



American Model United Nations
ICJ

International Court of Justice

IN THE
INTERNATIONAL COURT OF JUSTICE
OF THE
AMERICAN MODEL UNITED NATIONS

Ecuador
v.
Colombia

Argued: 22 November 2010
Decided: 23 November 2010

The Majority opinion was signed by and agreed to by Justice Caro, Justice Nelson, Justice Sideras, Justice Schneider, Justice Berman, Justice West, Justice Van Sant, Justice Whitlock, Justice Barclay, Justice Gideon, and Justice Augustynowicz.

Justices Nace and Kildahl participated in deliberations on this case, but did not join an opinion on this case.

The court finds that it has jurisdiction in the case of Ecuador v. Colombia due to the dispute contained within the Convention on Biological Diversity (hereafter referred to as CBD) as found in Article 5 which states that states shall ‘as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.’ Finding that the CBD is in dispute, the Treaty of Bogotá, states that the said parties have not achieved an adequate solution. Such attempts at negotiations have broken down by both parties refusal to cooperate. Under Article XXXII of the Treaty of Bogotá, arbitration has not occurred; therefore, said parties are entitled to seek recourse before the International Court of Justice. The Court refutes Colombia’s assertion that this dispute should be resolved through the Organization of American States, due to the fact that the claim of the involvement of the United States in “Plan Colombia” is not sufficient to eliminate the Court’s jurisdiction.

The Court recognizes the fact that all states retain sovereignty and must respect the sovereignty of other states. The issue at hand is one of state sovereignty. Colombia has a sovereign right to attempt to eradicate drug production within their own country. Ecuador

asserts that these actions are infringing on their sovereignty by negatively affecting the environment of the border region between Ecuador and Colombia. Ecuador claims that Colombia's actions violate their obligations under the CBD. Colombia asserts that the importance of eradicating drug trafficking, as stated in the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereafter known as the UN Drug Convention), is more important than the environmental impact on the region. The Court refutes Colombia's position.

Although the negative health effects on people and animals are inconclusive, the negative effect of the herbicide on plant life is undisputed. Due to the fact of prevailing wind patterns in the region it is clear that the herbicides are affecting Ecuadorian land. The Court finds that the known environmental degradation caused by Colombia's aerial spraying of herbicides intrinsically violates the sovereignty of Ecuadorian land. Colombia's argument regarding the need to limit drug trafficking is acceptable only within Colombia's borders, but when the aerial herbicide spreads into regions of Ecuador it is a violation of Ecuador's state sovereignty.

The Court encourages the drafting of an international standard for the use of aerial herbicide spraying in border regions.

The Order of the Court is as follows:

The Court requests a study conducted by the World Health Organization (hereafter known as WHO) regarding the short and long term effects on the health of humans and animals by glyphosate with POEA and Cosmoflux 411F as well as the additive surfactant polyethoxylated tallowamine.

The Court orders an injunction of Colombia's aerial herbicide spraying within ten kilometers of the Colombian and Ecuadorian border until a conclusive finding can be made by the WHO.

The Court orders Colombia to pay reparations for any damages incurred from the aerial herbicide spraying.

The Court requests an investigation into the appropriate amount of these reparations taking into consideration aforementioned WHO studies.

Justice Barclay

Justice Caro

Justice Sideras

Justice Berman

Justice Schneider

Justice West

Justice Van Sant

Justice Whitlock

Justice Gideon

Justice Nelson

The Concurring and Dissenting Opinion of Justice Manetta and Justice Augustynowicz

WE are in concurrence with the ruling of jurisdiction and opinion of the court and with respect to the order of the court. We feel the court neglected to consider ecological impacts resulting from the industrial production of coca and poppy.

Although the report by the environmental and human health assessment of the aerial spray program for coca and poppy control in Columbia could be seen as biased and the statistical data be called into doubt. IT raises an important point of the impact of “uncontrolled and unplanned clearing of pristine lands in ecologically important areas for the purpose of planting the crop”.

One must look at the ecological impact of the coca and poppy production in comparison to the aerial spray. The clearing and burning of pristine lands by the coca and poppy producers’ impact the ecological biodiversity more than the aerial spraying as explained in CICAD.

WE are critical of the 10km spray ban because it would create a temporary safe haven within the buffer zone that is untouchable by aerial spraying. This would encourage the poppy and coca producers to deforest this area for production purposes.

While it is not feasible at this time to determine the correct spraying ban distance to avoid over spray we feel the negative ecological impact of the aerial spraying do not outweigh the damages created by the uncontrolled production of coca and poppy. These impacts include clearing and churning of the pristine rainforest, the planting of the coca and poppy, the fertilization process, unmonitored pesticide use, and the highly dangerous processing of the drugs. The global impact of this industry has more potential damage to both the ecology and society.

Colombia has fulfilled both requirements of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic substances, and the Convention on Biological Diversity by continuing their aggressive stance against drugs.

Justice Augustynowicz

Justice Manetta
