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Capstone Research Paper
Human Rights and Corporate Accountability
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The idea of “corporate social responsibility” has become a key component of most US companies’ public relations and regulatory measures. There exist a number of associations, verifications programs, and advertisements used to project corporations as responsible members of society with a conscience and respect for the environment and human rights. Yet, corporate implication in human rights violations and environmental degradation remains persistent. Despite pledging to abide by and verify standards, undergo inspection and fund all manner of social welfare projects, incidents still continue to surface in which the ethical standards and actual intention of corporations come into question. If corporations cannot be counted on to regulate themselves effectively, independent means to hold corporations accountable for their actions that violate human rights are integral to pursuing justice, truth, and accountability in a world where consequences are globalized. It is easy to outsource the costs, whether human or natural, of corporations operations to peoples and regions that receive little to none of the benefits of globalized corporate prosperity.

This paper seeks to examine the particular strategies used to prevent, regulate, influence, and hold accountable corporations for their involvement in human rights violations. To do so, it will classify the methods in three broad categories. The first is the self-regulatory and cooperative method, in which corporations seek to set and hold themselves to certain standards, or engage with a third party entity to verify and achieve this. The second is the popular pressure model, in which boycotts, divestments, and shaming actions are taken by private citizens or organizations to pressure corporations to change their practices. The third is the legal or litigation method, specifically the use of the Alien Tort Act and the judicial decisions and congressional pressures that have

accompanied it. This paper will examine what successes each method has brought about, the advantages and disadvantages of each, and the implications for human rights campaigners. The thesis of this paper is that: self-regulation and certification standards are weakly enforced and incomprehensive; that public pressure movements require significant mobilization and support to succeed; and that the Alien Tort Claims Act, despite recent rulings, provides the best opportunity for justice for victims and for deterring unethical behavior and holding companies accountable for complicity in human rights violations.

The Self-Regulation and Voluntary Certification Model:

Self regulatory and voluntary processes examples include the SA8000 certification system, the Voluntary Principles on Security and Human Rights, the Extractive Industries Transparency Initiative, and the International Stability Operations Association. Each is different in nature, but operates with the intended goal of creating socially responsible standards and regulations to which companies can jointly accede to. This is their proof, or public marketing strategy, to shows consumers and watchdogs they are socially responsible and acting in an ethical way.

For example the SA8000 certification system includes such laudable labor rights standards as the prohibition of child labor, forced labor, corporal punishment as discipline, discrimination, and provides for the protection of health and safety, the right to collective bargaining, a 48-hour work week with one day off and no more than 12 hours overtime at a premium rate. It also sets a standard for wages that “must meet the legal and industry standards and be sufficient to meet the basic need of workers and their families,” and requires that companies take measures to make the standards part of their

management system.¹ The precise standards are certified by an independent auditor, Social Accountability Accreditation Services, which works with a number of independently trained and verified third-party subcontractors to conduct audits, inspections, surveillance, and interviews across the world to verify and certify a company for SA8000. The certifications are good for up to three years, though continued follow-up inspections can result in immediate decertification of facilities if there are serious violations. Companies must repeat the process after the three years to gain certification again.² The whole process can be costly, time consuming, dependent on regional variances, and require significant training, consulting and changes in practice before an auditor even comes to inspect a facility.³ As authors Morgan and Munilla note in their article on the SA8000 standards, they were not originally designed for the agricultural or extractive industries, but rather manufacturing, and are rather normative evaluation standards.⁴

The problem with the SAI system of self-regulation-- beyond its cost to implement⁵ and complete lack of any standards concerning bribing local officials, or working with local criminals, or anything related to the communities it effects beyond its own workers⁶-- is that though implemented with outsider auditors, it can still be manipulated, used as green washing, and by no means ensures ethical behavior that

¹“SA8000: 2008 Standard” Social Accountability International.

< <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&PageID=937>>

² “Certification Process,” Social Accountability Accreditation Services.

< <http://www.saasaccreditation.org/certprocess.htm>>

³Byers, Alice, Daniele Giovanni, and Pascal Liu, “Value Adding Standards in the North American Food Market: Trade opportunities in certified products for developing countries,” Food and Agriculture Organization of the United Nations, Rome, 2008, p 2, <<ftp://ftp.fao.org/docrep/fao/010/a1585e/a1585e.pdf>>

⁴ Miles, Morgan P. and Linda S. Munilla, “The Potential Impact of Social Accountability Certification on Marketing: A Short Note” *Journal of Business Ethics* Vol. 50, No. 1 (Mar., 2004), pp. 1-11
<<http://www.jstor.org.proxyau.wrlc.org/stable/25123189>>

⁵ Byers, p. 2

⁶ “SA8000: 2008 Standard” Social Accountability International.

< <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&PageID=937>>

respects human rights. This is probably more so the case in conflict zones where violence and corruption are often pervasive, as opposed to China where a major portion of manufacturing facilities have been certified.⁷ Manipulation of the standards need not even involve a fraudulent audit either, as Dole proudly proclaims on its corporate responsibility web page that it's Colombian subsidiary Tecbaco was SA8000 certified in 2007.⁸ Yet it does not appear on the 2010 list of SAAS certified facilities,⁹ nor does it appear on the 2009 list, suggesting not just that its certification ended, but that it was decertified earlier.¹⁰ Yet the statement remains on Dole's site, allowing it to portray itself without consequence as behaving ethically and as being certified to those who don't research more deeply into the matter. If they were decertified before or in 2009, there was apparently no requirement that they remove the misleading statement from their site upon decertification.

Chiquita is a perfect case study of contrasting a company's actual behavior with how they portray their ethics to the public. The company that says on its website that it "has chosen to apply a slightly modified version of the requirements of Social Accountability 8000 (SA8000), a standard developed by Social Accountability International (SAI), to certain areas of its operations." It then goes on to direct visitors to SAI's website, to learn about the standards.¹¹ The fact that the "modified" standards have

⁷ "SA8000 Certified Facilities: As of December 31, 2010" Social Accountability Accreditation Services. <http://www.saasaccreditation.org/certifacilities/2010_Q4/Q4%20Certs%20List,%20Public%20List,%20alpha.pdf>

⁸ "Dole Worldwide: Tecbaco" Dole, 2008, <<http://www.dolecsr.com/DoleWorldwide/DoleFreshFruit/Colombia/tabid/440/Default.aspx>>

⁹ "SA8000 Certified Facilities: As of December 31, 2010" Social Accountability Accreditation Services. <http://www.saasaccreditation.org/certifacilities/2010_Q4/Q4%20Certs%20List,%20Public%20List,%20alpha.pdf>

¹⁰ "SA8000 Certified Facilities: As of December 31, 2009" Social Accountability Accreditation Services. <<http://www.itglwf.org/lang/en/documents/SA8000.pdf>>

¹¹ "Corporate Social Responsibility" Chiquita Brands.

no further elaboration on just what is modified leaves the matter ambiguous to a visitor. We can also compare and contrast the company's historical timeline in which it presents its achievements in corporate responsibility, its certifications, awards, and cooperation with SAI to the recently revealed scandal that implicated Chiquita in funding and support of mass murder, terrorism, labor assassinations, weapons smuggling, or as Colombia's former attorney general Mario Iguaran phrased it "money and arms and, in exchange, the bloody pacification of Uraba."¹² The Uraba region was the center of Chiquita's main banana growing, and most profitable operation in Colombia prior to 2004.¹³

Chiquita's company timeline displays that in 2000 they "Adopted Core Values and updated Code of Conduct to include Social Accountability International's SA8000 labor standard." And that "Rainforest Alliance certified 100 percent of Chiquita's farms in Latin America to strict environmental and social standards of the Better Banana Project." In 2001, some of Colombia's biggest unions, "IUF, COLSIBA and Chiquita signed historic agreement on labor rights for banana workers." In 2002, "Chiquita joined the Ethical Trading Initiative," and by 2003 even "received 'Corporate Conscience Award' from Social Accountability International." By 2004, Chiquita's operations in Latin America were "100%" certified by SA8000.¹⁴ The progressive and ethical picture painted by Chiquita's public relations, belies a much more disturbing reality and utter disrespect for human rights.

<<http://www.chiquitabrands.com/CorporateCommitment/CorporateSocialResponsibility.aspx>>

¹² Forero, Juan. "Colombia May Seek Chiquita Extraditions: Eight Executives Targeted in Paramilitary Payment Scandal" Washington Post, March 21, 2007.

¹³ Lynch, David J, "Murder and payoffs taint business in Colombia: U.S. corporate behavior goes under the microscope as Congress weighs trade pact," USA Today, October 30th, 2007.

¹⁴ "100 Years and Counting..." Chiquita Brands.

<<http://www.chiquitabrands.com/CompanyInfo/History.aspx>>

Recent revelations based on a US Department of Justice case and documents disclosed by the National Security Archive offer a much different timeline. In the early 90's, Chiquita had already become used to making "sensitive payments" to left-wing guerillas such as the FARC and ELN in Uraba. By the mid-nineties, Chiquita seemed to have a change of heart, and began funneling payments to right-wing paramilitaries working in conjunction with the Colombian military. A meeting in 1997 with Carlos Castano seemed to firm up Chiquita's relations with the right-wing militias, and the man who would go on to lead the United Self-Defense Forces of Colombia (AUC), a paramilitary organization spanning the country and almost 30,000 strong at its height.¹⁵ From 1997 to 2004, Chiquita made payments totaling \$1.7 million dollars to the AUC, \$825,000 of it in 50 separate payments after the State Department labeled the AUC a terrorist organization on September 10th, 2001.¹⁶ Twenty of these payments, totaling \$300,000, were even made after the company supposedly "realized" the AUC were terrorists in April 2003 and consulted lawyers and the Justice Department who both emphatically stated the payments were illegal.¹⁷ This made it not just ethically disturbing, but also extremely illegal. In November of 2001, not but two months after the horrific attacks on the World Trade Centers by the terrorist group Al Qaeda, Chiquita facilitated a weapons shipment to the terrorist-designated AUC through one of the ports owned by its subsidiary.¹⁸ Despite its plea that it was merely the victim of extortion, and that the Justice Dept. found "no evidence that Chiquita shared any of the murderous goals of the terrorist groups it was forced to pay," according to a company spokesman, the recently

¹⁵ Lobe, Jim and Aprille Muscara. "Court Documents Reveal Chiquita Paid for Security." Inter Press Service, Washington, April 7th, 2011.

¹⁶ Forero, Juan.

¹⁷ Lynch, David J.

¹⁸ Forero, Juan.

revealed internal documents suggest otherwise. A memo from 2000 detailing a conversation between the heads of Chiquita's subsidiary Banadex explained how paramilitaries were forming a front company for "the real purpose of providing security." By 2003, the company even had Power Point presentations describing how to cover up continued funding.¹⁹ The Justice Department's investigation showed even Chiquita's top executives were not just complicit in, but reviewed and approved the actions of its subsidiary Banadex.²⁰

At the height of the paramilitaries' power there was near absolute impunity for assassinations of trade unionists, labor organizers, human rights workers, and ordinary farmers, a problem that persists even to this day.²¹ The period also saw Chiquita's Colombia operations become its most profitable.²² What is known is that while Chiquita was paying paramilitaries for protection of its most profitable plantations, these same paramilitaries were killing human rights and labor activists in the very same region. Over 4,000 people, more than died in the 9/11 attacks, were killed in Uraba alone during the period in which Chiquita paid and armed the terrorist organization AUC.²³ The hypocrisy and deadly consequences of Chiquita's actions make a farce of the SA8000 standards, audits, and the corporate social responsibility it claimed and was lauded for at the time. While SA8000 didn't explicitly say in its standards to not provide guns and money to terrorists and people assassinating labor leaders in your region, Chiquita was willing to use SAI and the SA8000 system to present themselves as ethical to the public.

¹⁹ Lobe, Jim et. al.

²⁰ "Chiquita Brands International Pleads Guilty to Making Payments to a Designated Terrorist Organization And Agrees to Pay \$25 Million Fine," Department of Justice, Washington, March 19th, 2007.
<http://www.justice.gov/opa/pr/2007/March/07_nsd_161.html>

²¹ "World Report 2011:Colombia," Human Rights Watch.
<<http://www.hrw.org/en/world-report-2011/world-report-2011-colombia>>

²² Lynch, David. J.

²³ Lynch, David J.

While it might be easy to say it was only one bad apple, Colombia's Attorney General at the time of Chiquita's 2007 plea deal, said he was looking deeper into what seemed like a pattern of paramilitary ties to major companies, one being Drummond, an American coal company with mining concessions in Colombia.²⁴ The recently leaked diplomatic cables by Wikileaks seem to confirm this suspicion. In fact, embassy officials in 15 different cables to Washington detailed "the company's labor disputes, lax environmental practices and apparent links with paramilitary death squads."²⁵ Drummond's website mentions only a recently struck labor agreement, and its generous donations to programs of social welfare for the communities it works in, and perhaps disturbingly that:

Building stronger communities while preserving a local heritage is a part of our pledge to our employees and our neighbors. Our contributions to these communities continue to demonstrate that mining is an integral contributor to society.²⁶

Drummond still denies involvement in paramilitary activities, including the assassinations of the local mine's union president and vice-president on March 12, 2001, despite damning testimony in a recent paramilitary confession.²⁷ The victims of paramilitary violence in that region filed a recent court suit in the US against Drummond under the Alien Tort Claims Act (a case which has not been settled, and of which we will discuss the legal ramifications of later). They allege that Drummond was also involved in

²⁴ Forero, Juan.

²⁵ Aronowitz, Hannah. "Drummond paid Colombian paramilitaries: Wikileaks," Colombia Reports, March 16th, 2011. <<http://colombiareports.com/colombia-news/news/14935-us-coal-firm-drummond-paid-paramilitaries-wikileaks.html>>

²⁶ "Philosophy" Drummond Company Inc., 2011. <<http://www.drummondco.com/about/Philosophy.aspx>>

²⁷ Welsh, Teresa. "Paramilitary speaks out on Drummond murders," Colombia Reports, September 17th, 2010. <<http://colombiareports.com/colombia-news/news/11899-paramilitary-drummond-unionists-murders.html>>

murders and land grabs to build railroads to its mines, and that cooperation with paramilitaries extended from 1999-2005.²⁸ Drummond did not sign onto SAI, or SA8000, but it still tries to project the image of a self-regulated, ethical, values driven and responsible company, even in the literature it distributes to its own workers. It even says: “We consider our employees to be family.”²⁹ Drummond, which has signed on to no multi-stake holder CSR arrangements, even voluntary ones, illustrates the limits of standards when they do not include all parties. Though the court is still out on their case, Corporate Social Responsibility appears to be little more than a public relations and green washing matter if the plaintiff’s claims, the US embassies suspicions, and paramilitary confessions are accurate.

We can take a brief look at another model of self-regulation in the form of a trade association, this one making clear examples of the ineffectiveness of self-regulation. For example, the trade organization of private military companies: the International Stability Operations Association (formerly the International Peace Operations Association), which proposes greater self-regulation for private security companies while also advocating allowing the companies to take on new and greater international roles, and founded in part to “promote high operational and ethical standards of firms active in the peace and stability operations industry.”³⁰ The very nature of the industry raises ethical questions, if not in part because these companies are part of a system of making security a privatized and commoditized service, rather than a public right. Even when they have made token gestures, such as expelling Blackwater after its involvement in the Nisoor square

²⁸ Aronowitz, Hannah.

²⁹ “Philosophy” Drummond...

³⁰ “About IPSOA,” International Stability Operations Association, 2010 IPOA.
<<http://ipoaworld.org/eng/aboutisoa.html>>

shootings,³¹ Blackwater's renamed Xe company still has multi-million dollar government contracts in Afghanistan.³² This shows that one of the few methods for self-regulation the group has, kicking out its members, does not stop them from operating in the industry regardless. Dyncorp, who has not once, but now twice been implicated in arranging child prostitution rings-- the first in Bosnia,³³ the most recent in Afghanistan³⁴ -- is still a member of the Association.³⁵ This is just one of any number of examples where unethical or disturbing behavior was hushed, and supposedly dealt with internally. To be blunt, allowing corporate mercenaries with proven persistent violent and unethical patterns of behavior to regulate themselves while also lobbying for themselves, represents a clear conflict of interests with what can be deadly consequences.

Another example of a corporate social responsibility regulation framework is the multi-stakeholder Extractive Industries Transparencies Initiative, which seeks to help companies, civil society, and governments decrease corruption in oil, gas, and mineral rich states and industries.³⁶ It has met with some success in achieving validated auditing of the financial interactions between companies and governments, and requires regular reports and has checking mechanisms for non-compliance.³⁷ Nearly a dozen countries and the extractive companies that operate there have become EITI verified compliant, in both the global north and global south. The vast majority of countries are still in what is

³¹ "The Membership Status of Blackwater." IPOA. October 12th, 20007.

<<http://ipoaworld.org/eng/press/131-20071012blackwatermembershipwithdrawal.html>>

³² Stein, Jeff. "CIA hires Xe, formerly Blackwater, to guard facilities in Afghanistan, elsewhere," Washington Post, June 24, 2010.

³³ Capps, Robert, "Sex-slave Whistle-Blowers Vindicated," Salon, August 6th, 2002.

³⁴ Boone, Jon, "Foreign contractors hired Afghan 'dancing boys' Wikileaks cable reveals," The Guardian, December 2nd, 2010.

³⁵ "ISOA Member Companies," IPOA 2010, <<http://ipoaworld.org/eng/isoamembers.html>>

³⁶ "What is the EITI?" Extractive Industries Transparency Initiative, 2009.

<<http://eiti.org/eiti>>

³⁷ "EITI Validation: What is EITI Validation?" Extractive Industries Transparency Initiative, 2009.

<<http://eiti.org/eiti/validation>>

known as candidate status, where they announce their intentions and attempt to draw up a plan for implementation.³⁸ In weak, poor, or conflict prone states, this can be a very difficult task, and the EITI process requires extensive resources, outside help, and sustained implementation, which puts the country in a quandary. It could commit its limited capacity and resources to the process, or ask for outside help, which can entail debts to international financial institutions with strings attached, or allowing corporations to bear more of the cost of implementation, and therefore giving them more leverage.³⁹ In addition, only the company operations in the state being validated are subject to scrutiny while its actual global operations may be of a much larger scale.⁴⁰ An issue that raises questions is that several of the compliant, i.e. verified, countries have experienced political instability or rapid changes of government through coups or popular uprising in the last two years. Examples include the coup in Niger⁴¹ and the violent uprising in the Kyrgyz Republic (supposedly inspired by corruption)⁴², which one would expect to disrupt the institutional processes, cooperation, and standards required for compliance, or at the very least require a temporary hold or an investigation for re-certification under the new government. In addition, a country like Nigeria, renowned for its corruption, is still

³⁸ "EITI Countries," Extractive Industries Transparency Initiative, 2011.

<<http://eiti.org/implementingcountries>>

³⁹ "EITI Rules, 2011 Edition Including Validation Guide," EITI International Secretariat, Feb. 11th, 2011.

<http://eiti.org/files/EITI_Rules_2011.pdf>

⁴⁰ "EITI Validation: What is EITI Validation?" Extractive Industries Transparency Initiative, 2009.

<<http://eiti.org/eiti/validation>>

⁴¹ "Niger Unveils New Government," AFP, Niamey, April 22nd, 2011.

<<http://www.google.com/hostednews/afp/article/ALeqM5hrUZ25C1HS80AY3U2sLrLWEVaXMg?docId=CNG.3c64af4b2c0bdbe339ac666532a976d8.231>>

⁴² Parfitt, Tom, "Lambs to the slaughter: sheep sacrificed by Kyrgyzstan parliament," The Guardian, April 21st, 2011.

<<http://www.guardian.co.uk/world/2011/apr/21/sheep-scarified-kyrgyzstan-parliament>>

listed as compliant.⁴³ The benefits EITI claims for compliant countries such as a better investment climate, better governance, economic and political stability, and thus the prevention of conflict over resource wealth, just doesn't seem to match up with the reality in many countries listed as compliant. EITI says that the benefits of compliance for the corporation include mitigating political and reputational risks, as well as creating a politically stable investing environment. The claim that official auditing of finances and disclosures will prevent the presence of backdoor bribery, illegal exports, instability, or conflict over resource wealth, and the fact that many of the compliant listed countries have actually experienced recent instability, been part of a conflict zone, or do not exercise effective sovereignty over all their territory, casts suspicion on the verification process and the supposed benefits of compliance. Not only is the EITI's verification system dubious, it is also narrow in scope when it comes to issues resource rich countries face. In Nigeria the monitoring of financial transactions between government and oil companies does not address the Niger Delta conflict, stolen oil from pipelines, or the massive pollution and oil leakage that destroyed livelihoods in the region.⁴⁴ In this way, the EITI is might provide the reputational benefits it promises, but it is not clear that its verification system and multi-stake holder format effectively deals with corruption, political stability, or human rights abuses related to the extractive industries and groups that benefit or lose from them.

⁴³ Connors, William, "A Campaign to Clean Up Politics Leaves Nigeria With Dirty Floors," Wall Street Journal Online, April 26th, 2011.

<<http://online.wsj.com/article/SB10001424052748703983704576277220191509758.html>>

⁴⁴Gambrell, Jon, "WikiLeaks cable: Politicians, military - not militants - behind most Nigeria oil thefts," Associated Press, April 11th, 2011.

<<http://www.google.com/hostednews/canadianpress/article/ALeqM5hL71AuC0e-6yHiAon82pae9Ewwxw?docId=6531602>>

Indeed, corporations that may be signatories to the EITI process in one verified state may also be engaging in entirely illegal acts in another state. Only the company operations in the state being validated are subject to scrutiny.⁴⁵ That is one of most severe downsides to the EITI, is that it puts an onus on the countries being extracted from, while multi-national corporations are scrutinized only in their operations in one country. If goods were illegally shipped out of a conflict zone with no consideration for human rights and were sent to a third party state, whereupon the company resold and profited from these goods, it still implies complicity and financing of the human rights violations in the originating conflict zones. A good example of both is AngloGold Ashanti Ltd. which operates in numerous countries including Ghana (compliant), Colombia (unlisted), and the Democratic Republic of the Congo (DRC)(candidate), the latter two of which have experienced serious internal conflict. Even if AngloGold Ashanti's actions were ethical in Ghana, it allows for things like AngloGold Ashanti's support financially, and through logistical use of vehicles, to the raping, pillaging, war crime committing FNI militia which exercised effective control over the gold mining region of Ituri in the DRC from roughly 2003-2005. The gold was shipped through the third party state Uganda, from where upon it was exported, showing the limits of country to country certification, when goods can be much more easily transported across borders. Despite later protestations that it was a matter of extortion Anglo never reported it at the time, and prior to the FNI it had been negotiating with the previous militia controlling the area. All of these actions of course also violated UNSC 1493, forbidding assistance to armed

⁴⁵ "EITI Validation: What is EITI Validation?" Extractive Industries Transparency Initiative, 2009.
<<http://eiti.org/eiti/validation>>

groups in the Congo.⁴⁶ DRC was not a candidate country for EITI at that point, but it raises the issue that companies can be committing atrocities in one country, and supposedly perfectly ethical in another. Metaphorically speaking, if a mother loves and cares dearly for one child and yet abuses and degrades the other, she would by any standard still be a bad mother. There is also the issue of countries that don't exercise effective sovereignty over all of their territory or natural resources, as is the case of the Central African Republic (compliant) which has experienced extensive LRA related violence throughout vast swathes of territory recently.⁴⁷ Clearly, the EITI has its limits, and is focused on a limited goal of reducing corruption and only country by country by monitoring financial transactions, which does not address other forms of multi-national corporate complicity in human rights violations or involvement of third party states or armed groups. It allows corporations to present themselves as trying to be ethical, and projects blame on the country itself for unethical acts or human rights violations that result from the extraction.

There are some examples of well performing international regulations on goods acquired from conflict zones that fund human rights violating groups however. The Kimberly Process, whereby the origin state of diamonds is marked before export so that conflict diamonds cannot be shipped through a third party state for re-export, had relative success, and received a great deal of cooperation from the diamond industry itself. Perhaps some of its success is that it focused on the conflict diamond trade itself. It now

⁴⁶“The Curse of Gold, section VI. AngloAshanti Starting Gold Exploration Activities,” Human Rights Watch, June 1st, 2005. <<http://www.hrw.org/en/node/11733/section/7>>

⁴⁷“Armed Groups in Central African Republic Continue to Recruit-UN Report,” UN News Centre, April 25, 2011. <<http://www.un.org/apps/news/story.asp?NewsID=38183&Cr=child+soldier&Cr1=>>

regulates the majority of the trade of rough diamonds in the world, and has cooperation from numerous countries.⁴⁸

AngloGold Ashanti is also a signatory to the Voluntary Principles on Security and Human Rights (VPSHR), a set of principles and guidelines developed in 2000 as a joint US-UK effort with corporations and human rights organizations to address the issue of businesses working in conflict zones or areas prone to human rights violations.⁴⁹ As of today, the signatories include the US, UK, a small number of European countries, and Colombia, as well as corporations such as AngloGold Ashanti, Anglo American, BHP Billiton, BP, Chevron, ConocoPhillips, ExxonMobil, Occidental Petroleum Corporation, Rio Tinto, Shell, Talisman Energy, and many more. Several NGOs are also signatories, including Amnesty International, Human Rights Watch, Oxfam, the Fund for Peace, and a few more similar organizations.⁵⁰ The principles and guidelines themselves are laudable, but it is all voluntary, and there is no compliance mechanism, no reporting mechanism, but simply guidelines and training seminars. In addition to AngloGold, Occidental Petroleum is another example of a company that violated the principles. In 2003 a suit was brought against it for a cluster bomb dropped on the village of Santo Domingo, which had been identified as a guerilla camp to the Colombian Air Force by Occidental's security contractor AirScan.⁵¹ In essence, the principles are about as binding and effective as North Korea's ratification of the International Covenant on Civil and

⁴⁸ "The Kimberly Process Certification Scheme: Third Year Review," Ad Hoc Working Group on the Review of the Kimberley Process Certification Scheme, November 2006, p. 1-4.

< <http://www.kimberleyprocess.com/download/getfile/2>>

⁴⁹ "Timeline," Voluntary Principles on Security and Human Rights, 2011.

< <http://www.voluntaryprinciples.org/timeline/>>

⁵⁰ "Participants," Voluntary Principles on Security and Human Rights, 2011.

< <http://www.voluntaryprinciples.org/participants/>>

⁵¹ Miller, T. Christian, "A Colombian Village Caught in a Cross-Fire," LA Times, March 17th, 2002.

< <http://articles.latimes.com/2002/mar/17/news/mn-33266>>

Political Rights. Voluntary programs provide suggestions for risk mitigation for companies, but risk mitigation does not mean respect for human rights or accountability for actions knowingly taken violating them.

In essence, what we find is that CSR self-regulation that is unilaterally pursued can easily be nothing more than a public relations campaign, and that multi-stake holder CSR regulation that is voluntary like VPSHR is almost entirely ineffectual, though possibly educational. The multi-stake holder regulations that require independent certification such as SA8000 and EITI can produce limited results under the right conditions, but just like the law, they can be easily circumvented if a corporation decides it is expedient to do so, and used simply for show or public relations. Thus the dilemma of how to stop corporations from committing human rights violations remains. Though the measures described above are mostly preventative or rectifying measures with little tangible consequence for past transgressions, they had to be considered as an approach to allowing the corporations to make up for past malfeasance simply as an opportunity to reform. It is in the same manner that a criminal might be made a productive member of society without prison or punishment, but merely through probationary measures to regulate behavior. Regardless of the impact self-regulation in any form, there are inevitably cases, sometimes many, where corporations are directly or through complicity violating human rights. While self-regulation should be a goal and practice of all corporations, it is clear that many of the current iterations of it lack the teeth, strictness, or penalties that could really deter unethical behavior. From a corporation's perspective however, such a stricter and punitive form of self-regulation entails a greater degree of risk and potential cost to the company that might make it unpalatable or unattractive to

management or investors. Thus self-regulation cannot be the end all be all for preventing, deterring, or holding to account human rights violations by corporations.

The Popular Pressure Model:

This brings us to the next broad category of holding corporations accountable for human rights violations, the popular pressure model. This, of course, is a descriptor, and includes more methods and means than is implied in the phrase “popular pressure.” The essence is that the action is taken by a person, people, or non-governmental organization in order to pressure or influence a corporation to change its practices or pressure the government to make sure it does. Strategies include boycotts, divestment, sanctions (BDS), and protests. Also included are socially responsible investing, purchasing stock in corporations and filing share-holders resolutions denouncing certain practices; it can even include lobbying with politicians or embassies to apply pressure or make denouncements about a corporation’s practices. In essence, the purpose of the popular pressure campaign is frequently to raise awareness about a corporation’s behavior and that it is contributing to human rights violations. The term popular pressure may be misleading, for it can also include making the right or key people aware. For instance, lobbying congressmen, filing shareholder resolutions to influence a key investor, shaming corporate executives, or using an influential contact to get one’s message across also qualify for the sake of this paper’s divisions.

Boycotts, divestments and sanctions (BDS) attempt to use financial disincentives to reprimand corporations or the nation-state they are complicit with for their actions. Key examples of this include the BDS campaign against apartheid South Africa,⁵² the

⁵² Kumar, Raman, and William Lamb, Richard Wokutch, “The End of South African Sanctions, Institutional Ownership, and the Stock Price Performance of Boycotted Firms

Nestle and GE boycotts,⁵³ and the current BDS campaign against Israel.⁵⁴ Because of the complexity and number of variables involved, different scholars have frequently sought to clarify what makes a BDS campaign succeed, or why it fails.

Authors like Kumar, Lamb and Wokutch in their study of the BDS campaign against South Africa believe that it was during the seventies that the stage was set for anti-Apartheid activists to target corporations and describe them as socially responsible or not, via their complicity with the South Africa Apartheid regime, and therefore boycott their products, push them to divest from South Africa, or push them to not conduct business with corporations that had not divested. The idea was that as profit-driven entities, financial disincentives to unethical behavior were one of the best ways to motivate a corporation to change behavior. The authors look at several different studies previously done, one which suggested companies that divested were hurt in the stock market, and a second which suggested the boycott was ineffective but that corporations that divested closer to the end of Apartheid (and the worsening conditions in South Africa) were buoyed in their stock value.⁵⁵ The authors, however, studied the stock value of corporations that did not divest and were present during the end of Apartheid and the period afterwards when sanctions were lifted. They saw significant increases in stock value, and that were not correlated to any other economic factors like market access or speculation, suggesting there was a penalty or opportunity cost to firms that operated in South Africa during the Apartheid era. The authors suggest that socially ethical investing

Evidence on the Impact of Social/Ethical Investing” *Business Society*, June 2002 vol. 41 no. 2.

⁵³“Our Victories,” Corporate Accountability International, 2011.

< <http://www.stopcorporateabuse.org/our-victories>>

⁵⁴ “Introducing the BDS Movement,” BDS Movement, 2011.

< <http://www.bdsmovement.net/bdsintro>>

⁵⁵ Kumar, et. al p. 134.

can influence companies' profits, and therefore that even if the boycott was largely ineffective, if it buoyed and increased the wide publicity over the unethical nature of what was occurring in South Africa and influenced investors, it could have contributed on some level. The authors do note however that the South Africa case may have been a special one, and that it would be hard to galvanize such wide public pressure and support again.⁵⁶

Another study of BDS conducted by a different set of authors using statistical analysis came to different conclusions. They too went from the assumption that financial disincentive was the primary means of influencing corporate behavior. After using a study of announced boycotts picked up by the national press from 1969-1991, they found that indeed, there was a negative impact on the company's stock price, especially in the immediate aftermath of the announcement. However, they found that of the companies against which boycotts were announced, only a third made announcements of behavior changes, and of those, 50% of the changes were made as part of a negotiated solution to end the boycott.⁵⁷ For divestiture however, they found that it generally had little impact on stock prices, and only some 11% of companies sampled announced changes in behavior. Of the companies that announced or negotiated changes, the majority were labor related, followed by discrimination or racial issues, followed by environmental, and then health. This is consistent with the authors' statement that boycotts are possibly more effective when they have large organized groups.⁵⁸ Boycotts by labor groups and minorities represent large blocs of people compared to environmental and health

⁵⁶ Kumar et, al. p. 158-160

⁵⁷Davidson, Wallace, and Dan L Worrel, Abuzar El-Jelly "Influencing Managers to Change Unpopular Corporate Behavior through Boycotts and Divestitures" *Business & society* yr:1995 vol:34 iss:2 pg:171 - 196.

⁵⁸ *Ibid.*

advocates. This may have changed recently however in light of more concern for the environment and the health care debate. Regardless, if it is well organized and has some popular backing, boycotts can be effective tools for influencing companies to change behavior because of financial incentives via stock value.

An example of an organization that has a long history of pursuing boycotts and divestment campaigns to hold corporations accountable is the non-profit Corporate Accountability International (CAI). Its mission is to work “toward a world where major decisions affecting people and the environment are based on the public interest, not on maximizing corporate profits.”⁵⁹ To this end, they have conducted several successful campaigns against corporations, including their first campaign against Nestle started in 1977 when the organization was founded. They boycotted Nestle products and brought great attention to the fact that Nestle was promoting infant formula as breast milk substitute in the third world, where the money to buy the formula, and clean water to mix it with, were both scarce. As a result, a number of children in poor countries died of water born illnesses and families with few resources were encouraged to buy a product that endangered their child’s life. CAI not only got the World Health Organization (WHO) to adopt regulations on infant formula marketing, but also in 1984 forced Nestle to negotiate to change its practices to end the boycott.⁶⁰

Other successful campaigns have included its boycott of General Electric products because of its involvement in nuclear weapon products, and the problems of waste disposal that came with it. The campaign succeeded in getting GE out of the nuclear

⁵⁹“Our Vision,” Corporate Accountability International, 2011.

< <http://www.stopcorporateabuse.org/our-vision> >

⁶⁰ “Infant Formula Campaign,” Corporate Accountability International, 2011.

< <http://www.stopcorporateabuse.org/infant-formula-campaign> >

weapons business, perhaps because it was estimated to have cost GE \$100 million, through lost sales of everything from light bulbs to medical equipment.⁶¹ CAI has also taken on tobacco companies, and was involved in the passage of the Framework Convention on Tobacco Control treaty.⁶² Its successes demonstrate that the BDS strategy and publicity campaigns can do more than focus on state actors like South Africa, or Israel, but focus on holding accountable individual corporations themselves for their actions.

Other organizations like the Interfaith Center on Corporate Responsibility use socially responsible investing to influence corporate behavior. A collective of religious institutions, their investments, pensions, endowments, and non-religious institutions that have joined in the effort to make socially responsible investment, their collective assets total some \$100 billion.⁶³ They use these assets to invest in responsible companies, or in some cases, in irresponsible ones, to file share-holder resolutions, and influence the practices of the corporations and executives from the inside. They focus on everything from basic human rights, limiting executive compensation, environmental sustainability, and child labor, to curbing unhealthy foods.⁶⁴ They see themselves as the force that works behind the scenes to make the voluntary standards actual standards. With such assets at their disposal, they have a great deal of potential to really influence corporate behavior and lead the way for other smaller socially responsible investment funds.

⁶¹“Nuclear Weapons Makers Campaign,” Corporate Accountability International, 2011.
< <http://www.stopcorporateabuse.org/nuclear-weapon-makers-campaign>>

⁶²“Challenging Big Tobacco With the Global Tobacco Treaty,” Corporate Accountability International, 2011. < <http://www.stopcorporateabuse.org/global-tobacco-treaty>>

⁶³ “About ICCR: FAQ,” Interfaith Center on Corporate Responsibility, 2011.
< <http://www.iccr.org/about/faq.php>>

⁶⁴ “Our Work: People, Place, Policy,” Interfaith Center on Corporate Responsibility, 2011.
< <http://www.iccr.org/issues/>>

The avenues for public pressure to hold corporations accountable have been effective in the past and will continue to be so in the future in a punitive sense. A major hindrance, however, is that any success requires mass mobilization of a large number of people to agree on what are sometimes contentious issues, and then a sustained commitment and public attention, as demonstrated in the second study, where the most effective campaigns already had large and often organized social groups such as minorities or labor. Some direct contact, where individuals or groups of consumers contact companies to tell them they'd prefer a change in practices or product, can have influence as companies will often want to know what their consumers want and think, but more in regards to marketing and products than practices. Popular pressure campaigns have other limitations too though. How does one boycott a conflict mineral like tin, tantalum, or tungsten that is extracted in a conflict zone or under conditions violating labor and human rights standards?⁶⁵ The presence of these metals and minerals in nearly every electronic device makes a boycott or divestment scheme unrealistic. What about oil or coal, the life-blood of our energy-consuming economy? There is a limit to what one can do to diminish the flow of commerce and goods that involves human rights violating situations and industries but are pervasive in nearly every society.

The Legal or Litigation Method and the 'Juridical' Person

This brings us to the next and final method examined in this paper of how to hold corporations to account for human rights violations, a method that does not require mass mobilization, and that is a more powerful incentive and deterrent than any preventative measures and group stands. It is the litigation and legal method. When a human right is

⁶⁵“Conflict Minerals,” Raise Hope for Congo, Center for American Progress 2010.
< <http://www.raisehopeforcongo.org/content/initiatives/conflict-minerals>>

violated, the victim or the victim's family can pursue legal action via their court system to prove violation of the law and provide for compensation or punishment. In many weak states, conflict zones, or developing nations however, the judiciary is weak, not impartial, controlled by the executive, corrupt, absent, or untrained.⁶⁶ Essentially, this means it is nearly impossible for someone whose human rights have been violated in the developing or conflict prone countries of the world to take a multinational corporation to court and get just hearing or ruling.

In the United States, corporations or incorporated non-profits are considered what is called a 'juridical person' meaning that they have all the same rights, privileges, liabilities and obligations as a 'natural person' or a physical human being. This was based long ago on Supreme Court cases that found the 14th amendment granted due process to corporations as 'juridical persons' such that they were subject to the same rights and laws as others.⁶⁷ This allows the corporation to sue and also be sued. It was only until recently that a law passed as part of the Judiciary Act of 1789, known as the Alien Tort Claims Act, was rediscovered and allowed the United States federal courts the jurisdiction to hear tort cases submitted by an alien that were "committed in violation of the law of nations or a treaty of the United States."⁶⁸

The law resurfaced in 1980 as a tool for claimants and human rights lawyers to bring to trial cases of human rights violations overseas, and was affirmed in the Second

⁶⁶Rotberg, Robert, "Failed States, Collapsed States, Weak States: Causes and Indicators," Brookings Institute, February 3rd, 2003.

<http://www.brookings.edu/press/books/chapter_1/statefailureandstateweaknessinatimeofterror.pdf>

⁶⁷Deiser, George F., "The Juristic Person. I," *University of Pennsylvania Law Review and American Law Register*, Vol. 57, No. 3, Volume 48 New Series (Dec., 1908), pp. 131-142

⁶⁸"§ 1350. Alien's action for tort," United States Code: Title 28, 1350. Alien's action for Tort. Legal Information Institute. < <http://www.law.cornell.edu/uscode/28/1350.html>>

Court of Appeals ruling in *Filartiga v. Pena-Irala*.⁶⁹ A subsequent case *Sosa v. Alvarez-Machain* that went before the Supreme Court ruled that there is indeed jurisdiction for US courts under the Alien Tort Claims Act, but that “violations of the law of nations or treaty” must be “specific, universal, and obligatory.”⁷⁰ Various federal district and circuit cases have tested the limits of the law, such as whether the International Covenant on Civil and Political Rights (ICCPR), which was also addressed in *Sosa*’s case, or the International Covenant on Social, Economic, and Cultural Rights (ICESCR) are applicable or definite enough, the former having more success than the latter.⁷¹

The law also began to be used against corporations who had been complicit in or directly violated human rights in several prominent cases, raising the prospect of a legal means for individuals and groups of individuals who had never had recourse before to hold corporations accountable for egregious violations of human rights committed against them. One of the first such cases was *Doe v. Unocal* in 1997, in which a group of Burmese villagers filed suit against Unocal (Union Oil Company of California) for human rights violations, specifically forced labor in the construction of a natural gas pipeline in Burma. The case was settled out of court in 2004, but received much public attention.⁷² Not all cases have been successful. In fact many have been dismissed or ruled against because of lack of evidence, failure to demonstrate *mens rea* (purposeful intent),

⁶⁹ “*Filartiga v. Pena-Irala*” Center For Constitutional Rights, 2011. < <http://ccrjustice.org/ourcases/past-cases/fil%C3%A1rtiga-v.-pe%C3%B1-irala>>

⁷⁰“*SOSA V. ALVAREZ-MACHAIN* (03-339) 542 U.S. 692 (2004) 331 F.3d 604, reversed.” Legal Information Institute. < <http://www.law.cornell.edu/supct/html/03-339.ZO.html>>

⁷¹“*Flores v. Southern Peru Copper Corp*, 406 F.3d 65 (2003)” University of Oklahoma College of Law, August 29th, 2003.

<<http://jay.law.ou.edu/faculty/PKrug/Public%20International%20Law/2007/Item11Flores.pdf>>

⁷²“Final Settlement Reached in *Doe v. Unocal*,” Earth Rights International, March 21st, 2005. < <http://www.earthrights.org/legal/final-settlement-reached-doe-v-unocal>>

jurisdictional issues, or failure to provide sufficient plausibility.⁷³ One of these cases dismissed on the grounds of failure to demonstrate *mens rea* (not just knowledge, but purposeful intent to harm) was *Presbyterian Church of Sudan v. Talisman Energy* over its involvement in forced displacement by the Sudanese government in oil rich regions. Talisman is a signatory to the Voluntary Principles on Security and Human Rights as noted previously. Another case that was settled out of court was that of *Wang Xiaoning v. Yahoo!*, for Yahoo's complicity in handing over the personal information and identities of Wang as well as another journalist to the Chinese government for their perceived pro-democracy activism. Yahoo pledged after settling out of court that it would "provide financial, humanitarian and legal support to these families" and create a separate humanitarian relief fund for other dissidents and their families."⁷⁴ Again, the case was settled out of court but did receive a great deal of publicity.

Perhaps the most important recent case was that of *Kiobel v. Royal Dutch Petroleum*, in which a group of Nigerian activists filed suit for the complicity of Royal Dutch in forced displacement, extrajudicial executions, torture, and cruel, inhumane, degrading treatment by Nigerian soldiers assisting Royal Dutch with oil exploration in the area. The case was tried before the Second Circuit Court of Appeals, which issued a ruling September 17, 2010 that there was no international norm for corporate liability,

⁷³ "The Presbyterian Church of Sudan v. Talisman Energy" United States Court of Appeals for the Second Circuit, August 2008.

< http://www.ca2.uscourts.gov/decisions/isysquery/5ee8965d-efbf-475c-9c0d-de151c267061/1/doc/07-0016-cv_opn.pdf#xml=http://www.ca2.uscourts.gov/decisions/isysquery/5ee8965d-efbf-475c-9c0d-de151c267061/1/hilite/>

⁷⁴ Perez, Juan Carlos, "Yahoo Settles Chinese Dissident Lawsuit," PC World, Nov. 14th, 2007.
<http://www.pcworld.com/article/139619/yahoo_settles_chinese_dissident_lawsuit.html>

and therefore the court had no jurisdiction over the matter.⁷⁵ The decision was a serious blow to other suits being filed against corporations many of which were subsequently dismissed, as well as the possibility of future suits, though it did leave open the possibility of going after executives themselves. Many of the cases that were dismissed or denied, including *Kiobel*'s, have been appealed to the Supreme Court, but it has not yet taken on a case.⁷⁶ The case against Drummond mentioned previously has yet to go to court, though it did garner great attention for the attempt to subpoena former Colombian president Alvaro Uribe to testify.⁷⁷

If corporations could be held accountable under the Alien Tort Claims Act, it would provide a definitive legal instrument for deterring, punishing, and shaming human rights violators. Individual victims could directly pursue justice for themselves. The irony is that since corporations are considered to be 'juridical persons' in the United States, they are provided almost all the same rights and privileges as a person but not be liable for human rights crimes abroad, though previous Alien Tort rulings have established natural persons can be liable. The contrast is made all the more clear after the Supreme Court decision in *Citizens United v. Federal Election Commission*, which removed barriers and limits to corporations right to free speech when paying for political ads.⁷⁸ The rights as 'juridical' persons that they claim have been expanded in the *Citizens United* case, while their liability for violating others rights was eroded in the *Kiobel* case.

⁷⁵ Kerschberg, Ben, "Corporate Executives: Get Ready For a Billion Dollar Lawsuit," Huffington Post, Dec. 2nd, 2010. < http://www.huffingtonpost.com/ben-kerschberg/corporate-executives-get-b_791292.html#>

⁷⁶ Grady, Mary, "Secret Settlement Ends Long-Running Pharmaceutical Suit," Connecticut Law Tribune, April 11th, 2011. < <http://www.ctlawtribune.com/getarticle.aspx?ID=40162>>

⁷⁷ Fox, Edward, "Uribe's Lawyers claim their client has immunity in Drummond Case," Colombia Reports, April 22nd, 2011. < <http://colombiareports.com/colombia-news/news/15791-uribes-lawyers-claim-their-client-has-immunity-in-drummond-case.html>>

⁷⁸ "Citizens United v. Federal Election Commission," Supreme Court, January 21st, 2010. <<http://www.supremecourt.gov/opinions/09pdf/08-205.pdf>>

One area in international norms and laws where corporate liability and rights are actually fairly established are in the US's strong stance and push for WTO regulations on intellectual property rights. In fact the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), a treaty which is required to be ratified to join the WTO, explicitly states:

Members shall make available to right holders (11) civil judicial procedures concerning the enforcement of any intellectual property right covered by this Agreement.⁷⁹

The footnote number (11) clearly goes on to state what exactly a right holder is:

For the purpose of this Part, the term "right holder" includes federations and associations having legal standing to assert such rights.⁸⁰

In terms of outcomes, if the ruling is in favor of the "right holder," which as illustrated in the definition above includes 'juridical' persons like federations and corporations:

The judicial authorities shall have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.⁸¹

And conversely if the ruling is found against the right holder as plaintiff, it can be obligated to pay the defendant's legal costs, showing dual liability. It doesn't stop solely with compensation for a "right holder" though:

Members shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent,

⁷⁹ Agreement on Trade Related Aspects of Intellectual Property Rights, Section 2, Article 42.
< http://www.wto.org/english/docs_e/legal_e/27-trips.pdf>

⁸⁰ Agreement on Trade Related Aspects of Intellectual Property Rights, Part III, Section 2, Article 42, footnote 11.

< http://www.wto.org/english/docs_e/legal_e/27-trips.pdf>

⁸¹ Agreement on Trade Related Aspects of Intellectual Property Rights, Part III, Section 2, Article 45, Part 1. < http://www.wto.org/english/docs_e/legal_e/27-trips.pdf>

consistently with the level of penalties applied for crimes of a corresponding gravity.⁸² The treaty clearly provides proof of the concept of legal liability for a corporation, in both cases the plaintiff or defendant may be a corporation, a legal entity, and can not just be awarded or ordered to provide “damages adequate to compensate for the injury the right holder has suffered” but also be criminally fined or imprisoned if the “injury” is severe enough. The TRIPS treaty has been signed and ratified by the United States,⁸³ and clearly provides both the right to legal recourse and compensation, and the liability for violations of the rights of others, to corporations, federations, associations, or such juridical entities in what form they take. While this treaty may be limited to intellectual property rights, it provides a norm of liability for juridical entities.⁸⁴

Perhaps the most cruel irony, however, of this court decision is that the state itself is a juridical person-- composed of millions of natural people, a fiction-- and yet it has legal rights, privileges, responsibilities, a constitution, and liability for its actions. If the question of the matter is whether a corporation as a juristic person has liability, i.e. can be litigated against for compensation, under US law, our state, as a juristic person, has such liability.⁸⁵ Indeed, the idea of the state⁸⁶ and corporation⁸⁷ as juristic persons was set in legal precedent over a hundred years ago in 1908 in legal journals. The Alien Tort Act specifically requires a violation of a treaty or the law of nations. The concept of the “law of nations” then presupposes the state as a legal juridical entity through the notion of

⁸² Agreement on Trade Related Aspects of Intellectual Property Rights, Part III, Section 5, Article 51. < http://www.wto.org/english/docs_e/legal_e/27-trips.pdf>

⁸³ “Members and Observers” World Trade Organization, July 23rd, 2008. < http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm>

⁸⁴ Agreement on Trade Related Aspects of Intellectual Property Rights, Part III, Section 2, Article 42, footnote 11. < http://www.wto.org/english/docs_e/legal_e/27-trips.pdf>

⁸⁵ Deiser, George F., “The juristic person. II” *University of Pennsylvania Law Review and American Law Register*, Vol. 57, No. 4, Volume 48 New Series (Jan., 1909), pp. 216-235.

⁸⁶ *Ibid.*

⁸⁷ Deiser, “The juristic person. I”

sovereignty, and subject to the systems of international law and treaties it signs. Indeed, under the Vienna Convention on the Law of Treaties, which the US is a signatory of, a treaty is “an international agreement concluded between states in written form and governed by international law,” and “every state possesses the capacity to conclude treaties.”⁸⁸ The United States signed and ratified the International Conventional on Civil and Political Rights (ICCPR) where-by despite its reservations that more or less serve to nullified it domestically, the ICCPR is binding as an international law.⁸⁹ Included in the ICCPR, is Article 2, section 3 which states clearly:

Each State Party to the present Covenant undertakes:
(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
(c) To ensure that the competent authorities shall enforce such remedies when granted.⁹⁰

This international law acknowledges the liability of states, the juridical entities that are the very building blocks of our world order, to individuals. Thus the law of nations clearly states than an individual has the right to a just litigation of its grievances regardless if it is against a ‘juridical’ person.

⁸⁸ Vienna Convention on the Law of Treaties, Article 2, Part 1(a); Article 6.

<http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf>

⁸⁹“Chapter IV: Human Rights, ICCPR, Signatories, Declarations and Reservations,” United Nations Treaty Collection, April 25th, 2011. < http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec>

⁹⁰ International Covenant on Civil and Political Rights, Article 2, section 3, (a)-(c)
http://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_4p.pdf

Conclusion:

As part of considerations for what makes a stable, sovereign, and just nation, often the rule of law is considered to be one of the highest values that sets a state apart from anarchy. While individuals are free to create their own internal norms based on their personal ethics, similar to how corporations self-regulate and create their own internal norms, there are still communal laws to govern behavior as well to ensure recourse for those who feel they've been wronged. Sometimes enough individuals might feel so strongly on an ethical issue or wrong that they band together to try to right it even if the law has not been written, as is the case in popular pressure movements that pushed for US sanctions on apartheid South Africa, or CAI's campaign on international tobacco regulation. Yet true rule of law requires that any actor who can lay claim to the benefits and rights of the law, also be held accountable for transgressions against others, i.e. the phrasing "no one is above the law." In the United States we have a system of law that allows for liability of 'juridical' persons such as corporations or the state. We have also signed onto numerous treaties that create liability for 'juridical' persons such as the WTO and ICCPR. Previous Alien Tort Claims Act court rulings provided for liability of individual defendants to plaintiffs regardless of the citizenship of the individual persons in question so long as there has been a violation of international norms and laws. If one follows the logical conclusion of the law, corporations that have in the past claimed the rights or privileges of a 'juridical' person in the US, other countries, or under international treaties have also reversely established themselves as a person liable for litigation, and therefore fall under the jurisdiction of the Alien Tort Claims Act. The Alien Tort Claims Act has the potential to be an incredibly useful tool in this regard, and

the legal precedent and grounds for suing both natural and 'juridical' persons under it have been mentioned before. Therefore every entity, be it man, NGO, corporation, international organization, or state, could be held accountable for its actions. While preventative measures and industry self-regulations evolve into more effective tools, and BDS campaigns remain effective when the abuse is well known and egregious enough to motivate masses, the Alien Tort Claims Act puts the power in the hands of the wronged themselves to bring suit, and to call out those who have wronged them in public, and in a court of law.

As demonstrated previously, industry self-regulation or certification schemes are not foolproof and significant cases of human rights violations have occurred with corporate complicity in spite of them. In a world where humans, regardless of origin and aspect, have fundamental rights that are protected and respected, other means can and do exist to provide protection for these rights.

Popular pressure, boycotts, protests, divestiture and responsible investment have changed corporate behavior, by financially incentivizing ethical behavior, by raising the public awareness of abuses, and creating punitive financial consequences for unethical behavior. Yet as one of the studies above indicated, there was only a 33% success with boycotts, and even lower success with divestment campaigns, and those that did succeed has large popular backing groups already established. This shows that boycotts, protests, divestiture, and socially responsible investing are not effective in preventing or addressing all cases of rights violations by corporations internationally.

Justice and the full accountability for human rights violations by corporations, or even by any entity, is a far way off. Using the Alien Tort Act is a start, and a good one. It

shows corporations that hid their bad behavior, that exported their inhumanity to places consumers never could or would see, that they too are subject to the law. In this way it acts as a deterrent and incentive for better self regulation, publicizes previously unknown violations, and also allows individuals the opportunity to seek justice for themselves. Individuals are fallible, and that is why we hold them to account by a system of law. It only makes sense that the 'juridical' persons formed of individuals are also fallible, and need also be held accountable by the same system of laws. Corporations have failed in many cases to independently learn to respect human rights, dignity, as must any person legal or natural, and sometimes this has meant bringing their actions before a court of law. Without legal ramifications for actions, there is insufficient incentive for some corporations to do more than just public relations green washing as they have done, and BDS campaigns have and can only solve so many problems. The law allows the victim to personally seek justice against the accused, and our law under the Alien Tort Claims Act, and our courts, under the case *Sosa v. Alvarez-Machain*, have established that in the US all human beings have that right, regardless of whom they are or who has wronged them. Until such time as there is international corporate liability laws related to human rights, the findings in this paper suggest that the Alien Tort Claims Act can be a powerful tool to use in the meantime, and that when a violation of the "laws of nations" such as torture, rape, or murder is done by a 'juridical' person, the court has sufficient jurisdiction to hear the case and give the victim their day in court.

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Mike Lally
Honors Capstone:
US-Colombia Policy and Advocacy
Spring 2011
Honors Capstone Advisor:
Dr. Elizabeth Cohn
School of International Service

Capstone Abstract:

In my capstone I approach the topic of Colombia human rights advocacy from two different perspectives. The first being an active one, working with existing organizations to attempt to influence both the US and Colombian government's behavior towards the rights of Internationally Displaced Persons (IDPs) and Afro-Colombian communities in humanitarian zones in Colombia. This portion involved organizing a panel discussion, petition signing, tabling, as well as lobbying the US and Colombian authorities in the embassies, the US congress, and US and Colombian executive offices. My goal is to better protect and ensure the safety of the communities I visited as part of my alternative break in January 2011 in the Curbarado region of Colombia.

The second perspective is an academic one. I examine the means and past approaches to holding corporations accountable for or preventing human rights violations. This includes industry regulations, grassroots approaches, organized NGO advocacy and pressure on governments, as well as legal processes such as the Alien Tort Act. The purpose of my research is to examine how pressure can be put on corporations to respect human rights, since government is only one facet of the problem. The academic approach allows me to research what has been effective in the past, what organizations and campaigns have succeeded or failed, and what future options exist for pressuring corporations to respect human rights. I hope this research will provide an alternative vision of protecting human rights for individuals in regions and countries at risk.

The US, Colombia, and Human Rights: Advocacy in Action

Intro:

After returning from my alternative break trip to Colombia and the Afro-Colombian humanitarian zones in January 2011, I was determined to advocate on behalf of the communities, as a testament to what I had seen and heard. I realized that my capstone could provide the perfect opportunity to allow me more time and resources to commit to my advocacy. The communities we visited are former Afro-Colombian IDPs who have moved back to lands that were collectively titled to them by the government but illegally occupied by businesses with paramilitary complicity. The communities are known as humanitarian zones, and they renounce violence, and allow no armed actors into their communities. They are the frequent targets of intimidation, threats, and assassinations, with little and ineffective government protection. Often the military units assigned to protect the communities are collaborating with the businesses and paramilitaries, and turn a blind eye when an incident occurs.

I knew that the upcoming Colombia-US Free Trade Deal would provide some leverage to work with the Colombian government on Afro-Colombian issues if it seemed as though it might be barrier to passing the agreement. Knowing that I was limited in what I could achieve as an individual student, and after consulting with my advisor Prof. Cohn, I decided my active advocacy would be best devoted to supporting and working with groups and organizations already advocating in sustained campaigns. The group that I had gone to Colombia with, Witness For Peace (WFP), was an initial target for partnership. WFP had planned what they called national advocacy days for Colombia, April 8th-11th, and I thought that contributing to their national efforts by holding an event on campus would help complement the other actions they were taking. Thus began the planning stage.

Planning and Partners:

For my event, I decided that the best option, after consulting with my advisor, would be a well balanced panel discussion representing the different views on Colombia. It was scheduled for April 8th, 2pm -3:30pm, with a reception afterwards with representatives from the various student and professional organizations working on issues in Colombia, including WFP. I decided to partner with AU Por Colombia, an on campus organization whose mission is principally to promote awareness of Colombian culture and people, and not necessarily take a political role. Because I was planning a balanced panel, and suggested that traditional Colombian food, drinks, and snacks could be part of the reception, they agreed to partner with me in arranging the event, and their sponsorship facilitated obtaining approval from student activities for the time and venue in the Battelle atrium.

Target Audience:

As my professor noted early on, it was very important to try to reach a broad audience, since students and individuals already interested in human rights in Colombia

were not a target group that would increase the awareness and broadness of the movement. It was because of this, and my partnering with AU Por Colombia, that I tried to get balanced members for the panel. In addition, I hoped that the reception afterwards, where there would be representatives from many more organizations involved in Colombia and Latin America in general, would bring in more students who were interested in internships and getting to know how the groups worked. With this in mind, I began contacting speakers and representatives, for the panel, and for the reception afterwards.

Reaching out to other organizations:

I began to target different organizations to look for panelists, as well as representatives for the reception. I used my organizational connections and recommendations of others including professors, and AU Por Colombia members.

The potential panelists and organizations I reached out to included:

- Erika Salamanca, Uribe supporter, and advocate and organizer in DC, who represented a more conservative, government supportive, or right wing view point
- Charo Mina Rojas, Afro-Colombian advocate, and advisor to the Proceso de Comunidades Negras, who represented a more left wing and government critical point of view
- Chad West, a public affairs officer at the State Department, offered to arrange for one of two people from the Colombia desk at The State Department to speak, for the US government view point
- Gimena Sanchez, Senior Andes Associate at the Washington Office on Latin America, anti-Free Trade Agreement (FTA), left wing, or government critical point of view
- Reuben Smith-Vaughan, US-Chamber of Commerce Rep. in charge of the Latin America Trade Coalition (LATC), pro-FTA, government supportive, economic focus and point of view
- Claudia Cuevas, Colombian Embassy in the US, Minorities and Human Rights Officer, who said a speaker from the embassy would be available, representing the views of the Colombian government
- Joe Eldridge, AU's chaplain, who had worked on Latin American Advocacy at AU for several years, and visited Colombia with an alternative break in 2007

Of those who committed themselves were:

- Charo Mina Rojas
- Gimena Sanchez
- Chad West promised someone from the Colombia desk at state
- Claudia Cuevas promised someone from the Colombian embassy
- Joe Eldridge, on the condition he simply do the introduction, since he did not feel he was expert enough to sit on the panel itself

There was a last minute Colombia FTA related meeting that corresponded with my panel discussion, and so the cancellees were:

- Claudia and Chad called Wednesday to let me know no one was available because of this.
- Gimena called Thursday to let me know she also was attending the last minute meeting, but that Andes Program Assistant Anthony Dest would take her place.

The potential organizations that could send representatives to the reception that I reached out to were:

- Latin American Working Group (LAWG), a general Latin America human rights advocacy group
- TransAfrica Forum, a group that advocates for people of African descent around the world
- Witness for Peace (WFP), the group that led our delegation to Colombia
- School of the Americas Watch (SOA Watch), a watchdog and protest group against the US military training academy for Latin American armies
- Community Action and Social Justice (CASJ), the umbrella organization for AU's many advocacy and social justice related clubs
- AU Por Colombia, who as partner in the event, was definitely going to table
- AU Students for Fair Trade, a group of students who advocate for fair trade, not free trade, so that it takes into account human needs and rights
- American Way of Life Magazine (AWOL), AU's progressive student magazine

Of those groups:

- LAWG said it would table and bring advocacy materials
- WOLA said it would table and bring advocacy materials
- TransAfrica said it would table and bring advocacy materials
- AU Por Colombia planned to sponsor the event, table, provide food, and increase membership
- AU Students For Fair Trade agreed to co-sponsor the event, table with materials, and increase membership
- CASJ agreed to co-sponsor the event, but could not provide a representative
- AWOL agreed to cosponsor, and did the photography for the event
- SOA Watch said it could not spare someone to table, but I got materials from them so that a fellow student who had gone on the SOA Watch protest trip three years in a row could table for them
- WFP said it could not spare someone to table, but I got materials from them so a fellow member of my alternative break delegation who had gone two years in a row could table for them

Of those groups, only the LAWG cancelled at the last minute due to an emergency.

Advertising and Promoting:

With two confirmed speakers names, and Joe Eldridge's introduction, I created a flier advertising the event, and listing the confirmed speakers and reception afterwards. It is attached in the portfolio. With 250 color copies of the flier in hand, I posted it in nearly

every public space, including the Davenport coffee shop, the Mudbox, all of the dormitories, several academic buildings, and also distributed the flier to numerous professors to hand out to their classes. In addition, I made a point of handing out a flier and reminding every friend I saw in the week before the event. By the end of the week I had less than twenty fliers left, meaning over 230 had been distributed.

I also wrote a brief article on the situation in Colombia including details for the event, and had it posted on AWOL's website. In addition, AU Por Colombia wrote a brief description of its club that was published, along with the event date and time, in AWOL's latest print issue.

In addition, AU Por Colombia, CASJ, AU Student for Free Trade, AWOL, and the Alt Break coordinator, all sent information advertising the event out on their list-servs.

I also created a Facebook event with the details on the event, the link to the AWOL piece, and invited my friends, made it public, and asked them to invite their friends as well.

Last minute Challenges:

When I realized I was losing half of my speakers due to the last minute meeting the administration had assembled, I knew it left my panel smaller and less balanced. Hoping to find a last minute speaker, I reached out to AU professors that taught classes related to Colombia, including a professor of Afro-Colombian culture, but to no avail because of the short notice.

The Event:

Joe Eldridge introduced the event by speaking briefly about AU's history of activism in Latin America, his trip to Colombia, and the impact student activism could really have.

I had then pre-arranged five questions that were fairly general, both to keep the event neutral, and originally to lure in speakers from groups that might otherwise not wish to speak. The five questions were:

1. What makes the US-Colombia relationship so special?
2. What has been the most positive development for Colombia since the Santos administration took office?
3. What has been one of the most challenging developments or problems facing the Santos administration?
4. What do you see for the future of US-Colombia relations?
5. How would you recommend students and the public get to know Colombia better, and get involved in the US's relation with it?

Each speaker was to have five minutes to answer each question, leaving roughly a half an hour at the end for questions from the audience. I served as the moderator. Both Charo and Anthony Dest were excellent speakers, but Charo many times strayed from the

questions and focused solely on the negative aspects of Colombia's policy towards Afro-Colombians. It was a challenge to keep her on subject and limit her to five minutes. I could also tell some members of the audience did not agree with her take, and were somewhat upset. Even when I asked the question of what had been one positive development, she said there had been no positive developments. It made the event tense. Luckily, Anthony stayed on point, and served as a fairly neutral, logical speaker, who served as a counter-balance to Charo. He raised issues like trade unionist assassinations still being the highest in the world, Santos' positive moves towards land restoration and human rights protections, and the challenge of dealing with neo-paramilitaries that had failed to demobilize.

During the Q&A I tried to make sure that those who were from AU Por Colombia, who I knew were disgruntled with Charo's perspective, would have a chance to ask questions and balance out the event's perspectives. Many questions revolved around why there was opposition to the free trade agreement, and why there was no acknowledgement by Charo of the positive gains in security made by the Uribe administration. Charo responded that her people, Afro-Colombians, had not received any of these gains, and the debate moved on to subjects like how a fair trade deal might be organized. Anthony suggested that for a fair trade deal, more time was needed, and greater labor protections before any deal could be struck. Soon our time was up.

The Reception:

At the reception, representatives from Witness for Peace, School of the Americas Watch, AU Por Colombia, AU Students for Fair Trade, and the TransAfrica forum tabled and spoke with students and other attendees. The representative from Latin America Working Group called me and said there had been a last minute emergency, and they could not come. However, a computer was set up to sign an online petition against the FTA, and lists of congressmen were available so attendees could contact their representatives. I spent a greater part of my time speaking with the members of AU Por Colombia who were distressed by Charo's perspective and statements, assuring them that it had not been my intention to have a one-sided event, and that it was by pure misfortune that the State Department and Colombian Embassy representative could not come at the last minute. We discussed the gains the administration had indeed made, and also why Charo felt she had to speak about the negatives on behalf of her people, because few others could.

Evaluation:

In general, the total headcount of attendees was around two dozen, fewer than hoped for, but still a fairly large number of students. Many were faces I recognized who were already involved in advocacy, and some were professors, representatives from other NGOs, or parents on campus visits. This may have been because some who were interested were attending classes, or those who had finished classes had already gone home as it was a Friday. It may also have been the poor weather that deterred people from returning to campus for the event or coming from the dormitories.

I felt the event had gone well, despite Charo's one-sidedness, because I received a lot of positive feedback from attendees about how they had learned more about the situation in Colombia related to Afro-Colombians, their collective land titles, trade unionist assassinations, the new administration's land policies, and other aspects of the conflict beyond the drug war and PLAN Colombia. Even if there had not been a lot of new faces, it was clear some of the old faces had still learned something new at the event, and become more aware of the details of the problems and challenges facing Colombia.

Several of WFP's post-cards to mail to the US Congress were distributed, a number of people signed the online petition, and many signed themselves up to AU Por Colombia's list-serv for future involvement, which was a very healthy development for sustaining on-campus advocacy. The food and drinks were Colombian in origin, and eaten almost entirely.

In general, I think the event went well, though I would have liked a larger audience who were even less familiar with the subject, and more speakers, especially ones from State or the Colombian Embassy that could offer a different and unique perspective on the issues. I think it went well despite last-minute set-backs like technical issues and speaker cancellations. We stuck fairly to schedule, got a fairly diverse turn-out of students, parents, representatives from other organizations, and professors.

I think we engaged some people who had not previously been engaged, specifically one parent I spoke to who had no knowledge on the subject prior to the event. I also think there was a healthy exchanging of opinions. I especially saw this afterwards in individual side discussions amongst attendees, as they evaluated the event or spoke about their involvement or curiosities about Colombia. There was a sharp contrast between those who were wanted to patriotically uplift their country, the security gains it had made, and suggest that the FTA would sort itself out, and those who were very critical, such as Charo who felt that the government had failed her people who were being robbed and murdered on their own land. While these two extremes were not the case for everyone, there did seem to be agreement that everyone Colombian at the event loved their country, but had different views on its government and politics. As they say, what you see depends on where you sit.

Other Activism:

In addition to the event, I engaged in a great deal of other advocacy activities that I saw as relevant to my Alt Break experience and to staying engaged. In particular, I stayed in touch with the WFP team in Colombia to get updates on the affairs, and was in monthly email contact with the Human Rights officer at the US embassy in Colombia, and almost weekly as the situation evolved and the FTA announcement by Obama was made. I vetted my emails and requests through WFP, allowing them to see and edit the drafts first, to make sure they were acceptable and wouldn't cause unintended harm to individuals or community members, but made sure they showed our group was still engaged and paying attention, to keep the pressure on for action.

A number of requests that we had included were asking the US Embassy officials: to visit the humanitarian zones in person; to increase their contact with the local NGO Justicia y Paz, which worked and communicated with the humanitarian zones closely and constantly; to investigate the cases of the murders of several IDP leaders in the humanitarian zones whose cases had never been resolved; and to pressure the 17th brigade, which guarded the IDP humanitarian zones, to take active operations against neo-paramilitary groups in the region.

I also helped pass along a letter written by a humanitarian zone leader requesting special protective measures and identifying those who had threatened him to the US embassy, Colombia's Vice-President's office, and to the Inter-American Commission on Human Rights. There is a copy of the letter enclosed. I felt having the letter in the most hands would make the most impact if everyone was up to speed on his request.

On April 9th, the day after my panel, Obama announced an Action Plan for the Colombia FTA that included reports and benchmarks that had to be met by the end of April related to union rights before he would submit it to Congress for approval, but the plan made no mention of IDP or Afro-Colombia rights. I was informed by WFP that the Colombian Army had removed the units that had been previously protecting humanitarian zones, leaving them much more vulnerable to paramilitary violence. This was especially dangerous because there had been a number of assassination threats and attempts recently. In addition the census to determine who could represent the Afro-Colombian groups, and sign contracts related to their land on their behalf, was ongoing and there was likely to be a great deal of intimidation and attempts to disrupt or discredit the process.

I immediately contacted representatives with LAWG, WOLA, and Charo, to discuss the development and what to do. On Sunday the 10th, I called and left voice mail messages at the US embassy in Colombia, the Colombian embassy in the US, and emailed both as well specifically about the troop removal, the danger it put the communities in, and how it violated a constitutional court mandate requiring protection of the humanitarian zones, and was therefore a sign of disrespect for the rule of law by the 17th brigade. I did this in the hopes it would motivate both sides to ask or order that troops be returned to protect the communities, and in the hopes they would recognize it would be bad press for the FTA if an Afro-Colombian leader was killed only days after Obama's Action Plan and praise of Colombia's human rights progress.

On Monday, a member of my alt-break group met with a State dept. officer from the Colombia desk to discuss the troop withdrawal. I arranged meeting with Congressional staffers who had expressed interest in the issue before, who represented my district, who were members of the congressional black caucus, or who represented members of my family whom I asked to call in about the troop withdrawal.

On Tuesday I met with a number of Congressional staffers from the offices of:

- Rep. Hank Johnson (D-GA) and Rep. Barbara Lee (D-CA), both of whom had held a congressional briefing on Afro-Colombians, at which Charo had spoken a week prior to my event.

- Jim McGovern (D-MA) who had been very active on the FTA
- Representative Louise Slaughter (D-NY), my former Democratic Rep. prior to my home town being jerry-mandered into a Republican district
- John Yarmuth (D-KY), my brother's representative in Kentucky who had called on my behalf
- Emanuel Cleaver (D-MO), the head of the black caucus, whose foreign affairs staffer was very attentive.
- I also met with a staffer from Senator Gillibrand's (D-NY) office

To all of these staffers I presented documentation from Justicia y Paz about the troop withdrawal, and promised to update them via email or phone, at their request, on security developments as I was informed of them from contacts on the ground in Colombia.

When the next week, I learned that some soldier patrols had been restored, but there had been an attempted assassination, and a group of paramilitaries were setting up camp near the humanitarian zones, I again contacted the staffers, US embassy, Colombian embassy, and called and left comments with the White House.

When I learned of a second assassination attempt the week of April 24th, I again did the same. I have also been in contact with Peace Brigades International, WOLA, LAWG, and WFP in general on advocacy and making sure we are coordinating our efforts, sending appropriate messages that don't endanger anyone, pushing the same goals, and not overlapping in our efforts.

On one evening, before the Colombian soldiers had been redeployed, and the paramilitaries' camp had just been discovered near the zones, I was asked by a member of WOLA to call directly the personal cell phone number of Colombia's Vice President and several prominent members of his office. I left a voicemail with the vice president, detailing my concerns and experiences travelling to Colombia, and did so with two other officials. I spoke with one official in the Vice President's staff, who said they would alert local authorities and look further into the development, and the other officials all disabled their voicemails by the time I was able to call them. I think this targeted action may have prevented something violent from occurring that weekend however. The arrival of paramilitaries, and the pattern of past assassination attempts occurring on weekends when public offices are closed suggested something violent may have been planned.

I have also agreed to serve as the US first point of contact for the WFP accompaniment team in the humanitarian zones right now. They will contact their Colombia office first, but members of the team had specifically asked if I could serve as an emergency point of contact because of my sustained involvement and awareness of what was going on, and my location in DC. So I agreed. Luckily there have been no more emergencies yet, but I remain vigilant, and continue to update State, the US embassy in Colombia, the Colombian embassy in the US, and the congressional staffers as I am made aware of developments.

For instance, April 20th, a group of paramilitaries entered a humanitarian zone and stole building lumber in between the presence of Colombian army patrols, and threatened the community as they did so. I passed this information along to my advocacy contacts and targets previously mentioned.

I have, and will continue, to pressure Congress, the State Department, the Senate, the Colombian Government, the Colombian Embassy, the US Embassy in Colombia, and the White House itself on the issue of IDPs, Afro-Colombian rights, and making respect for human rights, the rule of law, and land rights a key requirement before any Free Trade Agreement is signed. I do not support the FTA, but it remains a key point of leverage over the Colombian government.

Conclusion:

If I have learned anything from this experience at all, it is that advocacy is an ongoing process, there are setbacks, victories, but there is always more work to be done. Sustained commitment, pressure, and activism are necessary to influence the powers that be, and protect those who cannot advocate for themselves effectively. The threat to the communities did not disappear after one phone call, and new events and threats seemed to surface every week that required my attention and efforts.

Advocacy also involves being diplomatic, using neutral language, and appealing to mutual interests in order to not alienate those you ask help or change from, as for instance I did not want the embassy in Colombia to cut us out of the loop on what they were doing regarding the situation.

Advocacy also involves working with a number of individuals and groups, and remaining coordinated so that goals, objectives, and actions do not get confused, diverge, or overlap, reducing the efficacy of advocacy. This I gathered from the constant phone calls I was making and getting from different groups about what was going on, who already knew what, when something happened, what we should ask for in advocacy, and who the targets for the asks should be.

In general, I have learned that communication is one of the most effective advocacy tools. Often, inaction by policy-makers is a result of a lack of information, or action is a result of having been informed of details others have not. I met many Congressional staffers who knew little about the actual situation in Colombia beyond their Representative's opposition to the FTA. Many were keen listeners who seemed to genuinely want to know more details, have more information, and know how they could engage. Keeping lines of communication open is important, as well as being respectful and keeping confidentiality when working with those you might not trust entirely, such as when we contacted officials at the Colombian embassy with details about attacks and individuals that might get in the hands of the wrong people.

One must be pragmatic, and learn to influence the people and decisions that matter, not blindly advocate and stir-up discontent with advocates whose cause may still be just. My attempts to publish an op-ed largely failed because it was written with passion, and the

original title was intended to offend and draw attention. This kept it from being published in a timely manner, and thus kept the important facts and points from getting out in time. This is something my advisor has helped me with throughout, about learning to be an effective advocate, because those are the best advocates, not just those who are passionate about doing the right thing, but are effective at influencing others to do the right thing.

I look forward to a career in human rights advocacy, and this experience has been extremely beneficial both personally for my growth, experientially for my expertise, and professionally for the connections I've made. It has also allowed me to keep my promise to the communities I visited in January 2011, that we would not forget about them, and we would do everything within our capabilities to help and protect them.

Enclosed are several memos, emails, and other pieces of information and work as listed in the Appendix below:

- A. Emails to US embassy and their responses.
- B. Emails to Congressional staffers and their responses.
- C. Unpublished editorial, written on April 10th, 2011
- D. Preparatory memos done early but merely to assist with my advocacy plans and academic research, not for publication
- E. Letter from Humanitarian Zone leader asking for protection and describing threats
- F. Flier, sign in sheets, and photos from the panel discussion
- G. Sample advocacy material from the reception

Appendix A: Email Correspondence with US embassy staff in Colombia

Letter to US Embassy Officials on January 17th,
Including:
Amanda Porter-Human Rights Officer
Nathaniel Christie-USAID Director
Mark and Elizabeth-Political Officers

Dear Mark, Amanda, Than and Elizabeth,

First we want to sincerely thank you for taking the time from your busy schedules to meet with us, it meant a lot to us, was extremely informative, and a wonderful opportunity I know we all appreciated. We understand that some of the issues we brought forward you are already aware of or addressing. We are really grateful to you for patience in listening to us, your openness with us, and for taking the issues of human rights in Colombia as seriously as we have come to take them.

As per my discussion with Amanda afterwards, I'm including below a brief list of the issues we had expressed concerns about so that you can have this copy in addition to your notes from the meeting.

1. We ask that you arrange a meeting with the Comisión Intereclesial de Justicia y Paz (Interecclesiastical Justice and Peace Commission), who helped inform many of our visits to the humanitarian zones, and can provide a much more sustained and informed connection with the communities we visited during our delegation.
2. We ask that you pressure the Colombian government to acknowledge and comply in a timely manner with the May 18th ruling by the Constitutional Court on the community council of Curvaradó and Jiguamiandó that requires a census to determine the ancestral inhabitants of the land (in which repopulators are excluded) and a new election to determine the legal representative of the region, and specifically, to acknowledge that Germán Marmolejo is not the legal representative of the communities and any contracts signed with him are therefore legally void.
3. On that note, we also ask that you inform US companies operating in the region (Chiquita, Dole, etc.) that contracts involving Germán Marmolejo, or Colombian companies that have signed deals with him (Fedepalma, etc.), are of questionable legal status and may involve ties to emerging criminal groups.
4. We ask that you contact the head of the 17th Brigade, and refer specifically to our meeting with Col. Luis Gutierrez in which we expressed our concern for the leaders of the Afro-Colombian humanitarian zones in the region. Please also remind them that the May 18th Constitutional Court ruling referred to before mandates the responsibility of the Colombian military, specifically the 17th Brigade in this case, to protect the humanitarian zones and improve its relations and trust with them. When we visited, members of the communities explicitly stated they had no trust for members of the 17th Brigade, and considered the paramilitaries merely an extension of the state itself.
5. We ask that you pressure the Colombian state, and specifically the 17th Brigade, to take action against Aguilas Negras leader Jason Salinas alias El Llantas, whose zone of operations overlaps with the 17th Brigades, specifically at the river crossing of Brisas near the humanitarian zone of Las Camalias, and whose operations have included supporting the invaders surrounding the Las Camalias Humanitarian Zone. The invasion is taking place wholly on the collective territories of the Curvaradó communities.
6. We ask that you inquire as to the planned visit (on the day of our meeting with you) by the

Police Inspector of Carmen Del Darien to the site of the Las Camelas invaders camp. Additionally, there was an eviction of the invaders scheduled for Friday January 14th 2011 to be carried out by the Police Inspector and Police Department of Carmen Del Darien that we respectfully ask you inquire about. Should it not have taken place, we ask that you contact the President's office and suggest a Presidential Intervention to Recuperate Lands That Have Been Taken, a move that would legally require state officials to assist in the eviction of the invaders from the collective territory of the Curvaradó communities.

7. We ask that you contact the Ministry of Interior to follow up on community leader Guillermo Diaz's letter sent Dec. 28th (of which we provided you a copy) requesting protective relocation and action against three business leaders using paramilitaries to intimidate the community of Llano Rico.

8. We ask that you contact the Fiscalía, or any other relevant state office, to inquire as to the progress in the investigation into the assassination of Argenito Diaz, former head of the Llano Rico community and Guillermo Diaz's brother, on January 13th, 2010 last year. The case is being handled by "la Fiscalía 35 Unidad de Derechos Humanos de Medellín" since one month ago and the case number (No de radicado es) is: 051726000328201080010.

9. We ask that you contact the Fiscalía, or any other relevant state office, to inquire of the progress in the investigation into the assassination of Walberto Hoyos in the community of Cano Manso some two years ago, especially as to why both the military and police denied his request for protection at the time. The process is under investigation in "la Fiscalía 36 de la Unidad de Derechos Humanos de Medellín" and the case number (No de radicado) is: 051726000328200880218.

10. We ask that you inquire as to the case of Benjamin Lopez with the Fiscalía as well. We don't know the case number for this process. We have submitted a right to petition to find out where this case is being processed, but we still have not received a response.

11. We ask that you encourage the Colombian state to make sure that any land restitution bill is aimed at helping the displaced, and is based on an accurate and valid land registry of current holdings and requires respect for Indigenous and Afro-Colombian collectively held territories. We also ask that you specifically pressure Incoder to begin titling lands based on accurate solicitations it has already received over the last several years.

12. We ask that you facilitate a meeting with the leaders of the Curvaradó and Jiguamiandó with the new Prosecutor General to discuss Process 3856 (the investigation into business leaders operating on collectively held territories) and Process 2022 (regarding the defamation campaign and arrest warrants against NGO and humanitarian zone leaders).

13. We ask that USAID organize a meeting with the Comisión Intereclesial de Justicia y Paz to talk about working with the Humanitarian Zones and Biodiversity Zones on possible projects in the future that would align with their desires to take care of and recuperate the flora and the fauna in the region as well as their traditional ways of working their land and their collective territories. You could contact Abilio Peña" from the Comisión Intereclesial de Justicia y Paz at his email address: amateo66@hotmail.com.

14. We also, ask that you urgently inquire with the Ministry of Interior about Guillermo Diaz's letter, since Guillermo is still waiting for a response to his letter (which we provided you a copy of during the meeting) and he is still receiving threats against his life. It would be great if you could reach out to the Ministry of Interior and Justice and see when they are planning on responding to his letter. When Guillermo signed his name to the letter where he speaks out against the 3 cattle ranchers it was a huge risk for him and puts him in an incredibly precarious situation.

15. We also ask that you be particularly alert to the threats (concern for both the physical safety and the defamation campaigns) against the Comisión Intereclesial de Justicia y Paz. You may remember the recent threats against Fabio we mentioned during our meeting, while he was accompanying the communities in Curvaradó and Jiguamiandó. Their team is also threatened in many other regions where they work (Cauca, Puytumayo, Meta, Buenaventura and Bogota).

16. We ask that if you have any relevant and publicly available maps related to the regions of Uraba and the humanitarian zones there, that you forward them along. We would greatly appreciate any such tools that would be useful for our advocacy here at home.

17. Lastly, we ask that should you visit the regions of Curvaradó and Jiguamiandó that you take the time to explicitly visit the Humanitarian Zones and meet with the leaders there to discuss their concerns and questions.

Yet again, we want to thank you deeply for listening to us and showing as much interest in our concerns as you have. If there is any further information, details, or contacts we can provide you with, please do not hesitate to let us know. I have also cc'ed our delegation facilitators from Witness For Peace to help with any further information.

I will be serving as the contact point for our group, and hope to stay in frequent and cooperative contact. Any advice or direction you might have to help us with our advocacy here in DC would also be deeply appreciated.

Thank you again,
Mike Lally

(On Behalf of the American University Witness for Peace Delegation, Dec. 29th 2010 - January 8th 2011)

Mike Lally
Senior, School of International Service
American University
585-506-6468
ml0832a@american.edu

Email Response from US Embassy, specifically Amanda Porter, Chief Human Rights Officer, dated February 2nd, 2011:

Mike,

Thank you for your email and for your concern for this community. We continue to be very concerned about the region and have continued to raise the issues listed below in our many discussions with various Colombian officials. Other embassies have been doing the same. As you all know, this region has been plagued by problems for years; quick and easy solutions will be hard to come by.

I've been in touch with Padre Alberto from Justicia y Paz and he's been updating us about the situation. Thank you for sending the details of the pending court cases in Medellin. We're seeking an update on the cases and expressing our concern.

As for maps, I don't have any maps that have further detail other than what I've seen on the internet or locally available maps.

I hope to be able to travel to the region in the coming weeks. We had many senior U.S. government officials here in January, which put our travel plans on hold, but we are working on setting up dates for a trip to the region hopefully before the end of the month. Our on-the-ground presence will make it much easier to more effectively raise these issues directly with officials in the area.

Sincerely,
Amanda

Amanda E. Porter

Human Rights Officer • U.S. Embassy Bogota

Direct (571) 383-2480 • General (571) 315-0811 x2480 • IVG 879-2868

Email: Portera@state.gov

This email is UNCLASSIFIED.

Email To US embassy officials:
Amanda Porter, human rights officer
Than Christie, USAID director
Mark and Elizabeth-Political Officers
Barbara Williams-State Dept. Colombia Desk
Dated April 10th

Amanda

As I'm sure you've seen, there has been a recent spat of violence and assassinations targeting the displaced leaders, as the link below indicates:

<http://colombiareports.com/colombia-news/news/15136-three-displaced-leaders-assassinated-within-24-hours.html>

People will die in the coming weeks. Protective measures, i.e. **military protection of communities is being removed** as death threats and violence escalate. **Urgent action is required.** Communities are being abandoned as I write this. If our government fails to act to pressure the Santos administration to do something about this, and people die, we will never know if it was a tragedy we could have acted to prevent.

We are greatly concerned and distressed for the welfare of the communities we visited in January, especially because the assassinations have been in a somewhat near vicinity and the communities have continued to receive threats, and because you have not visited them, and because the military is abandoning them. We fear for the leaders of Cano Manso, Las Camelias, and Llano Rico. We fear for the fathers, the mothers, their children, and all those who must face the fear of a similar fate on a daily basis.

For this and many other reasons, we urgently wanted to check in and see what progress had been made on the issues we expressed concern about.

1. Have you been able to visit the communities of Cano Manso, Las Camelias, and Llano Rico yet? I know you are busy, but if we, a group of college students (heavily in debt) could spend the time and money to visit these communities, we really hope that you as the representatives of our government in Colombia could do the same. These communities face serious threats that your attention and direct visitation could help mitigate, as well as allow you to hear their testimonies directly. You haven't met these people face to face, but we have.

As I'm sure you also know, there was also a Congressional briefing on the hill this past week with several prominent Afro-Colombian activists regarding the impact of the FTA, specifically on Afro-Colombian communities, and especially in regards to law 70. With our Congress debating the implications of such legislation, your having visited these communities could also help inform their debate. I suggest you contact the offices of Rep. Hank Johnson who sits on the Armed Services and Judiciary Committees, or Rep. Barbara Lee, who sits on the Appropriations Committee, who both pushed for the briefings. I will be doing so as well.

2. We wanted to know if the Santos administration had acknowledged and complied with the May 18th ruling by the Constitutional Court on the community council of Curvaradó and Jiguamiandó requiring a census to determine the ancestral inhabitants of the land (in which repopulators are excluded) and a new election to determine the legal representative of the region, and specifically, have they acknowledged that Germán Marmolejo is not the legal representative of the communities and any contracts signed with him are therefore legally void.

3. We wanted to know if you had informed US companies operating in the region (Chiquita, Dole, etc.) that contracts involving Germán Marmolejo, or their subsidiary companies (Tecbaco and

Banacol) that have signed deals with him (Fedepalma, etc.), are illegal according to Colombia's constitutional court and may implicate them with emerging criminal groups. If assassinations follow in the coming days on lands they are occupying illegally, they are complicit in the violence.

4. We wanted to be sure that you had contacted the head of the 17th Brigade, and referred specifically to our meeting with Col. Luis Gutierrez in which we expressed our concern for the leaders of the Afro-Colombian humanitarian zones in the region. Also if they had made any progress in light of the recent assassinations, on the May 18th Constitutional Court ruling referred to before that mandated the responsibility of the Colombian military, specifically the 17th Brigade in this case, to protect the humanitarian zones and improve its relations and trust with them, like not leaving. So that people aren't assassinated. I would like the contact info for the head of the 17th brigade as well, so that when I speak with the Congressional Black Caucus and Inter-American Commission on Human Rights, they can contact them as well. I am submitting Guillermo's letter to the IACHR, as well as recent documentation that shows lands titled under law 70 that are currently illegally occupied, and by which companies.

5. We wanted to ask if the Santos administration, and specifically the 17th Brigade, had taken action against Aguilas Negras leader Jason Salinas alias El Llantas, whose zone of operations overlaps with the 17th Brigades, specifically at the river crossing of Brisas near the humanitarian zone of Las Camelias, and whose operations have included supporting the invaders surrounding the Las Camelias Humanitarian Zone. Also whether the invasion that took place wholly on the collective territories of the Curvaradó communities was continuing, or the Santos administration had expelled the invaders. Also why the excuse of guerrilla attacks in the area requires the military to leave? Isn't the job of the military to protect the people?

6. We wanted to know whether you had any further contact with the Ministry of Interior to follow up on community leader Guillermo Diaz's letter sent Dec. 28th (of which we provided you a copy, and I am providing to the CBC and IACHR.

7. We wanted to know if you had received any information from the Fiscalía, or any other relevant state office, as to the progress in the investigation into the assassination of Argenito Diaz, former head of the Llano Rico community and Guillermo Diaz's brother, on January 13th, 2010 last year. The case is being handled by "la Fiscalía 35 Unidad de Derechos Humanos de Medellín" and the case number (No de radicado es) is: 051726000328201080010.

8. We wanted to know if you had received any information from the Fiscalía, or any other relevant state office, as to the progress of the investigation into the assassination of Walberto Hoyos in the community of Cano Manso some two years ago, especially as to why both the military and police denied his request for protection at the time. The process is under investigation in "la Fiscalía 36 de la Unidad de Derechos Humanos de Medellín" and the case number (No de radicado) is: 051726000328200880218.

9. We wanted to know if the Santos administration had been in contact with indigenous and afro-Colombian communities to make sure that any land restitution bill aimed at helping the displaced, is based on an accurate and valid land registry of current holdings and requires respect for Indigenous and Afro-Colombian collectively held territories. We also wanted to know what progress Incoder had made in titling lands based on accurate solicitations it has already received over the last several years.

10. We wanted to know if you had facilitated a meeting with the leaders of the Curvaradó and Jiguamiandó with the new Prosecutor General to discuss Process 3856 (the investigation into business leaders operating on collectively held territories) and Process 2022 (regarding the defamation campaign and arrest warrants against NGO and humanitarian zone leaders).

11. We wanted to know if USAID had organized a meeting with the Comisión Intereclesial de Justicia y Paz to talk about working with the Humanitarian Zones and Biodiversity Zones on

possible projects in the future that would align with their desires to take care of and recuperate the flora and the fauna in the region as well as their traditional ways of working their land and their collective territories. You can still contact Abilio Peña" from the Comisión Intereclesial de Justicia y Paz at his email address: amateo66@hotmail.com.

12. We also wanted to ask if you had heard anything related to the threats (concern for both the physical safety and the defamation campaigns) against the Comisión Intereclesial de Justicia y Paz. You may remember the recent threats against Fabio we mentioned during our meeting, while he was accompanying the communities in Curvaradó and Jiguamiandó. Their team is also threatened in many other regions where they work (Cauca, Puyumayo, Meta, Buenaventura and Bogota).

Yet again, we want to thank you deeply for listening to us and showing as much interest in our concerns as you have. You've been remarkably helpful and we really appreciate all the work you've been doing. I have also cc'ed our delegation facilitators from Witness For Peace and some State Dept. officials and Colombian Embassy officials to help with any further information or action.

Again, I implore you to take the time to visit the humanitarian zones that we did. The leader of Cano Manso made a specific request before we left, he said "Please don't forget about us." We have not, and we will not. Blood is going to be spilled if action is not taken, and that is a tragedy that we can work to stop.

We appreciate your help deeply, and look forward to an update from you.

Thank you again,
Mike Lally

(On Behalf of the America University Witness for Peace Delegation, Dec. 29th 2010 - January 8th 2011)

Amanda Porter, US Embassy Human Rights Officer's Email Response, dated April 17th:

Hi Mike,

I have been out of Bogota most of this week but have been following these events closely.

I'm not sure if you are aware, but last weekend the FARC attacked soldiers who were providing perimeter protection to one of the humanitarian zones in the area -- Andalusia if I am remembering correctly. One soldier was killed and another gravely wounded in the attack. When I left Bogota on Tuesday the second soldier was still alive but his condition was extremely serious. That attack occurred just hours after Colombian government authorities had completed a training program in the humanitarian zone for the upcoming census.

This was the third fatal FARC attack since you visited the area just a few months ago. Other attacks have occurred on the road that runs south from Carepa towards Medellin. In one attack a caravan carrying the director of Accion Social was attacked and in another the FARC burned three buses. This series of deadly attacks have made planning an official diplomatic trip to the area difficult, although we are continuing to work out a strategy with NGOs and other embassies to visit in small groups at strategic moments.

I have been in contact with the Min. Of Defense and other Colombian entities throughout the week about the situation in CyJ. Given the attacks on mil forces, they have changed their positions and are not using the same checkpoints which are so vulnerable to attack. We and other embassies are following this closely to ensure the communities are protected and that the military's changes in position do not leave the communities unprotected. We all have to also understand the military's responsibility to ensure its own personnel are not vulnerable to attack.

As you well know, the conflict in Colombia has raged on for over 40 years, and Uraba is one of the most complicated areas in the entire country. There are many competing interests and serious security concerns in the area.

We continue to encourage compliance with the May court ruling. The government is making progress as evidenced by the recent Minister-level visits and the preparations for the census. The government also recognizes the importance of bringing rule of law to this area and that many are watching the land issues in CyJ as an indicator if the broader land restitution will work. We also see the advances in the legal cases against the palmeros as a positive sign.

Whether its meeting with a community leader from the area, one of the NGOs working with them, or talking to a government official about what is happening in the area and following the implementation of the court order -- I literally work on some aspect of the CyJ situation every day, and I imagine I will continue to do so until the situation is resolved or the end of my tour. We share your concerns for the safety of these civilians who -- like all of us -- simply want to provide for their families and live in peace.

Best regards,
Amanda

Please excuse brevity. This message was sent from a BlackBerry.

My response to previous email from Amanda Porter, dated April 18th:

Amanda

Thank you so much for all the work you're doing, and we know this is a hectic and trying time and appreciate all your efforts. We just heard about the attack on Miguel Mercado in Cano Manso yesterday and very concerned for the communities. We wanted to know if you have any updates that can help us with our advocacy here and meetings with congress, or let us know whats being done in response to the attack. All we've heard is from the JyP release:

<http://justiciapazcolombia.com/Ocupacion-Paramilitar-de-predios,4289>

Any info would be appreciated. We're all pretty worried about the communities.

Thanks again for your support and keeping in touch with us, we really appreciate you taking the time to do so.

Thanks,
Mike

Amanda Porter, US Embassy Human Rights Officer's Email Response, dated April 19th:

Hi Mike,

We're still in contact with the military and seeking more info and explanation of what has happened and what the plan is for the area. I've been closely following the info from Justicia y Paz, and I've met with PBI and UNHCR in the last two days.

I don't know if you've seen, but there was recently a joint operation against a FARC camp in the municipality of Riosucio, Choco, which is not too far away from the CyJ communities.

<http://m.eltiempo.com/justicia/autoridades-dan-de-baja-a-seis-guerrilleros-de-las-farc-en-choco/9188030/1/home>

Please know that we are also very concerned about these communities – they are in the middle of an extremely difficult area.

Amanda

Amanda E. Porter

Human Rights Officer • U.S. Embassy Bogota

Direct (571) 383-2480 • General (571) 315-0811 x2480 • IVG 879-2868

Email: Portera@state.gov

My email response to previous email from Amanda Porter, US Embassy Human Rights officer, dated April 19th:

Amanda

Thanks for your quick response, we really appreciate you keeping us up to date and informed on whats going on.

That's terrific news about the operation against the guerrillas in the area. This should make things somewhat safer and easier for the troops protecting the communities, and for the other internationals travelling to the region, to know that some of the top FARC leadership in the region have been killed in the operation.

It would be good to see similar operations against the paramilitaries/bancrimes in the region, and the same sort of initiative and prioritizing on the part of 17th brigade and police to neutralize all the illegal armed actors in the region that threaten peace and the lives of innocent civilians.

Please keep us updated, and let us know if you find out more about the previous assassination attempt on Miguel, the follow up on it, or the protection plans being drawn up for the communities, as we're eager to hear more and know are friends are safe.

Thank you again for your time, and the information you've shared. You're been terrific at keeping in touch and letting us know whats going on the embassy's side. I never want you to think we doubt your sincerity, devotion, or hard work towards this cause. Your work helps save lives, we really appreciate it, and it helps give us some peace of mind to know that you and our embassy are looking out for the communities too in this difficult time.

Best wishes, and many thanks,
Mike Lally

Appendix B: Emails to Congressional staffers and their responses.

Email Sent to Congressional Staffers from offices of Cleaver, Yarmuth, McGovern, Johnson, Lee, and Slaughter, dated April 18th:

Dear Congressional Staffers With Whom I Have Met and Communicated,

I wanted to update you and again express my concern for the humanitarian zones of Afro-Colombians in Curbarado and Jiguamiando.

The link below describes an assassination attempt on a community leader by known paramilitary leader Pedro Tordecillas who has been spotted in the area recently. I recently visited your offices and warned about the withdrawal of troops from the communities, and the danger it put leaders in. Some of the troops have returned, but their presence is intermittent and still leaves leaders in danger as this attempted murder shows.

<http://justiciaypazcolombia.com/Ocupacion-Paramilitar-de-predios,4289>

For those who cannot read Spanish, the portion describing the attack translates roughly to this:

Sunday, April 17 at 3:30 a.m. Miguel Mercardo, a 39-year-old minor council member of Pedeguita and Mansilla and resident in an Area of Biodiversity, located near the Y sector in the area of Caño Manso Humanitarian Zone, was attacked with knives by five men, one of them, the paramilitary known as Pedro Tordecilla. Miguel ran into a banana grove and evaded the machetes which only managed to break his shirt, while his pursuers shouted: "You have to kill him. "

The board member, ran without a shirt, took refuge in a canal and hid until 6:00 am when he took a public transport service to Belén de Bajirá, hiding in a relative's home. At about 10:00 am, a commission of international observers and Justicia y Paz, accompanied him to the Humanitarian Zone of Camelias, where he decided to move.

I've included a link regarding the status of Afro-Colombians and their requests from the government, a recent report on the region from the NGOs LAWG, WOLA, and USOC, as well as an informational video from PBI. I hope you will use this information to pressure for greater protection for these communities who face serious risk of violence.

<http://news.afrocolombians.com/news/>

I know many of the faces in this video, indeed many of them welcomed me into their homes and fed me, and I do not wish to see them dead. I promised them I would not forget about them and I would try to protect and help them. Please help me keep this promise.

http://www.youtube.com/watch?v=F_PAvDys_Jw

Thank you for your time and consideration. I hope with your help and hard work we can make sure the plight of the Afro-Colombians who are killed or threatened for simply trying to live and farm on their stolen lands, and the plight of the 5 million IDPs who now outnumber those in Sudan, can be added to the debate about the FTA, and whether Colombia is ready and willing to uphold its human rights obligations.

Thank you,
Mike Lally
(585)-506-6468

Email Response from Scott Goldstein, Rep. Johnson Staffer, dated April 19th:

Thanks Mike, it was good to meet you.

Scott Goldstein

Legislative Director

Office of Congressman Hank Johnson (GA-4)

ph (202) 225-1605 / fax (202) 226-0691

www.hankjohnson.house.gov

H. Appendix C: Unpublished editorial, written on April 10th, 2011

Appendix D: Preparatory memos done early but merely to assist with my advocacy plans and academic research, not for publication

Appendix E: Letter from Humanitarian Zone leader asking for protection and describing threats

Appendix F: Flier, sign in sheets, and photos from the panel discussion

Appendix G: Sample advocacy material from the reception