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Guest Columnist

What it means that Chiquita was held liable for paramilitary killings

In a first, a U.S. jury found Chiquita liable for eight deaths for paying a terrorist organization to protect its banana-growing operations during Colombia's civil war.



A federal jury in Florida found that Chiquita Brands must pay \$38.3 million to family members of people killed during Colombia's long civil war by a violent right-wing paramilitary group funded by the company. The verdict on June 10 by a jury in West Palm Beach marks the first time the company has been found liable in any of multiple similar lawsuits pending elsewhere in U.S. courts, lawyers for the plaintiffs said. [AMY SANCETTA | AP]

The human rights movement achieved a historic legal victory last month. The fruit giant Chiquita Brands (formerly known as the United Fruit Company, UFC) was found liable by a federal jury in Florida for killings that occurred between 1997 and 2004 by a Colombian right-wing paramilitary group.

Even after the U.S. government labeled the Autodefensas Unidas de Colombia a foreign terrorist organization, Chiquita gave the organization millions of dollars and continued to work with the killers. Chiquita paid the terrorist organization to protect its banana-growing operations during Colombia's civil war.

The jury awarded the families of eight men killed by the Autodefensas Unidas de Colombia a total of some \$38.3 million in damages, concluding that Chiquita was liable for the killings. The jury determined that Chiquita "knowingly provided substantial assistance to the AUC" in amounts that created risks of harm to others. According to the jurists, Chiquita "failed to act as a reasonable business person would have acted under similar circumstances."

Jack Scarola, a lead plaintiff attorney in the case, summarized the significance of the case to NPR: "As far as we have been able to determine, this is the very first time that a major American corporation has ever been held responsible for injuries inflicted upon foreign nationals in an American court of law."

The phrase "poetic justice" refers to "an outcome in which vice is punished and virtue rewarded usually in a manner ... ironically appropriate." This verdict exemplifies poetic justice. UFC/Chiquita's enormous power and influence in Latin America over the last 100 years has contributed to coups, violence and a string of politicians being removed from office in Honduras, Guatemala and other countries.

According to historian Dan Koeppel, "Any leader (in Central America) who was either against the banana companies (UFC/Chiquita) or even simply wanted a fair wage for his people would be instantly deposed, sometimes murdered, often humiliated, and this happened over 20 times between 1900 and 1955." The most infamous case of UFC/Chiquita violence was the 1928 Ciénega Massacre or Banana Massacre in Colombia, publicized by Colombian novelist Gabriel García Márquez's "One Hundred Years of Solitude" (1967).

Throughout much of the 20th century, UFC earned the name ““El Pulpo,” or the octopus, because its tentacles gripped not only Central American banana plantations, but also the railroads, electricity grids, telegraph and phone lines, and ports. When the UFC transformed to Chiquita Brands in the 1990s, it maintained two key aspects of UFC operations. First, Chiquita continued the company’s reliance on third parties to carry out violence against workers, often targeted as supposed “communists.” And second, they worked the laws to avoid financial and moral responsibility for the violence. Over the years, Chiquita’s lawyers successfully convinced judges to dismiss lawsuits as their actions involved foreigners, or occurred outside the U.S.

Multinational corporations, some of the most powerful and wealthiest businesses in the world, too often escape accountability for actions which hurt workers, communities, governments and the environment. Regulatory laws are often not enforced and protections for workers and consumers are too often eliminated.

While providing voluntary guidelines for companies on their human rights responsibilities, the U.N. Guiding Principles on Business and Human Rights aren’t enforceable. In addition, the U.N. Global Compact, described as the world’s largest corporate sustainability initiative, also lacks teeth. Through this initiative, more than 15,000 companies based in more than 160 countries have committed to align their operation with 10 key human rights principles.

Participating companies agree to support and respect the protection of all internationally proclaimed human rights, fight human rights abuses, uphold collective bargaining, eliminate discrimination, uphold a precautionary approach to environmental challenges, undertake initiatives to promote greater environmental responsibility and fight corruption, including extortion and bribery. Yet, without legal consequences, there is no way to hold these companies responsible to follow through on their word.

Chiquita exemplifies the need for legal consequences when companies violate basic human rights norms. In a recent sustainability report, Chiquita declares: “We fully support the Universal Declaration of Human Rights ... and the U.N. Guiding Principles on Business and Human Rights.” Yet, while rhetorically proclaiming adherence to these fundamental and basic human rights, the company continued to

rationalize its financial support of the Autodefensas Unidas de Colombia terrorist organization, which caused immense human suffering among the Colombian people. It took a lengthy judicial process to finally hold the company responsible for its behavior.

While the vast majority of multinational corporations will conduct their business in a lawful and benign manner, a few will take an illegal path and sacrifice moral integrity for short-term gain. With the path-breaking verdict against Chiquita, the threat of criminal indictment will now hopefully serve as a deterrent that lessens the likelihood of future corporate participation or complicity in atrocities and human rights violations.



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