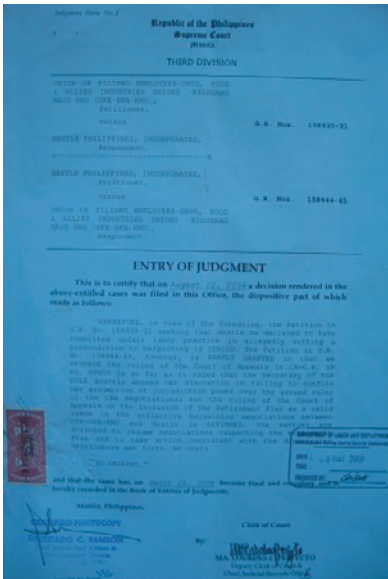


# Nestlé abusing workers' rights in the Philippines - and ignoring Supreme Court rulings

February 2009



A Supreme Court ruling from 22 August 2006 affirming previous decisions stating that Nestlé should negotiate with the trade unions. Nestlé has flouted the court rulings, prompting strike action.

[The following summary of the Nestlé Cabuyao workers' strike is an edited composite of extracts of statements issued by the Union of Filipino Employees, an affiliate of Drug, Food and Allied Workers Unions-Kilusang Mayo Uno (UFE-DFA-KMU); by Noel Alemania, the union's Acting President; by Marlon Torres, Public Information Officer, Pagkakaisa ng Manggagawa sa Timog Katagalugan-Kilusang Mayo Uno (PAMANTIK-KMU); and of articles in *Bulatlat* written by Dennis Espada and Alexander Martin Remollino. It was prepared for the UFE by Paul Germanotta.]

More than seven years have now passed since the more than 600 employees at the Cabuyao factory of Nestlé Philippines, Inc. went on strike to enforce their right to negotiate their retirement benefits. The Supreme Court's repeated rulings in their favor on this issue have failed to render justice, as the Swiss multinational food company continues to defy the court's decisions.

The Cabuyao factory workers and their union launched their strike on January 14, 2002, forced into it by Nestlé management and its deliberately provocative position demanding the exclusion of the issue of retirement benefits from the CBA negotiations as a matter subject to unilateral determination by management.

This position blatantly defied a ruling of the Supreme Court handed down in February 1991 (and later upheld on appeal), in which the court concluded: "*The Court agrees with the NLRC's [National Labor Relations Commission] findings that the Retirement Plan was a collective bargaining issue from the start ...*"

## The Global Compact

*Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.*

Several days after the strike vote on November 22, 2001, Patricia A. Santo Tomas, then-Secretary of the Department of Labor and Employment (DoLE), granted the company's petition for a notorious "assumption of jurisdiction" order, arbitrarily placing the dispute into the hands of the state and its apparatus of repression.

On January 16, 2002, Sto. Tomas issued a Return to Work Order; on January 18, 2002, Sto. Tomas issued a Police Deputation Order, ordering the Philippine National Police (PNP) to send in their units; and on January 28, 2002, 1,000 PNP, 400 police and 300 Blue Guards violently dispersed the picket line set up by the striking workers at the factory gate.

During a trip to Switzerland to the ILO Conference in June 2001, Sto. Tomas enjoyed limousine services that billed a total of 9,000 Swiss Francs or P316,000, courtesy of Nestlé-Philippines, Inc. Documents uncovered by the UFE reveal that Nestlé paid for her chauffeur services and the Mercedes Benz for a shopping trip to Milan, Italy from Geneva from June 15 to 16, 2001.



Razor wire and watch towers at the Nestlé factory. There have been 23 strike-related deaths, including union leader Diosdado "Ka Fort" Fortuna, who was assassinated on his way home from a picket line on September 22, 2005. His predecessor, Union president Meliton Roxas, was assassinated in front of the picket line on January 20, 1989, during the workers' previous strike.

The protracted labor-management conflict (see photos on the workers website<sup>1</sup>) has been marked by a militarization of the factory and the violent dispersal of the workers' picket lines and protests at the factory gate and elsewhere by the police and military, measures the company has encouraged and been fully complicit with.

This repression has directly or indirectly resulted in 23 strike-related deaths, including union leader Diosdado "Ka Fort" Fortuna, who was assassinated on his way home from a picket line on September 22, 2005. His predecessor, Union president Meliton Roxas, was assassinated in front of the picket line on January 20, 1989, during the workers' previous strike involving the same issue. To date, not a single perpetrator has been apprehended for these murders.

The Supreme Court again ruled on the labor dispute on August 22, 2006, reaffirming the validity of its 1991 decision. It now explicitly ordered Nestlé management to return to the negotiating table (and by necessary implication to call back its workers) to resume CBA negotiations with the union, including the issue of retirement benefits.

To date, the company has deliberately and contemptibly flouted the court's orders, just as the government has deliberately and contemptibly failed to enforce them.

In a recent statement, the UFE laid out in compelling terms the basis of the courage and heroism of the Cabuyao workers, who persevere in the face of overwhelming forces that capital and its state allies have mobilized against them:

*“Nestlé uses all state instruments such as the Department of Labor and Employment (DoLE), the MTC-Cabuyao (Municipal Trial Court) and RTC-Binan (Regional Trial Court), the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), and the Intelligence Service of the Armed Forces of the Philippines (ISAFP), with the blessings of a Philippine president who continuously clings to power ...*

*“Pres. Arroyo is betraying the people instead of defending the workers who have moral and just basis in their struggles. The Arroyo government likens the workers to criminals, drug lords, gambling lords and terrorists. It is like a rabid dog in kowtowing to the dictates of imperialist globalization and giant monopoly capitalists. Not contented, Arroyo further strengthened its iron hand rule by implementing the Calibrated Preemptive Response (CPR) on Sept. 21, 2005 to further repress the rights of the people.*

*“On Sept. 22, 2005, a day after Pres. Arroyo declared CPR, two motorcycle-riding assassins shot and killed Nestle union president Diosdado ‘Ka Fort’ Fortuna, with two .45 caliber bullets exploding his chest.”*

The surveillance, harassment, and other forms of violence perpetrated against the Nestlé Cabuyao workers have not ceased. At a protest held at DoLE on December 4, 2008, strikers identified, arrested and turned over to police two intelligence operatives, who had followed and threatened them from Cabuyao, Laguna to Intramuros, Manila. [Watch the video about this incident<sup>2</sup>.]

One week later, on December 10, 2008, a picket staged by the strikers at the factory gate was violently dispersed with water cannons by the police, who then proceeded to arrest and detain Noel Alemania, Acting President of the UFE, who was leading the protest.

In speaking about the ongoing conflict, Alemania affirms that the Cabuyao workers *“are determined to get justice, even if our fight has caused the murder of our two union presidents, the death of 22 of our co-workers, the forced stopping of our children from school and the forfeiture of our properties.”*

The striking Nestlé workers employed at the Cabuyao factory in Laguna are determined to hold and ultimately regain - and transcend - their ground at all costs. They say that, assuming the company fails to change its own behavior, the best immediate step the government can take in this conflict to legitimize its illegitimate claim to be a genuine, socially accountable popular democracy is to enforce the Supreme Court rulings ordering Nestlé management to call back and re-hire its workers and return to the bargaining table.

Visit the strike/boycott website<sup>3</sup>.



Diosdado Fortuna is remembered on 22 September 2008, the third anniversary of his assassination.



Sacked workers continue to call for their rights to be respected in the Philippines. While refusing to do so, Nestlé uses its involvement in the Global Compact to portray itself as a responsible company.



The lawful, peaceful picket at Nestlé's Cabuyao factory is sometimes violently dispersed the police and military, measures Nestlé has encouraged and been fully complicit with.

1. <http://austinaims2008.multiply.com/>
2. <http://www.youtube.com/watch?v=v78G-Z3gJhw>
3. <http://blood-in-your-coffee.blogspot.com/>