

Final declaration from the Council

A public hearing and inquiry into Nestlé in Columbia was held on Saturday 29 October 2005 in Bern. This event was organised by Multi Watch, an organisation that was founded on 14 March 2005 and which consists of NGOs, trade unions, charitable organisations, political parties, church linked groups and social movements supporting the movement for “Another world is possible”. On this occasion, representatives from the food trade union SINALTRAINAL denounced, in front of a council of 5 public figures acting as a sort of court of public opinion, four particularly shocking situations which occurred in factories in Columbia. At the end of the hearing, the council adopted the following declaration (outlined below).

The hearing lasted from 9am to 6pm. The Council Members included Carlo Sommaruga, Rudolf Schaller, Carola Meier-Seethaler, Dom Tomas Balduino and Anne-Catherine Menétrey-Savary. The political and social situation in Columbia was described by Miguel Puerto. The Colombian prosecutor was Alejandro Garcia Salzedo, the SINALTRAINAL union’s lawyer. His case was supported by the testimonies of Carlos Olaya Rodriguez, Alfonso Baron Sanchez, Onofre Esquivel Luna and Oswaldo Silva Ditta.

The People's Permanent Tribunal was also present as an observer and consisted of Francesco Martone, Antoni Pigrau Solé and Gianni Tognoni.

The Council wishes to commend the excellent preparation of the event and the quality of the testimonies. The files which were presented were clearly assembled with great care and contained hundreds of pages, each with an impressive number of documents and incriminating evidence. The Council particularly commends the quality of the interventions made, as well as the courage of the experts and witnesses from Columbia, especially since the Council is very much aware that these workers face death threats and take great risks by testifying openly.

Nestlé refuses dialogue

The Nestlé corporation was invited to participate in this hearing, but declined the invitation, much to the council’s regret. The multinational nevertheless sent a succinct document which aimed to refute, in advance, all accusations made against it. On reading these few pages, the council realised that, even before knowing the content of the hearing and the composition of the jury, Nestlé was already expressing its scepticism and demonstrating some contempt towards this event, accusing those who were intervening of being partial and giving voice to “hysterical” accusations. We deplore this lack of openness towards any dialogue. Nevertheless, it was noted that the statements Nestlé made in its defence were taken into account by the members of the council, and were referred to when questioning to the experts and witnesses. The answers received went far beyond the basic justifications made by the company and appeared much more convincing to us.

The council can only deplore this refusal to even consider the claims made by the Nestlé Columbia workers, since it believes that the Swiss multinational should assume responsibility wherever it is located in the world. During the day, the testimonies heard revealed that other companies in Columbia have practices which are just as

worthy of criticism as those of Nestlé. But it is Nestlé which is considered here since we are in Switzerland and since we are particularly concerned with the policies of a company which are in contradiction with the commitments made in this country, both at national and international level. For example, we are shocked that Nestlé is one of the signatories of the “Global Compact” and yet apparently holds little regard for the principles enshrined therein. The council therefore considers it unacceptable that Nestlé should withdraw as though the problems it faces with respect to its activities in Columbia should only be of concern in Columbia.

Presentation of the situation and Nestlé’s place in Columbia

During the hearings, the events which unfolded exposed, first of all, the extremely difficult situation which reigns in Columbia. In this country where 20 lives are lost each day for political reasons, the workers, and in particular the trade unionists, are constantly threatened: 4000 trade union members have been murdered since 1987; thousands have disappeared; there have been 1700 cases of human rights violations against union members since President Alvaro Uribe rose to power in 2002, and 60% of the population is living in poverty. It was also noted that no legal guarantees have been made to protect the rights of workers. Paramilitary groups are numerous around large multinational companies, and violence is omnipresent, in a climate of threats, confrontations and fear. Within this context, the trade unionists are described as organisations that are closely linked to guerrillas, even to terrorism, especially since the USA have put their “Columbian Plan” into action using billions of dollars. Nevertheless, the witnesses clearly stated that the trade unionists neither provide help nor receive help from the guerrillas. It must be highlighted that social movements remain very active and that resistance shows both determination and courage.

Nestlé has been present in Columbia for the last 60 years and has continued to extend its empire by creating a near monopoly. Between 1947 and 1979, the company has acquired 13 factories and has closed 9. Its company policy has considerably evolved over the last few years, going from being a firm geared towards local production to being a multinational determining its imports and exports purely on the basis of its own profit, while scorning the needs of the country. In this way, the company has helped to enrich the large land owners which supply milk to Nestlé, much to the detriment of small producers and livestock-breeders who are often forced to leave their land. Its employment policy is nowadays characterised by a strong will to be rid of the unions, while 40 years of struggle had enabled the latter to greatly improve the lot of the factory workers. Nestlé currently pursues a restructuring policy in order to reduce its production costs, while its companies’ profits continue to increase unabated.

Nestlé’s dominance can also be explained by the corporation’s ability to take advantage of the extremely troubled political situation reigning in the country. Currently, the State of Columbia seems to want to place itself completely at the disposal of the economy in general and of Nestlé in particular. Numerous examples were given, highlighting several areas where Nestlé benefited from substantial advantages, for instance in terms of taxation and grants. In addition, the carefully constructed and efficient network of people closely linked to the company and working in the administration and ministries, including tribunals, has ensured Nestlé’s great freedom in terms of its actions and near impunity. Nestlé has also succeeded in

coming through the turbulences that have plagued the country and to profit from them, thanks to a connivance that borders on complicity. It is the workers who suffer most from this situation, particularly from the absence of impartial jurisdiction.

First case presented: murders and disappearances

The witnesses presented the 10 cases of workers assassinated by suspected paramilitaries between 1986 and 2005, generally trade union leaders. These murders generally took place during periods of conflict and tension within the Nestlé factories, at times when collective work agreements were being reconsidered, and, for some of these victims, the day before a strike. While Nestlé's responsibility may not be directly in question, the intimidation and blackmailing methods used are nevertheless indirectly so. When refusing to increase the price paid to land owners for their milk deliveries, Nestlé used the pay rises demanded by the workers as its excuse, while at the same time threatening to relocate its production centres. The trade unions were therefore seen as the enemies to bring down. However, it later emerged that it was the landowners who were in cahoots with paramilitary groups.

If Nestlé claims to be very concerned by the violence, its reaction was not as forceful as expected, with the pretext given that factory workers were not the only ones targeted, but managers too, and not only Nestlé's factories. Seeing this as a scourge out of its control, Nestlé did nothing to bring the culprits to justice or to protect its employees, despite its power and influence within the heart of the Columbian state. According to the document handed to us, Nestlé expressed its condolences to the families concerned but without offering the slightest compensation.

The council believes that in this case, Nestlé failed in its task, whether by omission or abdication of responsibility, but that it is indirectly responsible in that its policy of blackmail and constant pressure on the workers was likely to generate violence.

Second Case: permanent layoffs and anti-trade union policies

At the beginning of 2002, the collective work agreements were due to be renewed in the Cicolac factory, but negotiations with the workers' representatives led to nothing since Nestlé wished to dismantle its social agreements for salaries and medical services. While a strike was voted for, death threats led the trade union leaders to back down and so cancel their advance strike warning. After various events linked to a supposed work stoppage, nine representatives from the trade union were dismissed. In the spring of 2003, a court of arbitration gave justification to Nestlé's actions on the basis of a decision made in the absence of the workers representative. In this affair, the law was not respected, be it the national laws or the international conventions, in particular convention 87 and 98 of the ILO. Yet not only have the sacked workers lost their jobs but they have also lost their trade unionist status since, in Columbia, permanent employment is one of the conditions for belonging to a trade union. This manoeuvre clearly served to decapitate the trade union with a view to its permanent removal.

In the autumn of 2003, for the same reasons, Nestlé convened all its employees in separate meetings with representatives from the general management, in order to suggest that employees resign voluntarily in exchange for financial compensation.

These workers were held in hotels, almost against their will, until they gave their agreement. 175 workers lost their jobs in this way. Only one employee refused this deal but he has now been relocated to an isolated office with no work to do. Instead of its regular employees, Nestlé employed temporary workers paid half the normal rate and with no social protection and no trade union rights.

This employment policy is in direct contravention with the law. It is particularly shocking that Nestlé should operate in this manner whilst boasting to be an exemplary company. We know that its management in Switzerland invests a lot of money into promoting the company's image, in an onerous marketing effort. In the document the company passed on to us, Nestlé claims to respect the freedom of unions and to be working for the greatest possible economic and social benefits for Columbia, thanks to 90% of its products being produced in the country. The witness statements that we heard give us no reason to believe this. Certainly this policy of employment deregulation and of pushing people to the brink also operates in Switzerland and everywhere where economic globalisation prevails. Nevertheless, these consequences are particularly serious for countries such as Columbia, where those who lose their jobs risk falling into poverty or being enrolled in paramilitary violence or the guerrillas.

Third and fourth cases: out of date products and pollution

On several occasions between September and December 2002, stocks of out-of-date milk were found, which Nestlé had imported to Uruguay and Argentina and was about to repackage, after changing the out-of-date labels. In its document, Nestlé claimed that this was a labelling error, although the company had to admit that the milk was well and truly out-of-date and unsuitable for consumption. In addition, this "error" occurred four times over a few months so it is difficult to conclude that this was simply coincidence! The witnesses and experts reported that on other occasions, Nestlé did not respect product quality and safety standards, putting the consumers' health at risk. They also recalled that children died in 1979 after being poisoned by contaminated powdered milk.

It was factory workers who discovered these problems and who informed the company managers. Realising that the latter would not listen, the authorities were informed and the merchandise was seized. Alas, the workers were the subject of reprisals and they are being constantly threatened to this day.

Also in the chapter on contamination and poisoning, the experts denounced the serious pollution of waste waters which were released into rivers following the cleaning of tanks with toxic chemicals. These pollutants have a devastating effect not only on the aquatic fauna but also on the water tables, thus endangering the health of the population. According to the witnesses, Nestlé also lets very hot water run into the rivers and streams at times, thus causing serious damage. The council struggles to understand how a food company which aims to be unbeatable in terms of quality and safety can be caught contaminating water and adulterating milk in this way! Maybe the company imagines that its negligences are less damaging in a country like Columbia, whereas in Switzerland these events would cause a scandal! But maybe the company is wrong since, in this case, the public powers and the parliament are at last

reacting, as if there was a threshold above which the State could no longer close its eyes and ignore the actions of large companies.

Conclusions

At the end of the hearing, impressed by all it has heard and by the seriousness and credibility of the proof given, the Council

- can only condemn Nestlé's actions in Columbia and believes that these are unacceptable from a multinational which claims to be worthy of the good reputation and trust it receives from its clients. Nestlé has overstepped all tolerable limits whether through its failings in terms of the quality of its products or the protection of the environment, or through its policies of dismantling the working conditions or its implacable hostility towards trade unions, or even through its aggressive methods in terms of economic policies.
- believes that steps must be taken both in Switzerland and at international level in order to force Nestlé to respect the rights of trade unions, as stipulated by international conventions and the Colombian Constitution, and, if necessary, by taking cases to ordinary courts.
- recommends that steps are taken in consultation with the ILO.
- calls upon all international jurist organisations, churches, trade union organisations and NGOs to denounce Nestlé's actions and those of other multinationals that flout human rights and expose their employees to violence or dire poverty.
- desires also that the Swiss authorities take heed of this brief, that they invite Nestlé to refocus its policies in Columbia, and implement in a more coherent manner the conditions imposed by the Swiss Ministry of external economic relations relating to the respect of human rights, and this especially with respect to the Colombian government.

We are particularly concerned by the fact that the rights and the lives of the trade unionists who came to testify in Berne will be threatened upon returning to their country. Lastly, we realise that the problems highlighted in Columbia also affect the Swiss people, who may also suffer from the consequences of globalisation and the destabilisation of work conditions. Even if the consequences are generally less severe for us, these developments should incite civil society to commit to defending the rights of workers with greater solidarity throughout the world.

Berne, 30 October 2005

Dom Tomás Balduino, Carola Meier-Seetaler, Anne-Catherine Menétrey-Savary, Rudolf Schaller, Carlo Sommaruga