

# **THE 88TH INTERNATIONAL LABOUR CONFERENCE**

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

### **INTRODUCTION**

The important standard-setting function of the International Labour Organisation (ILO) is embodied in its set of Conventions and Recommendations, international instruments open to ratification by member states of the ILO which regulate some aspect of labour, social welfare or human rights. Over a number of years Amnesty International has followed the work of the ILO's supervisory system, namely the Committee of Experts<sup>1</sup> and the Committee on Application of Standards<sup>2</sup>, which try to ensure that those states which have ratified ILO Conventions implement them in both law and practice.

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 people who have been detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status - who have not used or advocated violence; ensure fair and prompt trials for all political prisoners; the abolition of the death penalty, torture and other ill-treatment of prisoners and to end political 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

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<sup>1</sup>Members 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.

<sup>2</sup>A tripartite Committee consisting of representatives of governments, employers and workers which meets during the Conference to consider and discuss measures taken by member States to give effect to the provisions of Conventions which they have ratified. Governments are able to provide further information; indicate further measures proposed and seek guidance on overcoming difficulties experienced in discharging their obligations. The Committee's report is presented to the Conference and discussed in plenary.

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.

In November 1997 the 270th session of the ILO's Governing Body agreed to place on the agenda of the 86th (1998) International Labour Conference (ILC) an item relating to the consideration of a possible ILO Declaration of principle concerning fundamental rights. A draft was prepared in consultation with the tripartite constituents of the ILO (namely Workers, Employers and Governments) and the Declaration was adopted by the ILC in 1998. At the time the Declaration was adopted, it was based on the fundamental principles and objectives of the ILO which were laid out in the seven "core" ILO Conventions, Convention 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. Ratification of these fundamental Conventions has been pursued in a campaign launched by the ILO Director General in 1995. Now these original seven have been joined by the Worst Forms of Child Labour Convention, 1999 (No 182), adopted unanimously at the 87<sup>th</sup> session (1999) of the International Labour Conference, which will enter into force on 19 November 2000. The Declaration should be viewed as a package. The fundamental principles and rights together form the enabling rights for equity and development, and the various components of the Declaration support and reinforce one another.

Amongst these Conventions are those-- particularly Convention Nos 87 and 98-- under which Amnesty International has often raised its concerns at the annual ILC. This year Amnesty International is raising concerns about Colombia and Swaziland under these Conventions. Amnesty International is also raising concerns about Myanmar under Convention 29 and Pakistan under Convention 105.

Ratification is a basic first step which every government should take to demonstrate its will to make a commitment to the rights enshrined in international standards. However, by itself ratification does not prevent human rights violations. An even greater will on the part of governments is required for such standards to be fully and effectively implemented in order to protect human rights. Given the repeated observations on particular countries contained year after year in the *Report of the Committee of Experts on the Application of Conventions and Recommendations* -- which are in turn often reflected in the concerns that Amnesty International highlights at the ILC -- it appears that in too many cases the will to implement commitments made is clearly not present.

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

### **COLOMBIA (ratified Convention Nos 87 and 98 in 1976 )**

Against a background of a continuing escalation in the long-running armed conflict, trade unionists are still in danger of serious human rights violations.

Colombia's long running armed conflict has been characterized by the systematic and widespread violation of human rights including "disappearances", extrajudicial executions, torture and forced displacement. Peasant farmers in conflict zones, community leaders, human rights defenders and trade unionists continue to be the most targeted victims of human rights violations.

The majority of attacks against trade unionists have been carried out by paramilitary groups acting with the active or tacit support of the Colombian armed forces. Armed opposition groups have also been responsible for death threats or the deliberate and arbitrary killings of those they believe to be collaborating with the security or paramilitary forces.

In February 2000, a delegation of the International Labour Organization (ILO), called a "direct contact mission", visited Colombia to investigate complaints made about violations of trade union rights, including human rights violations against trade unionists.<sup>3</sup>

The ILO took the decision to send the delegation in November 1999. The direct contact mission has submitted a preliminary report to the Committee of Freedom of Association,<sup>4</sup> and will submit a complete report to the Committee in May 2000. The report is still confidential. The Committee of the Freedom of Association will then submit its report to the Governing Body. A decision is expected in June 2000, shortly after the ILC conference, as to whether the Governing Body will set up a Commission of Inquiry in Colombia.

Amnesty International considers that a Commission of Inquiry is essential to encourage the Colombian Government to take decisive action regarding the widespread and systematic attacks against trade unionists. The authorities have failed to bring those responsible for human rights violations against trade unionists to justice and failed to provide measures to guarantee the safety of trade unionists.

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<sup>3</sup> This process began following a complaint concerning the non-observance by Colombia of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No.98), made by delegates to the 86<sup>th</sup> (1998) Session of the International Labour Conference under article 26 of the Constitution of the ILO.

<sup>4</sup>The Committee of Freedom of Association is a tripartite Committee responsible for complaints submitted to the Governing Body alleging violations of freedom of association and for representations that concern such issues.

The *Escuela Nacional Sindical* (ENS) a Colombian non-governmental organization which documents human rights violations and violations of international humanitarian law against trade unionists, reported that during the first ten months of 1999, 49 trade unionists suffered from politically-motivated killings and forced “disappearance”. Reportedly the figure for the whole of 1999 stands at over 100. Of the 45 trade unionists killed between January and October 1999, at least 17 were reportedly trade union leaders.

Many other trade unionists survived attempts on their lives, whilst others were forced to flee their homes or suffered death threats. Many of the killings were carried out by paramilitary forces operating in unison with the security forces whilst others were carried out by the guerrilla forces of the *Fuerzas Armadas Revolucionarias de Colombia*, (FARC), Revolutionary Armed Forces of Colombia, the *Ejército de Liberación Nacional*, (ELN), National Liberation Army, *Ejército Popular de Liberación*, (EPL), Popular Liberation Army.

José Domingo Tovar, director of human rights of the *CUT - Central Unitaria de Trabajadores*, the Trade Union Confederation, was shot at by police on the evening of 31 August 1999. The attack took place outside the offices of the *Federación Colombiana de Educadores* (FECODE) where he was going to participate in a meeting. During the attack one of his bodyguards was injured.

José Domingo Tovar had been assigned DAS bodyguards since he had long been the target of death threats. The attack was carried out by members of the *Dirección de Investigación Judicial e Inteligencia*, DIJIN, Judicial Investigation and Intelligence Directorate of the Colombian Police. DIJIN reportedly confiscated the identity document of one of the other DAS bodyguards during the attack and threatened him. Subsequent to the attempt on Domingo Rafael's life the Colombian authorities informed the media that the attack was not an attempt on his life but the result of a confusion between DIJIN agents and the DAS bodyguards.

The shooting took place on the first day of a national strike coordinated by the CUT. More than 20 trade unions denounced that they had experienced threats and harassment during the period leading up to the strike.

On 12 January 2000, a group of heavily-armed men who identified themselves as members of the paramilitary *Autodefensas Campesinas de Córdoba y Urabá Bloque Metro*, Peasant Farmer Self-Defence Groups of Córdoba and Urabá Metropolitan Bloc, forcibly entered the premises of workers of the *Compañía Cementos del Nare SA*, a cement factory in the municipality of Caracolí, department of Antioquia. The paramilitaries reportedly threatened the workers assembled in the premises and leaders of the *Sindicato Unitario de Trabajadores de la Industria de Materiales para Construcción*, (SUTIMAC), United Union of Workers of the Construction Material Industry. During the paramilitary incursion the gunmen killed William Márquez. The paramilitaries reportedly were in possession of a *lista negra*, death list and had been searching for those named on it. Death lists often include the

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names of those accused of being guerrilla sympathizers or collaborators by the security forces or their paramilitary allies. Those named on such lists have frequently been the victims of serious human rights violations.

The trade union movement has been the target of attacks by guerrilla forces throughout 1999 and to date this year. On 4 April 2000, Oscar Darío Zapata Muñoz, a leader of the Girardota branch of the *Sindicato Nacional de Trabajadores de la Industria del Hilado y Textiles de Colombia*, (SINTRADIHITEXCO), National Union of Threading and Textile Workers of Colombia<sup>5</sup> was forcibly abducted by gunmen whilst he was travelling between Girardota and Copacabana, Medellín, department of Antioquia. On 8 April his body was found in the municipality of Guarne, department of Antioquia. The killing of Oscar Darío follows death threats reportedly made against the executive committee of SINTRADIHITEXCO by the *Frente Industrial del ELN*, Industrial Front of the ELN.

In a statement issued by the FARC on 10 April 2000, the guerrilla movement claimed responsibility for the forced abduction of Eider Meléndez, a school teacher and leader of the *Sindicato de Maestros de Nariño*, (SIMANA), Nariño Teachers Union. The *Frente 29 de las FARC*, 29 Front of the FARC accused Eider Meléndez and other SIMANA leaders of corruption. At the time of writing Amnesty International has received no further information on this case.

The Colombian Government has set up the *Programa de Protección a Testigos y Personas Amenazadas*, Protection Program for Witnesses and Threatened Persons, which is administered by the Ministry of the Interior. Through this program DAS bodyguards have been provided to threatened trade unionists including several of the trade unionists who have survived attempts on their lives detailed above. However, despite the importance of this program, it is clear that the continued threats and serious human rights violations committed against trade unionists in 1999 and 2000 are testimony of the government's failure to take adequate measures to provide protection.

The April 2000 report of the UN High Commissioner for Human Rights' Office on Colombia concludes that the State has not assumed its responsibility to guarantee the safety of trade unionists and other sectors particularly at risk decisively: "*No se ha advertido por parte del Estado, ni de las instituciones responsables, claros esfuerzos para dotar con recursos suficientes a los programas de protección de personas amenazadas, tanto de la Fiscalía como del Ministerio del Interior.*" "Clear efforts by the State or the responsible agencies to ensure that the programs for the protection of persons under threat of the Office of the Attorney-General as well as the of the Ministry of Interior are adequately resourced have not been seen". (Unofficial translation).

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<sup>5</sup>SINTRADIHITEXCO is affiliated to the *Confederación General de Trabajadores Democráticos*, (CGTD), General Confederation of Democratic Workers.

The failure to adequately resource the protection program, take all measures necessary to guarantee the security of trade unionists, ensure that full and impartial investigations into human rights violations against trade unionists are carried out and that those responsible are brought to justice has led to a cycle of increased attacks against trade unionists in Colombia and a climate of impunity.

### **Convention No 29 on Forced Labour**

#### **MYANMAR (ratified Convention No 29 in 1955)**

Since 1988 Amnesty International has consistently called on the Myanmar authorities to respect the human rights of 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 activities, including those of trade unionists.

Myanmar has failed to date to comply with recommendations made by the 1998 ILO Commission of Inquiry. In a report to the Governing Body, an ILO Commission of Inquiry set up in March 1997 to examine the observance by Myanmar of the Forced Labour Convention (No 29), drew attention to widespread and systematic recourse to forced labour in Myanmar as part of a disturbing pattern of human rights abuses in the country. The Commission of Inquiry concluded that Myanmar's legislation should be brought into line with the Convention, that no more forced labour should be imposed by the authorities and that penalties should be imposed for the exaction of forced labour and strictly enforced.

On 14 May 1999 the State Peace and Development Council (SPDC, Myanmar's military government) issued an order, Order No 1/99, directing local authorities "*not to exercise the powers conferred on them*" under the Village Act (1908) or the Towns Act (1907), whose provisions allow for forced labour. However, in May 1999 the Director-General of the ILO issued a report to the ILO Governing Body which concluded that the Myanmar Government had neither amended its laws nor practice with regard to the military's widespread use of civilian forced labour.

In an update to the May 1999 report issued in February 2000, ILO Director-General examined new evidence and concluded once again that Order No 1/99 did not exclude the imposition of forced labour and that in practice forced labour is still widespread. At the ILC in June 1999 the ILO ruled that Myanmar could no longer attend ILO technical meetings or receive any technical assistance, except for the purpose of implementing the recommendations of the Commission of Inquiry, until it complied with ILO Convention No 29 on forced labour.

In November 1999 the Governing Body instructed the Director General to take the same action, following the adoption of the June 1999 resolution.

Regarding the amendment of legislation recommended by the Commission of Inquiry, at its 70<sup>th</sup> session in November/December 1999, the Committee of Experts on the Application

of Conventions and Recommendations concluded that “ all information available indicates that, by the end of November 1999, neither the Village Act nor the Towns Act had been amended”. Moreover, regarding Order No. 1 of 14 May 1999, the Committee of Experts noted that there are a number of ways in which the Order fails to prohibit the imposition of forced labour and that therefore the requirements of the Convention have not been met. With regard to the information available on actual practice the Committee said “the exaction of forced or compulsory labour by the authorities has continued and is well documented”.

In March 2000 the ILO’s Governing Body decided for the first time in its history that the Conference should discuss article 33 of its Constitution, recommending that the June ILC “take such action as it may deem wise and expedient to secure compliance” by Myanmar with the recommendations of the 1998 ILO Commission of Inquiry. Article 33 of the Constitution stipulates that, “in any event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, [...] the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith”. At the Conference a discussion could result in an appeal to all other ILO member States to review their relationship with the Government of Myanmar and to take appropriate measures to ensure that Myanmar “cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour”. Another measure the Governing Body has recommended that the ILC consider, is to call on other international organizations to reconsider their own cooperation with Myanmar, and to “cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour”. Other measures might also be considered.

At its Fifty-sixth session in March/April 2000 the United Nations Commission on Human Rights adopted without a vote a resolution on Myanmar calling on the SPDC *inter alia*:

*“ 9 (k) To cease the widespread and systematic use of forced labour and use of exploitative child labour, and to implement the recommendations of the Commission of Inquiry of the International Labour Organization regarding the implementation of the Forced Labour Convention, 1930 (No. 29)... ”.*

Evidence gathered in the last six months by Amnesty International indicates that the pattern of frequent forced labour continues in Myanmar, particularly in the seven states which surround the central Burman plain. These states are: Chin, Kachin, Rakhine, Kayin, Kayah, Shan and Mon. They are primarily populated by members of ethnic minorities, who comprise one third of the population. Since independence from the United Kingdom in 1948, various ethnic minority armed opposition groups have fought for independence or greater autonomy from the central Burman authorities. Beginning in 1989 the military government adopted a policy of agreeing cease-fires with some of these groups; according to the SPDC there are cease-fires with 17 armed opposition groups.

Amnesty International has documented the widespread use of forced labour of ethnic minorities by the military for the last 12 years. Prior to the early 1990's, forced labour primarily took the form of portering for the military, which entailed carrying heavy loads of ammunition and supplies for days at a time. The army used porters in their counter-insurgency activities as they patrolled the countryside and villages and engaged in battles with armed opposition groups. Beginning in the early 1990's the military authorities embarked on the construction of infrastructure projects throughout the country, including roads, dams, railway lines, military barracks. Tens of thousands of civilians have been forced to work on these projects without pay. Later that decade troops began confiscating land farmed for generations by members of ethnic minorities, and forcing these farmers to cultivate their confiscated land to provide food for the military.

In the Mon State in the southeast and the Kachin State in the far north, there are cease-fire agreements between ethnic minority armed opposition groups and the SPDC. Nevertheless the army uses members of the Mon and Kachin ethnic minorities to work on roads and other projects. In the Rakhine and Chin States to the far west, where there is little insurgency activity, ethnic minority civilians also have to work on infrastructure projects. This widespread use of forced labour reflects the enormous growth of the armed forces in the last 12 years, which has expanded its presence in almost all areas of the country.

There are three main ethnic minority armed opposition groups still fighting the Myanmar army in the Shan, Kayin (Karen), and Kayah (Karenni) States in the eastern part of Myanmar. As part of its counter-insurgency activities against these groups the Myanmar army has forcibly relocated hundreds of thousands of ethnic minority Shan, Karen and Karenni civilians. As the military has expanded its control of the countryside, it has forced many of these civilians to build roads, military barracks, and grow crops for the army. Consequently these people, the vast majority of whom are small-scale farmers, cannot farm their land or earn their own living, and tens of thousands have fled to neighbouring Thailand in order to survive.

Earlier this year Amnesty International interviewed civilians from the Burman, Shan and Karen groups who had recently fled to Thailand. Most of them reported that they were forced to perform various tasks for the military without pay. A 40 year old Burman trader from Bilin township in the Mon State reported that he was forced to construct military buildings in January 2000. He said that he had fled from his home because of increased demands for forced labour on his village and expanded military presence in the area.

Even elderly people and children as young as 10 were forced to perform forced labour. A 29-year-old Shan woman from Laikha township said that she saw children carrying small stones and splitting larger ones when she herself was forced to rebuild an old road from Kholam to Wanzing in the Shan State. Several other Shan refugees told Amnesty International that they witnessed forced labour of children while they themselves were performing forced labour duties. A 64-year-old Shan man also from Laikha township

reported in October 1999 he was forced to guard the same road all night for five days to watch for soldiers belonging to an armed opposition group.

Members of the Shan ethnic minority were also forced to act as porters for the army. A 43-year-old Shan farmer from Murngpan township reported that in December 1999 he was made to carry food for the army for four days before his escape. He said that he had to carry approximately 26 kilograms through the forest all day, which caused bruising and bleeding on his shoulders. Afterwards he was not able to work for a month. His wife reported that she had to perform forced labour duties 10 times per month during 1999. Another Shan farmer from Laikha township was forced to carry 40 kilograms of ammunition for the army for 11 days in late 1999. When he could not move quickly enough, he was beaten on the face, waist, buttocks and back, until some of his teeth became loose. He was also hit on the head with a rifle butt. Finally he could no longer walk and was left behind on the track. As a result of this experience he decided to flee to Thailand.

### **Convention No 105 on Abolition of Forced Labour**

#### **PAKISTAN (ratified Convention No 105 in 1960)**

The Committee on the Application of Standards has decided to place its conclusions on the case of Pakistan in a special paragraph of its report.<sup>6</sup>

The South Asian Association for Regional Cooperation (SAARC) countries have agreed on the years 2001 to 2010 as the Decade of the Rights of the Child. The year 2010 has been set as the deadline for eradicating all child labour and the year 2000 as the deadline to end child labour in hazardous conditions or in bonded labour. In 1997, Pakistan signed a memorandum of understanding with the ILO under its International Program for the Elimination of Child Labour (IPEC). In Pakistan, the Employment of Children's Act of 1991 prohibits child labour for certain age groups and types of work. The Bonded Labour Liberation Act, passed in 1992 but with its rules framed only in 1995, declares bonded labour illegal and states that every bonded labourer is to be released and freed from their obligations and debts.

In many instances, these laws have been complemented by judicial action and other social and economic programs. NGOs and industry groups, such as sporting goods manufactures, have developed initiatives to improve conditions and facilities for child workers. However, during 1999, child labour was known to affect between three and 10

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<sup>6</sup>See the document entitled: "88<sup>th</sup> International Labour Conference (30 May-15 June 2000, Geneva) Amnesty International's concerns relevant to the Committee on the Application of Standards - Action Circular" (AI Index: IOR 42/02/00) issued in May 2000 for background information about this procedure.

million children. Bonded labour continues to be widespread. Police and judicial officers continue to treat such abuses leniently, contributing to a cycle of impunity and continued abuse. Bonded labourers, including children, are often under the control of powerful figures, such as landlords, who hold sway over local officials and police. In Pakistan, bonded labourers are sometimes held in private jails controlled by landlords, members of parliament, local police or administrative officials. Some of these private jails in rural areas of Sindh province are fortified structures with watchtowers erected at strategic points and armed guards keeping watch. Bonded labourers, who include children, work seven days a week, sometimes in chains.

Amnesty International continues to have concerns about the restrictions placed on individuals solely for the peaceful exercise of their religious faith. During 1999, the state continued failing to provide religious minorities with adequate protection. Religiously motivated killings peaked in September when, in one week alone, some 35 people, mostly Shi'a men, women and children, were arbitrarily killed. Prime Minister Nawaz Sharif claimed that the perpetrators had received training in Afghanistan and called on the *Taliban* to close down such training camps in Afghanistan. Shi'a leaders in Karachi were advised to hire private security guards; some police guards were provided for places of worship.

At least 54 Ahmadis were charged under the blasphemy laws; eight of them were charged under a section of the law which carries a mandatory death sentence. At the end of 1999 30 Ahmadis were prisoners of conscience held solely on account of their conscientiously held beliefs. Following the military takeover in October 1999, the Chief Executive, General Pervez Musharraf in his first policy statement on 17 October warned against the use of religion for political ends and said that minorities would be given adequate protection. During the Convention on Human Rights and Human Dignity in April 2000 in Islamabad, he said that in order to prevent the abuse of the blasphemy law, all allegations relating to section 295 C of the Pakistan Penal Code (PPC) which carries the mandatory death sentence, would henceforth be examined by a Deputy Commissioner first and complaints would be registered only if he found substance in the allegations made. In the following days, this announcement was criticized by several Islamist parties as contravening the injunctions of Islam.

Amnesty International is not aware of any new cases under section 295C being registered since the military takeover; this appears to indicate that such procedures were informally put in place earlier. In some instances, allegations were reportedly examined by the local administration and found to be lacking in substance; hence no complaints were registered.

While the introduction of procedural changes brought some relief to the religious minorities, the Government of Pakistan failed to take note of, and correct, the

discriminatory attitude towards Ahmadis shown by some judges handling cases pending against members of this minority. In many cases, judicial officers added section 295 A of the PPC to the complaints, after which the cases were transferred to anti-terrorist courts which do not provide a fair trial. The procedures of such courts, especially the rigid time frame, make a fair trial difficult, if not impossible. Moreover, bail is denied to anyone being tried by an anti-terrorist court.

Lawyers of the Ahmadiyya community have pointed out that offences under section 295 A PPC relating to 'deliberate and malicious acts intended to outrage the religion or religious feelings of any class' can be tried by anti-terrorist courts only if there is a nexus between the offence and its real or likely effect of creating 'fear or insecurity' in people or adversely affecting 'harmony between different sections of the people' (amendment of April 1999 to section 6, Anti-Terrorism Act, 1997). This nexus does not appear to have been established in the majority of cases against Ahmadis which are now pending before anti-terrorist courts but judges have not taken cognizance of this lack of nexus. Petitions to have cases transferred to regular courts, in which bail is available and which follow the regular procedural law, often take months to be heard and decided; meanwhile Ahmadis continue to be detained.

Ghulam Mustafa, who was arrested in December 1998 for preaching his faith and subsequently had additional charges added to the complaint against him, was sentenced to 13 years' imprisonment in March 1999. His case was concluded within a week by an anti-terrorism court. Nazeer Ahmad Baluch was 15 years old when he was arrested in September 1998 in village Chak 4 near Naukot, Mirpurkhas district, Sindh province. He and other Ahmadis had been pulling down a mosque owned by the Ahmadi community in order to rebuild it. Orthodox Muslims passing the mosque, however, alleged that it belonged to their community and that the Ahmadis were injuring their feelings as Muslims by desecrating the mosque and a Qur'an allegedly lying inside it. The incident led to further attacks on Ahmadi mosques in a nearby town and the arrest of 14 other Ahmadis on similar charges. Nazeer Ahmad Baluch was held throughout the year in Hyderabad Central Jail. An appeal against his trial by an anti-terrorism court was still pending before the Supreme Court of Pakistan in April 2000.

### **Convention no 87 on Freedom of Association**

#### **SWAZILAND (ratified Convention no 87 in 1978)**

The Committee on the Application of Standards has once again decided to place its conclusions on the case of Swaziland in a special paragraph of its report.

Political parties continue to be banned and the rights of freedom of assembly and expression are restricted under the terms of the King's Proclamation of 1973. Specific restrictions of these freedoms have also been imposed on trade union organizations under the terms of the 1996 Industrial Relations Act (which is still in effect while the amended act passed by parliament in 1999 has not been signed into law by head of state, King Mswati III). Notwithstanding these restrictions government opponents and critics of official policies have continued to organize politically and hold protest gatherings. They have, however, remained vulnerable to arbitrary detentions, politically-motivated prosecutions or other forms of harassment solely because of their non-violent political activities. Law enforcement officers have also ill-treated detainees and unarmed demonstrators.

The Constitutional Review Commission (CRC), appointed by King Mswati III in 1996 apparently to address public concern about the restrictions on fundamental human rights, has still not concluded its work, although its original mandate was due to last for only two years. The CRC's operations have been conducted away from effective public scrutiny or input.

The negative effects for human rights of this paralyzed political reform process have been compounded by problems in the justice system, including the misuse of the non-bailable offences legislation to detain arrested protestors charged with certain scheduled offences, the lack of effective, independent and impartial investigations of alleged human rights violations and chronic delays and inefficiencies in the administration of justice in both civil and criminal matters. These manipulations of or failures in the justice system infringe further on the internationally-recognized rights of detained suspects and of the victims of human rights violations who have available only civil remedies in seeking redress against the state.

Freedom of expression has also been undermined with media workers and institutions coming under attack. During the past seven months, for instance, Swaziland Television Broadcasting Corporation summarily dismissed 31 employees, including Swaziland Media Publishers Allied Workers Union President Lwazi Hlophe and Vice President Phasha Mayisele, for involvement in a strike five months previously; an editor from *The Times of Swaziland*, Bheki Makhubu, was detained overnight and then released conditionally on charges of "publishing defamatory libel" against the King ; and the state-owned *Swazi Observer* group of newspapers was shut down and its staff dismissed without warning, following weeks of intense pressure from police and government authorities and a failed High Court action against *Observer* journalists to compel them to name sources for certain stories published in the newspaper. There are fears also that the government may attempt to re-introduce the Media Council Bill, which contains proposals for sanctions, including imprisonment, for journalists contravening a government-formulated code of ethics and system of licensing.

During the past three years other trade union officials and members have been targeted for official harassment. In 1998, prior to the national elections, soldiers and armed police raided the homes of prominent figures from opposition organizations, including the home of a senior official of the Swaziland Federation of Trade Unions (SFTU), Zodwa

Mkhonta, searching for materials calling for a boycott of the elections. In November 1998, following a bomb explosion at the office of the Deputy Prime Minister, there were further raids on the homes and offices of government opponents and critics, including of the SFTU Secretary General, Jan Sithole, who was arrested and interrogated before being released without charge. One SFTU official, Themba Motsa, who was arrested in late November, alleged that police had threatened him with death and assaulted him while interrogating him about the November bomb explosion.

Jan Sithole had been detained in the previous year, in January, along with other SFTU officials Jabulani Nxumalo, Richard Nxumalo and Themba Msibi, apparently with the intention to disrupt the SFTU planned national strike. On 3 February they were charged under Section 12 of the 1963 Public Order Act with acting in common purpose to “intimidate” and “molest” bus owners into suspending bus services. Bail was denied as the Minister of Justice had, on the day of their arrest, announced that their offence fell within the scope of the Non-Bailable Offences Act. On 26 February the trial magistrate acquitted the trade unionists of the charges and ordered their release, after strongly criticizing the police evidence as lacking any credibility.

Some detained trade unionists have been ill-treated by police officers. In one case Mxolisi Mbatha, an SFTU official arrested with other trade union colleagues on 3 February 1997, was kicked, beaten and dragged across the ground before being put in a cell with other detainees at Manzini Regional Police Headquarters. The police then allegedly sprayed tear-gas into the cell. Mxolisi Mbatha, who was paraplegic as a result of a previous accident, was denied access to medical care while in detention. Following his release without charge some two days later, he required emergency and then prolonged treatment in hospital. He instituted legal proceedings against the government, who denied liability. Mxolisi Mbatha failed to recover from his injuries and died before his case against the government reached the courts.

On a number of occasions the security forces ill-treated unarmed demonstrators and striking workers. In a case in October, police officers used tear-gas and batons to disperse peaceful demonstrators who had gathered near the national airport to petition the King on his return to the country. Among those ill-treated was a schoolteacher who ran into a police patrol while trying to escape the tear-gas. They allegedly verbally insulted her, beat her severely and smashed her glasses. When she fled she was set upon by soldiers, who allegedly beat her and threw her into a ditch. Legal proceedings instituted against the government on her behalf were under way at the end of the year.

**AMNESTY INTERNATIONAL DOCUMENTS RELEVANT TO  
THE DISCUSSIONS OF THE ILC’S COMMITTEE ON APPLICATION OF  
STANDARDS**

**COLOMBIA**

*“Colombia Barrancabermeja: A City Under Siege”*  
(AI Index: AMR 23/36/99)

*“Colombia Stop the killings and violence against activists”*  
(AI Index: AMR 23/22/99)

**MYANMAR**

*“Myanmar - The Kayin (Karen) State Militarization and Human Rights”*  
(AI Index: ASA 16/12/99)

*“Myanmar - Aftermath: Three Years of Dislocation in the Kayah State”*  
(AI Index: ASA 16/14/99)

*Myanmar - Update on the Shan State*  
(AI Index: ASA 16/13/99)