

Killer Coke vs. The Truth: A Response to Denials and Distortions

The Coca-Cola Co. is sending form-letter responses to all those who write to complain about its human rights abuses, its failure to provide safe workplaces and its collaboration with paramilitary terrorists who seek to destroy the SINALTRAINAL union in Colombia. The Campaign to Stop Killer Coke offers the following responses to Coke's assertions.

Denial No. 1: Coca-Cola claims that “SINALTRAINAL’s oft-repeated allegations against the Coca-Cola Company and its Colombian bottling partners are completely false. They are nothing more than a shameless effort to generate publicity using the name of our Company, its trademark and brands.”

The Truth: It’s simply preposterous to say that Colombian workers and their union are suing Coca-Cola in order to “generate publicity.” Indeed, by seeking legal redress these Colombians are risking their lives and livelihoods. Coca-Cola’s bottling partner, Panamco Colombia, has responded to SINALTRAINAL by bringing criminal charges against all the Colombian plaintiffs — with the acquiescence, if not the overt support, of The Coca-Cola Company. In addition, the plaintiffs have been subjected to repeated threats. In August 2003, Juan Carlos Galvis, a worker and union activist at the Barrancabermeja bottling plant, narrowly escaped an assassination attempt after paramilitaries fired their weapons at him in an attempt to retaliate for his involvement in the lawsuit and the international campaign against Coke’s workplace abuses. Why would Galvis and the other plaintiffs risk their lives merely to seek “publicity?”

Curiously, while Coca-Cola flatly denies all the allegations in the lawsuit, it never even addresses the specific facts that are cited therein. For example, no one disputes the fact that union leader Isidro Segundo Gil was murdered in cold blood while working at the Carepa bottling plant. Nor does anyone dispute the fact that the same paramilitaries who killed Gil returned the next day and tried to force all of the workers to sign union resignation forms prepared by Coca-Cola’s managers. It is also public record that three of the Colombian plaintiffs, as alleged in the International Labor Rights Fund lawsuit, were thrown in jail for six months and subjected to inhumane and brutal prison conditions, based upon false charges initiated by Coca-Cola’s bottling partner, Panamco Colombia. A Colombian prosecutor later dismissed these charges as frivolous, while suggesting they were brought in order to discredit and undermine the union. Yet, to this day, Coca-Cola and its “bottling partners” continue to press baseless criminal charges against the Colombian plaintiffs in retaliation for their lawsuit.

Denial No. 2: Coca-Cola claims that “the U.S. District Court in Miami dismissed The Coca-Cola Company from lawsuits filed by SINALTRAINAL, finding that the plaintiffs failed to offer any factual or legal basis to support their claims that the Company was responsible for wrongful conduct in Colombia.”

The Truth: While the District Court on March 31, 2003 did dismiss Coca-Cola from the lawsuit, it did so (1) prior to discovery and the accompanying ability of both sides to garner and present evidence; and (2) on the basis of a single document — a “sample” bottlers’ agreement

that Coca-Cola admitted wasn't the actual agreement with the Colombian bottlers cited in the lawsuit.

The court found, we believe prematurely and in error, that Coca-Cola did not have sufficient control of the Colombian bottlers to be held liable for their human rights abuses — in spite of the fact that Coca-Cola was the largest shareholder in Panamco and owned 25% of its outstanding Class A shares, 25% of its Class B shares and 100% of its outstanding Series C Preferred Stock. Panamco's "Definitive Proxy Statement" on its impending merger with Mexican-based Coca-Cola FEMSA, filed on March 28, 2003, stated: "The Coca-Cola Company has the right to prevent any merger transaction involving Panamco, by virtue of its ownership of Panamco's Series C Preferred Stock..." Six top executives and a former consultant at Coca-Cola, a Coca-Cola board member and a chief policymaker for SunTrust Banks (the institution that has been Coca-Cola's financial bulwark since 1919) now sit on FEMSA's board, and Coca-Cola owns 46.4% of FEMSA's voting stock.

The District Court also failed to take into account documents admittedly created by Coca-Cola (i.e., letters to consumers and a statement to shareholders) in which the company frankly acknowledged its control over workplace practices and its right to inspect the plants to ensure that local managers abide by human rights conventions and domestic law.

The plaintiffs intend to appeal the dismissal of the company. However, the court's technical ruling on Coca-Cola's ability to be liable for human rights abuses in Colombia *does not* change the fact that these abuses actually occurred. Indeed, the plaintiffs continue to pursue these claims. Coca-Cola chooses to ignore the fact that the court *did* allow the lawsuit to proceed against both Panamco Colombia (now merged into Coca-Cola FEMSA) and Bebidas y Alimentos, the operator of the plant in which Isidro Gil was murdered. The court acknowledged that the plaintiffs have sufficiently alleged that these bottlers engaged in the same type of serious human rights abuses (as defined under international law, or "the law of nations," to include extrajudicial killings, torture and unlawful detention) that the Alien Tort Claims Act of 1789 and the Torture Victims Protection Act of 1992 are intended to correct.

Denial No. 3: Coca-Cola claims that "a court in Colombia, the Colombian Attorney General, and two other major labor unions have all indicated that there is no evidence supporting allegations made by SINALTRAINAL against our Colombian bottlers."

The Truth: No court in Colombia has ever ruled on the human rights claims being brought against Coca-Cola. And, while it is true that the criminal charges against the Coca-Cola bottler in Carepa were ultimately dismissed before they got to court (after initially being found meritorious by a Colombian prosecutor), these charges were ultimately dismissed based upon the fact that the plant manager in Carepa, Ariosta Mosquera, who allegedly conspired with the paramilitaries to murder Isidro Gil, left town shortly before the actual murder. Yet, the same dismissal decision notes that Mosquera, as the family of Isidro Gil claimed, fraternized openly with the paramilitaries and had threatened union workers prior to the murder. We believe that Mosquera's hasty departure before the murder is actually evidence of his guilt, not his innocence.

U.S. State Dept. human rights reports say that only a handful of the thousands of murders of Colombian trade unionists in recent years have ever resulted in successful prosecutions. "Cases where the instigators and perpetrators of the murders of trade union leaders are identified are practically nonexistent, as is the handing down of guilty verdicts," the State Dept. asserts. In

light of this, it is not surprising that the plaintiffs cannot secure justice through the Colombian courts. That's why they are seeking redress through the U.S. courts in the first place.

And, while there are a couple of unions (most notably the one which took over at the Carepa plant after SINALTRAINAL was wiped out by the paramilitaries there) which, for their own reasons, are not in support of the campaign against Coca-Cola, SINALTRAINAL has earned the active support of the largest union federation in Colombia, the CUT (Unitary Workers Federation), and Colombia's National Labor School, which the U.S. State Dept. relies upon for data about Colombian union matters. In the United States, the AFL-CIO, the United Steelworkers of America, the International Labor Rights Fund, Witness for Peace, SOA Watch and the International Longshore and Warehouse Union are among SINALTRAINAL's leading supporters — a list that is growing longer every day.

Denial No. 4: Coca-Cola claims that “Coca-Cola bottlers in Colombia have extensive, normal relations with multiple labor unions, including SINALTRAINAL. Elsewhere in Latin America, more than half of the employees of Coca-Cola bottlers are represented by different labor unions.”

The Truth: Regarding the conduct of Coca-Cola bottlers in Latin America generally, it must be noted that the Colombian occurrences were hardly the first serious human rights violations attributed to Coke. In the early 1980s, a Guatemalan Coca-Cola bottler was responsible for the brutal murders of at least eight union leaders. While The Coca-Cola Company, as usual, denied all responsibility, it was ultimately forced by an international pressure campaign to intervene in Guatemala.

Obviously, SINALTRAINAL would not characterize its relations with the Coca-Cola bottlers as “normal.” To this day, SINALTRAINAL leaders are constantly living with threats by paramilitaries whose leaders are permitted to freely enter Coca-Cola plants and to meet openly with the local managers. There is also credible evidence that some Coca-Cola plant managers in Colombia continue to make monthly payments to these same paramilitaries. Paramilitary leaders have freely admitted (to National Public Radio reporter Steven Dudley, among others) that they have established bases around every Coca-Cola bottling plant in Colombia in order to “protect” Coke's interests.

Denial No. 5: Coca-Cola incessantly claims that Panamco Colombia provides employees and union officials with elaborate safety and security benefits.

The Truth: This simply isn't true! While some union officials receive security measures from the Colombian government and others pay for their own bodyguards and security equipment, Panamco Colombia supplies no such security assistance. Coca-Cola is either ill-informed on this score or is simply lying.