

SEPTEMBER 2007

RIGHTS in ACTION

A monthly e-update on developments in the work of IRAdvocates. IRAdvocates is a project of the International Labor Rights Fund (www.ilrf.org).

Firestone's Dismissal Motion Rejected, Child Labor Claims Move Forward

On June 26, 2007, Judge David F. Hamilton of the United States District Court in Indianapolis, Indiana, gave the order to move forward on child labor claims against Bridgestone-Firestone, rejecting the company's dismissal motion. This case marks the first time a company has faced a class action for human rights violations on behalf of child workers.

The plaintiffs, adults and children who work and live on the Firestone plantation in Liberia, have asserted that Bridgestone-Firestone is responsible for "extremely exploitative practices" on the plantation, including forcing plantation workers and plantation child laborers to work as modern-day slaves. Though this year marks the 200th anniversary of the end of the trans-Atlantic slave trade, Bridgestone-Firestone finds itself accused of committing the kind of atrocities that former slave traders and slave owners benefited from so many years ago.

The legal team working this case with International Rights Advocates has found that children as young as 11 years old are forced to work in the fields from early morning, before the sun even rises, until late in the day. In fact, the company's history in Liberia indicates that for 80 years, Firestone has exerted coercion on its workers to meet impossible quotas,

forcing those same workers to make their children work on the plantation. Parents of the child laborers contend that though they would much rather send their children to school, Firestone's mandated targets have made it impossible for their children to attend school because doing so could mean the difference between subsistence and starvation.



Liberian tapper carrying two 75-pound buckets filled with raw latex to a collection site. Firestone tappers earn \$3.19 a day attempting to meet impossible quotas and risk starvation if they do not make their children work on the plantation.

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Since Judge Hamilton's decision, the court has set a schedule to begin the discovery process and class certification. In the meantime, IRAdvocates has plans to spend time in Liberia interviewing witnesses from among the 10,000 workers on the plantation. IRAdvocates also plans on retaining documentation on the conditions of the plantation and the effects of those conditions on the child workers. At the same time, the International Labor Rights Fund (ILRF) is continuing its "Stop Firestone" Campaign, seeking to increase awareness to the Liberian diaspora in the US, hold an Action Event at Firestone National Rubber Company headquarters in Indianapolis, Indiana, and increase shareholder activism and pressure on major buyers of Firestone tires, among other things through 2007 and 2008. ●

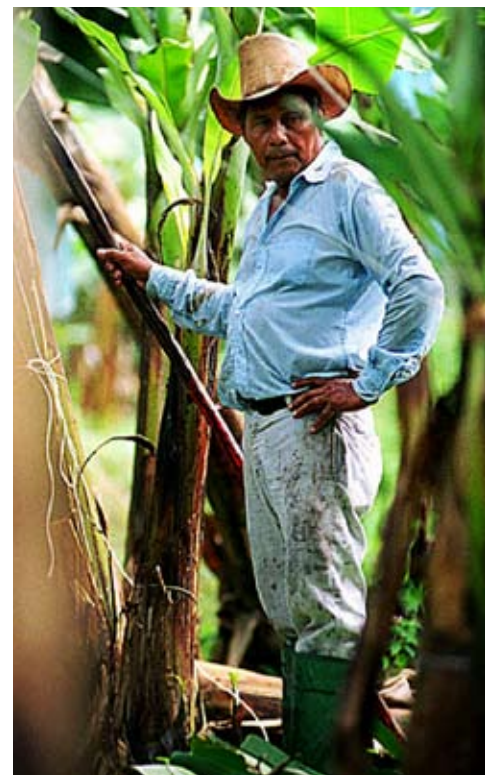
Court Denies Del Monte's Motion to Dismiss

Two years ago in July 2005, the 11th Circuit Court found that former officers of SITRABI, a national trade union of plantation workers, had properly alleged claims of torture against Fresh Del Monte Produce (Del Monte). The plaintiffs—Angel Enrique Villeda Aldana, Jorge Agustin Palma Romero, Oscar Leonel Guerra Evans, Lyonhel McIntosh Rodriguez, Marel Martinez, Gumerzindo Loyo Martinez, and Rigoberto Alvayero Hernandez—represented workers on a Bandegua banana plantation in the municipality of Morales, Izabal, in Guatemala, and were subjected to torture and unlawful detention because of their efforts to organize.

The incident that started it all happened in the early morning of October 13, 1999, when one of the private security forces permitted and regulated in

Guatemala barged into SITRABI headquarters, purportedly under the direction of leaders of the Bandegua banana plantation, which is a wholly-owned subsidiary of Del Monte. Some at the headquarters were held hostage while other leaders were forced into a local radio station and detained. There, they were ordered to denounce the union at gunpoint, later announcing that the labor dispute was over and that they were resigning. Once they were returned to SITRABI headquarters, the leaders received a facsimile of a "model resignation form" from Del Monte or Bandegua. After signing the form at gunpoint, the plaintiffs were released—eight hours after the entire ordeal began.

IRAdvocates was there when the plaintiffs sought relief and damages for their plight.



Workers on a Del Monte banana plantation on the east coast of Guatemala earn less than two dollars a day. Photo courtesy of flickr™.

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Court Denies Del Monte's Motion to Dismiss

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Natacha Thys, Associate General Counsel at IRAdvocates and one of the attorneys on the case, asserts, "Following a fourth amended complaint by plaintiffs after [the case was] remand[ed] back to the district court, Del Monte sought to again dismiss plaintiffs claims asserting that the case should be moved to Guatemala and that the court lacked personal jurisdiction (authority) over their foreign subsidiary, Bandegua. They did so despite the federal court's earlier ruling finding Guatemala to be an inadequate forum as return to Guatemala would place the lives of plaintiffs in grave danger, which is still true today. These motions were heard by Magistrate Judge Simonton on August 27, 2007. Although she has recommended that Bandegua be dismissed, she also recommended that the case not be transferred to Guatemala, largely because the U.S. has a significant interest in hearing Torture Victims Protection Act (TVPA) cases, and because plaintiffs are now firmly established in the U.S. We [expect] Judge Moreno to adopt her ruling on the *forum non conveniens* issue, which would allow discovery to continue in the case."

According to ALM's Law.com (formerly American Lawyer Media) website, *forum non conveniens* is "Latin for a forum which is not convenient. This doctrine is employed when the court chosen by the plaintiff (the party suing) is inconvenient for witnesses or poses an undue hardship on the defendants, who must petition the court for an order transferring the case to a more convenient court." ●

173 Victims' Families File Suit Demanding Chiquita to Pay Reparations



A Chiquita Banana stand at an IGA Supermarket. Photo courtesy of flickr™.

In another big human rights case against a powerful multinational corporation, Chiquita Brands International is facing a civil suit filed by IRAdvocates on behalf of the families of 173 workers murdered by Colombian paramilitaries. With terrorist activities primarily taking place in the banana growing regions near the Gulf of Uraba and the city of Santa Marta in Colombia, South America, the plaintiffs assert that the defendants were knowingly complicit in the ongoing campaign to terrorize, among other persons, individuals believed to be interfering with the defendants' business operations in Colombia.

The case began earlier this year when a probe headed by the United States Department of Justice (D.O.J.) culminated in a shocking discovery. Investigators for the D.O.J. found that Chiquita had been paying members of the United Self-Defense Forces of Colombia (Autodefensas Unidas de Colombia, or A.U.C.), a right-wing paramilitary organization also listed by the U.S. State Department as a terrorist group in 2001, millions of dollars to "protect" its employees, which often involved systematic intimidation, threats, abduction, torture, and murder (or extrajudicial killings). Workers would routinely be forced to quit their union, stop pressing legitimate grievances, or accept poor working conditions. Following this finding, the D.O.J. filed criminal charges in March of this year.

Upon facing the allegations, Chiquita promptly admitted to the truth of the finding and agreed to cooperate in the ongoing investigation. Chiquita got off easy with a \$25 million fine and no jail time for corporate executives. ●

Working Together to Protect Human Rights: A Collaboration Between the American Association for the Advancement of Science Human Rights Program and IRAdvocates

In an effort to interrupt the outflow of illegal narcotics from Colombia, DynCorp was contracted by the United States government on January 30, 1998, to spray fumigants from airplanes onto cocaine and heroine poppy plantations in the South American country. During the course of the controversial "Plan Colombia" program, however, DynCorp also began spraying at or near the border of Colombia and Ecuador. The plaintiffs,

who are citizens of Ecuador, assert that DynCorp did this in willful disregard to the fact that winds would carry the toxic spray to areas inhabited by people. A group of at least 10,000 Ecuadorian subsistence farmers with no connection to the drug trade are being subjected to sustained, deadly aerial assaults financed by the U.S. government through DynCorp.

In September 2001, the International Labor Rights Fund (ILRF) filed suit on

behalf of the farmers citing crimes against humanity and wrongful death. Nearly six years later, in May of this year, the U.S. District Court of the District of Columbia denied DynCorp's motion to dismiss. The defendants' answer to the complaint is due October 15. For the purposes of discovery, the case has since been consolidated with the Quinteros case, which is another case that involves a different set of plaintiffs alleging similar violations.



A Colombian man crying over fumigated peanuts. Photo courtesy of www.witnessforpeace.org.

Interview: Mona Younis Director, Science and Human Rights Program

Mona Younis is the Director of Science and Human Rights Program at the American Association for the Advancement of Science. Prior to joining the Association, she was human rights Program Officer at the Mertz Gilmore Foundation, overseeing funding programs for human rights in the U.S. and internationally as well as immigrant rights. She was also an independent consultant to the Foundation, the United Nations and other clients.

In our efforts to move forward with the DynCorp case, IRAdvocates contacted the American Association for the Advancement of Science Human Rights Program and began corresponding with some key people to help us retain, among other things, relevant and vital meteorological information on the fumigated area in Ecuador using satellite imagery. This collaboration demonstrates how scientific agencies can apply certain technologies to help advance human rights work. ●

Q. What is the American Association for the Advancement of Science Human Rights Program?

A. *The American Association for the Advancement of Science (AAAS) is the world's largest multidisciplinary scientific membership organization. Established in 1848, AAAS is devoted to "advancing science, serving society." One of the many ways in which it does*

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Interview: Mona Younis

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this is through the Science and Human Rights Program (SHRP) which develops scientific tools and technologies with potential human rights applications. The Program also engages scientists in human rights, promotes the human right to benefit from scientific progress (Article 15, ICESCR), and brings human rights norms to the conduct of science.

Q. Why is the AAAS interested in the DynCorp case?

A. As much as possible, we want to be able to respond to human rights organizations' requests for scientific

expertise in, for example, gathering and verifying evidence of possible human rights violations. When IRAdvocates approached us with the DynCorp case, we asked ourselves whether it addressed a bona fide human rights concern, and whether we had relevant scientific expertise to contribute. The first question was easy to answer: it does. To answer the second question our project director for geospatial technologies conducted preliminary research. Once he determined that the case required scientific expertise that we possess and that it would expand the human rights applications of the technologies, we agreed to work with IRAdvocates. ●

Interview: Lars Bromley

Senior Project Associate, Science and Human Rights Program

Lars Bromley has been with the AAAS since 1997, serving as the principal researcher and chief cartographer for the AAAS *Atlas of Population and Environment*.

Q. What do you do at the AAAS?

A. I am the Project Director for the Geospatial Technologies and Human Rights Project, which means I direct many aspects of our work seeking to apply satellite imagery and related technologies to human rights advocacy, monitoring, and litigation work.

Q. What is your primary interest in the DynCorp case?

A. I am primarily interested in the DynCorp case, aside from the human rights concerns, as it applies a classical area of scientific study, specifically analysis of changes in vegetation. A large amount of work has been done on this topic within the environmental sciences in particular, so there are many well-developed methodologies. The DynCorp case allows us to see if these methods can service a very real, ongoing human rights issue. Specifically, we are trying to authoritatively delineate the areas [affected] by spraying from other areas, which is an important question to the case. ●

Thank you to everyone working for and with us!

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