

Campaign to Stop Killer Coke

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Coca-Cola Denies All Responsibility; ILRF, Colombian Unionists Respond

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Coca-Cola is rightfully concerned about its reputation in light of the International Labor Rights Fund's ongoing litigation and growing consumer awareness of the serious human rights abuses it tolerates and encourages at its bottling plants in Colombia. The company has been aggressively denying the Colombians' assertions both on its website and in replies to letters from concerned consumers and students. Now, it's our turn to respond.

Coca-Cola claims that its bottlers and its Colombian employees are simply caught in the crossfire of a civil war that has been raging for nearly 40 years. Certainly, there is no doubt that Colombia is, as a general matter, a dangerous country where violence and brutality are daily occurrences. However, there is strong evidence that Coca-Cola bottlers are not the innocent victims of civil strife, but have, in fact, been using the civil war as a pretext to attack trade unionists at their bottling plants. Consider the following facts:

- As reported in the respected magazine *Cambio* (partly run by Nobel Prize-winning author Gabriel Garcia Marquez), when Coca-Cola's chief bottler in Colombia, Panamco, was experiencing problems with a rogue paramilitary operation that was attempting to levy taxes against it in order to be permitted to transport product, Panamco was able to solve the problem very quickly. How? High-ranking corporate officials met with Carlos Castano, the founder and leader of the largest paramilitary group, the AUC — designated as a "terrorist group" by the U.S. State Department — to ask that he order the rogue paramilitary group to stop this extortion racket. Castano predictably complied, explaining to the rogue group that it was the paramilitaries' job to *protect* capital, not to interfere with it. The extortion then stopped.
- In keeping with the paramilitaries' avowed aim of protecting corporate interests in Colombia, paramilitary leaders freely admitted to Steven Dudley, a reporter for National Public Radio, that they maintain bases at *all* of the Coca-Cola bottling facilities in Colombia in order to "protect them." While ostensibly there to guard the facilities against left-wing insurgents, the paramilitaries, as is their stated goal, are also there to prevent and/or interfere with trade union activities. And, the paramilitaries are doing so with aid of a number of the bottlers.
- A number of Coca-Cola bottler employees have witnessed management personnel meeting with known paramilitary leaders inside the bottling plants. Indeed, in October of 2002, employees witnessed a meeting between management at Panamco's Barrancabermeja plant and the paramilitaries. At this meeting, managers REYNALDO GONZALEZ and MARTHA YANETH ORDUZ met with known paramilitaries, including Saul Rincon. According to a union witness, when Gonzalez was confronted and asked to confirm whether the individuals

he was meeting with were indeed paramilitaries, he replied, "Yes, they are paramilitaries, and members of an association. Why don't you ask them?" Rincon later appeared at the company and told a union leader that Gonzalez, the company official, had asked for him. As late as March of 2003, known paramilitary leaders have been seen freely entering the Barrancabermeja facility.

- To this day, at least one official of Panamco, JOHN ORDONEZ, makes monthly payments, on the 28th of each month, to paramilitary leaders in Cucuta.
- On January 13, 2003, paramilitary forces publicly announced that they intended to kill members of SINALTRAINAL because they were interfering with the business of the Coca-Cola bottler at the Barranquilla facility. These paramilitaries specified that they were following instructions from management.
- In its denials, Coca-Cola says nothing about the allegation that its bottler, Panamco, brought false criminal charges against five SINALTRAINAL leaders in Bucaramanga, leading to the arrest of three of the leaders and their incarceration for six months in some of the worst prisons in the world. These charges were ultimately dismissed by local prosecutors, one of whom opined that the charges were brought to undermine the union. It is not surprising that Coca-Cola fails to even mention this allegation, given the fact that it is a matter of public record in Colombia and is therefore undeniable. Moreover, Panamco is in the process of repeating this very same human rights offense, having brought criminal charges against all the plaintiffs in the Coca-Cola lawsuit within days of its filing in Florida. Again, this is a matter of public record. Both Coca-Cola and Panamco have admitted on the record to these baseless charges being filed.
- Finally, Coca-Cola attempts to defend its bottlers by claiming that human rights allegations against them have been investigated, but dismissed, by Colombian authorities. This is hardly a defense. As our own U.S. State Department concluded in its most recent (March 31, 2003) human rights report, impunity for human rights abuses remains the greatest human rights problem in Colombia. In this same report, the department notes that, out of more than 4,000 cases of trade union assassinations in Colombia, only a handful have been successfully prosecuted by government authorities, many of whom are coerced into silence by the very paramilitary groups that carried out the killings.

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The complete texts of legal briefs submitted by the International Labor Rights Fund can be viewed at www.laborrights.org. Below are excerpts that relate to specific points made in the summary above.

I. Gil First Amended Complaint

*In 1995, "[t]he management of Bebidas y Alimentos permitted . . . paramilitary forces to appear within the plant" in Carepa to threaten employees, upon threat of physical harm, to resign from the union or to flee Carepa altogether (§43). In June of 1995, "the managment of Bebidas y Alimentos hired members of the paramilitaries . . . into the sales and production departments" of the Carepa plant (§44).

*At the end of 1995, Plant Manager Ariosto Mosquera, who was hired by Defendants Richard Kirby and Richard Kirby Keilland, began meeting with the paramilitaries in Carepa and they entered into "a specific agreement to drive the Union out of the Coke bottling plant using threats of violence, and if required, actual violence." (§§45-46).

*"The paramilitaries that Mosquera conspired with were functioning openly in Carepa, and were supported by and received cooperation from the military and police forces in the area such that the paramilitaries were in a symbiotic relationship with the military and the police forces in the area." (§46).

*"In furtherance of their conspiracy with Mosquera ... the paramilitaries" made threats of violence, including assassination, against SINALTRAINAL members and leaders (§47). Throughout 1996, Plant Manager Mosquera provided the paramilitaries with Coke products for their parties. The paramilitaries were also given free access to the Coke bottling plant, where they frequently appeared and intimidated the employees (§48).

*At the outset of 1996, the new leadership of SINALTRAINAL and Bebidas y Alimentos began negotiating a new labor agreement. A key aspect of these negotiations included SINALTRAINAL's proposals for increased security for threatened trade unionists and a cessation of Manager Mosquera's threats against the union as well as his collusion with the paramilitaries. Defendant Richard Kirby Keilland personally participated in these negotiations on behalf of Bebidas y Alimentos and he flatly refused the Union's requests in this regard. Through Richard Kirby Keilland, Defendant Kirby and employees of Defendant Coke Colombia were informed of Mosquera's threats against the union as well as his collusion with the paramilitaries (§49).

*By letter to Bebidas y Alimentos Manager Mosquera dated September 27, 1996, national leaders of SINALTRAINAL accused Mosquera of working with the paramilitaries to destroy the union, and they urged that Bebidas y Alimentos ensure the security of the workers in the Carepa plant in the face of the paramilitary threats. Copies of this letter were contemporaneously sent to Coke Colombia, and other Coke bottlers in Colombia, including Panamco (§51 and Ex. B).

*On December 5, 1996, two paramilitaries murdered Isidro Gil, a key negotiator for SINALTRAINAL in the contentious negotiations for the labor agreement with Bebidas y Alimentos, as he stood in the entrance of the Bebidas y Alimentos plant (§53). In murdering Mr. Gil, these paramilitaries were acting pursuant to the conspiracy with the manager of Bebidas y Alimentos, Ariosto Mosquera (Id.).

*On December 7, 1996, in furtherance of the previously alleged conspiracy with the manager of Bebidas y Alimentos, Mosquera, the paramilitaries appeared at the Bebidas y Alimentos plant (§55). They assembled the workers and told them that Bebidas y Alimentos did not want the SINALTRAINAL union at the plant and that they had the option of either resigning from the union or leaving Carepa altogether lest they be killed like their colleague, Isidro Gil. The paramilitaries then proceeded to direct the workers into the manager's office to sign resignation forms which were prepared by Mosquera and other staff of Defendant Bebidas y Alimentos (See, Ex. C).

*The paramilitaries were later paid remuneration by Bebidas y Alimentos for these actions in carrying out their conspiracy with Mosquera (§58).

*In 1997, Peggy Ann Keilland took over as Manager and quickly rid the plant of the paramilitaries (§60).

II. Garcia Complaint

*During 1992 contract negotiations, Panamco Colombia (Bucaramanga) manager Jose Castro expressed his opinion that SINALTRAINAL's labor demands were supported by the guerillas and that the unionists were themselves guerillas (§32).

*After a 5-day strike in 1996 led by Plaintiffs, who were members of the local SINALTRAINAL executive board, Panamco Chief of Security Jose Alejo Aponte falsely told authorities that the Plaintiffs had planted a bomb in the Bucaramanga plant (§33-34). In response to this allegation and pursuant to a specific conspiracy with Chief of Security Aponte to unlawfully arrest and detain Plaintiffs, local police

entered the plant and arrested Plaintiffs while they were working (§34-35). In the process of arresting Plaintiff Jose Domingo Flores, and in furtherance of this conspiracy designed to rid Panamco Colombia of the union in Bucaramanga, the police brutally beat Flores and threatened to kill him at gunpoint (§36).

*The official papers show that criminal charges were pressed against Plaintiffs by "Coca Cola Embotelladora Santander," the official name of the Panamco Colombia operation in Bucaramanga (§37,41,42). As a result of these charges, which the arresting officers knew to be fabricated, Plaintiffs were imprisoned for 6 months in filthy, overcrowded cells (§37-38). Plaintiffs Luis Eduardo Garcia and Jose Domingo Flores were confined to the highest security zone of the prison which was controlled by paramilitaries (§40). Garcia and Flores were forced to conform to the rules set by the paramilitaries upon threat of being beaten or killed (§40).

*The Regional Prosecutor ultimately dismissed the charges brought by Panamco Colombia against the Plaintiffs as frivolous, having found that there was not even a bomb in the plant as Aponte had claimed (§41).

III. Leal Complaint

*In response to the union activities of SINALTRAINAL and Plaintiff Jorge Humberto Leal in 2000 -- including demands to improve security for employees in light of threats being made by paramilitaries in the region -- Panamco Colombia managers in Cucuta, including Chief of Security Guillermo Galinda and Manager of Human Resources Cesar Acuna, began publicly denouncing SINALTRAINAL and its leaders as "subversives." (§36-37). These same Panamco Colombia managers permitted AUC bulletins to be posted inside the plant (§37).

*Also in 2000, Panamco Colombia sales supervisor John Ordonez, began to pay forces of the AUC paramilitary group \$200,000 (Colombian pesos) a month in return for their intimidation of SINALTRAINAL leaders and the eradication of the SINALTRAINAL union (§38). To this day, John Ordonez meets with AUC leaders every 28th of the month to pay them for such services (Id.).

*Shortly after Plaintiff Leal and 4 other union leaders held a public demonstration in front of the Panamco Colombia bottling facility in Cucuta, Leal was forcefully abducted by individuals, identifying themselves as members of the AUC, on his way home from work (§39-41). These individuals, who linked their abduction of Leal to his union activities, including his participation in the aforesaid demonstration, bound Leal's hands, threatened Leal with death if he persisted his union activities, and physically and psychologically tortured Leal for a period of 24 hours (§41-43). These individuals carried out this kidnapping, detention and torture of Leal pursuant to the conspiracy to rid Panamco Colombia of the SINALTRAINAL union -- a conspiracy entered into between the AUC and Panamco Colombia sales manager John Ordonez (§45).

IV. Galvis Complaint

*In 1998, during negotiations between Panamco and SINALTRAINAL, Panamco Colombia management permitted an AUC leader onto the premises of the bottling facility (§36). Omar Godoy, labor negotiator for Panamco, threatened the SINALTRAINAL leaders that if there was a problem with the trade unionists, the AUC was available to "finish them." (Id.).

*Panamco Colombia management in Barrancabermeja, including Reinaldo Gonzalez Buenaventura, openly meet with the AUC leaders in the region, including Alex Pristo, and openly provide Coca-Cola products to AUC forces for their celebrations and demonstrations (§35). Panamco Colombia manager Reinaldo Gonzalez and AUC leader Alex Pristo have entered into a conspiracy to rid Panamco Colombia of the SINALTRAINAL union (§42).

*Pursuant to this conspiracy, AUC leaders and armed gunmen, including Alex Pristo, have been permitted to enter the bottling facility for various purposes, including leaving written threats for SINALTRAINAL leaders, such as Plaintiff Juan Carlos Galvis, the President of the local SINALTRAINAL union (¶ 35-37, 39). Such threats have been made against Galvis by the AUC in the plant at various times, including in June of 2000 (¶39). In addition, on August 3, 2001, 4 armed men identifying themselves as AUC combatants stopped Plaintiff and his wife and threatened them with physical harm (¶40). On August 18, 2001, the name of Plaintiff Galvis, who was listed as a SINALTRAINAL member, appeared on an AUC "hit list" published in a local newspaper (¶40). The AUC, pursuant to its conspiracy with Panamco Manager Reinaldo Gonzalez, have made numerous death threats to Galvis over the phone, in writing and in person (¶39). Specifically, the AUC has threatened that if Galvis does not stop he union activities and leave Coca-Cola, he will be killed (¶39).

*According to the Human Rights Division of the Colombian Ministry of the Interior, Galvis is in imminent danger of being assassinated by the AUC (¶41). As a result of the above threats and the danger presented by them, Plaintiff Galvis has been forced to flee his home and family and go into hiding (¶41). See, Wiwa v. Royal Dutch Petroleum Company, 2002 Westlaw 319887 (2002) (noting that "numerous instruments support the proposition that forced exile violates international law," the court finds that plaintiffs stated a claim under the ATCA by alleging that they were forced into exile by the conduct of the defendants.

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For further information on the lawsuit, contact:

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