

**LAW STUDENTS FOR ECONOMIC JUSTICE**  
**NEW YORK UNIVERSITY SCHOOL OF LAW**

## **Why the Coke Ban Should Remain in Effect**

In December 2005, NYU joined a number of other campuses in banning Coke products from sale on campus due to the human rights abuses and assassinations of Colombian workers. Recently the Washington Square News reported that some administration officials believe it is time for the University Senate lift the ban, citing a willingness on Coke's part to allow an investigation by the International Labor Organization (ILO).<sup>i</sup> The Public Affairs Committee of the University Senate is currently considering a proposal on the issue, and the Senate may vote as early as April.

**The bottom line is that Coke's purported willingness to allow an investigation is a pretext to justify lifting the ban. Coke has not agreed to an independent investigation. More importantly, they have not changed their policies in Colombia. At the very least, NYU should await unequivocal evidence that Coke has met the terms of NYU's 2005 resolution before considering lifting the ban.**

1. Coke's proposed investigation would not be independent, and is unlikely to be a full investigation.

The NYU resolution to ban the sale of Coke products "demanded an independent investigation into allegations of the Coca-Cola Company's complicity in human rights violations" in Colombia.<sup>ii</sup> "Independent" must mean free from the company's influence—if independence is to mean anything, the party being investigated cannot itself be part of conducting the investigation and reporting the results. For several reasons, the ILO is not in a position to act as an independent investigator:

- (1) Coke's Director of Global Relations Ed Potter has held the powerful role of U.S. employer representative to the ILO for over 15 years, and has been instrumental in requesting ILO involvement.<sup>iii</sup>
- (2) The ILO is ½ government, ¼ business, and ¼ labor side. The first two constituencies regularly form a super-majority, eliminating the voice of workers, which would be essential to any investigation.
- (3) The ILO does not conduct human rights investigation of individual companies and is not qualified to do so.<sup>iv</sup> The ILO creates international labor standards, conducts research, and provides training and support for economic development, and adjudicates complaints. It is not a monitoring organization.<sup>v</sup>

A letter that NYU sent to Coke a few months prior to the 2005 resolution sheds some light on the meaning of "independent." The letter specifically demanded that "The Coca-Cola Company submit to an investigation into its relevant operations in Colombia by the Workers Rights Consortium (WRC)," a non-profit organization created by students, labor rights experts, and workers from across the globe with participation from college and university administrators.<sup>vi</sup> Coke refused, citing an investigation that it claimed was independent but that the Senate decided was not credible. The University Senate then responded by voting to institute the current ban.

2. It is unclear when or if the proposed investigation or any investigation will occur.

It is simply too soon, at this uncertain stage, to lift the ban on Coke products at NYU. There has been no announcement of any investigation by the ILO, and it is unclear if the proposed investigation would ever take place. While Coke's claim of a pending ILO investigation convinced the University of Michigan to lift its ban two years ago, there has been no such investigation. There is no evidence that the ILO is any closer to taking any kind of action. In fact, over twenty additional campuses have joined the ban since the University of Michigan pulled out two years ago. If a prominent university like NYU lifts the ban, Coke would receive a massive undeserved public relations and would place NYU in opposition

to the growing movement of progressive universities signing on to protect human rights by endorsing the ban.

To put this current proposal in perspective, it is important to review Coke's history of opposing independent investigations. In 2005, a Coke report claimed that an independent third party had found no violations at bottling plants. This turned out to be based on a widely discredited report by Cal-Safety Compliance, a company whose methodology has been rejected by the mainstream monitoring community.<sup>vii</sup> At other times, Coke has claimed that investigations have occurred but refused to release results. When the Workers' Rights Consortium and other groups sat down with Coke to develop acceptable standards for an independent investigation, Coke prevented the process from going forward when they could not control it.<sup>viii</sup>

### 3. Coke has made no effort to address the ban's underlying concerns.

NYU's 2005 letter explains that the University Senate was considering action in response "to mounting concern about Coca-Cola's responsibilities to workers at bottling plants in Colombia and allegations of abuse and criminality directed against the SINALTRAINAL union." These concerns have not been addressed. Coke has not admitted wrongdoing, nor changed its policies. If the announcement by Coke had legitimate meaning, we would expect organizations like the union at the Coke bottling plants, the Campaign to Stop Killer Coke, human rights organizations, and progressive unions to be applauding Coke's announcement. To the contrary, they stand firm in their criticism of Coke. For example, the International Labor Rights Fund, the preeminent U.S. non-profit battling sweatshop conditions perpetuated by U.S. corporations abroad, has denounced Coke's ILO proposal as a "move to deny and delay accountability."

In conclusion, the University Senate should strive to avoid any appearance of impropriety. Notably, NYU Board of Trustees member Barry Diller is also a member of Coke's Board of Directors and NYU has received significant funds from Coke. A rushed repeal of the ban, lacking rock-solid evidence that Coke intends to unhesitatingly submit to a truly independent investigation, creates the impression that Coke exerts undue influence over NYU.

It was the passion and energy typical of NYU students, and the concern of students that the University act as a responsible global citizen, that instituted the ban in 2005, sending a powerful message to Coke. While not as many students have been made aware of the potential repeal, students' sentiments have not changed in this brief period. Prof. Arthur Tannenbaum cautioned Coke in a 2005 letter that "the intensity of feeling among these students, and their persuasiveness, is not to be underestimated." Student voices should not be forgotten.

## **Background Information**

Colombia is the most dangerous country in the world for trade unionists. Over 2,000 Colombian trade unionists have been assassinated since 1991. Right-wing paramilitary groups are responsible for most of the murders. The Colombian armed forces maintain close ties with the paramilitary forces. The Colombian government fails to prosecute those responsible with over 99% going unpunished. U.S. military aid to Colombia has increased from \$100 million in 1998 to over \$3 billion since 2000, 80% of which has been for military and police aid. More information about the situation in Colombia can be found at the Center for International Policy,<sup>ix</sup> the Colombia Human Rights Network,<sup>x</sup> Amnesty International,<sup>xi</sup> and a presentation by the Georgia State AFL-CIO.<sup>xii</sup>

Coca-Cola is one of the worst corporate supporters of the paramilitary death squads in Colombia. Nine members of the union SINALTRAINAL who work at Coca-Cola's bottling plants have been assassinated and hundreds of other Coke workers have been tortured, kidnapped and/or illegally detained

by paramilitaries. A New York City fact finding mission that included City Council Member Hiram Monserrate concluded that “The physical access that paramilitaries have had to Coca-Cola bottling plants is impossible without knowledge and/or tacit approval... The conclusion that Coca-Cola bears responsibility for the campaign of terror leveled at its workers in unavoidable.”<sup>xiii</sup>

Unfortunately, violence directed at Colombian unionists continues in 2008. Returning from a February 2008 labor delegation to Colombia, AFL-CIO Executive Vice President Linda Chavez-Thompson commented that “there has been little real progress in ending the brutality that trade unionists face in Colombia. In 2008 alone, five unionists have been murdered – almost one per week.”<sup>xiv</sup> When the delegation met with Colombian president Alvaro Uribe, he justified assassinations rather than guaranteeing measures to prevent them.<sup>xv</sup> Meanwhile, at least two SINALTRAINAL union leaders who work in Coca-Cola bottling plants received death threats in February 2008, as has the union’s president.<sup>xvi</sup>

Concerns about human rights violations perpetuated by Coca-Cola are not limited to Colombia. Coke's operations in India have come under serious criticism by local organizations over practices that include polluting neighboring areas with lead, cadmium, and other heavy metals; exacerbating drought by removing hundreds of thousands of liters of water each day from already dry areas; and rendering farmers' fields uncultivable because of dramatic drops in groundwater levels that are near Coke bottling plants.<sup>xvii</sup> These irresponsible practices have led, for example, the Kerala State Pollution Control Board to shut down a plant in 2004 that has remained closed due to pollution. Colleges and universities, in addition to those responding to Coke's abuses in Colombia, have prohibited the sale of Coca Cola products in response to its abuses in India.

### Law Students for Economic Justice:

Law Students for Economic Justice (formerly Practice) focuses its energies on the NYU School of Law environment with three goals: first, to promote economic justice and the effective exercise of labor rights; second, to ensure a supportive environment in the Law School for devoted public interest students; and third, to challenge all law students to think critically about legal education and traditional careers, including by making students aware of the ethical considerations underlying the practice of law and the need to advocate responsible lawyering in all areas of the legal profession. For more information, contact Jeff Olshansky at jlo259@nyu.edu, or Keren Wheeler at keren.wheeler@nyu.edu.

<sup>i</sup> <http://media.www.nyunews.com/media/storage/paper869/news/2008/02/11/University/Coke-Ban.May.Be.Lifted.By.Summer-3200828.shtml>

<sup>ii</sup> <http://www.nyu.edu/public.affairs/releases/detail/866>

<sup>iii</sup> <http://www.thecrimson.com/article.aspx?ref=512658>; <http://www.labournet.de/internationales/co/cocacola/ilococa.html>

<sup>iv</sup> <http://www.killercoke.org/restciuf.htm>

<sup>v</sup> See, for example, [http://www.ilo.org/global/What\\_we\\_do/lang--en/index.htm](http://www.ilo.org/global/What_we_do/lang--en/index.htm).

<sup>vi</sup> <http://www.killercoke.org/nyutocoke.pdf>;

[http://www.studentsagainstshops.org/index.php?option=com\\_content&task=view&id=79&Itemid=74](http://www.studentsagainstshops.org/index.php?option=com_content&task=view&id=79&Itemid=74)

<sup>vii</sup> For more on why the Cal-Safety is not a credible monitor, see United Students Against Sweatshops, Statement on Cal-Safety Compliance Corporation, April 15, 2005.

<sup>viii</sup> <http://www.killercoke.org/restciuf.htm>

<sup>ix</sup> <http://ciponline.org/colombia/index.htm>

<sup>x</sup> <http://colhmet.igc.org/>

<sup>xi</sup> <http://www.amnesty.org/en/region/americas/south-america/colombia>

<sup>xii</sup> [www.gaaficio.org/columbia%20%20powerpt.ppt](http://www.gaaficio.org/columbia%20%20powerpt.ppt)

<sup>xiii</sup> <http://killercoke.org/report.htm>

<sup>xiv</sup> <http://blog.aflcio.org/2008/02/28/colombian-labor-scholar-says-union-members-face-genocide/>

<sup>xv</sup> <http://blog.aflcio.org/2008/02/20/colombian-president-uribe-confirms-us-unions-fears/>

<sup>xvi</sup> [http://www.sinaltrainal.org/index.php?option=com\\_content&task=view&id=194&Itemid=1](http://www.sinaltrainal.org/index.php?option=com_content&task=view&id=194&Itemid=1);

[http://www.sinaltrainal.org/index.php?option=com\\_content&task=view&id=219&Itemid=34](http://www.sinaltrainal.org/index.php?option=com_content&task=view&id=219&Itemid=34)

<sup>xvii</sup> <http://www.indiaresource.org/campaigns/coke/2008/cokeimplicatedteri.html>