To die for
Being a trade union organiser in bottling plants used by Coca-Cola in Colombia is a dangerous business - they are prime targets for death squads. Can Coke be held responsible? Mark Thomas follows the trail from Bogotá to New York

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Downtown Bogotá may proclaim itself a modern city with skyscrapers and a financial centre, but the world of international commerce seems far away as we pass old men selling cigarettes from trays and cramped shops with their stock spilling out on to the pavement. In minutes we move from the morning havoc of the backstreets into Teusaquillo, where the roads are slightly wider and the craters fewer. The well-to-do used to live here, but they moved on long ago, leaving it to human rights lawyers, civic groups and non-government organisations. We stop at a house with a low brick wall.

The graffiti that used to read “Death to trade unionists!” has been painted over. Now there is nothing to announce that this ordinary house is home to Sinaltrainal (Sindicato Nacional de Trabajadores de la Industria de Alimentos - the National Union of Food Industry Workers). This is the biggest trade union in the “Coca-Cola system” in Colombia, representing more than half the organised Coke workers - although, after more than a decade of attacks and intimidations, the membership is nothing like as big as it once was. Current membership in plants where Coca-Cola is bottled is only 350.

This building is where we meet two men, Giraldo and Manco. They arrive on different days and give their testimonies separately, but they tell the same story. Campaign posters in the room where we talk demand boycotts and justice; the images are of handguns painted in the company colours of red and white. The names and pictures of dead trade unionists are everywhere. Giraldo and Manco knew these men, they were friends and relatives. Now they speak of how they died.

Oscar Alberto Giraldo Arango is 42, but he carries a few more years on his shoulders. Colombia is the most dangerous place in the world for trade unionists - since 1986, 2,500 of them have been killed. “To be a trade unionist in Colombia is to walk with a gravestone on your back,” the two men told me the first time we met - and they looked as weary as if they had physically borne their stone.

Giraldo was raised in Carepa, Urabá, in the north-west of the Colombian countryside near the Panama border. He started work bottling Coca-Cola in 1984, at the Bebidas y Alimentos de Urabá (Drinks & Foods of Urabá) bottling plant. When he told his friends, they congratulated him on landing such a good job. And it was, too. The union had done well for the men, securing bonuses, overtime and health benefits. But this was not to last. Graffiti announced the paramilitaries’ arrival in Carepa in 1994: “We are here!” Shortly after the graffiti appeared, so did the bodies.

The Colombian paramilitary groups were spawned in the conflict between the state and revolutionary guerrillas. In 1982, officers under General Landazábal, the defence minister, worked with multinationals and cattle ranchers to organise and fund “defence groups”. Ostensibly they were to fight leftwing insurgent groups, but increasingly the paras, as they are known, became entwined with the drug cartels and the army. They formed death squads, attacking and killing anyone considered to support the leftwing guerrillas - basically anyone working in human rights or trade unions. It is a common refrain among the establishment and security forces that the guerrillas and trade unionists are one and the same.

Carlos Castaño, leader of the paras, claimed that 70% of his organisation’s funding came from the cocaine industry. But he was also an ardent supporter of neoliberal economic policies and of multinational investment in Colombia - so why shouldn’t national and international companies support them? In a newspaper interview, Castaño maintained there was always a reason for the paras’ attacks. “Trade unionists, for example. They stop the people from working. That’s why we kill them.”

The International Trade Union Confederation (ITUC) puts the conviction rate of trade union murderers at 1%. Certainly President Alvaro Uribe has shown little inclination to rectify this situation. “There are no assassinations of workers in Colombia,” he has stated, adding that there are “rotten apples” in the trade union movement.

Giraldo has lived with the story of his brother’s murder for 14 years. No one has been charged with Enrique’s murder. “There wasn’t very much of an investigation,” he says. Almost a year to the day later, another Sinaltrainal leader working at the Coca-
bottlers in Colombia. This was conducted in spring 2005, more than eight years after Isidro Gil was shot dead. Intriguingly, the paras, and the bottlers are accused of union-busting, intimidation and harassment of workers.

“Serious charges demand a serious response,” said the Coca-Cola company CEO Neville Isdell, referring to allegations of abuse by the company's Colombian bottlers. According to Sinaltrainal, the murders at the Carepa plant were part of a countrywide campaign against the union. They claim seven trade unionists have been killed by paramilitaries, the bottlers have links with the paras, and the bottlers are accused of union-busting, intimidation and harassment of workers.

What was the Coca-Cola Company’s response? Its website displays the only public audit by the Coca-Cola Company into their bottlers in Colombia. This was conducted in spring 2005, more than eight years after Isidro Gil was shot dead. Intriguingly, the...
International Labor Rights Fund filed an Alien Tort Claims Act (ATCA) suit on behalf of Sinaltrainal in the US Federal Court in July 2001. Sinaltrainal’s lawsuit has had mixed fortunes. It began in July 2001 when the United Steelworkers of America union and the bottlers even went after 500 million pesos in damages. In 2004, the case was dismissed as being without merit. The unionists initiated a call for an international boycott of Coca-Cola products. In July 2001, they brought a lawsuit in the US against the Coca-Cola Company and its Colombian bottlers; and in 2003 they initiated a call for an international boycott of Coca-Cola products. The councilman was introduced to Sinaltrainal’s officials in New York in 2003 and found their tale compelling enough to help organise a delegation to Colombia in 2004. “I wanted to know more,” he says. “At the very least it seemed to me there had to be some truth in what the workers were telling me. That labour reps and workers were being killed.” While planning for the delegation, Monserrate decided he ought to invite the Coca-Cola Company along, too. “We have to have some fairness. They could have been a partner in this delegation. They refused.” Monserrate’s 2004 report found a lack of action by the Coca-Cola Company and the bottlers, and an alarming laissez-faire attitude. Although the delegation was denied access to Coke’s bottling plants, Juan Manuel Alvarez and Juan Carlos Dominguez, representatives of Coca-Cola Femsa (a huge bottling company operating in several central and South American countries, including Colombia) did meet them. The delegation asked what they had done to investigate the allegations of ties between plant managers and paramilitaries. At first “these allegations were vigorously denied”, the report states, but continues, “Alvarez and Dominguez acknowledged that Coke officials had never undertaken any internal or external investigations into these assertions, nor into any of the hundreds of human rights violations suffered by the company’s workers.” Monserrate leans forward: “Isidro Gil was killed inside the bottling plant. That alone, to me, puts the onus on the Coca-Cola Company...” He nods his head and stares at me, as if he were Robert De Niro. “There’s a causal relationship between the trade unionists’ deaths and working at Coca-Cola. So, at the very least, the company in Atlanta has an obligation to try and get to the bottom of it... Coca-Cola, just like any other major corporation, has a responsibility to be responsive corporate neighbours. You can’t just chalk it up to the politics of the country. You’re Coca-Cola and your logo is worldwide and it started here in America. “I mean, we wouldn’t accept it in America. Could you imagine if, in a Coca-Cola plant in the US, a worker was killed because he was part of the union - what kind of outrage there would be.” Coca-Cola represents American capitalism, he says. “And American capitalism should never be about allowing your workers to be subject to violence or death because they are organising to defend their rights. What does it say about America?”

The Carepa murders were the starting point of a new saga of violence and intimidation for the union. Sinaltrainal decided to take action. In July 2001, they brought a lawsuit in the US against the Coca-Cola Company and its Colombian bottlers; and in 2003 they initiated a call for an international boycott of Coca-Cola products. The bottlers retaliated by taking the union to court, claiming that in bringing the US lawsuit the union had libelled and defamed them. The bottlers even went after 500 million pesos in damages. In 2004, the case was dismissed as being without merit. According to Coca-Cola, over the years the Coca-Cola bottlers have frequently and publicly denounced violence against union members.

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us for complicity in the crimes of kidnap, torture and murder committed outside the US.) The suit, claiming $500 million compensation for the plaintiffs, alleges that the bottlers Panamco and Bebidas y Alimentos “contracted with or otherwise directed paramilitary security forces that utilised extreme violence and murdered, tortured, unlawfully detained or otherwise silenced trade union leaders”; and that the Coca-Cola Company as the parent company bore indirect responsibility. The Colombian bottlers deny the charges.

The Coca-Cola Company argued that the Colombian bottlers were separate companies, so Coca-Cola had no case to answer, stating, “We deny any wrongdoing regarding human rights or any other unlawful activities in Colombia or anywhere else in the world” and adding that, “The Coca-Cola Company does not own or operate any bottling plants in Colombia.”

The union’s legal team argued that the Coca-Cola Company exerted control over its bottlers by way of a legal agreement, called “the bottlers’ agreement’. The argument went thus: the Coca-Cola Company licenses the production of its drinks, it provides the syrup with which to make them, and dictates the types of bottles, cans, industrial processes, adverts and promotions that the bottlers are to use. Thus it exerts a degree of legal and economic control. Furthermore, the Coca-Cola Company not only possessed “a controlling 24% interest” in Panamco’s stock, but had two seats on Panamco’s board.

In a landmark ruling in March 2003, District Court Judge Martinez ruled that the case against Panamco and Bebidas y Alimentos could go ahead - the first time a US judge has allowed a case against a company for alleged human rights violations committed overseas to be heard under the ATCA. But the judge dismissed the case against the Coca-Cola Company on the grounds that the “bottlers’ agreement” did not give the company explicit control of labour issues over the bottler.

Neville Isdell, Coca-Cola chief executive officer from 2004-2008, and current chairman of the board of directors, told the 2005 annual meeting of shareholders, “There are no threats or attempts by management to attack or intimidate workers for being affiliated with a union ... The people employed by our Colombian bottling partners work in facilities where their labour and human rights are respected and protected.” It was noteworthy that the CEO of the world’s most popular brand felt compelled to defend the company, which also says that it meets regularly with Colombian government ministers in an effort to stamp out violence directed at union organisers.

In 2006, Judge Martinez reversed his previous decision and dismissed the case against the bottlers, now arguing that the case could not be brought in the US because of “lack of ... jurisdiction”.

Sinaltrainal lawyers submitted an appeal on both rulings on March 31 2008, and a result is expected by the lawyers in 2009. If successful, it means the case can be heard and Sinaltrainal will have its day in court in the US with both the Coca-Cola Company and their bottlers.

Across the world, the Coca-Cola boycott had mixed results. In Dublin, Trinity College and University voted to “Kick Coke off Campus” and refused to stock its products in student-run facilities, as did New York University and Michigan University in the US. They were joined in the UK by Sussex, Manchester and Middlesex universities, and London’s School of Oriental and African Studies. Even though the contracts with US universities are usually worth millions, kicking Coca-Cola off campuses is unlikely to dent the balance sheet of a company that last year made $5.98 billion profit. But the accompanying media attention, and headlines such as “Has Coke become the new McDonald’s” in the Guardian, and the Nation calling Coke “the new Nike”, must surely be part of the reason it has seen its “brand value” drop. (Brand value is what turns a sweet, fizzy brown liquid into a product that is desirable and saleable worldwide. In 2007, Coca-Cola’s brand value was estimated by Business Week/Interbrand at $65,324 million - top of the league, but $2,201 million less than in 2005.)

Something had to be done. Publicly, Coca-Cola increasingly described the lawsuit brought by Sinaltrainal as an “out of date” allegation or “an old story”. But behind the scenes, it was involved in negotiations with the union to settle the case. Crucially, Martinez’s 2006 decision was not at a hearing of the case itself: instead, it was to decide if the US courts were the correct venue for the trial. And once Martinez decreed that the US courts did not have jurisdiction, this left the union lawyers free to launch their appeal, bringing the company back into the dock.

If the union lawyers were successful in their appeal, then the case would go to full trial and the Coca-Cola Company would face the legal procedure of disclosure, forcing it to hand over internal documents detailing its relationship with the bottlers. I can’t speak for the company, but I would imagine this prospect was about as appealing as syphilis. Six weeks before Martinez’s ruling, the Coca-Cola Company began to negotiate with Sinaltrainal, on August 19 2006.

When I asked Coca-Cola about these talks, it portrayed them as “fruitful and informative”. The purpose of the talks, the company said, was “to assess whether a mediated resolution of the parties’ differences could be achieved”. In short, it was looking to settle out of court, and with a settlement such as this comes money - a lot of money. How much? A barrowful. Although I cannot disclose the exact sum offered to Sinaltrainal and the plaintiffs in the lawsuit, it is my understanding that it had six noughts at the end of a dollar sign and a couple of digits in between.

If the company was offering money, what were the conditions attached to it? I spoke to Ed Potter, the Coca-Cola Company’s global workplace rights director, a man with intimate knowledge of these negotiations. I said to him that the company had history in this department: “Financial settlements are reached, but part of that financial settlement is that you don’t criticise us again, you
shut up, you go away.” Potter replied, “All I will say, as a general matter, is we’ve had several different resolutions ... You’ve described one of them.”

Sinaltrainal did not use the words “fruitful and informative” to describe the talks. “We were in a process that lasted almost a year and a half, where we talk and talk and talk with them in order to find a solution to the conflict - and it didn’t give us any result at all,” says Edgar Paez, the union’s international officer. He is sitting in his office, by the same table where Giraldo and Manco gave their testimonies. The only reason Coca-Cola negotiated, he believes, was “because they don’t want us to keep reporting them [campaigning] ... What the company wanted was to buy the silence of the people involved. They give some money to the victims in order not to denounce the problem.”

The negotiations broke down in early 2008. Coca-Cola said “no final resolution was possible. An impasse was reached and no further discussions are anticipated at this time.” Arguably, the impasse was a result of the conditions of the settlement: Coke would pay millions of dollars, but anyone working for Coca-Cola Femsa and involved in the lawsuit had to leave their jobs - they could no longer work for Coke’s contractors. But more than this, they would be legally bound never to criticise Coca-Cola again. According to Paez, this would apply “not only in Colombia but everywhere in the whole world. They wanted us to sign an agreement that no one would denounce Coca-Cola any more, for the rest of their lives.” In effect, the agreement, if signed, would prevent them from campaigning against any multinational that Coca-Cola had business with. From the moment they signed until the day they died.

The end result of key members of the union having to leave - in effect, being gagged - would mean the end of the union. Sinaltrainal would cease to exist in the Coca-Cola plants.

The money was on the table and all Sinaltrainal had to do was agree and take it. So the men and women who had fought for the right to be in a trade union would become silent. For men such as Giraldo and Manco, the prospect of compensation was money they literally could only dream of.

The union refused to sign. They refused to be silent. Leaving the Coca-Cola Company with an “old story” that would not go away.