

# THE 85TH INTERNATIONAL LABOUR CONFERENCE

## Amnesty International's concerns relevant to the Committee on Application of Standards

Both parts of the International Labour Organisation's (ILO) supervisory system, the Committee of Experts and the Committee on Application of Standards, work to ensure that states implement in both law and practice those ILO Conventions which they have ratified.

Ratification of international standards is a basic but important step which every government should take. Although, by itself, ratification does not prevent human rights violations, it demonstrates that the government has summoned the political will to make a public commitment and, often, to introduce legal and other reforms which may have practical effect in protecting human rights.

In this respect, Amnesty International is encouraged by the campaign, launched by the ILO's Director General in May 1995, to achieve universal ratification of its seven core Conventions.<sup>1</sup> It is not surprising that the Conventions, particularly Conventions Nos 87 and 98, under which Amnesty International raises concerns at the annual International Labour Conference are prominent in this list. Although at the time of the last meeting of the ILO's Governing Body, only 29 members of the ILO had ratified all seven core conventions<sup>2</sup>, there have been 24 new ratifications or confirmation of previous obligations in the last year and clear indications that ratification is being considered by a number of governments.

That ratification by itself is insufficient to ensure effective implementation of standards is only too evident in each year's edition of the *Report of the Committee of Experts on the Application of Conventions and Recommendations*, particularly the observations concerning particular countries. This is where the work of the Committee on Application of Standards can be important in identifying the most serious cases of

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<sup>1</sup>Convention No 87 on freedom of association, Convention No 98 on collective bargaining, Conventions 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.

<sup>2</sup>Algeria, Belarus, Belgium, Costa Rica, Croatia, Cuba, Dominica, Finland, France, Germany, Greece, Guatemala, Honduras, Israel, Italy, Malta, Netherlands, Nicaragua, Niger, Norway, Poland, San Marino, Spain, Sweden, Tunisia, Uruguay, Venezuela, Zambia.

non-implementation, inviting the government concerned to appear before the Committee and, through questioning and dialogue, arriving at recommendations and conclusions which would ameliorate the situation, if implemented. The sad fact is that the same situations come before the Committee - and appear on Amnesty International's list of concerns - year after year.

Situations where both Amnesty International and the ILO have concerns are likely to involve the most serious violations of human rights, not only in respect of ILO standards but also others, such as the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which include the specific rights which Amnesty International works to protect. Particularly in the run up to the 50th anniversaries of both the Universal Declaration of Human Rights and ILO Convention No 87 in 1998, Amnesty International urges the Committee on Application of Standards to give serious consideration to the situations of grave and persistent human rights violations described below.

### **Conventions No 87 on freedom of association and No 98 on collective bargaining**

#### **COLOMBIA (ratified Convention No 87 in 1976)**

The situation in Colombia was discussed at last year's session of the Committee on Application of Standards under Convention No 98. Then the Committee observed with concern that many complaints of a serious nature were still outstanding and before the Committee on Freedom of Association. The current Committee of Expert's *Report* expresses the hope that proposed legislative changes will be adopted to bring legislation in line with Convention No 87. Meanwhile, severe human rights violations continue to occur in Colombia.

The long running human rights crisis in Colombia has deepened since August 1994 when the government of President Ernesto Samper Pizano took office. The civil conflict, characterized by blatant disregard for human rights and international humanitarian standards, has reached alarming proportions in several regions of the country. The optimism and expectation generated by President Samper's human rights policies have not been borne out and the political will of his government to end enduring and systematic violations is increasingly open to doubt.

Over 2,000 people were victims of politically motivated killings in 1995 and a similar figure was registered in 1996. Hundreds of non-combatant civilians have been killed during counterinsurgency operations and members of legal opposition groups, peasant and indigenous community leaders, human rights activists and trade unionists continue to be targeted for their real or perceived political allegiances. The killing of so-called "disposables", including vagrants, street children, homosexuals and petty

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criminals, by police-backed “death squads” continues in many cities and towns. During the first two years of the Samper administration, more than 300 people “disappeared” after detention by the armed and security forces or paramilitary forces working with their support or acquiescence. Torture continues to be widespread, particularly in the regions most affected by the civil conflict. Social protest continues to be considered subversive by the Colombian armed and security forces. Response to such protests has frequently involved excessive use of force resulting in the deaths of unarmed civilians and, subsequently, threats and targeted killings of protest organizers.

On 7 March 1997, Victor Julio Garzón, General Secretary of the National United Agricultural Federation, *Federación Nacional Sindical Agropecuaria*, (FENSUAGRO), was shot dead outside his office in the capital Bogotá, by two gunmen. Victor Julio Garzón was a member of a commission made up of representatives of peasant farmers of the coca-producing regions of Guaviare, Caquetá and Putumayo and representatives of the Colombian Government, set up to monitor implementation of accords which had been reached following prolonged large-scale demonstrations in these departments between July and September 1996. Several leaders of the protests were killed following the agreements with the government.

Leaders of peasant communities involved in land disputes are frequently victims of serious human rights violations by army-backed paramilitary groups. Belén Torres, president of the National Association of Peasant Farm Workers - Unity and Reconstruction, *Asociación Nacional de Usuarios Campesinos - Unidad y Reconstrucción*, (ANUC-UR), received repeated death threats during 1996 because of her role in representing hundreds of peasant farmers who were violently expelled from the Hacienda Bellacruz, department of Cesar, by army-backed paramilitary groups operating on behalf of a family which claims ownership of the land. The peasant farmers’ homes were burned and many were tortured. At least 13 leaders of the peasant families were killed or “disappeared” after the evictions took place and the homeless families remain under threat of death if they attempt to return. Despite formal government commitments guaranteeing the safe return of the evicted families, no actions have been taken by the authorities to arrest the paramilitaries pursuant to the outstanding arrest warrants.

Impunity for human rights violations continues to be almost total. Military courts, which generally claim and exercise jurisdiction to pursue investigations into human rights violations by armed forces’ personnel, routinely fail to bring those responsible to justice.

Members of trade unions have increasingly been arrested and charged with alleged terrorist offences and tried in the special justice system, *Justicia Regional*, Regional Justice Public Order courts. The Regional Justice system severely undermines the right to due process. The laws designed to tackle terrorist offences are increasingly being used in a move towards criminalizing social protest, whether violent or peaceful.

Hundreds of people are believed to have been arbitrarily arrested and wrongfully charged with terrorist offences including trade union leaders.

### **INDONESIA (ratified Convention No 98 in 1957)**

The ILO's Committee on Freedom of Association concluded recently that "the general situation of workers in Indonesia... is still characterized by serious and worsening infringements of basic human and trade union rights" and recalled its "deep concern over the extreme seriousness of the allegations referring to murder, disappearance, arrest and detention of a number of trade union leaders and workers".<sup>3</sup> These concerns are echoed by the Committee of Experts.

In addition to the specific legislation cited by the Committee of Experts in its 1997 observation on Indonesia's problems with ratification of ILO Convention 98, Amnesty International wishes to draw to the attention of the Committee on Application of Standards the current use of the Anti-subversion Law to charge political, human rights and labour activists which may result in them facing the death penalty or long terms of imprisonment.

Recent arrests have occurred in the context of riots in Jakarta on 27 July 1996, connected to a security force raid on the headquarters of the opposition Indonesian Democratic Party, *Partai Demokrasi Indonesia*, (PDI). Using the disturbances as a pretext, the government has since launched a broad crackdown on the opposition and arrested dozens of peaceful political and labour activists. Fifteen of them have been charged under the Anti-subversion law while others face subversion charges.

Those charged under the Anti-subversion Law include independent trade union leader Muchtar Pakpahan, head of the Indonesian Prosperous Workers Union, *Serikat Buruh Sejahtera Indonesia*, SBSI, and a long time critic of Indonesia's industrial relations system. The allegations supporting the charges against him have no connection with any involvement in the riots - the original pretext for his arrest in July 1996 - but instead focus on statements he has made about labour rights, social and economic inequality and politics in Indonesia and East Timor. For example, the indictment includes the lyrics of a song written by Muchtar Pakpahan "Love Song for Marsinah", a tribute to the woman labour activist who was believed to have been murdered with the knowledge of the security forces in 1993.

Also accused under the Anti-subversion Law is Dita Indah Sari, age 24, head of the Centre for Indonesian Workers' Struggle *Pusat Perjuangan Buruh Indonesia* (PPBI),

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<sup>3</sup>Report of the Committee on Freedom of Association (GB 267/7, November 1996), paragraph 358).

an affiliate of the People's Democratic Party, *Partai Rakyat Demokratik* (PRD). The PRD has been accused by the government of responsibility for the riots of 27 July and of being similar to the banned Indonesia Communist Party, an accusation commonly made to discredit individuals or groups critical of the government. Dita Sari was arrested on 8 July 1996 while peacefully participating in a workers' demonstration calling for an increase in the national minimum wage and an end to the involvement of the Indonesian Armed Forces in the political affairs of the country. Although she and her codefendants - Coen Husein Pontoh and Mochamad Sholeh, respectively from the PRD-affiliated National Peasants Union and the Indonesian Students Solidarity for Democracy - were in custody in Surabaya on 27 July, the authorities have used their links to the PRD to strengthen the accusations against them and as a basis for serious charges. As in Muchtar Pakpahan's case, these include "distorting, stirring up trouble or digressing from the state ideology..." under the Anti-Subversion Law, for which the maximum penalty is death.

The repeal of this law was recommended by the UN Special Rapporteur on torture in 1992 and the High Commissioner for Human Rights following his 1995 visit to Indonesia and East Timor. Indonesia's own National Commission on Human Rights has also recommended its repeal.

#### **NIGERIA (ratified Convention No 87 in 1960)**

In recent years, the human rights situation in Nigeria has come in for strong criticism from the ILO. Last year, the Committee on Application of Standards insisted that the Government of Nigeria take immediate measures with a view to the absolute respect of the civil liberties essential to trade union rights and, as a mark of its strong concern about the situation, placed its conclusion in a special paragraph of its report.

The two trade union leaders, Frank Kokori and Milton Dabibi, whose cases were raised at the 1996 session of the Committee on Application of Standards, remain in detention without charge or trial. Chief Frank Ovie Kokori, age 52, was Secretary General of the National Union of Petroleum and Natural Gas Workers (NUPENG) at the time of his arrest in August 1994. Since then he has been held in solitary confinement and is believed to be in poor health suffering from diabetes and hypertension.

Chief Milton G Dabibi is a former General Secretary of the Petroleum and Natural Gas Senior Staff Consultative Association of Nigeria (PENGSSCAN) and General Secretary of the Senior Staff Consultative Association of Nigeria (SSCAN) at the time of his arrest. Arrested in January 1996, both his present whereabouts and his state of health remain unknown.

Their arrests were preceded by an oil workers' strike in July and August 1994

which paralysed large parts of southwestern Nigeria<sup>4</sup>. Among other demands, the strikers protested the imprisonment of pro-democracy activists including Moshood Abiola, the winner of the June 1993 presidential elections. Many hundreds of people who have supported the transition to civilian rule, to which the government had committed itself until it annulled the results of the 1993 elections, have since been subjected to routine human rights violations including arbitrary detention or imprisonment after unfair trials by special tribunals which can impose the death penalty. Detainees have been denied access to lawyers, their families and essential medical treatment. Torture and ill-treatment are widespread and allegations of extrajudicial killings by law enforcement officials continue.

UN bodies, including the General Assembly, the Commission on Human Rights and its expert mechanisms, the Human Rights Committee as well as the Secretary-General himself have strongly criticized the human rights situation. The Commonwealth, the Organization of African Unity and the European Union have added their voices. Despite all their resolutions, recommendations and appeals, human rights violations continue in Nigeria.

### **Convention No 107 on indigenous and tribal populations**

#### **BRAZIL (ratified ILO Convention No 107 in 1965)**

At its last session, the Committee on Application of Standards expressed concern about continuing problems with the implementation of Convention No 111 and noted that Decree No 1775, adopted in January 1996, could limit the possibility of indigenous communities acquiring rights to their lands. The current Committee of Experts *Report* notes a considerable list of problems, including continuing incursions by gold miners into indigenous land.

Amnesty International continues to receive reports of human rights violations against indigenous people in Brazil in the context of disputes over land rights. While the organization takes no side in disputes over land, it has repeatedly expressed concern over the consequent pattern of human rights abuses and the almost complete impunity enjoyed by the perpetrators, gold miners, loggers and hired gunmen. Amnesty International believes that the failure to arbitrate promptly in disputes between the indigenous and non-indigenous community leaves the indigenous groups vulnerable to violence against them.

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<sup>4</sup>For further details see *Nigeria: Human rights defenders under attack* (AI Index AFR 44/16/96, November 1996)

Amnesty International shares the concerns raised at the last session of the Committee on Application of Standards regarding Decree No 1775. It has sought government action to halt violent attacks on indigenous communities after this Decree changed procedures for demarcating indigenous land. Under Brazil's 1988 Constitution, all other titles to indigenous land are considered null and void. Nevertheless, the Decree provides procedures for administrative challenges by non-indigenous claimants to indigenous area already demarcated and ratified by presidential decree. Amnesty International expressed concern that the uncertainty created by the Decree might pave the way to violent incursions on indigenous lands, which in the past had led to assaults, targeted killings and massacres of indigenous communities.

Recent reports of human rights abuses against Brazil's indigenous communities investigated by Amnesty International include the following incidents of beatings and extrajudicial execution:

In July 1996, military police extrajudicially executed Raimundo Brandão and seriously wounded Augustinho Brandão and Nicolau Brandão -- all Shanenawá Indians - in Feijó, Acre state, after they embraced a non-indigenous child known to them.

In November 1996, 76 Kitathauru Indians were tied up and beaten by armed trespassers illegally logging and mining on the Sararé reserve in Mato Grosso, with the acquiescence of local politicians. Although alerted to the armed incursion in March, the Federal authorities only took action to protect the indigenous groups in December. An operation was launched in January by the federal government to dislodge some 8,000 illegal miners and loggers in the area, but it is feared that without further safeguards and follow up, they will simply re-invade the area after the withdrawal of the Federal Police, as occurred after a similar operation in May 1993.

In November 1996, three Yanomami were reported killed by miners in Roraima state. The authorities had reduced their protection for the Yanomami the previous March. Although an operation to remove miners illegally prospecting in the Yanomami indigenous reserve was approved, it was not carried out during the year. In December, five miners were sentenced *in absentia* to twenty years imprisonment each on a charge of genocide for the killing of at least 12 Yanomami Indians in July 1993.

In January 1997, 53 members of the Guarani-Kaiowá indigenous community were illegally evicted by armed civilians from land they were occupying in Sucuriy, Maracajá municipality, Mato Grosso do Sul state. They have continued to suffer harassment and threats. The land had been demarcated as indigenous territory by FUNAI, the government indigenous land agency. However, the Indians have been informed they required a court order in order to reoccupy the land and have received no protection from the Federal Police. Some 26,000 Guarani Indians -- divided between the Kaiowá and

Nandewa communities -- live in the state of Mato Grosso do Sul. The state has 22 recognised Indian areas totalling 40,000 hectares. In recent years, in desperation at increasing overcrowding in many indigenous reserves, members of other Guarani-Kaiowá communities have taken to occupying land demarcated as indigenous territory.

### **Convention 111 on discrimination (employment and occupation)**

#### **AFGHANISTAN (ratification: 1969)**

The current Committee of Experts' *Report* expresses grave concern at the measures taken by the authorities to ban the basic and further education of girls and to prohibit women from working. Amnesty International has for years expressed its concerns about human rights abuses perpetrated by all sides in the conflict in Afghanistan. Its present concerns include human rights abuses by the Taleban, which now controls about two thirds of Afghanistan's territory including the capital, Kabul.

Amnesty International believes that the situation of women in areas controlled by the Taleban deserves particular attention. Women defying Taleban edicts - that they may not work outside the home or leave their houses without a reason acceptable to the Taleban - have been brutally beaten in public by Taleban guards. For example, working women who demonstrated in Herat in late 1995 against restrictions were beaten by the Taleban. The women said they would not go home and were prepared to die. Taleban leaders agreed to pay the salaries of those women who would stay at home. The women went home but received no salaries. Now they are frightened of leaving home.

Amnesty International condemns such beatings and other ill-treatment of women. It also considers women detained or otherwise physically restricted under Taleban codes solely for the reason of their sex to be prisoners of conscience.

The effect of the Taleban restrictions on women is most acutely felt in cities such as Herat and Kabul where there are significant numbers of educated and professional women, compared with the countryside where women have traditionally been excluded from public life. In a few areas, young girls between the ages of four and nine have been allowed to stay in school. Some women health workers have remained in their jobs, but this may be a matter of necessity. Female nurses formed the backbone of the health service in Kabul. Those who had gone to help their patients in early October 1996 were repeatedly beaten up by the Taleban guards. Kabul University, which has closed since the Taleban took over, reportedly had about 8,000 women students while thousands of professional women worked in different capacities in the city. In Herat about 3,000 women reportedly lost their jobs after the Taleban took control in September 1995.



Taleban edicts have also hit hard an estimated 30,000 widows, many of whom are sole providers for their families, as well as many other women who do not have a close male relative to accompany them in public. Some widows have been allowed to work in areas under Taleban control, but even for them it is not easy to obtain permission to work and they run the risk of beatings when venturing outside.

The UN Commission on Human Rights' Special Rapporteur on Afghanistan recently reported on human rights abuses against women in Taleban-controlled areas. He recommended that "[t]he United Nations should speak with one voice and apply a single-system wide policy on the issue of gender equality in accordance with the Organization's stated principles and the norms and requirements enshrined in the Charter of the United Nations. The United Nations should take an active and consistent approach in dealing with all authorities regarding the gender issue".<sup>5</sup>

#### **IRAN (ratification 1964)**

At its last session, the Committee on Application of Standards was sufficiently concerned about the non-implementation of Convention No 111 in Iran to place its conclusions in a special paragraph of its report. Both that discussion, and the current observation by the Committee of Experts, referred to discrimination on the basis of sex and of religion.

Amnesty International wishes to bring to the Committee's attention the cases of Dhabihullah Mahrami and Musa Talibi, both of whom are at risk of execution following their conviction in separate cases on charges of apostasy. Both are Baha'is, accused of having converted to Islam in the past and then reverting to the Baha'i religion. Amnesty International believes that both are prisoners of conscience, detained solely for their religious beliefs. It is calling for the death sentences against them to be lifted and for their immediate and unconditional release.

Dhabihullah Mahrami worked for the Ministry of Agriculture in Yazd. In August 1995, he appeared before the Islamic Revolutionary Court in Yazd and questioned about his religious beliefs, in the light of an announcement carried by the newspaper *Keyhan* in August 1983 stating that Dhabihullah Mahrami had become a Muslim, and about a document he signed in 1985 in the Department of Agriculture which stated that his religion was Islam. In the court session, he affirmed that he was a Baha'i. That court session was followed by three others in which he was requested to repent and accept

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<sup>5</sup> *Final report on the situation of human rights in Afghanistan submitted by Mr Choong-Hyun Paik, Special Rapporteur, in accordance with Commission on Human Rights resolution 1996/75 (UN document E/CN.4/1997/59, 20 February 1997), paragraph 119.*

Islam. When he refused to do so, he was charged with “national apostasy”. He was convicted and sentenced to death on 2 January 1996.

Musa Talibi was arrested in June 1994 in Isfahan and sentenced to 10 years’ imprisonment on charges of “acting against the internal security of ... Iran” and “attracting individuals to the misguided sect of Baha’ism, including two [nieces]”. This sentence was later confirmed but, following an appeal, he was retried in February 1995 and sentenced to 18 months’ imprisonment from the date of his arrest. However, it seems that the prosecution objected to his lighter sentence, apparently on the grounds that Musa Talibi was an apostate and that this had not been taken into account. At a further trial in July 1996, Musa Talibi was sentenced to death.

In February 1997, according to media reports, Iran’s Supreme Court officially confirmed the death sentences against Dhabihullah Mahrami and Musa Talibi. A report from the Iranian news agency IRNA on 23 February cited the Head of the Revolutionary Court as saying that both men had been convicted of espionage.

Amnesty International is not aware that any charges of espionage had been brought previously against Dhabihullah Mahrami. With respect to Musa Tabili, the organization notes that more than 18 months have passed since his arrest, and that the sole charge in the verdict sentencing him to death is apostasy. It continues to believe that both are prisoners of conscience, held solely on account of their religious beliefs. It is commonplace for the Iranian authorities to deny that the Baha’i community follows any recognized religion, and treat them with hostility and suspicion, often accusing them unfoundedly of espionage. In an interview last year with IRNA (reported by Reuters and Agence France Presse on 14 May 1996), Ayatollah Yazdi, the Head of the Judiciary said that religious minorities in Iran enjoyed freedom of faith but that “the Baha’i sect is not a religion, but a web of espionage activities”.

Amnesty International is seriously concerned about the rising number of executions in Iran. It recorded at least 110 executions in 1996, in contrast to about 50 recorded in 1995. However the true figure may be much higher as it seems that many executions are often not reported. The UN Commission on Human Rights’ Special Representative on Iran commented in a recent report that “[i]t is clear that the present situation with regard to the death penalty is not in accord with international norms...”<sup>6</sup>

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<sup>6</sup> *Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative on the Commission on Human Rights, Mr Maurice Copithorne, pursuant to Commission on Human Rights resolution 1996/84 and Economic and Social Council decision 1996/287 (UN document E/CN.4/1997/63, 11 February 1997), paragraph 29.*

- Amnesty International** is a worldwide voluntary movement that works to prevent some of the gravest violations of government of people's fundamental rights. The main focus of its campaigns is of:
- their ethnic origin, sex, colour or language who have not used or advocated violence;
  - *ensure fair and prompt trials for all political prisoners;*
  - *abolish the death penalty, torture and other cruel, inhuman or degrading treatment of prisoners;*
  - *end extrajudicial executions and "disappearances".*

**Amnesty International** opposes abuses committed by armed opposition groups which are contrary to minimum international standards of humanitarian conduct such as hostage-taking, torture and deliberate and arbitrary killings of prisoners and other civilians and non combatants.

**Amnesty International** is impartial. It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of victims whose rights it seeks to protect. It is concerned solely with the protection of human rights regardless of the ideology of the government or opposition force or the beliefs of the victim.

**Amnesty International** promotes awareness of and adherence to all the rights embodied in the Universal Declaration of Human Rights and elaborated in human rights instruments adopted by the United Nations, including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, although the specific rights on which it takes action are found in the latter treaty. All human rights are universal and the specific rights which are the focus of Amnesty International's actions are inextricably linked to other human rights.