

# THE SIMULTANEOUS POLICY

BREAKING DOWN THE BARRIERS TO SOLVING WORLD PROBLEMS

## Cambridge Simultaneous Policy Adopters' Group (CAMSPAG) discussion paper

# Holding corporations accountable

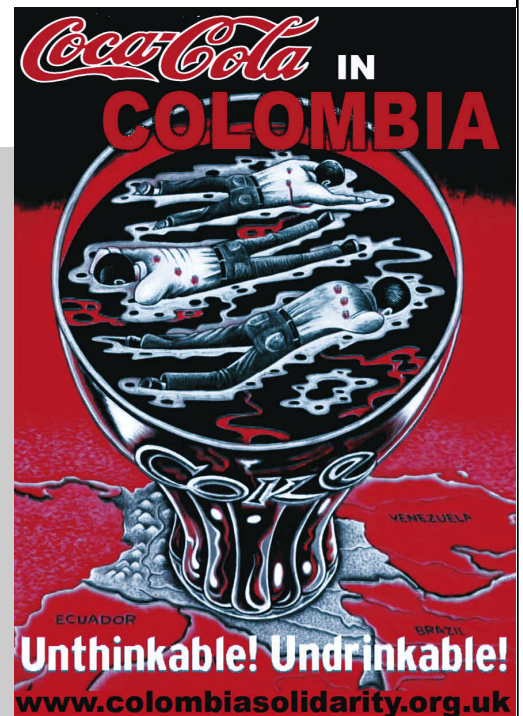
The Simultaneous Policy (SP) is a package of measures being developed by SP Adopters around the world to address global problems such as climate change, unsustainability and unfair trade. Simultaneous implementation of the policy package removes the fear that investment and jobs will flee a country that takes unilateral action. SP Adopters undertake to vote for any candidate at elections, within reason, who pledges to implement SP alongside other governments, or to encourage their preferred party to support SP.

SP could potentially include measures to hold corporations accountable. Cambridge SP Adopters' Group (CAMSPAG) held a public policy forum on 2 February 2005 to investigate this issue. As SP is concerned with real-life issues and CAMSPAG wishes to empower Adopters to support existing campaigns as a parallel strategy, Andy Higginbottom, from the Colombia Solidarity Campaign, was invited to speak on Coca Cola and human rights abuses in Colombia.

The following is adapted from Colombia Solidarity Campaign's briefing: "Coca Cola and the Paramilitaries in Colombia" (available in full on the website [www.colombiasolidarity.org.uk](http://www.colombiasolidarity.org.uk)) and additional information presented at the meeting.

Trade unionists in Colombia have had to call an international boycott of Coca-Cola to draw attention to their grievances against the company and to put pressure on it to change.

Shouldn't there be a better system for registering complaints of human rights abuses and having them investigated so effective action can be taken and enforced?



Graphic: Produced by the Colombia Solidarity Campaign

There are 20 Coca-Cola bottling plants operating as franchises under the Coca-Cola Company's guidance in Colombia. Most franchises are part-owned by the Coca-Cola Company (the Miami-based transnational owns 39.6% of Coca Cola Femsa-Panamco, which is the leading bottler of Coca-Cola products in Latin America). The workers in these plants are affiliated to SINALTRAINAL, the national food and drinks workers union. On 22 July 1986, Hector Daniel Useche Beron, a Nestle worker and SINALTRAINAL leader was assassinated in Bugalagrande. From this day on, terror and violence have been the principle tool that the food and drink multinationals, supported by the Colombian state, have used to destroy the trade union.

As a result of this terror, SINALTRAINAL have seen their membership figures plummet to 2,300. 14 of their leaders have been assassinated, 7 of which were Coca Cola workers, 3 of whom were murdered inside their workplaces. 48 more activists have been forcibly displaced by death threats, 2 have fled the country, 2 have been disappeared and many more have been imprisoned. Workplaces have been militarised, and in one plant, paramilitaries were allowed free access for a whole week, while they forced trade unionists to renounce their membership at gun point. Neither Coca Cola nor the Colombian authorities did anything.

The following are just some of the abuses which Coke franchises have carried out in Colombia:

- On the 2 May 1992, Jose Gabriel Castro, MD of Coca Cola in Colombia, publicly accused the workers and Sinaltrainal of being guerrilla agents.
- In April 1994, Jose Eleazar Manco David, Sinaltrainal activist and Coca Cola worker was assassinated in Carepa, Antioquia.
- 23 April 1995, Luis Enrique Gomez Granados, Sinaltrainal activist and Coca Cola worker was assassinated, also in Carepa.
- 4 November 1995, 5th Brigade of the Colombian army raid Sinaltrainal office in Bucaramanga, Santander.
- 30 September 1996, same Sinaltrainal office raided, this time by National Police.
- 5 December 1996, assassination of Isidro Segundo Gil Gil, Secretary General of Sinaltrainal in Carepa. He was assassinated by paramilitaries inside the plant while negotiating the workers' collective agreement.
- 5 December 1996, paramilitaries force their way into Sinaltrainal offices in Carepa, take all documents and set fire to the building.
- 9 December 1996, paramilitaries enter Coca Cola plant in Carepa, round up all the workers, and force them at gunpoint to renounce their union membership.
- 26 December 1996, Jose Libardo Osorio Herrera, 65, Sinaltrainal activist and Coca Cola worker in Carepa was dragged out of his workplace by heavily armed paramilitaries. His body was found the next day in Chigorodo, Antioquia.
- 8 February 1999, magazine Cambio 16 published an article claiming that Coca Cola had contracted paramilitary groups to sort out their "labour problems", and that on 15 August 1998, the directors of Coca Cola's bottling operations had met in Monteria, Cordoba, with a messenger from Carlos Castano, head of the AUC, Colombia's largest paramilitary group.
- 4 June 2001, all workers at all bottling plants in Colombia are locked in the work places against their will and threatened to renounce their work contracts. Those that do not renounce are fired. The same had happened in February and October 2000. Coca Cola sack more than 1000 workers.
- 21 June 2001, Oscar Dario Soto Polo, Sinaltrainal activist and Coca Cola worker assassinated in Monteria, Cordoba.

### **One stone against Goliath.**

Faced with the complete impunity enjoyed by the perpetrators of these crimes, and the necessity that Coca Cola were found responsible for these aggressions, Sinaltrainal has launched a criminal case against Coca Cola before the Southern District Court in Miami, USA, under the Aliens Torts Claim Act of 1789. To carry out this legal prosecution, Sinaltrainal have relied on the support and solidarity of United Steel Workers Union and the International Labour Rights Fund in the USA. In March 2003, after careful consideration of the available evidence, a Miami judge ruled that the part-owned Coca-Cola franchises did have a case to answer, and allowed the case to go ahead. In a set back to the union, however, the Coca-Cola Company itself is not to be separately included in the case, unless the union wins an appeal.

But in Sinaltrainal's eyes, the court case alone is not enough. The union also started a process of Popular public Tribunals as an expression of the Colombian peoples' struggle against State terrorism and the policies of the multinationals. The Tribunals hope to generate a mechanisms for protection and attention to the problems that Sinaltrainal face, as well as international accompaniment and solidarity. They hope to link popular and social movements in Colombia, with international movements against globalisation and for social justice.

### **What are the Popular Public Tribunals?**

They are a space for organisation, for denouncing, a forum where social organisations who identify with the struggle against the inhuman greed of multinationals like Coca Cola, can meet and discuss. One of the decisions of the Tribunals was to call an international boycott of Coca-Cola products, a call which was supported by the 2003 World Social Forum in India.

## The need for international action to hold corporations accountable

[The following is based on comments to the meeting from CAMSPAG Coordinator, Mike Brady.]

The Coca-Cola case demonstrates several problems with dealing with corporations at a national level.

Within Colombia the State is implicated at the very least in failing to properly investigate the killings of trade unionists, and is accused of allowing the paramilitaries to operate and to being linked to them. Attracting investment is a key goal of the government.

Within the United States, the Coca-Cola Company has been ruled out of the current legal action, at least for now, leaving the partially-owned Latin American franchises to answer the charges. In the US there is political disquiet that the case even came to court and there are moves to reform the Alien Tort Claims Act to stop similar cases being brought. In a competitive world why should US companies be hampered when other countries are not doing the same?

The result is that human rights campaigners in Colombia have had to mobilise international support for the crude tool of a boycott. Supporting and promoting it will help to shine the spotlight on events in Colombia and with sufficient support will persuade Coca-Cola to give ground.

In short, it could save lives.

Yet surely there should be a system in place to actively enforce the human rights and environmental conventions which politicians and corporations claim to support. There is not. The International Criminal Court only permits action against governments, not corporations. Attempts to regulate corporations through the United Nations system floundered when the Centre for Transnationals was wound up shortly after proposing to bring environmental standards for corporations to the discussion at the Rio Earth Summit in 1992. The initiative was jumped upon and voluntary codes instead presented as the way forward.

Within the European Union, the Parliament has proposed measures to hold corporations accountable, with a monitoring system and a change to the charters under which companies operate to incorporate legal requirements to abide by international standards. This has floundered with the Commission favouring voluntary codes and convening a round table which has discussed for two years the best approach. Adopters can support the campaign for the Commission to at least support the principle of some form of legal framework, by sending letters to their MEP.

In the UK, the Coalition for Corporate Responsibility (CORE) is campaigning for similar principles and measures.

The following is taken from <http://www.foe.co.uk/campaigns/corporates/core/about/bill.html>

## The CORE approach

Sun 06 February, 2005

### Laws needed

The CORE Coalition believes that the **'voluntary approach' to Corporate Responsibility has failed**. We believe the only way Corporate Responsibility will succeed is through **new laws which make companies value people and the planet, as much as they value making a profit**.

### Three mechanisms to achieve Corporate Responsibility

The CORE Coalition is campaigning for new laws in 3 key areas:

#### • **Mandatory CSR Reporting:**

Currently in the UK, it is mandatory for businesses to complete financial reports. There are rules about what is contained in these reports, and as a result they are **meaningful, measurable** year on year, and **comparable** with other reports.

Alas the same cannot be said for CSR reports. As a result they too often resemble **'CSR PR'** or 'greenwash', and rarely contain meaningful data that tells the whole story - i.e. good and bad impacts.

CORE want companies to report against a **comprehensive set of key social, environmental and economic performance indicators**. With a standardised approach comes the ability to measure their operations and performance - here in the UK and abroad - and compare them with other businesses.

#### • **Directors' Duties:**

Currently in the UK a company director must, by law, consider the impact of their business decision on shareholders before proceeding. This so-called fiduciary duty equates to directors siding with maximising

profit in all cases except, as dictated by law, if it will endanger the health and safety of their employees.

**As long as profit is the most important referral point for directors, CSR will struggle to succeed.** There needs to be a more balanced, real-world approach.

CORE wants the legal requirement of directors' duties to be expanded. We want a specific **duty of care** for both communities and the environment. This will mean that a director will have to consider the consequences to communities, the environment, health and safety of their employees, and shareholders before making a decision.

• **Foreign Direct Liability:**

If a company had a burst oil pipe in the UK, damaging the environment and people's property, they would be held to account. The UK has stringent laws which would require the company to pay for a clean up operation, and reimburse people for their loss. To most people this just sounds like common sense - you make a mess, you should clean it up.

Unfortunately however, UK companies don't always clean up the mess they make - particularly if it occurs in the developing world or where environmental legislation is lax. Human rights and environmental abuses in the developing world by UK companies are well documented - *Behind the Shine: the Other Shell Report* and *Behind the Mask: the Real Face of Corporate Social Responsibility* are two good, recent examples [*Behind the Mask* includes a case study of Coca-Cola's exploitation of water resources in India, which is being countered by community mobilisation, including a permanent picket outside bottling plants – the reports can be downloaded from the CORE website].

CORE wants affected communities abroad to be protected under UK law and able to seek compensation, for any human rights or environmental abuses committed by UK companies or their overseas subsidiaries. If affected communities are unable to claim compensation from UK companies in their own country, we want them to be able to claim here.

Contact CORE for information on how to support the campaign.

## The role of SP

The Simultaneous Policy could include measures to hold corporations accountable. Acting alone some governments are fearful they will lose investment, others are reluctant to hamper the operations of their own corporations in a competitive world. Corporations invest heavily in lobbying and in financing political parties from all sides of the political spectrum. Democracy has been compromised through their influence.

While any business leader can become a Simultaneous Policy Adopter and play a role in shaping the policies, they have no rights above any other Adopter. To maintain this principle, International and National Simultaneous Policy Organisations have a strict policy of accepting no funding from for-profit organisations.

SP could deliver the measures proposed above. While conventional campaigns too often have to settle for less than they demand, the Simultaneous Policy will be what Adopters decide it to be. Politicians are invited to pledge to implement SP alongside other governments or lose the support, and votes, of Adopters. While this provides an electoral reason to

support SP it is clear from the way SP is already receiving support from MPs outside election time that some are seizing on it as a way to deliver desirable policies obstructed and compromised through other routes.

Coming up with a possible system of regulation is beyond the time we have available. But it is not necessary to re-invent the wheel. Suggestions abound, from giving international courts the power to hear cases against corporations, to statutory public-interest directors, to an international regulatory authority such as a re-vamped World Trade Organisation which puts the public interest first.

Some of these ideas were discussed at greater length in the CAMSPAG policy forum on 'Making all trade Fair Trade'. The Winter 2004/05 issue of *It's Simpol!* also examines corporatocracy and provides references. In a future policy forum we will look in more detail at some of these options.

**To become an SP Adopter (there is no charge) and for additional information on the Simultaneous Policy, CAMSPAG and to comment on the suggestions in this discussion paper visit:**

**[www.simpol.org.uk](http://www.simpol.org.uk)**