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# **@The 80th International Labour Conference: Amnesty International's concerns relevant to the Committee on Application of Standards and the Committee on Action against Apartheid**

## *Introduction*

Amnesty International follows with interest the discussions in the Committee on Application of Standards at the International Labour Conference (ILC) on governments effective implementation of International Labour Organisation (ILO) Conventions. Although the scope of ILO Conventions is much broader than Amnesty International's own area of work, there are situations where both organizations have concerns.

Amnesty International, a worldwide voluntary movement, works to prevent some of the gravest violations by governments of people's fundamental rights. The main focus of its actions is to work toward the release of all prisoners of conscience - those persons who have been detained anywhere for their beliefs or because of their ethnic origin, sex, colour or language who have not used or advocated violence; fair and prompt trials for all political prisoners; the abolition of the death penalty, torture and other cruel, inhuman or degrading treatment of prisoners; and an end to extrajudicial executions and "disappearances". The organization also opposes abuses committed by opposition groups which are contrary to minimum standards of humanitarian conduct such as hostage-taking, torture and killings of prisoners and other deliberate and arbitrary killings.

Thus, situations where the ILO and Amnesty International have identified similar concerns are likely to involve serious violations of human rights not only in respect of ILO Conventions, but also other international standards such as those set out in the International Covenant on Civil and Political Rights.

Discussions in the Committee on Application of Standards are based on the *Report of the Committee of Experts on Conventions and Recommendations*. It should be noted that this paper has been prepared in advance of the publication of the 1993 report but includes information on current Amnesty International concerns in Bangladesh, Brazil, Colombia, Cuba, Myanmar, Pakistan, and the Syrian Arab Republic which may be relevant to the Committee of Experts' observations on the implementation of appropriate ILO conventions in these countries. The final section, on South Africa, is relevant to the discussions in the Committee on Action against Apartheid.

***MYANMAR: Conventions No 29, forced labour, and No 87, freedom of association***

In the discussion at the last session of the Committee on Application of Standards on Convention No 29, the government representative of Myanmar strongly rejected all allegations of forced portering. In conclusion the Committee, noting the seriousness of the allegations, urged the government to report in full to the ILO on its implementation of this convention.

In its report *Myanmar "No law at all" - Human rights violations under military rule*<sup>1</sup>, published in October 1992, Amnesty International described how hundreds of thousands of villagers in minority areas have been forcibly conscripted or seized by the military to work as porters or as unpaid labourers building roads and army camps or working on commercial projects such as prawn cultivation or bamboo cutting. Porters and labourers are frequently detained at their workplace or at army camps, and are severely neglected, even killed. Many have died from exhaustion and neglect, others have been beaten to death, still others have been extrajudicially executed for disobeying orders or for trying to escape.

Since 1988 Amnesty International has documented gross violations of the human rights of conscripted porters from the Karen, Mon, Pa-o, Kachin, Karenni, Shan and Muslim minorities. In addition, criminal prisoners have been transported long distances and forced

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<sup>1</sup> AI Index: ASA 16/11/92

to work as porters or on other projects for the military. As the army has grown and its areas of operation extended, its demand for porters has increased. Those now seized come from almost any area of the country, including the majority Buddhist Bamar. Men and women of all ages, including schoolchildren and even pregnant women, have been forcibly conscripted as porters.

Amnesty International has interviewed scores of former porters who have fled the country after they were forced to become porters. For example, before the offensive against the Karen National Union headquarters at Manerplaw in early 1992 thousands were conscripted to support the army. Many were apparently seized in districts in central and lower Myanmar, far from the war zone. A 33-year-old Muslim worker from Yangon (the capital) was one of over 150 civilians seized from a train near Mawlamyine on 19 December 1991. Arrested by troops from the 80th Regiment under the 66th Light Infantry Division (LID), he was forced to carry ammunition for 16 days at the front line before he escaped. A 22-year-old tea-shop worker from Mawlamyine was among 30 civilians seized at Thaton railway station. He served for a month with the 66th LID on the front line before he escaped.

Last year in the discussions on Convention No 87, the government representative of Myanmar is recorded as having informed the Committee on Application of Standards that the Trade Union Act has been redrafted, the Central Council for Legislative Studies will examine laws which need to be repealed or amended and that the right of all workers to form their own independent trade unions will be incorporated in the new Constitution.

Although there have been changes to legislation over the last year, such as the revocation in September 1992 of Martial Law Orders Nos 1/89 and 2/89 which established military tribunals, Amnesty International is not aware of any current legislation which would authorize workers to form their own trade unions. It is concerned about the situation of trade unionists who are imprisoned for their involvement in non-violent opposition to the State Law and Order Restoration Council (SLORC, the ruling military authorities). Last December, three members of the Federation of Trade Unions of Burma (FTUB) were arrested. They are Nay Lin, believed to be the youth organizer for FTUB, who was detained on 9 December 1992 in Yangon with two others, reportedly for putting up posters calling for the release of Aung San Suu Kyi, the Nobel Peace Prize Laureate who has been held under arrest since July 1989. The SLORC announced on 25 January 1993 that Nay Lin had been arrested for "writing propaganda graffiti with intent to mislead and agitate the people...[and] for destroying the beauty of the city". In January 1993 he was sentenced to seven years'

imprisonment. Although military tribunals were abolished in September 1992, the civilian judiciary is subject to intimidation from the military authorities sufficient to undermine its independence. Furthermore, restrictions placed on political prisoners' access to legal counsel deny them any real opportunity to prepare a proper defence.

On 31 December 1992, Saw Aung, a Telecommunications clerk, and Myint Than, a Myanmar Airways Corporation Sales Clerk, were also arrested. They are both members of the FTUB. The charges against them have not been made public but Amnesty International believes that they may have been detained for the peaceful exercise of their political beliefs or trade union activities. Amnesty International has no further information about their current status but fears that they may be ill-treated while in detention since the ill-treatment and torture of political prisoners is common in Myanmar.

#### ***COLOMBIA: Convention No 87, freedom of association***

The situation in Colombia, including the killing and "disappearance" of trade unionists has been discussed at the last four sessions of the Committee on Application of Standards. In 1989 and 1990 the Committee decided to put a "special paragraph" in its report to draw attention to its deep concern at the persistent and serious situation of human rights violations in Colombia. In 1992, after a wide-ranging debate which included discussion of continuing assaults on the physical integrity of trade unionists, the Committee concluded that there was progress being made to bring the law into conformity with Convention No 87 but that it remained concerned about the situation in the country.

In the last two years the government of President César Gaviria has introduced numerous and far-reaching judicial and institutional reforms in Colombia, many of which have implications for human rights. New human rights mechanisms such as the local and national ombudsmen (*Defensor del Pueblo* and *Personeros*) and the petition of tutelage (*Acción de Tutela*) have been created or strengthened and measures ostensibly designed to overcome the problem of impunity have been introduced to the judicial system. However, none of these developments has had any measurable impact on the pattern of gross human rights violations in Colombia.

Numerous extrajudicial executions and "disappearances" continue to be committed by the armed forces, police and paramilitary groups working with them or with their acquiescence. Trade unionists, particularly those involved in serious labour conflicts, continue to be among those targeted by the paramilitary organizations and the security forces. Trade unionists Parmenio Ruíz Suárez and René Tavera were killed in July 1992 by gunmen believed to be members of a paramilitary group in a restaurant in the oil-refining centre Barrancabermeja, Santander Department. Only days before Parmenio Ruíz, a leader of the *Sindicato de Choferes de la Empresa de Transportes San Silvestre*, a Colombian transport union, and another union leader, Gustavo Chinchilla Jaimes, had lodged a complaint with the Regional Procurator's office after receiving death threats. In October Gustavo Chinchilla was abducted and killed in Bogotá as he made preparations to leave the country. His body showed signs of torture.

Moreover, in a new development, a number of leaders of trade unions involved in labour disputes have been charged with offences under the anti-terrorist legislation introduced to combat drug-trafficking offences and the activities of the guerrilla organizations. In February 1993, fourteen union members from the state telecommunications company Telecom, including Camilo Duran, Leopoldo Ojeda, Hernando García, Ricardo Díaz, Luis María Carrillo, Carlos Lozado Giraldo, Tayner Rodríguez, Mario Nelson Duarte, Carlos Leon Salazar, Gonzalo Díaz Gaviria and Jorge Eliecer Lerma - were charged with offences under the anti-terrorist legislation, introduced by executive decree under the state of emergency in 1988 and converted into permanent legislation in November 1991, and face maximum sentences of 20 years' imprisonment in connection with a strike in April 1992 which left Colombia without a telephone service for seven days. During the strike, which was declared illegal by the Colombian government, one of the union's leaders, José Joaquín Caicedo, was killed in circumstances that remain unclear. The basis for the charges against the unionists is the alleged sabotage of the Telecom computer system through the removal by the union members of microchips, thereby preventing outside workers being brought in to run the system during the strike.

Although Amnesty International does not take a position on the means employed by the union to ensure effective strike action, the organization is concerned that the anti-terrorist legislation, introduced to deal with drug-trafficking and guerrilla offences, is being increasingly used in order to stifle social protest. The application of anti-terrorist legislation - with its greatly increased sentences - to deal with alleged offences such as sabotage and damage to state property which are included in the ordinary penal code, appears intended to act as a deterrent to legitimate social and labour protests.

*CUBA: Convention No 87, freedom of association*

The implementation by Cuba of Convention No 87 has been the subject of observations from the Committee of Experts and discussions in the Committee on Application of Standards for several years. Last year the discussions centred on the question of the rights of Cuban workers to establish trade union organizations of their own choosing. The Committee on Application of Standards stressed in its conclusions the importance of independent trade unions which it regrettably felt bound to conclude do not seem to exist in Cuba.

Since 1959 only one trade union grouping, the *Central de Trabajadores de Cuba* (CTC), the Cuban Workers' Federation, has functioned in Cuba. All individual unions have to be affiliates of the CTC. Since 1991, attempts have been made to set up independent trade union groupings as a result of which those involved have faced harassment from the authorities and, in some cases, arrest.

Rafael Gutiérrez Santos, the President of the unofficial *Unión General de Trabajadores de Cuba* (UGTC), General Union of Cuban Workers, which has requested official registration from the authorities in accordance with Cuban law, was arrested in Havana on 6 February 1993 and, as of the end of March, was still being under investigation on unknown charges at the headquarters of the *Departamento de Seguridad del Estado* (DSE), Department of State Security, known as Villa Marista. From the information so far available, Amnesty International believes that he has almost certainly been arrested for his non-violent political and trade union activities. He has been arrested for short periods on a number of occasions since 1991. On one occasion in January 1992 a group of civilians believed to be members of a government-sponsored *Destacamento Popular de Respuesta Rápida*, People's Rapid Response Detachment<sup>2</sup>, attacked Rafael Gutiérrez in the street near his home in Havana. They reportedly insulted him and tried to force him to swallow a document they found in his pocket. Police then handcuffed him and took him away in a police car. On the way to the police station, he was reportedly beaten and upon arrival there pushed to the ground several times. He was held for three days at the 10th Police Unit before being released without charge. He said later that he was never given any explanation

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<sup>2</sup> Popularly known as **Brigadas de Respuesta Rápida**, Rapid Response Brigades, these were set up in mid-1991 "to defend the country, the Revolution and socialism in all circumstances, by confronting and liquidating any sign of counter-revolution or crime", wherever it might appear.

of the reasons for his arrest. Rafael Gutiérrez had formerly been a CTC leader for 22 years at the Havana docks where he worked. In July 1990 he and three other dock workers were sacked from their jobs and thrown out of the union after being briefly detained in connection with their alleged membership of an unofficial political group.

Several members of another unofficial trade union grouping, the *Confederación Trabajadores Democráticos de Cuba*, (CTDC), Confederation of Democratic Workers of Cuba, have been subjected to harassment and arrested for short periods since May 1992 when it was established. This grouping is believed to consist mainly of busworkers in Havana. On several occasions workers have reportedly been summoned by their employers, as well as by CTC leaders, and warned not to join any independent union. On 11 September 1992, eight members of the CTDC reportedly went to the headquarters of the CTC to hand over a letter to the CTC President complaining about the situation of Cuban workers. Upon their arrival, they were reportedly beaten up by CTC supporters believed to be members of a Rapid Response Brigade. The eight were arrested and held in detention for four days. On the fourth day, they were taken to their workplace and told they were to be sacked from their jobs for being absent from work for four days. They were also reportedly told not to return to their place of work even to collect what pay might be owing to them. The eight subsequently presented an official complaint to the Attorney General.

On 23 September 1992, Juan Guarino Martínez Guillén, one of the eight and a member of the executive of the CTDC, was arrested by DSE agents in his home and taken to a police station. He was held for three days before being released. He was reportedly told that he had been detained to prevent him from attending a mass on 24 September where dissidents were planning to hold a protest.

Another CTDC member, Alfredo González Espinosa, is said to be in prison serving a one-year sentence for *descato*, disrespect, after he was accused of painting anti-government slogans. It is not clear whether this charge is directly connected with his trade union activities.

***SYRIAN ARAB REPUBLIC: Convention No 87, freedom of association***

The implementation by the Syrian Arab Republic of Convention No 87 was discussed last year by the Committee on Application of Standards. In its conclusions, the Committee noted intended changes to labour legislation which it felt should be carefully studied by the Committee of Experts at its 1993 meeting.

Amnesty International remains concerned about the situation of doctors and engineers who have been held without charge or trial for more than 12 years. They were arrested in the wake of a one-day general strike on 31 March 1980 which was organized by the Damascus branch of the Syrian Bar Association and supported by various professional organizations. The strike was aimed to call for political reforms, including an end to state of emergency legislation and to human rights violations committed under this legislation.

Shortly after the strike, a Presidential Decree was issued recommending the dissolution of the professional associations' councils. On 9 April 1980 the Ministerial Cabinet found that the Medical, Engineers' and Bar Associations councils had broken the laws concerning the aims and activities of their professions by organizing or participating in the strike and agreed to dissolve the national congresses and assemblies of these associations. Hundreds of lawyers, doctors and engineers were subsequently arrested.

According to unconfirmed reports, some of those arrested were executed. Others have since been released. However an unknown number are believed to still be detained. They include Tawfiq Draq al-Siba'i, a doctor, believed to be about 47 years old, married with five children. He studied medicine at the University of Damascus and in 1973 went to Montreal in Canada to undertake graduate studies in neurology. He opened a medical clinic in Homs on his return to Syria. He was detained in May 1980 after the Syrian censors intercepted a letter from his relatives in Saudi Arabia which expressed concern about the political situation in Syria. To Amnesty International's knowledge, he has never been charged or put on trial. He was last reported to be held in al-Mezze Military Prison, Damascus, in 1987. His situation and whereabouts since then are not known.

Salim Khirbik, aged around 44, is believed to be held in 'Adra Civil Prison. A former employee of the national Syrian airline and member of the Syrian Engineers' Association, he was arrested in June 1980 and held without charge or trial until 1992 when he was reportedly interrogated by the Supreme State Security Prosecution in order to bring him to trial. He was expected to appear before the Supreme State Security Court at the end of 1992 but this was



reportedly postponed until the beginning of 1993. Amnesty International does not know any details of the charges against him or whether he has appeared before the court.

***BANGLADESH: Convention No 107, indigenous and tribal populations***

The Committee on Application of Standards discussed the implementation of Convention No 107 by Bangladesh in 1989. The Committee of Experts' most recent observation on the situation was made in 1991 when it commented on various legislative and practical aspects of the situation.

Human rights violations in the Chittagong Hill Tracts continue to be committed in the context of the continuing conflict between the government and an armed tribal organization, the *Shanti Bahini* (Peace Force) which seeks local autonomy. Despite attempts to find a political solution to the conflict, and some positive steps taken by the government towards increased protection for human rights, Amnesty International continues to have concerns about the treatment of tribal people in the Chittagong Hill Tracts. These are described in *Bangladesh: Human Rights Concerns*<sup>3</sup> published in April 1993 and include the illegal detention of tribal political prisoners, torture and deaths in custody and extrajudicial executions.

Tribal people in the Chittagong Hill Tracts continue to be detained by the military under the Special Powers Act (SPA) which permits the detention without charge or trial of anyone suspected of committing a "prejudicial act" likely or intended "to endanger public safety or the maintenance of public order". Many of the SPA orders have been declared illegal by the High Court. Detainees have also been charged under the Bangladesh Penal Code with anti-state offences such as conspiracy to wage war on Bangladesh (Section 121A) or sedition (Section 124A) for peaceful political activities such as possessing literature critical of the government. For example, Monotosh Dewan, age 55, the finance secretary of the Hill People's Council, was arrested on 8 July 1991 under the SPA and held for questioning about his contacts with foreign journalists. He was also charged with three offences under the Penal Code on the basis of booklets found in his possession. On 12 March 1992 the High Court

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<sup>3</sup> AI Index: ASA 13/10/93

found the detention order to be "vague, indefinite.. therefore illegal". On 28 May the High Court granted him bail as it found the booklets to be "innocent and do not constitute any offence". He was released on bail on early June 1992 but to Amnesty International's knowledge the charges against him are still pending.

Amnesty International continues to receive reports of the torture of tribal people held in military custody. It is particularly concerned by the case of Abiran Chakma who is believed to have died as a result of torture while in the custody of the army. To Amnesty International's knowledge, there has been no inquiry into his death.

Amnesty International has expressed its concern to the government about the killing on 10 April 1992 of more than 100 tribal people at Logang in Khagrachari district of the Chittagong Hill Tracts, reportedly by the paramilitary Ansars and the Village Defence Party, a civilian defence group with official status. It welcomed the government's action in setting up in May 1992 an inquiry commission into the incident but remains concerned about the manner in which the inquiry was conducted, including reports of the harassment of some potential witnesses by law enforcement personnel which apparently deterred them from testifying. In addition, it has repeatedly requested that the government publish a full and detailed report on the events in Logang in April 1992; make public the terms of reference of the inquiry commission; and provide information on the specific charges brought against the alleged perpetrators and on the nature and current state of the legal proceedings against them.

### ***BRAZIL: Convention No 107, indigenous and tribal populations***

The Committee of Experts has made a number of observations on Brazil's implementation of Convention 107 in recent years which have been taken up by the Committee on Application of Standards. The situation was last discussed by the Committee on the Application of Standards in 1991. The Committee concluded then that it remained extremely concerned by the persistent problems of the situation of the Yanomami but noted concrete measures taken and planned by the government.

As Amnesty International described in its report *Brazil "We are the land" Indigenous peoples' struggle for human rights*<sup>4</sup>, published in January 1993, members of indigenous communities in all regions of Brazil and in varying levels of contact with Brazilian society have been abducted, tortured and killed for their lands or the resources on them. As the pressure for resources such as minerals and timber increases, so indigenous groups become more vulnerable to armed attack by private agents including gunmen hired by land claimants or timber merchants.

Amnesty International takes no side in disputes over land. What concerns the organization is the persistent failure of successive governments to protect the fundamental human rights of Brazil's indigenous peoples. Despite extensive provisions in Brazil's 1988 Constitution and other laws to protect the Indian communities, the failure of the authorities to arbitrate promptly in disputes between the indigenous and non-indigenous communities has left indigenous groups ever more vulnerable in the face of escalating violence. The authorities at all levels have failed to protect the Indians effectively or to bring to justice those responsible for killing, abducting, harassing and threatening them. As a result, human rights abuses continue with impunity.

Attacks on the Yanomami have attracted considerable attention since August 1987 following an influx of miners to the Surucucus area. It is difficult to estimate how many Yanomami have been killed since then, in part because by cultural tradition the Yanomami will not divulge the names of their dead to strangers. However some 16 killings between 1984 and 1992 are the subject of police enquiries. In addition, it is estimated that between 1988 and 1990 some 1,500 Yanomami, approximately 20 per cent of the population, died of malaria brought in by the miners.

Between November 1991 and May 1992, the whole 9.6 million hectares claimed by the Brazilian Yanomami was officially demarcated, that is, recognized as an indigenous area where the fullest protection afforded to Indians in law pertains. There are, however, continuing reports in invasions into the area and there is concern about FUNAI's (the government body responsible for indigenous affairs) capacity to maintain the area free from incursions.

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<sup>4</sup> AI Index AMR 19/32/92

Many other indigenous communities throughout the country continue to be subjected to violent attacks. The lack of progress in demarcation and effective protection of indigenous areas gives rise to concerns that this level of violence may escalate further.

In Roraima, the Macuxí populations, many of whom live on tiny plots of land literally encircled by ranches, have suffered a campaign of harassment and violent attacks from ranchers, sometimes backed up by local police, and from miners displaced from the Yanomami area. One of many cases is that of Damião Mendes, aged 35, and his 19-year-old nephew Mario Davis, two Macuxí Indians who were found shot dead on 25 June 1990. They came from the settlement of Santa Cruz near Normandia in northern Roraima. This is within an area officially known as the Raposa/Sierre do Sol which has yet to be demarcated, although it was identified as an indigenous area in 1984 when its boundaries were officially confirmed by FUNAI. Full demarcation has been stalled by local ranchers. Although the farm manager of the nearby Guanabara estate confessed to the killings of Damião Mendes and Mario Davis within a day of their deaths, he was released from custody by local police and the case has never come to trial.

On 1 December 1992, Domingos Paulino, a leader of the Gaviao Pukobye Indians was shot in Amarante, Maranhão state. He had been receiving death threats from loggers who frequently crossed his community's land on the way to the lands of the Guajajara Indians where they had logging contracts. Local FUNAI officials informed Amnesty International in mid-January that no police inquiry had been opened into the killing, despite their calls for one.

Only three cases of killings of members of indigenous communities have ever come to trial in Brazil despite over 160 killings in the last 12 years. In 1988 four people were given prison terms by a federal court for the killing of three Xacriabá Indians in 1986. In 1991, two men were acquitted by a state court of the killing of two Guajajara Indians in Maranhão state in 1980. On 29 March 1993 a landowner was acquitted, also by a state court, of ordering the killing of the Guaraní indigenous leader Marçal de Souza Guaraní in 1983.

***PAKISTAN: Convention No 111, discrimination (employment and occupation)***

The Committee of Experts most recent observation on Pakistan's implementation of Convention 111 was in 1991 when, in the absence of a report from the government, it repeated its previous observation from 1989. In this it raised the question of discrimination against religious minorities in Pakistan.

Amnesty International is aware that the provisions of Convention No 111 relate particularly to discrimination in employment and education. However, it wishes to draw to the attention of the Committee on Application of Standards its serious concerns about Section 295-C of the Pakistan Penal Code which was amended in mid-1991 to make the death penalty mandatory for blasphemy against the Prophet Mohammad. In November 1992, a Christian, Gul Masih, became the first person to be sentenced to death under this law. Amnesty International knows of more than a dozen cases of alleged blasphemy pending before the courts. Reports received by the organization indicate that in all cases there has been a strong background of enmity on the part of the complainant against the member of the religious minority accused of blasphemy.

Gul Masih was arrested on 10 December 1991, a few days after he had refused to support a Muslim League candidate in local elections. A campaign worker from the Muslim League apparently quarrelled with Gul Masih, and then is said to have been encouraged by local Muslim clergy to file a case of blasphemy against Gul Masih. Local human rights groups and Gul Masih maintain that the dispute did not involve any blasphemous reference to the Prophet Mohammad. Gul Masih's conviction was apparently secured solely on the testimony of the complainant. As of April 1993, his appeal before the Lahore High Court was still pending. Amnesty International regards him as a prisoner of conscience and has appealed for his immediate and unconditional release.

Amnesty International is also concerned that members of the Ahmadiya community continue to be charged and sentenced to terms of imprisonment solely for the peaceful exercise of their religious faith. Changes to the Penal Code effected in recent years make it a criminal offence for Ahmadis to profess, practise and preach their faith. In November 1992, ten Ahmadis from Chak village in Faisalabad district were sentenced to three years' imprisonment for having distributed invitations to a prayer meeting; one among them was given an additional three year term for having made a call to prayer.

## ***SOUTH AFRICA***

In June 1992 Amnesty International published *South Africa: State of Fear - Security force complicity in torture and political killings, 1990-1992*<sup>5</sup> which documented incidents of politically-motivated killings, assaults, torture and other serious human rights violations by members of the security forces or by others acting with their acquiescence. The report noted that, in the vast majority of cases, security forces members and others implicated in these human rights violations had not been called to account for their actions. It concluded that the lack of vigorous and credible investigations and actions against human rights violators had reinforced a sense of impunity amongst the security forces and those forces acting with their acquiescence. This atmosphere of impunity, resulting from what can at best be described as official negligence, has been a major factor contributing to the perpetuation and escalation of the violence since 1990.

Workers have been targeted for assassination and other acts of violence, because of their membership of trade unions, particularly those affiliated to the Congress of South African Trade Unions (COSATU) which is politically allied to the African National Congress (ANC). Since late 1991 in northern Natal province, for instance, armed men with the direct involvement or acquiescence of the local police have attacked the homes of COSATU officials and officials of an affiliated union, the National Union of Metal Workers of South Africa (NUMSA), killing or wounding them and members of their families and damaging or destroying their houses.

Among other cases, on 14 March 1992 about 100 armed men attacked the home of Siphso Cele, the Northern Natal Regional Secretary of COSATU and also a member of the Natal Regional Dispute Resolution Committee established under the terms of the 1991 National Peace Accord. Despite an urgent request for assistance, the police took three hours to arrive at Siphso Cele's house. Instead of pursuing the heavily armed attackers, the police searched the house for weapons and then left. At 4.30 am the following day, a group of men wearing civilian clothes and with their faces hidden forcibly entered Siphso Cele's house and assaulted him and other occupants before taking them away in an unmarked vehicle to Ngwelezane police station. Their attackers continued to assault them at the police station. On 17 March unknown persons attacked and damaged Siphso Cele's house with an

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<sup>5</sup> AI Index AFR 53/09/92

incendiary device. Siphso Cele required hospital treatment for fractured ribs, ankle and nose. He has been unable to live in his home since these attacks. The perpetrators have never been brought to justice.

In another case, on 26 August 1992, a NUMSA shop steward and ANC member, Sam Nyawo, was assassinated in the northern Natal town of Esikhawini by a group of armed men wearing balaclavas. The attack occurred on the same day on which Enoch Nzuzza, a NUMSA regional organizer and ANC member, narrowly escaped assassination when a group of men armed with automatic weapons and pistols fired on him on his way to work. Shortly before Sam Nyawo was killed, balaclava-clad men armed with automatic weapons, shotguns, tear-gas and hand-grenades attacked the home of Bheki Ntuli, chairperson of COSATU's Northern Natal Region and a NUMSA shop steward. Bheki Ntuli and other occupants including Enoch Nzuzza managed to escape from the house, which was severely damaged. Enoch Nzuzza and Sam Nyawo had survived attacks against them earlier in the year. Sam Nyawo's house had been burnt to the ground by attackers in February 1992.

During these and other incidents, the local police, in particular the KwaZulu Police, has been unresponsive to pleas for help and has failed to carry out proper investigations leading to the arrest and prosecution of the perpetrators. In addition, the men involved in the attacks appeared to be using police-issue weapons and in some cases carried out their attacks in full view of the police. In October 1992, following the intervention of the investigation arm of the Goldstone Commission<sup>6</sup>, the police arrested three men and charged them with five counts of attempted murder. Forensic evidence linked them to the attack on Bheki Ntuli's home. Despite the gravity of the charges against the three accused, the magistrate's court granted them bail on condition that they report to the Esikhawini police station, which is under the control of the KwaZulu Police. While out on bail the three men are believed to have committed other murders and attempted murders. On 22 January 1993, lawyers representing Bheki Ntuli and other trade unionists from the Esikhawini area failed to persuade the court to withdraw bail for the three accused, despite the evidence showing that they had committed further acts of violence while out on bail, as well as failing to adhere to the reporting requirement of their bail conditions.

Amnesty International is concerned that the Attorney General's office is abusing new special powers under recent legislation to block bail applications and effect the arbitrary

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<sup>6</sup> The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation

detention of trade unionists who were involved in legitimate trade union activities. This has occurred in recent cases against officials and members of the Police and Prison Officers Union of South Africa (POPCRU) in the context of a dispute between prison warders who are POPCRU members and the authorities at Pietermaritzburg Prison in Natal which erupted in February 1993 after 100 warders were summarily dismissed and some 200 others went on strike in sympathy for their dismissed colleagues.

On 10 March 1993 Zwi Mdletshe, Assistant General Secretary, Mnikelwa Nxele, Regional Chairperson, Bhekani Ngubo, Regional Secretary, and Vusi Ndlovu, Regional Treasurer of POPCRU, were arrested in Pietermaritzburg, Natal and charged in the magistrate's court on the following day with the statutory offence of "intimidation". Under the 1991 Internal Security and Intimidation Amendment Act, "intimidation" is a very widely defined crime including any act, not necessarily involving violence or the threat of violence, relating to a strike viewed as illegal by the authorities. A further 15 POPCRU members and officials were arrested between 11 and 16 March and similarly charged with "intimidation". Six of the officials and three of the members were prevented from applying for bail by the Attorney General using his special powers under the 1992 Criminal Law Second Amendment Act.

Zwi Mdletshe and the other POPCRU officials were arrested days before a meeting scheduled between the Minister of Correctional Services and the prison warders' liaison committee to discuss the dispute at Pietermaritzburg Prison. The public prosecutor announced in court on 11 March that he intended to ask the Attorney General for a certificate denying them a bail hearing. The POPCRU officials were remanded in custody, thus leaving only one member of the liaison committee in a position to meet with the Minister on 15 March.

The Attorney General used powers granted him under the 1992 Act to prohibit the court from releasing on bail the POPCRU officials and the other three members arrested later. The prohibition was effective for 120 days. The Attorney General gave the detainees no opportunity to present their case to him and he gave no details of the charges against them. The Correctional Services Department, the police and the Attorney General's office appear to be colluding to break the capacity of POPCRU to organize amongst public sector employees. Both the Police Act and the Prisons Act prohibit strikes and empower the authorities to dismiss summarily members of the services who engage in a strike. The authorities have refused to recognize POPCRU, which was founded in 1989 to campaign for improvements in working conditions and against discrimination. Since its foundation,



POPCRU members have been summarily dismissed or have suffered other forms of harassment. Amnesty International regards the nine POPCRU members denied the right to a bail hearing as victims of arbitrary detention, targeted for their trade union activities.

In addition, Amnesty International remains concerned by the failure of the authorities in the nominally independent "homeland" of Bophuthatswana to bring to justice police officers responsible for the torture in November 1991 of members of workers' committees detained during an industrial dispute at the Impala complex of platinum mines near Rustenburg. It is further concerned that the death of Jonas Kgotsitsile, one of these worker activists, in January 1992 has never been fully investigated. Jonas Kgotsitsile died after falling from a second-floor window at the police station where he was being interrogated.