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CC Sheree Bega, Mail and Guardian

29 November 2024

**Re: Complaint: Palesa's Brave Discovery. Demand that it be withdrawn.**

We write to you on behalf of the South African People's Tribunal on Agrottoxins (SAPToA) to alert you to the fact that we are in the process of submitting a complaint to the National Consumer's Commission and the Human Rights Commission about the joint publication of Food for Mzansi and Croplife: *Palesa's Brave Discovery*. We are demanding that this publication be retracted and not distributed.

We are aware that there is a plan to roll this campaign out next week in Gauteng through AIP. We are of the strong opinion that the booklet contains false and misleading information and represents a disingenuous and sleight-of-hand attempt by CropLife to pass the buck for stewardship of their toxic and hazardous products, many of which should have been banned by June this year, on to children. This has shocked and disgusted us to our core.

We demand that this disinformation and misinformation, which is essentially covert marketing material aimed at children, not be disseminated. This comic is published in a context where the South African government has declared that it will phase out highly hazardous pesticides in classes 1a and 1b according to the Globally Harmonised System (GHS) categorization. As reported by Amabhungane, industry is fighting to keep many of its products from being phased out. 'Palesa' should not be bravely fighting hazardous products that have no place in our society or be brought into CropLife's strategic efforts by a marketing ploy that also serves to deflect attention from its lethal products.

Please see the preliminary elements of our complaint below.

### **Responsibility for proper stewardship & regulation of highly hazardous substances**

Children should not be worrying about dying from poisoning when they eat. It is the responsibility of the government to ensure that deadly products are banned and/or robustly regulated and enforce regulations on these highly dangerous substances. It is the responsibility of the chemical industry to ensure the safe management of their substances from cradle to grave and certainly not the most vulnerable of our society: children.

To place any such responsibility on children is unacceptable and we reject this out of hand. Since the announcement of the Naledi tragedy, in which Terbufos claimed the lives of 6 children, CropLife has sought to blame foreigners and spaza owners. Now it is going further and putting unacceptable and egregious responsibility onto children.

In 2023 the UN Special Rapporteur on Human Rights and Toxins, Dr Marcus Orellana, visited South Africa. He released a [report](#) in which he raised the alarm about street pesticides, as well as the continued use of highly hazardous pesticides (HHPs). Orellana also raised concerns about the corporate capture of South Africa's regulatory system, saying,

*"I have examined reports that reflect the extent of the agrochemical industry's influence on information and standard setting. For example, while the government does not have a publicly available list of registered pesticides, CropLife, an industry association, has an online database for purchase. Not even other Government departments, such as the Department of Forestry, Fisheries and Environment, has free access to the list of registered pesticides. Similarly, I have received information that consultants not registered with the South African Council for Natural Scientific Professions have been involved in the preparation of applications for the registration of agricultural pesticides, in open breach of the Natural Scientific Professions Act, 2003."*

In a tragically prescient statement, Dr Orellana warned that such regulatory failures tend to impact the most marginalised in society, as tragically illustrated in this case.

### **Naledi tragedy in context - Profits at any cost**

On 14 April 2022, the Registrar of Act 36 of 1947<sup>1</sup>, Mr. M. Mudzunga, announced his intent to phase out active ingredients and formulations that meet the criteria of carcinogenicity, mutagenicity, and reproductive toxicity (CMR) categories 1A or 1B for the Globally Harmonised System (GHS) of classification and labeling<sup>2</sup>. According to the new

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<sup>1</sup> the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act

<sup>2</sup> Phase out of Active Ingredients and Formulations notice

<https://www.dalrrd.gov.za/images/Branches/AgricProducHealthFoodSafety/InspQuarantineServ/AgricIn>

regulations, products that meet these criteria will not have their registrations renewed as of June 2024.

Mr Mudzunga confirmed that industry is pushing back on this development, commenting in the Daily Maverick, “Getting rid of or prohibiting or banning certain products, of course, [the industry] is not going to be happy. I don’t think you will also be happy that, in the future, you can’t sell a certain category of products.”

There are currently about 184 registered HHPs in South Africa – that are legally used and deployed in many different brands. The registrar phased out only 28 HHPs in June. Additionally, some acutely toxic pesticides in Class 1a and 1b, which includes Terbufos, were only categorised as being restricted, along with those listed in the international agreements – the Stockholm Convention, the Rotterdam Convention, and the Montreal Protocol. The Registrar also created a loophole for industry to continue to use the banned HHPs, by gazetting a ‘derogations’ application process for companies to apply to continue using these products under certain circumstances.

Amabungane published an [in-depth report](#) on 30 October 2024 on just how hard the industry is fighting to keep its products from being phased out. Amabhungane reported that in addition to 61 products that companies are defending through the derogation process, companies have launched a parallel (behind closed doors) process to have 54 products reclassified from, for instance, 1B: *presumed* carcinogen to 2: *suspected* carcinogen.

Terbufos is classified by the World Health Organisation (WHO) as an extremely hazardous class 1a organophosphate pesticide and cholinesterase inhibitor. Terbufos is recognised and listed by the Rotterdam Convention as a hazardous chemical requiring prior Informed consent from parties to the Convention. It has been banned for use in the European Union (EU) since 2009. Terbufos has been banned in the Southern African Development Community (SADC) by Angola, Comoros, the Democratic Republic of the Congo, Madagascar, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, Tanzania, and Zambia. Botswana’s ban will come into effect on the 1<sup>st</sup> December. Zimbabwe has not imported any Terbufos since 2002.

However, even the highly publicised death of the children who ingested this chemical has not convinced the South African government to ban it, or the industry to voluntarily withdraw it from the market. Instead, we see CropLife’s absurd and macabre marketing - a comic book, aimed at children in low-resource areas, on how to avoid being poisoned.

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[putsControl/GazetteNotices/Phase%20Out%20of%20Active%20Ingredients%20and%20Formulations%20that%20meet%20the%20criteria%20of%20carcinogenicity.-1.pdf](#)

### **Regulate upstream to stop poisoning**

In July 2023, the United Nations Special Rapporteur on Human Rights and Toxins, Dr Marcus Orellana raised the alarm about highly hazardous pesticides and street pesticides. He rightly laid the blame for deaths and illnesses at the door of the government and further found that the chemical industry has too much influence in the registration and regulation of chemicals. He reported the following:

*Despite the scientific evidence of their harms and the fact that they cannot be safely used, many highly hazardous pesticides are still legal and in use in South Africa. In 2022, there were 34 reported cases of poisoning and 5 deaths in Gauteng caused by an organophosphate, likely Terbufos. Paraquat is another example of a pesticide that is widely available and responsible for serious health impacts and deaths. These two pesticides, amongst many others, are banned in the European Union.*

We contend that if we truly want to stop poisoning our children, and community members, we have to turn the tap off at the source, i.e. follow best international practice and ban Highly Hazardous pesticides. Of course, CropLife sees how such a course of action would damage its bottom line and is trying by every means to place responsibility anywhere but on itself, stooping so low as to target children: the very population group that is the most vulnerable to pesticide poisoning.

*Palesa's Brave Discovery* is an attempted distraction from the real issue at hand: CropLife must start accepting that its products will be phased out and limited. As the public, we are not concerned about their bottom line; we are concerned about our health and safety and our right to a healthy environment.

### **Pesticides are a danger to other vulnerable communities**

Dr Orellana exhorted the South African government to “redouble its efforts to tackle the crude legacy of pre-1994 environmental racism”. He noted in his [statement](#) issued at the end of his official visit that, “To this day, the legacy of pervasive air, water, and chemical pollution disproportionately impacts marginalised and poor communities.”

While we have seen that these highly hazardous pesticides are a scourge in low-resource communities struggling with pest infestations, another highly vulnerable section of society – farm workers – are forced to work with these chemicals daily, with very little oversight and protection of their health, their rights and their dignity. Terbufos is listed for agricultural use, and this is where CropLife's profits lie. This legal use of their product is as dangerous as the illicit use in townships. Despite CropLife's assertion that their products magically become safe when used according to their labels, the lived reality of members of our coalition can attest to the fact that no amount of labelling can make a

hazardous substance safe, and there is no ideal setting in which it can be safely deployed.

### **Marketing to children**

This booklet is not a public health information exercise. It is a marketing and public exonerating exercise aimed at further normalizing products that should be banned. It is full of misinformation, (which will form the subject matter of our complaint) which is further unacceptably targeted at children.

For example, the story tells us that, "They began to "understand that the sickness wasn't actually from a pesticide – it was from a poison that was being sold without regulation."

This implies that their pesticide is not a poison; it only becomes a poison when it is illegally sold. This is absurd marketing speak with no basis. It is even more absurd when it is referencing a substance that has been banned in the European Union and the whole of the Southern Africa Development Community.

Furthermore, [data](#) collected by the Poison Information Centre makes it clear that children are being poisoned by both legal *and* street pesticides at an alarming rate. At the Red Cross Children's Hospital, 10% of general poisoning cases were linked to pesticides. Of that 10%, a third were caused by organophosphates, a third by anticoagulant rodenticides that contain chemicals like brodifacoum, and a third by unidentified chemicals<sup>3</sup>.

The South African Peoples Tribunal is deeply disturbed by this marketing material and we demand that it is withdrawn and not circulated in any form. Our complaint in its entirety will be laid out to the National Consumer Commission.

### **Demands**

The South African People's Tribunal on AgroToxins demands that Palesa's Brave Discovery be withdrawn from the public domain for the reasons laid out above.

We demand that AIP desist from publicizing this marketing material through its various channels, including community radio and community newspapers.

Sincerely

Haidee Swanby

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<sup>3</sup> **Chemicals and pesticides could be behind Gauteng's surge in food poisoning**

<https://www.news24.com/news24/southafrica/news/chemicals-and-pesticides-could-be-behind-gautengs-surge-in-food-poisoning-20240909>