

Amnesty International's concerns at the 87th International Labour Conference, 1-17 June 1999, Geneva

Introduction

Amnesty International has for a number of years followed and attended the discussions of the Committee on Application of Standards at the International Labour Conference (ILC) on governments' effective implementation of International Labour Organisation (ILO) standards¹. While the scope of ILO Conventions and Recommendations is very much broader than the area of work covered by the mandate of Amnesty International, there are situations where both organizations have similar concerns. These concerns are particularly in respect of the ILO's seven "core" Conventions² which now form the basis of the *ILO Declaration on Fundamental Principles and Rights at Work* adopted by the ILC in 1998. Among these core Conventions are those -- namely Convention Nos 29 and 87 -- under which Amnesty International is this year raising concerns at the ILC. As in some previous years, Amnesty International is also raising concerns at this ILC under Convention No 107 on Indigenous and Tribal Populations.

Amnesty International, a worldwide voluntary movement, works to prevent some of the gravest violations by governments of

¹Of which there are currently 355 (174 Conventions and 181 Recommendations)

²Convention No 87 on freedom of association, Convention No 98 on collective bargaining, Convention Nos 29 and 105 on the abolition of forced labour, Conventions Nos 100 and 111 on equal treatment and Convention No 138 on minimum age

people's fundamental rights. The main focus of its actions is to work toward the release of all prisoners of conscience – those people who have been detained anywhere for their beliefs or because of their ethnic origin, gender, 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 deliberate and arbitrary killings and "disappearances". The organization also opposes abuses committed by armed 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. Amnesty International is independent of any government, political system or religious creed and is concerned solely with the protection of human rights regardless of the ideology of the government or opposition forces or the beliefs of the victims.

It follows, therefore, that situations where both the ILO and Amnesty International have 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 United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which include the specific rights that Amnesty International seeks to protect. However, Amnesty International believes that all human rights and freedoms – civil, cultural, economic, political and social – are indivisible and interdependent and that it is the responsibility of the international community to protect the human rights of all people.

This document includes information on current Amnesty International concerns which are relevant to observations made by

the Committee of Experts³ and often to recent discussions in the Committee on Application of Standards. It describes a number of situations where the governments concerned are clearly failing to implement the provisions of ILO Conventions which they have ratified and which Amnesty International urges the Committee on Application of Standards to take up at its meeting in June 1999.

This year, Amnesty International will also be following with interest the discussions in the Committee on Child Labour concerning the proposed new ILO Convention and Recommendation on the worst forms of child labour. In close co-operation with the Coalition to Stop the Use of Child Soldiers⁴, Amnesty International is campaigning for the explicit inclusion in this new standard of a clause prohibiting child soldiering as one of the worst abuses of child labour. Amnesty International's recommendations in this respect are therefore also included in this document.

³Members of the Committee serve in their personal capacity and are appointed by the Governing Body of the ILO. Their fundamental principles are those of independence, impartiality and objectivity in noting the extent to which the position in each State appears to conform to the terms of ILO Conventions which they have ratified. The Committee meets in private session annually in December, and produces a Report containing their observations in March.

⁴ The Coalition to Stop the Use of Child Soldiers was established in June 1998. Its primary objectives are the adoption of and adherence to, an Optional Protocol to the Convention on the Rights of the Child prohibiting the military recruitment and use in hostilities of any person younger than 18 years of age, and the recognition and enforcement of this standard by all armed forces and groups, both governmental and non-governmental. The Coalition's Steering Committee comprises Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, International Save the Children Alliance, Jesuit Refugee Service and the Quaker UN Office, Geneva.

Convention No 29 on Forced Labour

MYANMAR (ratified Convention No 29 in 1955)

In June 1996 the ILO established a Commission of Inquiry under article 26 of its Constitution to investigate the practice of forced labour in Myanmar. Amnesty International welcomed the publication of its comprehensive report in August 1998, which found the Government of Myanmar “...*guilty of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity.*” The Governing Body of the ILO, at its meeting in March 1999, expressed its dissatisfaction with the lack of action to comply with the Inquiry’s recommendations by the Government of Myanmar.

Myanmar’s military government, the State Peace and Development Council (SPDC), routinely seizes thousands of ethnic minority civilians, including women and children, to work against their will and without pay to build so-called “development projects” such as roads and military installations. Members of the Shan, Karen, and Karenni ethnic minorities living in the east of the country bordering Thailand are forced to “contribute” their labour. Many spend so much of their time working for the military that they cannot support themselves and their families.

Earlier this year Amnesty International interviewed over 100 ethnic minority civilians who had recently fled to Thailand -- almost every one of them reported that they had been compelled by SPDC troops to clear forests, build roads and military barracks, and even cultivate crops to feed the military. But forced labour in Myanmar is not a new phenomenon -- Amnesty International has been documenting it for over 10 years. In the last seven years the scale of forced labour has increased dramatically in parts of the country, involving hundreds of thousands of civilians, including criminal and political prisoners, as the SPDC has initiated massive infrastructure projects throughout the country. The government claims that these projects are for the good of the people in outlying areas, but those who were forced to do the work often comment that the projects are solely for the benefit of the military.

Although forced labour has decreased in central Myanmar, it is still being reported on a large scale in the seven ethnic minority states which surround the central Burman plain. SPDC troops usually contact the village headman for labourers, who then organizes a rotation system whereby each family must provide one person for a project. Teenaged children are frequently sent to do forced labour because their parents must earn a living for the family and cannot spare the time. The length of time spent per month varies from place to place, but it usually interferes with the family’s ability to support itself. Yet the government claims that these civilians contribute their labour voluntarily

as part of their civic duty, an assertion which is contradicted by the hundreds of forced labourers who have given testimonies to Amnesty International.

In the Shan, Karen, and Karenni States hundreds of thousands of civilians have been forced by the SPDC to move off their land and live in relocation centres in order to break up any support or contact with ethnic minority armed opposition groups. Civilians in these relocation centres controlled by the government are sitting targets for forced labour - the military use them as a labour pool to draw on for work in military bases, build roads, and clear land. A 15-year-old Karenni girl⁵ told Amnesty International that when she was forced to move to the Nwa La Bo relocation centre in Loikaw township at age 13, she could no longer attend school and had to work for the military. She was forced more times than she could count to cut grass and carry heavy stones for road-building. An orphan who was living with her aunt and uncle, she said she would like to go to school again.

Perhaps the worst form of forced labour occurring in Myanmar is forced portering. Forced portering occurs in the context of counter-insurgency activities against armed ethnic minority opposition troops who are engaged in guerrilla activities. Civilians, usually but not always men, are taken from their villages and fields and made to carry heavy loads of supplies and ammunition through mountainous jungle for troops patrolling the area. They are often tied up and guarded at night, are never paid, and are given very little food. As is typical in modern warfare, it is the civilians who often become targets of the warring groups.

Porters are often beaten if they become too weak to carry their loads and cannot keep up with the military column. One 42-year-old Shan farmer who had sought refuge in Thailand told Amnesty International that he had been taken as a porter for 10 days in October 1998 by SPDC troops and forced to carry ammunition. Because he was given so little food, he became weak and could no longer walk. A soldier slapped him across the face several times, catching his finger in the porter's left eye. He managed to escape by rolling down the mountainside and hiding in the forest nearby. Eventually he made his way back home but was too frightened to seek medical treatment. As a result of his injury he has permanently lost the sight in one eye.

⁵Names and other identifying factors have been omitted to protect the victims from reprisals

Convention No 87 on Freedom of Association and Protection of the Right to Organise

COLOMBIA (ratified Convention No 87 in 1976)

The 1998 Committee on Application of Standards deeply deplored the continuation of anti-trade union violence in Colombia and recalled with great concern the “longstanding and major discrepancies between law and practice and the provision of the Convention” which it had discussed over a number of years.

A new government came to power in Colombia in August 1998 when Andrés Pastrana was inaugurated as President. Amnesty International called upon the new President to announce an immediate and decisive program of action to tackle the country’s escalating human rights crisis. However there has been no sign that the systematic violations of fundamental human rights are being brought to an end. In 1998 at least 90 union leaders and activists were murdered and hundreds had to flee their homes following threats. Paramilitary groups linked to the armed forces commit serious and widespread human rights violations with virtual impunity and terrorise civilian communities. Trade union organisers and members of the teachers unions, municipal and public sector workers and oil, mining and energy workers are targeted, although union activists and defenders of human rights in general, are all in real danger. With activists subjected to frequent intimidation and victimisation, and the government consistently failing to provide effective protection for activists under threat, even the most prominent leaders are not safe.

Recent official figures suggest that there are more than 140 paramilitary groups in Colombia, financed by cattle ranchers, landowners and drugs mafia and others. In 1997 they organised under a national command known as AUC, *Autodefensas Unidas de Colombia*.

Many trade unionists have been killed by the security forces and their paramilitary allies. Guerrilla forces have also been responsible for killing trade unionists accused of having links with paramilitary forces. In those parts of the country where control is disputed between the armed forces with their paramilitary allies and the guerrilla organisations, ordinary peasant farmers and community leaders have frequently been subjected to threats, beatings, shootings, killings, “disappearance”, enforced displacement, and other human rights violations.

On 20 October 1998 Jorge Ortega Garcia, a leading figure in the national trade union movement and Vice-President of the Trade Union Confederation, *CUT- Central Unitaria de Trabajadores*, was shot in the head and chest and killed outside his home in Bogotá. The police did not appear on the scene for 24 hours. This followed many

previous threats and harassments and his name appearing on a death list used by paramilitary groups. At the time of his killing, the CUT was coordinating a 15-day national strike. A key witness to the killing was murdered in November. Just one month earlier, on 22 September, during a two-day strike, Jorge Ortega and a union colleague were threatened by someone riding on the back of motorcycle who said: "Your time is up and we are going to kill you"; threats were also implied against Jorge Ortega's children. Later that day an unidentified group of thugs raided his home, beat his wife, drugged her and bound her and searched the house. Following the death of Jorge Ortega Garcia there was an international outcry from trade union and human rights organisations demanding that the new government of Colombia should guarantee the safety of trade union leaders, should hold full and impartial investigations into the death threats and should bring those responsible to justice.

The CUT alone has buried over 2,300 murdered activists since it was founded in 1986, and more than 400 teachers have been killed in the last 5 years.

Tarcisio Mora, President of FECODE, the national teachers' union, survived an attack in January 1999 as he left a meeting at the union's offices in the centre of Bogotá. Two bodyguards escorting him were injured by shots fired by two attackers on a motorbike. At the time of the attack, further union protests were planned for the next month. Tarcisio Mora and six other union leaders had been threatened with death during a national strike of public sector workers in October 1998. On 20 January 1999 Moises Caicedo Estrada, leader of the Sintra Porce II trade union, was assassinated in the city of Medellín, in the Antioquia department. Caicedo and the other leaders of his union had received constant death threats, and had been forced to move away from their homes in 1998. On January 23 1999, Oswaldo Rojas Salazar, President of the Cali Department Workers' Union, was also the victim of an attack which left him with life-threatening injuries. He has received a constant stream of death threats, both at his home and at his union headquarters.

Julio Alfonso Poveda, a 72 year-old union leader, was killed on the morning of 17 February 1999, in the South of Bogota. Two men on a motorbike approached the vehicle in which Poveda was travelling with his wife and driver, and one of them fired repeated shots at him. The CUT has condemned the killing and has called upon the government of Andres Pastrana for "convincing action against the enemies of those who, like comrade Poveda, uphold the building of Colombia with peace and social justice".

Since 1992, many trade union, community and social activists have been arrested and charged with alleged terrorist offences and tried in the special justice system, *Justicia Regional*, Regional Justice Public Order courts. This system severely undermines the right to due process: access to evidence by defence lawyers and a defendant's rights to challenge evidence are severely restricted; judges, prosecutors and witnesses may remain anonymous - there have been repeated reports of anonymous witnesses for the

prosecution acting as different individuals in order to corroborate their evidence. Laws designed to tackle terrorist offences have increasingly been used to criminalize social protest, whether violent or peaceful. Hundreds of people are believed to have been arbitrarily arrested and wrongfully charged with terrorist offences. Members of the oil workers union, the *Union Sindical Obrero* (USO), have been targeted. The Colombian government has stated that it will abide by commitments to dismantle the Regional Justice system during 1999.

On 18 April 1998, Dr Eduardo Umaña Mendoza, a prominent human rights lawyer who, for over 20 years, helped establish a number of Colombia's national human rights organizations, was shot dead in his office at home by two men and a woman who had posed as journalists to gain entry to his residence. Dr Umaña was outspoken in his condemnation of security forces involvement in human rights violations and had represented numerous political prisoners in high profile cases, including leading members of the USO and other trade union activists detained under the Regional Justice system. Dr. Umaña had received repeated death threats for his human rights work, many of which directly threatened him for representing trade unionists. Shortly before his murder he had condemned the Regional Justice system as travesty of justice and accused the authorities of pursuing the cases against the USO leadership for political reasons.

MYANMAR (ratified Convention no. 87 in 1955)

During the discussions of last year's Committee on the Application of Standards the Workers' members commented that the long-standing record of Myanmar's continued failure to apply Convention 87 set it apart as one of the "*most long-standing, widespread and egregious violators of basic workers rights and international labour standards in the history of the ILO.*" The Committee once again decided to place its conclusions on the case of Myanmar in a special paragraph of its report.

Since 1988 Amnesty International has consistently called on the Myanmar authorities to respect the human rights of its citizens. It has expressed its concerns over a number of years about restrictions of the rights to freedom of speech, assembly and movement, and on the use of both short-term detention and long prison sentences as methods for repressing peaceful political activities, including those of trade unionists.

Amnesty International recently learned that Than Naing, a labour leader and possible prisoner of conscience, has been imprisoned for over ten years by the Myanmar military government. In 1977 Than Naing was involved in a nationwide labour demonstration which resulted in his arrest and sentencing to five years' hard labour. He was released in 1982, but was not permitted by the authorities to resume his job as government clerk. Instead, he opened a bookshop and wrote articles about labour issues.

During the pro-democracy uprising of 1988, Than Naing took a leading role in forming national general strike committees in protest at 26 years of one-party military rule. These strike committees were violently suppressed by the military in September 1988 when the military reasserted power and formed a new government. Than Naing was arrested in the aftermath of the coup, and tried by military tribunal under summary provisions which did not allow for self-defence. He was sentenced in October 1989 to life imprisonment, reportedly under Section 123(1) of the Penal Code “with encouraging, harbouring or comforting persons guilty of high treason.”

In August 1989 the military government, then known as the State Law and Order Restoration Council (SLORC) gave a lengthy press conference in which Than Naing, *inter alia*, was accused of being a member of the banned Burma Communist Party (BCP).

Amnesty International cannot confirm or deny these allegations, but believes that Than Naing did not receive a fair trial. He was imprisoned in Insein Prison, Myanmar’s largest jail, where hundreds of other political prisoners are held. He was later transferred at an unknown date to Taunggyi Prison, 200 miles from Yangon, the capital, where he has been imprisoned for over 10 years. Amnesty International believes that Than Naing is in poor health.

According to Order No 1/93, promulgated by the SLORC on 1 January 1993, all life sentences handed down by military tribunal between 18 September 1988 and 31 December 1992 were commuted to 10 years’ imprisonment. Under Myanmar law Than Naing is therefore now eligible for release.

Convention no. 107 on Indigenous and Tribal Populations

BRAZIL (ratified Convention no 107 in 1965)

The Committee on Application of Standards has frequently expressed concerns about continuing problems with the application of Convention no. 29 by Brazil. Amnesty International continues to receive reports of human rights violations committed against indigenous people in Brazil in the context of disputes over land rights. It believes that the failure to arbitrate promptly in disputes between the indigenous and non-indigenous community leaves indigenous groups vulnerable to violence against them.

Since the issuing of the controversial Decree No. 1775 in 1996 which changed procedures for demarcating indigenous land, violent incidents against indigenous people have reportedly increased. According to the *Conselho Missionário Indígena*, Church Indigenous Missionary Committee (CIMI), invasions of indigenous lands increased by 95% in 1996, and acts of genocide, torture, death threats, abduction and illegal coercion continued to go largely unpunished.

Amnesty International is concerned for the safety of Macuxi Indian communities in the Raposa/Sierra do Sol indigenous area of Roraima state. On 7 February 1999 the indigenous community of Willimon was invaded by about ten farmers and farmhands. The men, reported to be drunk, accused Macuxi Indian Paulo José de Souza of having stolen some cattle. One of the farmers allegedly shot twice at Paulo José de Souza, wounding him in the chest. The incident happened while indigenous leaders were gathered for the annual assembly of the Roraima Indigenous Council, CIR. On 10 February around 40 of them went to the Willimon community to investigate the shooting.

On their return journey they were stopped by armed police and civilians in the town of Uiramutã. As the police searched the Indians vehicle a farm-hand allegedly attacked with a knife and wounded Egon Heck, a missionary working with CIMI. The police subsequently confiscated the Indians vehicle. No-one has yet been arrested for the attacks.

Subsequent to this incident two young indigenous men were found apparently strangled - one on 10 February 1999 and the other on 12 February 1999. Federal police have begun investigations into the deaths, and it is not yet known whether there is a link to the previous attacks. The CIR are calling for full investigations into the attacks, for federal police to be brought into the area to protect the Macuxi population, and for the federal government to speed up the completion of the process for legally establishing the indigenous territory.

On 20 May 1998, Francisco de Assis Araújo, a vocal campaigner for the rights of Brazil's indigenous population, was killed by a gunman in Pesqueira, Pernambuco state. Francisco de Assis Araújo, known as "Chicão", was parking his car on a visit to his sister with members of his family when he was shot at by a gunman. He was hit in the head and back by five bullets and died immediately. As a consequence of his campaigning activities, both on behalf of his own indigenous group, the Xucuru, and as Coordinator of the regional indigenous rights group, *Articulação dos Povos Indígenas do Nordeste, Minas Gerais espírito Santo* (APOINME), Francisco de Assis Araújo had been receiving death threats since 1989. Threats have also been made against other Xucuru indigenous leaders, and are believed to come from local landowners and their sympathisers.

Following national and international pressure, a federal investigation into Francisco de Assis Araújo's death was initiated. Crimes against indigenous people fall under federal jurisdiction according to Brazil's 1988 Constitution. However, the investigations are currently stalled. According to the Superintendent of federal police in Pernambuco, there are no more resources to continue the investigation.

Amnesty International is calling on the Brazilian Government to ensure that the investigations into the killing of Francisco de Assis Araújo are thoroughly and

independently carried out and completed, and that anyone found responsible is brought promptly to justice.

Proposed ILO Standards on the worst forms of child labour.

The Governing Body of the ILO decided in 1996 to place the question of child labour on the agenda of the 86th session of the ILC (1998). The ILO then produced a preliminary report⁶ and a questionnaire which were circulated to governments of the member states of the ILO for response by the end of June 1997. At the 84th ILC in 1996 a resolution was adopted stating that within the context of the elimination of child labour there was a need to eliminate immediately its most intolerable aspects, thereby establishing the purpose of the proposed new convention.

Having received responses to the report and questionnaire, the 1998 ILC set up the Committee on Child Labour to discuss the first drafts of the texts of the proposed new ILO Convention and Recommendation on the worst forms of child labour. These texts have been revised by the ILO and comments have been invited from governments (in consultation with trades union and employers' associations) on the revised texts, with a view to their finalization and adoption at the forthcoming Conference.

Amnesty International is committed to a higher standard of protection in international law for children at risk of participating in hostilities and recruitment into armed forces⁷. It is recommending that:

- the proposed new ILO Convention on the worst forms of child labour should prohibit child soldiering explicitly as one of the worst forms of child labour;
- the prohibition on children participating in hostilities should be included in a separate sub-paragraph in Article 3 of the Convention;
- the accompanying Recommendation should specify ways to secure implementation of non-participation in hostilities, including non-recruitment of under-18s into armed forces or armed groups since non-recruitment is the most effective means of ensuring that children do not participate in hostilities.

⁶Child labour: Targeting the intolerable, Geneva, ILO, 1996

⁷ See *Child soldiers: one of the worst abuses of child labour* (AI Index IOR 42/01/99, issued January 1999)

*AMNESTY INTERNATIONAL DOCUMENTS RELEVANT TO THE DISCUSSIONS OF THE ILC'S COMMITTEE ON
APPLICATION OF STANDARDS AND COMMITTEE ON CHILD LABOUR*

Child Soldiers: one of the worst abuses of child labour
(IOR 42/01/99, January 1999)

BRAZIL

Indigenous leaders marked for death: The killing of Francisco de Assis Araujo
(AMR 19/15/98)

Human Rights Defenders: Protecting human rights for everyone
(AMR 19/08/98)

COLOMBIA

"Enough is Enough!" Repression of Human Rights Defenders
(AMR 23/16/99, February 1999)

MYANMAR

1988 to 1998: Happy 10th Anniversary? Recommendations to the Government
(ASA 16/17/98, May 1998)