naturaleza* (Centre for the Protection of Nature), a civil association that is a reference point for the *Paren de Fumigarnos* Campaign. <sup>18</sup> Finally, they decided to prosecute the case, which became known as the 'San Jorge case'. This was the first case on the topic, through the presentation of a judicial action (*amparo*), in which the fundamental request was that fumigation be prohibited in this area and moved 800 metres away from the centre of town in the case of land-based fumigation and 1,500 metres away in the case of aerial spraying.

The title of the case file is *Peralta, Viviana against the Municipality*

<sup>17</sup> Interview with Viviana Peralta, 2010.

<sup>18</sup> This organisation, founded in 1977, is one of the first environmental organisations in the country. Website: <https://cepronat.org.ar/>

*of San Jorge and others over amparo* and it was first resolved by the District Court of First Instance N° 11 in Civil, Commercial and Labour matters of the city of San Jorge on 10 June 2009. This court decided to prohibit the fumigations, based on the precautionary principle that was explained at length in the intervening prosecutor's opinion. The role of the prosecutor in this case was very relevant; he expressed what it would mean to start deciding on this type of conflict in which different kinds of interests prevail and require an urgent decision. His commitment went beyond the formal ruling, which is normally made by the prosecutor's office in this type of process, to provide the judge with novel and powerful tools of current environmental law, in particular related to the application of the precautionary principle. In this regard, he outlined a reconstruction of the state of the scientific controversy on pesticides at the time. The defendants – both producers and landowners and the local and provincial state sued for lack of control – appealed the sentence and the case reached Chamber II of the Civil and Commercial Court of Appeals of the city of Santa Fe.

On 9 December 2009, the Chamber decided on the case in a ruling that is considered a leading case in the field. In this ruling, the judges attempted to reconstruct the existing scientific controversy and, in order to be in a better position to decide, requested a report on the toxicity of glyphosate from the National University of Littoral. This is important because it opened a series of judgements on environmental conflicts in which the courts call on universities or the national council for scientific and technical research in order to have better arguments to base such decisions on.<sup>19</sup> In this case, in addition to considering the existing scientific controversy, the judgment of the Court of Appeals made some unprecedented statements on the subject that could open the debate to recognise a diversity of knowledge:

<sup>19</sup> In a previous work, I analysed another leading case in environmental matters in which a university also intervened to rule on the sanitation plan that was being presented in relation to the Matanza Riachuelo Basin. María Valeria Berros, 'Relatos sobre el río, el derecho de la Cuenca Matanza - Riachuelo', *Revista de Derecho Ambiental Universidad de Palermo* 1 (2012): 111–163. Since then, there have been several cases in which universities and/or the national research council have played an important role in legal proceedings.

In addition, and particularly in scientifically controversial cases, it becomes very relevant to consider the 'life stories', the 'experiences', the 'knowledge and know-how' of those who live daily exposed to the risk in question, in this case agrochemicals. It is necessary to revalue common sense because science cannot answer all the questions.<sup>20</sup>

This progressive interpretation of the precautionary principle quickly became a valuable precedent for other cases in which the application of this legal tool is sought. The precautionary principle assumes a central role in cases where the existing scientific controversy requires the strengthening of other knowledge about risks that are not fully understood.<sup>21</sup>

The Chamber redirected the case to the judge of first instance and he re-confirmed the decision. Thus, the concern of a mother, the solidarity of other social groups and the judicial decision adopted meant that, since June 2009, there have been no more fumigations in the place where Viviana, Ailén and their neighbours live.

Since the San Jorge ruling ended, it has 'opened doors' to several relevant aspects of the judicialisation of cases that link the world of law with the world of social mobilisations for the construction of alternatives. These alternatives can be thought of in different ways. Within the San Jorge case, for example, the articulation between the knowledge produced by university researchers is concomitant with the value given to the suffering voices. Beyond San Jorge is a science that is dedicated to working on serious problems suffered by large social groups in different territories. It provides tools for decision-making and does not isolate itself from the voices of those who are affected by a model that does not consider them as anything other than externalities.<sup>22</sup> It is often argued, from an environmental law

<sup>20</sup> Extract from the second instance judgment in the case *Viviana Peralta contra Municipalidad de San Jorge y otros sobre amparo* (9 Dec. 2009)

<sup>21</sup> In Argentina, it is not only relevant for cases of fumigations but also for cases linked to the installation of mobile phone antennas that proliferate year after year and in which popular epidemiology exercises are often carried out by neighbors exposed to the antenna.

<sup>22</sup> Some of these networked scientists created *Unión de científicxs comprometidxs con la sociedad y la naturaleza de América Latina* (Group of Scientists Committed

perspective, that scientific controversies are disputes within the scientific community, supported by its different members. However, in cases such as the one we have briefly tried to outline, the transcendence of other actors ‘outside’ the scientific community becomes visible, which also enriches the controversy, configures discourses that are based on lived experiences, daily observations and their place within the *open-air laboratory* – referring to a ‘laboratory’ as a place in which we are all immersed.<sup>23</sup>

This is the meaning attributed to the case that came about after its ruling. Initially, the court ruling that banned fumigation within 800 metres of towns led to the case being used as an emblem to try to push for reforms to existing laws to prevent fumigation. In the case of Santa Fe, the *Paren de Fumigarnos* Campaign was in charge of carrying out this initiative to modify the law that had been in force since 1995. More than 30,000 signatures were collected after the San Jorge case from all over the province, but the legislators either did not deal with the initiative or it was only approved by the Chamber of Deputies and not by the Senate, depending on the parliamentary year. This happened on several occasions and it has allowed the campaign not only to grow, but also to focus on more aspects, particularly, on the need to have a law that would enforce a transition to a different production system.

Thus, there are multiple strategies, both court cases and social pressure to change existing regulations. First, neighbours and non-governmental organisations seek to replicate the San Jorge case in other towns and provinces to limit the use of pesticides in different areas, which has resulted in near fifty judicial decisions. Second, such judicial decisions will help foster legal reforms, especially since 2009 the number of San Jorge inhabitants that seek medical treatment for illnesses associated with exposure to toxins in pesticides has dropped considerably. However, these proposed reforms are twofold: one is to move away from terrestrial and aerial dispersion in Santa Fe. The other is the collective construction of an alternative way of produc-

to Society and Nature in Latin America): <http://uccsnal.org/>

<sup>23</sup> Callon et al., *Agir dans un monde incertain*.

ing crops without the use of pesticides, is central. This is the state of the struggle of the *Parentes de Fumigarnos* Campaign in Santa Fe today: it is not only a question of banning aerial spraying and moving away from ground spraying. This necessary reform is only one part of a longer path: agro ecology that allows for food sovereignty.

## **Section II**

*A change of scale: stop spraying on our children in rural schools!*

More and more cases like San Jorge have been occurring in recent decades. Other provinces such as Buenos Aires, Chaco, Corrientes, Entre Ríos, Córdoba, have seen their jurisprudence on this issue grow. However, over the last few years, one case has gained special attention due to its scale. The rural schools' case is much larger than the San Jorge case, in this case more than a thousand rural schools scattered throughout the territory of the province of Entre Ríos were affected by pesticide dispersion.

In several provinces of Argentina, many schools exist in rural areas and ensure the right to education for children living in non-urban areas. Although fewer and fewer people live in the countryside, largely due to major changes in commodity production, these institutions have strong social roots and remain open even if there is only a small group of students or even just a single student. The province of Entre Ríos has a total of 1,024 such schools throughout its territory and these schools had no protection against fumigation. On the contrary, there was a legal vacuum that allowed spraying on or very close to the schools, even during school hours.

In response to this situation, the NGO *Foro Ecologista* de Paraná and the Teachers' Trade Association of Entre Ríos Province (AGMER) brought a judicial action that requested the setup of a 1,000-metre strip around rural schools that would remain free from agro-toxins for ground spraying and a 3,000 metre area free from aerial spraying, the establishment of a vegetation barrier as a buffer zone around each school, the implementation of a system of epi-

demiological surveillance of children, teenagers, teachers and non-teaching staff attending rural schools by means of blood, urine and genetic tests and an analysis of rainwater and water used for student consumption by the Provincial Water Agency.

More than a thousand schools which, by this decision, are surrounded by a protected area is equivalent to several hectares of land, and the criticism, pressure and media coverage were not welcoming. One phrase sums up the repercussions: *It is much easier to relocate schools than to change the mode of production.*<sup>24</sup> In other words: these are territories of sacrifice.

On 1 October 2018 the Vocal of the Second Chamber of Civil and Commercial Justice in Paraná prohibited land spraying with agro-toxins within the vicinity of 1000 metres and aerial spraying within 3000 thousand metres around rural educational institutions. The risks faced by the population subjected to this type of spraying played a central role in the judgement and, through the precautionary principle, the judge adopted a protective decision. The judge also urged the Provincial State's relevant departments to carry out studies that would allow for the delineation of objective guidelines regarding the rational use of chemicals and agrochemicals based on the prevention of damage and the determination of the current state of contamination. In other words, the judge emphasises in better understand not only the risk but also the causal links between pesticides and human health as well as the biodiversity of the area covered by the case. Finally, the judge banned the Provincial State and the General Council of Education to proceed within a period of two years to implement plant barriers at a distance of 150 metres from all rural schools in the province.

The Provincial government decided to issue Decree No. 4407/2018 that establishes a substantially smaller distance for the spraying of pesticides: one hundred metres for land spraying with agro-toxins around rural schools and five hundred metres in the case of aerial spraying. The drafting of this decree took place in the context of countless demands, mobilisations and protests by the agri-

<sup>24</sup> Vice-president of the Agrarian Federation, Elvio Guía.

**Figure 1. 'Ronda de los martes'. Photos: Aldana Sasia.**



cultural sector, which was constantly fought back by social organisations and the teachers' trade union in Entre Ríos. Perhaps the two most eloquent images of this situation are the images of the road-blocks and protests encouraged by some groups of producers and the so-called 'Ronda de los Martes' (Tuesday Rounds) – inspired by the 'Ronda de las Madres' – around the Government House.<sup>25</sup> The latter was organised by the *Coordinadora por una Vida sin Agrotóxicos* (Coordinating Committee for a Life without Agro-Toxic) in Paraná, the main city of Entre Ríos Province, even before this case was brought to court. They argued for a new law on pesticides for the province that is currently being debated and has generated a series of public hearings and discussions within the provincial legislature.

<sup>25</sup> The 'Round of the Mothers' has been going on uninterruptedly since 1977, during the military dictatorship, they meet every Thursday at 15:30 in the Plaza de Mayo around the pyramid in the centre of the square. This round was organised by mothers who did not know the whereabouts of their children, many of whom were murdered and disappeared during that period. They wear white scarves on their heads, a symbol with which they have identified themselves over the years to claim the fate of their disappeared children. The headscarf as a symbol of struggle has also inspired other struggles such as the campaign for legal, safe and free abortion, which since 2005 has been fighting for these rights finally achieved in December 2020. In this case, the symbol is a green handkerchief.

Under these new circumstances, the *Foro Ecologista* de Paraná and the Teachers' Trade Association of Entre Ríos are once again filing a judicial action. In this case, they have requested that the provincial decree be declared null. During this second process, in the first instance, the Third Chamber of the Second Civil and Commercial Court intervened, which partially admitted the claim and sentenced the partial nullity of the decree – Articles 1 and 2, which determine the spraying distances – considering it unconstitutional for violating *res judicata* because it did not respect the normative standard derived from the previous sentence.

The judicial process continues and following a declaration of non-jurisdiction by the Supreme Court of Justice of the Nation, a claim has been presented to the Inter-American Court of Justice. This case is the first one that, by increasing the scale, has brought the agricultural production model into a more central discussion. The public debate focused not only on the fumigations in schools but also on the need to think about alternatives to the production model based on the cultivation of genetically modified seeds and the associated use of agrochemicals. Thus, some agroecological proposals are beginning to win more attention and visibility.

At the same time, it has made the social actors involved in this issue and their power relations more visible. The use of the law appears, in this context, as a possible option that allows claims to be exposed. However, judicial decisions in favour of stopping fumigations in certain territorial scopes generate a map with 'islands' but do not modify the grounding issue.

## **Concluding Remarks. The Strategic Uses of Law**

Could these court rulings be considered a watershed moment? This question is not new and has been well observed by those who conduct research on the most varied topics in the legal field.<sup>26</sup> Judi-

<sup>26</sup> Hermitte, *Le droit saisi au vif*.



cial decisions can operate as indications of the discussions and opinions of a historical moment: the first environmental rulings allow us to review the social construction of a problem that is beginning to occupy courts and tribunals.

Special judgments defining certain socio-environmental conflicts can be seen as scars. In what sense? Something remains in the skin after the wound is closed. Although the wounds and conflicts, are not closed with a judicial sentence, it is true that this decision and the work that precedes and follows it leave something that still remains: a new approach to the issues, a different way of incorporating and understanding the evidence, a critical perspective on the relationships of cause and effect and a reflection on the voices that are valid and should also be valid in a judicial process. The contribution of legal studies must assume this responsibility: the tools of law need to be improved to address environmental injustices.

Pesticide court stories are not only enabling people and ecosystems to protect themselves from spraying but also introducing new ways of thinking about the problem of risks and causality in the judicial space. At the same time, for now it is the privileged space in Argentina to resist and to fight for the right to a healthy environment and the protection of ecosystems as the country's economic livelihood continues to be based primarily on commodity exports.

Rachel Carson wrote *A Fable for Tomorrow* Silent Spring in 1962, the book begins:

Then a strange blight crept over the area and everything began to change. Some evil spell had settled on the community: mysterious maladies swept the flocks of chickens; the cattle and sheep sickened and died. Everywhere was a shadow of death. The farmers spoke of much illness among their families. In the town the doctors had become more and more puzzled by new kinds of sickness appearing among their patients. There had been several sudden and unexplained deaths, not only among adults but even among children, who would be stricken suddenly while at play and die within a few hours. There was a strange stillness. The birds, for example – where had they gone?<sup>27</sup>

Sixty years later her words may well describe what has been hap-

<sup>27</sup> Rachel Carson, *Primavera Silenciosa* (Barcelona: Drakontos, 2010).

pening in a large part of Argentina over the last few decades. After decades of out-of-control fumigations, we could perhaps rewrite this fable by incorporating a detail, among the deaths, diseases, disappearance of animals and destruction of the soil there is also another element: resistance inspired by the search for environmental justice.

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