

Amnesty International's Concerns at the 89th International Labour Conference (5-21 June 2001, Geneva)

INTRODUCTION

Over a number of years Amnesty International has followed and attended the discussions of the Committee on Application of Standards¹ at the International Labour Conference (ILC) on governments' effective implementation of International Labour Organisation (ILO) standards.

While the scope of the 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.

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 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

¹A 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.

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.

These concerns are particularly in respect of the ILO's seven "core" 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 which now form the basis of the *ILO Declaration on Fundamental Principles and Rights at Work* (the ILO Declaration) adopted by the ILC in 1998. These original seven have recently been joined by the Worst Forms of Child Labour Convention, 1999 (No 182), adopted unanimously at the 87th session (June 1999) of the ILC, which entered into force on 19 November 2000.

Amnesty International, in close cooperation with the Coalition to Stop the Use of Child Soldiers, campaigned for the explicit inclusion in the ILO Convention No 182 of child soldiering as one of the worst forms of child labour². Such an inclusion was achieved and for the first time an 18-year minimum age limit was set in relation to child soldiering in an international convention. It was also the first specific legal recognition of child soldiering as a form of child labour.

Convention No 182 commits each state that ratifies it to "*take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency*". In Article 2, the definition of a "child" is given as all persons under the age of 18. Article 3 states that the worst forms of child labour include "*...forced or compulsory recruitment of children for use in armed conflict*".

² See "*Child soldiers: one of the worst abuses of child labour*" AI Index: IOR 42/01/99, January 1999.

Amnesty International is calling on those states which have not done so to promptly ratify this important international instrument. **Convention No 182**, together with other international treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Rome Statute of the International Criminal Court, will ensure greater protection and promotion of children's rights. The importance of such instruments is also outlined in the draft outcome document that is being prepared for the United Nations General Assembly Special Assembly on children by its Preparatory Committee with the support of UNICEF.³ As of 2 May 2001 only 72 of the 176 ILO member States are party to Convention No 182⁴.

By ratifying Convention No 182 governments will show their commitment to strengthening the protection for children's rights, in particular of those at risk of participating in hostilities and recruitment into armed forces.

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.

It is important to stress the fact that 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 ILO Declaration support and reinforce one another. Amongst these Conventions particularly are Convention Nos 87 and 98 under which Amnesty International has often raised its concerns at the annual ILC.

COUNTRY CONCERNS AT THE 89TH ILC

This year Amnesty International is raising concerns about **Colombia** under Conventions Nos 87 on Freedom of Association and Protection of the Right to Organize (1948) and 98

³ UN doc. A/AC. 256/CRP. 6/Rev. 1 (Paragraph 24) -Available at the UNICEF website: www.unicef.org

⁴ Source : www.ilo.org (A list of ratifications is attached to this document - See Annex 2)

on Right to Organize and Collective Bargaining (1949) and **Myanmar** under Conventions Nos 29 on Forced Labour and 87.

COLOMBIA (ratified Convention Nos 87 and 98 in 1976)

Against a background of continuing escalation in the long-running armed conflict, trade unionists are facing an increasingly serious human rights crisis. Despite repeated international recommendations, the Colombian Government has failed to take effective action to guarantee the safety of trade unionists.

Colombia's 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 principal targets 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. Guerrilla groups have also been responsible for death threats and deliberate and arbitrary killings of those they believe to be collaborating with the security or paramilitary forces.

The *Central Unitaria de Trabajadores de Colombia*, (CUT), Colombian Trade Union Congress, estimates that 112 affiliated trade unionists were victims of extrajudicial executions in Colombia during 2000. In the first three months of 2001, 35 union activists were killed - a fourfold increase over the same period in 2000 - three "disappeared" and five survived assassination attempts. Many others were forced to flee their homes or the country following death threats. Reportedly in the first three months of 2001, 300 trade union members have asked the Colombian Government for help in leaving the country.

Human rights violations against trade unionists are carried out both to undermine their campaign for socio-economic reforms and to destroy trade union structures. The *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, 8 February 2001* (hereinafter, "the UN report"), observes that: "violence has been projected not only against the leaders of the most representative trade unions but also against the grass-roots union movement in different parts of the country. This has weakened the movement, particularly in the provinces, and eroded communications and basic social networks. In one example, paramilitaries in Segovia and Remedios (Antioquia) banned municipal workers from taking part in any human rights-related activities, threatening to turn them into "military targets"⁵.

⁵ UN Doc. E/CN.4/2001/15, para 175

In September 2000, the leader of a trade union campaigning against the privatization of Cali's public services narrowly escaped an assassination attempt in which another member of the union died. Gunmen reportedly tried to kill **Ricardo Herrera**, leader of the *Sindicato de Trabajadores de las Empresas Municipales de Cali* (SINTRAEMCALI), Cali Trade Union of Municipal Service Workers, on 19 September.

The shot missed Herrera but fatally wounded **Omar Noguera**, who died a few days later.

Two weeks earlier, in the face of death threats, SINTRAEMCALI had formally asked President Andrés Pastrana to assume responsibility for Herrera's safety. The union's executive committee received repeated death threats throughout 2000 and one leading member of the union, was forced to leave the area temporarily in fear of his life, reportedly after the discovery of plans to kill him.

Roberth Cañarte Montealegre, an active member of the SINTRAMUNICIPIO union, was abducted by paramilitaries of the *Autodefensas Unidas de Colombia* (AUC), United Self-Defence Groups of Colombia, on 29 June 2000 in the department of Valle del Cauca. His body was subsequently found. Ca_arte's abduction was part of the sustained attack that trade unionists in the south-western region of Colombia have experienced since July 1999, when the AUC began military operations in the area. The president of SINTRAMUNICIPIO and founder of the Valle del Cauca Branch of the CUT, **Orlando Crespo C.**, was killed on 31 January 2001, apparently by the AUC. On 8 February 2000, a letter signed by the AUC was sent to trade union offices, declaring them military targets.

In February 2001, trade unionists of *El Sindicato de Trabajadores y Empleados de Servicios Públicos* (SINTRAEMSDES), Union of Public Service Workers and Employees, received a written death threat from army-backed paramilitaries. A card of condolence signed in the name of the AUC was delivered to the SINTRAEMSDES offices in Pereira, department of Risaralda, addressed to the national board of SINTRAEMSDES, and bore the initials of Vice-president Orlando Ospina Loaiza, and Secretary General Carlos Alberto Florez.

Over the last year members of teaching unions have been amongst those trade unionists most targeted. In the department of Antioquia alone from January 2000 to March 2001, 32 teachers are reported to have been the victim of political killings. The majority of those killed were trade unionists or involved in other human rights or social work.

On 24 October 2000, army-backed paramilitaries reportedly abducted **Luis Angel Ramos Mesa**, during a raid on the community of Minitas, department of Antioquia.

Luis Ramos, a school teacher and leading member of the *Asociación de Institutores de Antioquia* (ADIDA), Association of Teachers of Antioquia, had previously been reporting harassment and intimidation against him by police agents and soldiers. The paramilitaries were said to have been looking for five teachers in the region whom they accused of being guerilla sympathisers.

In June 2000, **Gilberto Agudelo Martínez**, a leader of the CUT and National President of the *Sindicato de Trabajadores y Empleados Universitarios de Colombia* (SINTRAUNICOL), the Colombian University Workers and Employees Union, “disappeared”. His whereabouts remain unknown.

The Colombian Government has taken some steps to guarantee the security of trade unionists particularly through its *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 programme DAS bodyguards have been provided to some threatened trade unionists and others have been assisted to leave the country. However, the program’s resources are insufficient as is the political will of the authorities to identify and bring to justice those responsible. The continued human rights violations committed against trade unionists in 2000 and 2001 are testimony to the governments failure to take adequate measures to provide protection.

In particular the Colombian Government has failed to take decisive action to dismantle the army-backed paramilitary groups responsible for the majority of human rights violations against trade unionists and to ensure that those responsible for human rights violations against trade unionists are brought to justice. As the UN Report concludes “... the protection and guarantee of people’s fundamental rights, in particular those of human rights defenders and trade unionists, cannot be separated from an effective and parallel policy of combatting impunity and of action against those who are the source of risks, especially the paramilitary groups”.⁶

Concern at this failure is heightened by the fact that judicial investigations have linked State agents to several cases of human rights violations against trade unionists.

On 15 December 2000, **Wilson Borja Díaz**, leader of the *Federación Nacional de Trabajadores al Servicio del Estado* (FENALTRASE), National Federation of State Service Industry Workers, and a leading member of the CUT, was shot and seriously wounded by gunmen. National paramilitary leader Carlos Castaño immediately admitted responsibility for the attack. Judicial investigations have since linked several active and retired military and police officers, apparently acting on the orders of the AUC, to the

⁶ Para. 230

attempt on Wilson Borja's life. The president of the CUT Luis Eduardo Garzón was quoted in AFP on 20 April 2001 condemning the low rate of arrests in cases of killings and attempted killings of trade unionists. He reportedly told AFP that since 1987, 3100 trade union leaders had been killed and only the case of the failed attempt on the life of Wilson Borja was being investigated.

During the ILC in June 2000, the Colombian Government blocked moves to create an ILO investigation mission for Colombia, which would have investigated and monitored the human rights situation facing trade unionists. The ILC decided instead to appoint a Special Representative for cooperation with Colombia to assist in and verify the actions taken by the Government and by employers and workers unions to implement ILO Recommendations.

Amnesty International believes that a Commission of Inquiry to investigate the widespread and systematic attacks against trade unionists in Colombia should be agreed by the ILC.

Measures to guarantee the security of trade unionists would be in line with ILO standards and repeated recommendations made by the United Nations. The March 2001 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 unions and other sectors particularly at risk decisively. It recognizes the efforts made by the Ministry of Labour but states that: "there has been no corresponding action by other government bodies. The dramatic increase in the numbers of trade unionists killed, threatened or attacked highlights the fact that the measures taken by the Government to protect trade union freedoms have been insufficient and ineffective"⁷.

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

MYANMAR (ratified Convention Nos 29 and 87 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 about restrictions of the rights to freedom of speech, assembly and movement and on the use of both short-term

⁷ Para 261

detention and long prison sentences as methods for repressing peaceful activities, including those of trade unionists.

In June last year, for the first time in the ILO's 81-year history, the ILC had recourse to take measures under Article 33 of the ILO Constitution; this procedure is designed to be invoked only in the event of a country failing to carry out the recommendations of an ILO Commission of Inquiry. Those recommendations were that legislation, in particular the Village and Towns Acts, be brought into line with the terms of Convention No 29 on Forced Labour; that no more forced or compulsory labour be imposed by the authorities, particularly by the military; and that penalties which may be imposed for the exaction of forced labour be strictly enforced, with thorough investigation, prosecution and punishment of those found guilty⁸.

Under the terms of the resolution, the Myanmar government had until 30 November 2000 to satisfy the Governing Body of the ILO that intentions expressed by the Myanmar Minister of Labour had been translated "into a framework of legislative, executive and administrative measures that are sufficiently concrete and detailed to demonstrate that the recommendations of the Commission of Inquiry have been fulfilled and therefore render the implementation of one or more of these measures inappropriate"⁹.

The measures of this resolution included:

- Keeping under review the implementation of the Commission of Inquiry's recommendations at future sessions of the ILC;
- Recommending that the ILO's constituents as a whole review their relations with Myanmar and take appropriate measure to ensure that such relations do not perpetuate or extend the system of forced or compulsory labour;
- Inviting the Director General of the ILO to inform international organisations working with the ILO to reconsider any cooperation they may be engaged in with Myanmar and, if appropriate, 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.

⁸ILO Press release ILO/44/00, 17 Nov 2000

⁹ Para. 2

In October 2000 an ILO technical cooperation mission visited Myanmar and, on the basis of their report, in November 2000 the Governing body of the ILO "considered that it was not satisfied that the actions taken by the Myanmar met the recommendations of the Commission of Enquiry", so effectively opened the way for full implementation of the June resolution. On this decision the Government of Myanmar, at a press conference held 18 November 2000 in Yangon, "indicated that it would no longer cooperate with the ILO in relation to the Forced Labour Convention, 1930 (No. 29), but that it would continue to take steps to prevent forced labour, as this was its policy"¹⁰.

At its Fifty-seventh session, 19 March to 27 April 2001, the United Nations Commission on Human Rights adopted without a vote a resolution on Myanmar which *inter alia*

"strongly urges the Government of Myanmar: (...)To implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour, in conformity with the relevant recommendations of the Commission of Inquiry and to re-enter into a dialogue with the International Labour Organization and invite the organization to establish a presence in Myanmar in order to enable it to verify that such measures are taken."¹¹

Forced labour

For the last 13 years Amnesty International has documented the widespread use of forced labour of ethnic minorities by the Myanmar military. Prior to the early 1990s, forced labour primarily took the form of portering for the army, which entailed carrying heavy loads of ammunition and supplies for days or weeks at a time. The army used porters in their counter-insurgency activities as they patrolled the countryside and villages or engaged in battles with armed opposition groups. In spite of cease-fires between the State Peace and Development Council (SPDC, Myanmar's military government) and some armed opposition groups, the practice of forced portering still occurs, primarily in areas of continuing internal armed struggle, including the central Shan State.

Beginning in the early 1990s the military authorities embarked on the construction of infrastructure projects throughout the country, including roads, dams,

¹⁰ Report of the Committee of Experts on the Application of Conventions and Recommendations - Observation 2000

¹¹ E/CN.4/RES/2001/15, 18 April 2001, para. 6 (*l*)

railway lines, and military barracks. Hundreds of thousands of civilians have reportedly been forced to work on these projects without pay.

Amnesty International has obtained recent convincing evidence that the practice of forced labour still occurs in the Shan, Kayin, and Mon states and also in the Tanintharyi Division. The practice continues in spite the fact that the State Peace and Restoration Council issued a decree in November 2000 expressly forbidding the use of forced labour and providing for punishments for those convicted of such practices.

Earlier this year the organization interviewed dozens of refugees from Myanmar's ethnic minorities who had been forced by the military to perform forced labour on a variety of infrastructure projects, including road-building, working on military farms, constructing army barracks and even growing flowers for the army. Although women generally did not have to perform forced portering duties, men were often seized by troops and forced to carry equipment over a period of several days or weeks during the army's counter-insurgency activities. Some former porters told Amnesty International that they had witnessed other porters beaten to death or shot dead if they could not perform their duties adequately. In addition some described beatings which they had endured during the course of forced portering.

Trade Union Rights

Freedom of association and expression is severely restricted in Myanmar. It is believed that there are as many as 1,850 political prisoners currently imprisoned in various detention centres around the country. More than 100 are known to be prisoners of conscience, but this number is likely to be much higher. Independent trade union activity is completely prohibited in Myanmar and several trade union activists are serving long sentences for their political and labour organizing activities.

Two executive committee members of the Federation of Trade Unions - Burma (FTUB) were arrested in June 1997. The FTUB was formed in 1991 by trade union members who were reportedly dismissed from their jobs and harassed by the authorities because of their trade union activities. According to the FTUB, **Myo Aung Thant** and **U Khin Kyaw** had been documenting economic and social hardship, including the widespread use of forced labour in Myanmar, and passing the information to the international trade union movement.

Myo Aung Thant is a member of the All Burma Petro-Chemical Corporation Union, formed during the 1988 pro-democracy movement. U Khin Kyaw is a member of the Seafarers Union of Burma. Both these organizations are not legally recognized in Myanmar. Charges against them included allegations that they were involved in planning "terrorist" attacks, and that Myo Aung Thant was involved in passing money to the

National League for Democracy (NLD, the main opposition party which won the 1990 elections) from overseas, and helping to produce a video of NLD leader Daw Aung San Suu Kyi which was smuggled out of the country. In August 1997, Myo Aung Thant was sentenced, after an unfair trial, to "Transportation for Life for committing High Treason, three years' imprisonment for breaching the Unlawful Associations Act and another seven years under the Emergency Provisions Act".

U Khin Kyaw was reportedly tried later and sentenced to 17 years' imprisonment but exact details are not known. Myo Aung Thant is currently detained in Myitkyina Prison, Kachin State; his wife Aye Ma Gyi, arrested at the same time and sentenced to 10 years' imprisonment, is detained in Insein Prison. U Khin Kyaw is believed to be detained in Tharawaddy Prison, Bago Division and to be in poor health.

Labour leader **Than Naing** has been in prison since 1989. During the pro-democracy uprising in 1988, Than Naing took a leading role in forming 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 and tried by a military tribunal under summary provisions which did not allow for self-defence. In October 1989 he was sentenced to life imprisonment for "encouraging, harbouring or comforting persons guilty of high treason." According to an amnesty in January 1993, his prison term should have been reduced to ten years and he should therefore have now been released.

The ILO should continue to call on all its members and other UN bodies to review their relations with the Myanmar government to ensure that they do not abet forced labour.

Annex 1**AMNESTY INTERNATIONAL DOCUMENTS RELEVANT TO
THE DISCUSSIONS OF THE ILC'S COMMITTEE ON APPLICATION OF
STANDARDS****COLOMBIA**

Colombia: Mayday for trade unionists (AI Index AMR 23/048/2001)

Colombia Human Rights and USA Military Aid to Colombia II - published jointly by AI, Human Rights Watch, Washington Office on Latin America (AI index: AMR 23/004/2001)

Colombia: Protection of human rights defenders: One step forward, three steps back (AI index: AMR 23/22/00)

Colombia: Return to hope - forcibly displaced communities of Urabá and Medio Atrato region (AI index: AMR 23/23/00)

Colombia: Human rights and USA military aid to Colombia: A document published jointly by Amnesty International, Human Rights Watch and the Washington Office on Latin America (AI index: AMR 23/65/00)

Colombia: Amnesty International's position on Plan Colombia (AI index: AMR 23/49/00)

Colombia. Barrancabermeja: A City Under Siege (AMR 23/36/99)

MYANMAR

Myanmar: Prisoners of political repression (AI Index: ASA 16/006/2001)

Myanmar: Exodus from Shan State (ASA 16/011/2000)

Myanmar: Exodus from Shan State to escape forced labour (ASA 16/012/2000)

Myanmar: Unsung heroines, the women of Myanmar (AI Index: ASA 16/004/2000)

Annex 2

List of Ratifications of International Labour Conventions Worst Forms of Child Labour Convention, 1999 (No. 182) Date of entry into force: 19.11.2000	
72 ratifications (As at 2 May 2001) Source: International Labour Standards Department www.ilo.org	
Algeria	9.2.2001
Argentina	5.2.2001
Bahrain	23.3.2001
Bangladesh	12.3.2001
Barbados	23.10.2000
Belarus	31.10.2000
Botswana	3.1.2000
Bulgaria	28.7.2000
Canada	6.6.2000
Central African Republic	28.6.2000
Chad	6.11.2000
Chile	17.7.2000
Cyprus	27.11.2000
Denmark	14.8.2000
Dominica	4.1.2001
Dominican Republic	15.11.2000
Ecuador	19.9.2000
El Salvador	12.10.2000
Finland	17.1.2000
Gabon	28.3.2001
Guyana	15.1.2001
Hungary	20.4.2000
Iceland	29.5.2000

Indonesia	28.3.2000
Ireland	20.12.1999
Italy	7.6.2000
Jordan	20.4.2000
Republic of Korea	29.3.2001
Kuwait	15.8.2000
Libyan Arab Jamahiriya	4.10.2000
Luxembourg	21.3.2001
Malawi	19.11.1999
Malaysia	10.11.2000
Mali	14.7.2000
Mauritius	8.6.2000
Mexico	30.6.2000
Mongolia	26.2.2001
Morocco	26.1.2001
Namibia	15.11.2000
Nicaragua	6.11.2000
Niger	23.10.2000
Norway	21.12.2000
Panama	31.10.2000
Papua New Guinea	2.6.2000
Paraguay	7.3.2001
Philippines	28.11.2000
Portugal	15.6.2000
Qatar	30.5.2000
Romania	13.12.2000
Rwanda	23.5.2000
Saint Kitts and Nevis	12.10.2000
Saint Lucia	6.12.2000
San Marino	15.3.2000
Senegal	1.6.2000
Seychelles	28.9.1999
Slovakia	20.12.1999

South Africa	7.6.2000
Spain	2.4.2001
Sri Lanka	1.3.2001
Switzerland	28.6.2000
Thailand	16.2.2001
Togo	19.9.2000
Tunisia	28.2.2000
Ukraine	14.12.2000
United Kingdom	22.3.2000
United States	2.12.1999
Viet Nam	19.12.2000
Yemen	15.6.2000
Zimbabwe	11.12.2000