

# Fundamental Rights At Work Amnesty International's Concerns to the International Labour Conference (4-20 June 2002, Geneva)

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## INTRODUCTION

The International Labour Organization (ILO) is a specialized, independent agency associated with the United Nations (UN). It was created in 1919 by the Versailles Treaty and was affiliated with the League of Nations until 1945, becoming a UN agency in 1946. Its tripartite structure makes the ILO unique among world organizations in that employers' and workers' representatives - the "social partners" of the economy - have an equal voice with those of governments.

The ILO consists of a general *Conference* of representatives of its members (4 from each member state: 2 from government, 1 from a Trade Union and 1 from an Employers organization), a *Governing Body* of 56 people (28 representing governments, 14 employers and 14 workers) and an *International Labour Office*, with its headquarters in Geneva.

Amnesty International has followed the work of the ILO and continues to do so through the opportunities offered by the 90<sup>th</sup> International Labour Conference (4 – 20 June 2002, Geneva).

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The ILO was created primarily for the purpose of adopting international standards to cope with the problem of labour conditions involving “injustice, hardship and deprivation”. In 1944, the organization’s standard setting mandate was broadened to include more general human rights matters.

Today the four main strategic objectives of the ILO are:

- To promote and realize fundamental principles and rights at work;
- To create greater opportunities for women and men to secure decent employment;
- To enhance the coverage and effectiveness of social protection for all;
- To strengthen tripartism and social dialogue.

Amnesty International, as a world wide, voluntary movement, works to prevent violations of people’s fundamental rights and in so doing shares many similar concerns with the ILO.

These concerns, details of which are found throughout this Report, continue to revolve around the eight Fundamental Conventions. These eight Conventions form the basis of the ILO Declaration of Fundamental Principles and Rights at Work (*the ILO Declaration*), adopted by the International Labour Conference (ILC) in 1998. The *ILO Declaration* establishes the 4 core principles which every ILO member must respect: freedom of association and to organize (Convention nos. 87 and 98), abolition of forced labour (Convention nos. 29 and 105), equal opportunities and treatment at the workplace (Convention nos. 100 and 111) and elimination of child labour (Conventions 138 and 182). The *ILO Declaration* and each of the core Conventions is intended to have a concrete impact on working conditions and practices in every country of the world. *Greater detail as to the provision of the Conventions is provided in Annex I.*

**Amnesty International is calling on those member states which have not done so to promptly ratify all eight conventions so as to provide a basic framework for the protection of labour rights and an enabling rights-based environment for equity and development. Amnesty International further calls upon those member states who have ratified the Conventions to urge others to join them. A list of ratifications by all the member states can be found at Annex II.**

## FUNDAMENTAL LABOUR STANDARDS

The impetus for the *ILO Declaration* included concerns in the international community over the processes of globalisation and the social consequences of trade liberalization. Those concerns continue to be with us. No where more than in the workplace do we

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see, in practice, the absolute indivisibility of rights as enshrined in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. Examples of labour issues given throughout this report prove just how violations of civil and political rights compound an already grave situation where violations of economic, social and cultural rights exist.

Ratification of all the Fundamental Conventions is the basic first step that every government should take to demonstrate its will to implement the rights enshrined in these international standards. Together the Fundamental Conventions form a basic yet comprehensive framework around which a state shows its willingness and commitment to the protection of workers and the provision of an enabling environment in which both employers and workers may thrive. It is imperative that the Conventions are seen in the whole and that states are seen to ratify and implement each one as they support and reinforce one another.

### **Forced Labour**

Forced Labour Convention, 1939 (No.29) requires, within the shortest possible period, the suppression of forced or compulsory labour in all its forms. Forced labour is here defined as *“all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”*. The ILO Committee of Experts on the Application of Conventions and Recommendations has expressed this to mean immediate prohibition and suppression in practices. The Abolition of Forced Labour Convention, 1957 (No. 105) prohibited the use of any form of forced or compulsory labour as a means of political coercion or education; mobilization of the workforce for the purposes of economic development; labour discipline; punishment for participation in strikes; and racial, social, national or religious discrimination.

Despite the date of the two conventions, forced labour is still an issue today as evidenced in Amnesty International’s concerns in Mauritania and Myanmar outlined below. In calling for all member states to ratify these two Fundamental Conventions Amnesty International calls for the elimination of all forms of forced or compulsory labour.

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### **Discrimination**

The Equal Remuneration Convention, 1951 (No. 100) calls for equal pay for men and women for work of equal value and expects those states which have ratified it to promote this principle by means of national laws, legal machinery for wage determination and collective agreements. The Discrimination (Employment and Occupation) Convention, 1958 (No.111) calls for a national policy to eliminate discrimination in access to employment, training and work conditions and to promote equality of opportunity and treatment. Discrimination is defined as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

The ILO Constitution of 1919 said that the observance of equality of opportunity and treatment is among those that are “of special and urgent importance” and should guide the policy of the ILO and the “standards set by law in each country”. The elimination of all forms of discrimination is fundamental to a fair and equitable society making the most of its human resources and as such forms the basis of two of the ILO Fundamental Conventions, which Amnesty International is calling for all member states to promptly ratify.

### **Freedom of Association**

In addition to acknowledging the basic principle of freedom of association in its Constitution, the ILO has adopted two Conventions establishing the basic elements of the freedom of association, the right to organise and the importance of collective bargaining. The Freedom of Association and Protection of the Right to Organize Convention 1948 (No. 87) establishes the right of all workers and employers to join organizations whereas the Right to Organize and Collective Bargaining Convention 1949 (No.98) protects against anti-union discrimination and encourages collective bargaining.

As part of its 2002 May Action Amnesty International, in partnership with a number of Trade Unions, has campaigned on violations of the right to organize in China and details of those violations are repeated here for further consideration by the International Labour Conference. It is imperative that China brings its legislation further into line with the International Covenant on Economic, Social and Cultural Rights (ratified in 2001) which guarantees the right to form and join a trade union of ones choice and ratifies the two ILO Conventions dealing with this issue. In support of this fundamental right Amnesty International calls upon all those states who have not ratified the Conventions to do so promptly and for those that have, to urge others to join them.

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## Child Labour

In the year of its inception in 1919 the ILO adopted its first Convention on child labour since when there have been 9 Conventions on the minimum age for work and two ILO Conventions are fundamental. Ratification of the Minimum Age Convention, 1973 (No.138) means that a state must enact national legislation for the effective abolition of child labour and raise the minimum wage for admission to employment to a level consistent with the fullest physical and mental development of young persons. The Convention is fluid in prescribing a minimum age aiming rather at encouraging the progressive and sustained improvement in standards. Conversely the Worst Forms of Child Labour Convention, 1999 (No. 182) applies to all persons under the age of 18 and calls for "immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency". The worst forms of child labour are defined as being all forms of slavery and practices similar to slavery such as trafficking in children and debt bondage; the forced recruitment of children in armed conflict and for prostitution and in any work, which is likely to harm the health, safety or morals of children.

***Recommendation 1: Amnesty International calls for all those member states that are not party to the Fundamental Conventions, to publicly announce their willingness to ratify them as soon as possible. Amnesty International calls upon those member states that have ratified the Conventions to call for others to join them.***

## COUNTRY CONCERNS

Ratification of itself should not be seen as our end goal: rather a work place free of human rights violations. To this end ratification of the Fundamental Conventions means that in very practical terms the ILO must assist member states in their efforts to realize the principles enshrined in the *ILO Declaration* by helping members create a climate for economic and social development. In ratifying these Fundamental Conventions member states express a commitment to improve the working lives of its people and call for the International Labour Organization itself to support them in their endeavours.

Amnesty International takes the opportunity afforded by the 90<sup>th</sup> International Labour Conference to bring to the attention of the international community its concerns in China, Colombia, Mauritania and Myanmar. Amnesty International continues to monitor human rights violations on the ground and calls upon all three constituent parts of the International Labour Conference to play an active role in ensuring ILO Fundamental Rights become a reality.

### China

In recent years China has been steadily shifting its economy from a predominantly state run, command economy to that of a market led economy with a flourishing private

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sector. Since the 1970s and especially in the past few years state owned enterprises (SOE) have been shut down resulting in the underemployment or unemployment of thousands of unskilled and skilled workers. In certain areas where traditional industries such as coal mining or steel making existed there have been widespread closures of major state owned enterprises and a huge increase in the number of locally unemployed people.

According to figures from the Ministry of Labour and Social Security in 2000, there were 21.38 million laid-off workers, while in 2001, 5.15 million workers at SOEs were laid off, according to Zhu Zhixin, head of the National Bureau of Statistics. In reality the figures are believed to be much higher.

Unemployed workers are often promised redundancies money that is never paid. They are entitled to a monthly livelihood allowance from the local or provincial government or from the SOE itself. This allowance may not be paid at all or it may be paid with huge arrears. Fees may be charged for schooling and companies may suddenly increase housing costs in order to raise their income. Pensions owed by companies may not be paid or may be paid only in part. In many cases, the pensions are too low to meet basic needs.

Li Jiaqing, 57, was detained in August 2000 and later charged with "gathering a crowd to disrupt social order" for organising a protest by workers at the Zhengzhou Paper factory. The factory, where Li worked as a chief engineer, was a state owned factory which merged with a local enterprise in 1997. The workers had been protesting against the merger with the new company which allegedly embezzled the money and assets of the paper factory. Li organised a workers congress and led them to submit a petition to the local government to demand the arrears of salaries be paid. No response was received and so the workers occupied the factory in June 2000. After two months in occupation the police intervened and 20 workers, including Li Jiaqing were detained. Li Jiaqing's trial is reported to have started before the Zhengzhou Municipal Court on 13 February 2001, while about 200 workers were protesting outside of the court, appealing for his release. No verdict has been announced. He is being held at Zhengzhou No. 2 Detention Centre.

Along with the rise in unemployment there is a growing gap between the rich and the poor. This contrasts with the initial policies of the Chinese Communist party in 1949 and is a fact many Chinese find hard to accept. Workers often face extremely poor working conditions including unsanitary and poorly ventilated work places. Workers are often exposed to dangerous chemicals or explosive materials without the necessary safeguards. Shifts can be 10 or 12 hours a day with money debited directly from wages for accommodation and food. In some cases, companies withhold wages for up to two months and keep hold of the workers ID cards. In cases of accident, workers can have

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the medical expenses deducted from their salary regardless of the cause of the accident. Many workers will not report minor injuries for fear of stopping the production line and getting into trouble. It has been reported that according to mainland figures in Shenzhen Special Economic Zone in the south of China, an average of 13 factory workers a day lose a finger or an arm and one dies every 4.5 days.<sup>1</sup>

Labour unrest in China continues to be widespread: workers are demonstrating against layoffs, illegal working conditions, wage arrears, redundancy terms, management corruption and delayed welfare payments. Some protests have been met with excessive use of force by police, and some protesters have been detained.

Workers from the Daqing Oilfield, one of China's largest state-owned oil fields, have staged massive demonstrations since 1 March in front of the Daqing Petroleum Administration Bureau (PAB), to protest over insufficient compensation for lost jobs, inadequate welfare benefits and the increased premiums on their pension insurance. Up to 50,000 workers joined the protests and several injuries were reported on 19 March when paramilitary police clashed with the demonstrators. The workers' demands included the setting-up of an independent trade union. It is reported that the "Daqing Laid -Off Workers Trade Union Committee" was set up during the protests and is operating underground.

Amnesty International has monitored many demonstrations organized by groups of laid-off workers in different provinces throughout China in the last few months alone. In some cases, worker leaders and protest organizers have been detained and their whereabouts are still unknown.

Extensive demonstrations by laid-off workers took place in Liaoyang city since 11 March 2002 against alleged corruption, insufficient severance pay and joblessness. Reportedly 5,000 laid-off workers from several state-owned factories gathered outside the government offices on 11 March calling for the dismissal of the chairman of the City's Standing Committee of the People's Congress. The workers accused the enterprise management of colluding with government officials in order to secure assets from the dismantled enterprises while failing to compensate the workers, some of whom had not been paid for more than 18 months.

The protests escalated on 18 March 2002 when 30,000 workers from around twenty Liaoyang factories gathered in front of the city government offices, demanding the release of Yao Fuxin, a workers' leader from the Ferroalloy factory who had been detained since the day before by the police. On 20 March a large contingent of armed police was reportedly deployed to crackdown on the protesters and three more workers' leaders, Xiao Yunliang, Pang Qingxiang and Wang Zhaoming, were apprehended. Yao

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<sup>1</sup>See SCMP 29/10/2001 for more details on the report by the Hong Kong based Christian Industrial Committee investigating conditions in South China's toy factories.

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Fuxin, Xiao Yunliang, Pang Qingxiang and Wang Zhaoming have been formally charged with “illegal assembly and demonstrations”. Several hundred workers have since been demonstrating almost every day demanding the release of the four labour leaders.

Amnesty International has monitored many cases of worker activists and others who support labour rights activists who have been imprisoned for their activities. Many are detained during or immediately after demonstrations or strikes and are then released after a short period in detention. Others however can be formally charged and detained for longer periods.

During November and December 2001, several workers’ protests took place in Jilin province, and on at least one occasion the workers from a number of factories blocked the gates to the government offices, shouting slogans such as “organise an autonomous trade union” and “fight forced redundancies”. Cai Guangye, a 38 year old doctor and labour activist, has been active in organizing laid off workers and supporting their plight at several state owned factories in the Jilin province. Cai has been reportedly detained since 21 December 2001 for “isolation and investigation” and his whereabouts are unknown to date.

On February 28, 2001, the Chinese government ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). This was a welcome move in general but the Chinese government made a reservation on its obligations towards Article 8 of the Covenant which guarantees trade union rights, in particular Article 8.1a which concerns the right to freedom of association. It was reported that signing up to Article 8 was not deemed “necessary” in the light of existing provisions for these rights in the Chinese law.

In January 1999 Yue Tianxiang, 47, a laid off driver at the state owned Tianshui City Transport Company, set up the newsletter “China Workers Monitor”, along with Guo Xinmin and Wang Fengshan, with the intent of exposing alleged mis-management and corruption at their former place of employment. Yue and Guo also organised workers into taking legal action to secure the payment of wage arrears: Yue and Guo had been laid off in 1995 while being owed three months back pay. The pair were arrested just after writing a petition to President Jiang Zemin asking for official intervention. The petition was also sent to international news agencies. In July 1999 Yue was sentenced to 10 years for “subverting state powers”.

Convention ratification is a basic first step, which every government should take to demonstrate its commitment to the rights enshrined in international standards. However, by itself ratification does not prevent human rights violations. An even greater commitment on the part of governments is required for such standards to be fully and effectively implemented in order to protect human rights. The Chinese authorities have

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not yet committed to ratification of these international standards, let alone their implementation.

***Recommendation 2:*** Amnesty International is calling for the International Labour Conference to urge the Chinese authorities to ratify all Fundamental Conventions and to meet its responsibilities under the *ILO Declaration*.

***Recommendation 3:*** Amnesty International calls upon the Chinese authorities to allow workers in China full and free exercise of their right to freedom of expression and association, including the right to form independent trade unions and to hold peaceful protests, without fear of detention or torture.

***Recommendation 4:*** Amnesty International welcomes the ratification of the ICESCR but calls for the Chinese authorities to bring its legislation further into line with Article 8.

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## Colombia

Against a background of continuing escalation in the long-running armed conflict in Colombia, trade unionists are facing an increasingly serious human rights crisis. Despite repeated international recommendations, including a Statement made by the Chairperson of the UN Commission on Human Rights at its 58th session<sup>2</sup>, the Colombian Government has failed to take effective action to guarantee the safety of trade unionists. 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.

The conflict often provides a cover for human rights violations committed to further or protect economic interests. Paramilitary leader, Carlos Castaño, stated in an interview published in the Colombian magazine *Semana*, 12 June 2001: "Trade unionists, for example, prevent people from working. It is for that reason that we kill them".

The *Central Unitaria de Trabajadores de Colombia*, (CUT), Colombian Trade Union Congress, estimates that 172 affiliated trade unionists were killed because of their trade union activity in Colombia during 2001. In the first three months of 2002, 44 union activists were killed, seven were kidnapped, three "disappeared" and five survived assassination attempts. Many others were forced to flee their homes or the country following death threats.

Amongst trade unionists particularly targeted are public sector unions, trade union confederations, including the CUT, and unions representing workers in strategic sectors of the country's economy such as oil, mining and energy;

### **Public Sector Trade Unions**

Over the last year members of health care workers unions have been amongst those trade unionists most targeted. The health care workers union, *Asociación Nacional de Trabajadores y Empleado de Hospitales, Clínicas, Consultorios y Entidades dedicadas a procurar La Salud de la Comunidad* (ANTHOC), recorded 22 political killings, 18 kidnappings, 152 members received death threats and 77 were forced to flee their homes following threats.

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<sup>2</sup>The Commission condemned all assassinations and violations of the freedom of opinion, expression and political rights that affect human rights defenders and trade union leaders. Furthermore the Commission went on to urge the Colombian state to adopt more efficient measures to guarantee the life and personal safety of such leaders and strengthen their protection. See *Chairpersons Statement (para 16) under Item 3: Situation of Human Rights in Colombia (24 April 2002)*.

ANTHOC trade unionist, Carmen Pungo was killed by army-backed paramilitaries on 2 September 2001. She was abducted near her home in Tambo, Cauca Department, in south-west Colombia. Her body and that of a cousin accompanying her to the meeting was found later that day by local villagers.

ANTHOC leaders in Barranquilla, in the northern department of Atlántico, were also threatened. On 17 August 2001 Gustavo Villanueva received written death threats accusing him of guerrilla links, and an anonymous caller told one of his daughters that he would be killed. Edgar Pua and Jose Meriño received written death threats which gave them 12 hours to leave the city. As a result of these threats several other ANTHOC members in Atlántico fled their homes.

Similarly, members of teaching unions have been targeted. In the department of Antioquia alone, the *Asociación de Institutores de Antioquia*, (ADIDA), Teachers Association in Antioquia, reported that 22 teachers were the victims of political killings, 250 received death threats and 450 were forced to flee their homes.

ADIDA trade union leader, Over Dorado Cardona received death threats in September 2001. On 19 September, as she was entering her home, Over Dorado's wife was reportedly stopped by three unidentified gunmen. They allegedly accused her husband of being a guerrilla and handed her a box containing a written death threat. They also told her that they were watching her husband and knew his whereabouts and movements. The death threats against Over Dorado came at a time when many public sector trade unionists were campaigning against government moves to privatize health and education services. Over Dorado has campaigned against plans to privatize education services and has previously had to ask for protection from the Ministry of Interior following earlier death threats.

Throughout 2001, trade unionists in municipal workers and public utilities unions have lost their lives campaigning against the privatization of public services.

On the morning of 25 May 2001, gunmen on a motorcycle shot dead Henry Jiménez Rodríguez, who was on his way to work in Cali. He died instantly. On 21 May 2001, unidentified gunmen in a car killed Carlos Eliécer Prado in the La Base district of Cali. Both men were members of *Sindicato de Trabajadores de las Empresas Municipales de Cali* (SINTRAEMCALI), Cali Trade Union of Municipal Service Workers, whose members faced a series of death threats and human rights violations throughout the year as a result of the union's long campaign against the privatisation of Cali's electricity, water, sewage and telecommunications utilities.

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On the morning of 11 February 2002, as community leader and former member of SINTRAEMCALI, Julio Galeano took his wife Viviana Maria Villamil, to work by motorcycle they were reportedly stopped by men on another motorcycle. Julio Galeano was first shot in the jaw, before three more shots were fired at him as he lay on the ground. He died instantly and his wife fled the scene in fear for her life. Both Julio Galeano and Viviana Maria Villamil had actively participated in the SINTRAEMCALI 36 day occupation of the Municipal Administration Centre (CAM) Building in Cali, from 25 December 2001 to 31 January 2002, as part of the union's campaign against the privatisation of Cali's electricity, water, sewage and telecommunications utilities.

### **Trade Union Confederations**

In 2002 members of Trade Union Confederations including the CUT have been subject to grave human rights violations.

One of the leaders of the cement workers' union, a union affiliated to the CUT, Alfredo Zapata Herrera, was abducted on 3 April as he travelled home from his job at the El Cairo Cement Works, Antioquia department, on the employees' bus. Members of the army backed paramilitary group Autodefensas Unidas de Colombia (AUC), United Self-Defence Force of Colombia reportedly stopped the bus, forced Alfredo off and took him away. His body was found the following day, near the spot where he had been abducted, with several gunshot wounds.

### **Strategic Sector Trade Unions**

Amongst other trade union sectors who have faced serious human rights violations are those involved in strategic economic sectors including mining and oil. For years trade union leaders belonging to the *Union Sindical Obrera* (USO), Oil Workers' Trade Union, have faced serious human rights violations. The oil sector is of strategic importance to the Colombian economy - it is Colombia's largest export earner. Colombia has 2.6 million barrels of proven oil reserves, although potential reserves are much higher.

Aury Sará Marrugo, President of USO, Cartagena Section and his bodyguard, Enrique Arellano were both were kidnapped on 30 November 2001. The kidnapping, followed some twenty days of threatening phone calls to USO members around Colombia. Members of the AUC reportedly admitted to the abduction of Aury Sará Marrugo and his bodyguard, whom they said would face a paramilitary trial for alleged membership of Colombia's second largest armed opposition group, the *Ejército de Liberación Nacional*,

(ELN), National Liberation Army. Aury Sará Marrugo and Enrique Arellano were found dead on a road outside Cartagena on 5 December. They had been shot several times.

On 14 February 2002, an unidentified gunman reportedly shot at the third floor of the headquarters of *Sindicato Nacional de Trabajadores de la Industria de Alimentos*, (SINALTRAINAL), National Union of Food Industry Workers, in Cali, Valle del Cauca Department from outside the building. This came at a time when the trade union has been preparing a law suit in the United States regarding alleged human rights violations by paramilitaries against SINALTRAINAL trade unionists working in bottling plants contracted by the Coca-Cola Company. For further information, Amnesty International has issued an Urgent Action detailing this case (AMR 23/026/2002).

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 bodyguards from the Departamento Administrativo de Seguridad (DAS), Civilian Security Service, 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 2001 and 2002 are testimony to the government's 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. The failure to adequately resource the protection program, to take all measures necessary to guarantee the security of trade unionists, to 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.

During the International Labour Conference (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.

**Recommendation 5: Amnesty International believes that a Commission of Inquiry, under Article 26 of the ILO Constitution, to investigate the widespread and systematic attacks against trade unionists (in violation of Conventions No. 87 and 98 as ratified by**

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**Colombia) is urgently needed. Amnesty International urges the Conference to call for such a Commission of Inquiry.**

### **Mauritania**

In April 2001 a young man, M'Bareck ould Bilal ould Braïkatt, escaped from alleged slavery in Kaédi, leaving behind him three younger brothers Brahim, Boilil and Laghdaf and a younger sister, Sleima, as well as his mother, Kroumania, who has been deaf mute since birth. He said he had had enough of the insults he received from the man who had enslaved him and the relentless work. The day before he escaped, a goat, from the herd he was responsible for, had reportedly run away and he feared the punishment he might receive from the man who enslaved him. In the past he had allegedly been frequently beaten with a stick. He has been denied any form of education. With the support of *SOS Esclaves*, *SOS Slaves*, an unauthorised Mauritanian non-governmental human rights organization, M'Bareck approached the Regional Governor of Kaédi for his own protection but also for help in securing the release of his family who reportedly remain held in slavery. M'Bareck ould Bilal ould Braïkatt had spent his life caring for the animals of the man who had enslaved him. He had no concept of different days of the week. Nor did he know his own age or that of his siblings. Neither had he been vaccinated. His mother cared for the sheep and goats, but also collected water and pounded millet. The family was inadequately fed: millet cooked with milk, which M'Bareck's mother prepared each evening for the people who enslaved them, was the only daily meal for the people held in slavery. They were reportedly denied contact with people outside their family. When any vehicles arrived, he and the other people held in slavery were told to hide themselves. They were forbidden to go into town.

The story told by M'Bareck ould Bilal ould Braïkatt should have provoked some urgent enquiry and action by the local authorities. *SOS Esclaves* went with the young man to meet the Governor of Kaédi, the central government's local representative, to demand that he be protected. The Governor refused to meet the young man himself, but promised *SOS Esclaves* that he would send the Gendarmerie to speak to the people who allegedly enslaved him. However, the Gendarmerie investigation revealed it was not a problem of slavery. The young man's brothers, mother and sister remain in slavery, and the state has taken no action.

Exploitative child labour practices are specifically addressed in slavery-like terms in the ILO Worst Forms of Child Labour Convention 1999, (No. 182). Mauritania has not ratified Convention No. 182 however as an ILO member state, Mauritania must respect in good faith the principles concerning the fundamental rights which are the subject of that Convention. More generally, the Forced Labour Convention 1930, (No. 29) which

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Mauritania signed in 1961 aimed to suppress the use of forced labour in all its forms within the shortest possible period. According to Article 2(1) “forced or compulsory” labour is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” This definition allows for an interpretation which extends its applicability to slavery or slavery-like practices.

These international instruments, should be urgently ratified and implemented by the Mauritanian government as an indication of a willingness to protect and promote the human rights of all Mauritanian citizens.

The Committee of Experts on Application of Conventions and Recommendations decided in June 2001 not to examine Mauritania under Convention No 29, despite being scheduled to do so.

Slavery in all its forms was legally abolished in Mauritania in 1981 by the previous government of President Mohamed Khounaould Haidalla. The current head of State was Prime Minister at the time of abolition. Slavery had however already been abolished twice before: firstly, as a consequence of French colonisation<sup>3</sup> and, in 1961, when the Universal Declaration of Human Rights was incorporated into Mauritania’s constitution.

Slavery and slavery like practices however continue to persist today and so action is required to remove the remaining legal obstacles to eradication. The law abolishing slavery was not followed up by the necessary implementing legislation which should have specifically and unequivocally criminalised slavery. Despite the absence of any provisions that specifically criminalise slavery, there are provisions in the penal code which would allow for criminal proceedings against those involved in slavery or slavery-like practices. However, in terms of implementation, there appears to be a gap between the legal texts and current practice. If the authorities of Mauritania are to address the problem of slavery in all its manifestations it requires goodwill on the part of the authorities to prosecute all those in breach of the law.

Amnesty International insists that those suspected of all human rights abuses, including slavery and slavery like practices, are brought to justice and accorded their full rights to a fair trial, without recourse to the death penalty.

Souëïlemould Ely, aged 30, escaped from the man who had enslaved him, Khallihennaould Ahmedould Heïmâd living in Louteïdatt in Hodh Echarghi, near the Malian border,

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<sup>3</sup> A colonial decree of 1905 implemented the French law of 1848 which abolished slavery in all its colonial territories.

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in November 1997<sup>4</sup>. Though Soueïlemould Ely is demanding the release of his mother, Zaïda mint M'Bareck and older sister, Vatma mint Zaïda, they remain enslaved respectively with, Heimâdould Heimâd and Eyddeould Heimâd. This is also despite the fact that the Mauritanian Human Rights Commission was informed of this case in June 1998. This Commission has apparently taken no action. Soueïlemould Ely was born and grew up among the tents of the brothers and sisters of the man who enslaved him. He was responsible for tending the herds, collecting wood, fetching water, pounding millet and preparing meals, working constantly with only a few hours to rest. He was allowed to eat only what remained at the bottom of the cooking vessel, had no milk and rarely had a glass of tea. Every five months he was reportedly given a small thin boubou which could be new or used, and once a year he was given some trousers which were already worn. He had neither shoes nor any blankets to keep him warm. When he was ill, he received no treatment and was accused of malingering. He slept under a tree, as he had no tent, hut or mat, though when it rained he would seek shelter with some of the neighbours of the person who enslaved him. As a child he was often beaten, but this stopped once he had grown up. However the man who enslaved him closely watched to ensure he was working correctly. He allegedly received no education and the person who enslaved him was against his getting married. He felt he had no alternative but to flee. His mother does housework and his sister, aged around 20, also does housework, but additionally cares for camels, sheep and goats.

As well as the legal obstacles to elimination there are also political obstacles with the government of Mauritania stifling debate on the issue of slavery and slavery like practices. The Mauritanian Commission on Human Rights is portrayed by the government as evidence of its political will to end the vestiges of slavery, yet the body concentrates solely on human rights promotion work and has stated that protection was the responsibility of the judicial system, and not the Commission.<sup>5</sup> Such a body could and should make a major contribution to the promotion and protection of human rights.

In 1997, Presidentould Taya stated that those who discuss the "question of slavery" are only aiming to damage the country's reputation, and also that they were part of the same group which had been previously involved in an attempted coup.<sup>6</sup> Amnesty International is concerned that such a denial disguises the real situation and may silence public debate on all forms of slavery. Prior to that speech, there had been a debate in the

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<sup>4</sup> Case reported by *SOS Esclaves*.

<sup>5</sup> *Protectors or Pretenders? Government Human Rights Commissions in Africa*. Human Rights Watch (New York) 2001.

<sup>6</sup> *Mauritanie Nouvelles*, 12-19 January 1997.

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Mauritanian press about slavery. The violation of the civil and political rights of the people of Mauritania is exacerbating the already dreadful circumstances arising out of the violation of their economic, social and cultural rights as enshrined in the International Conventions of 1966.

SOS *Esclaves* is the sole non-governmental human rights organization to make slavery its main focus, but others, such as the *Association Mauritanienne des Droits de l'Homme* (AMDH), Mauritanian Human Rights Association, are also active in that area. Although recognised by the African Commission on Human and Peoples' Rights and other international human rights bodies, these two organizations, plus several others, remain illegal as the government has failed to grant them official recognition.

The government's lack of response to Amnesty International's numerous letters requesting dialogue and seeking the necessary visa to visit Mauritania illustrates the government's complacency to deal with slavery and associated practices. Amnesty International believes Mauritania has an obligation to provide effective protection from all human rights abuses, including slavery and slavery-like practices. Inadequate action by Mauritania to eradicate abuses, is indicative of the state's responsibility for those abuses.

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**Recommendation 6:** Amnesty International urges the international community to work towards a real and effective abolition of slavery and slavery like practices in Mauritania.

In particular Amnesty International is calling upon the International Labour Conference to:

**Recommendation 6a:** Encourage the government of Mauritania to openly confront the issue of slavery and slavery-like practices; it is essential that the government acknowledges that slavery and slavery-like practices remains a problem in Mauritania so that it can be eradicated.

**Recommendation 6b:** Encourage all other relevant inter-governmental bodies to openly confront the true nature of Mauritanian society and the impact of slavery and slavery like practices on its social composition to ensure that any recommendations or projects which are implemented work in favour of eradicating these practices from all aspects of Mauritanian life;

**Recommendation 6c:** Support and encourage the work of civil society organizations in Mauritania and look for ways in which they can cooperate to eradicate slavery and slavery-like practices and help with the challenge of rehabilitation;

**Recommendation 6d:** Ensure a survey is carried out into the number of people who are working either in some form of exploitative employment or subjected to slavery or slavery-like practices with a view to clearly establishing the extent and nature of the problem and to determining ways of dealing with it.

**Recommendation 7:** Amnesty International urges the Committee of Experts on Application of Conventions and Recommendations and the International Labour Conference to hold the government of Mauritania to account for its responsibilities under Convention No. 29.

## Myanmar

Amnesty International during February and March 2002 interviewed some 100 refugees and migrant workers from the Shan, Akha, Lahu, Bama (Burman), Mon, Tavoyan, and Karen ethnic groups at various locations in Thailand. The majority of them had been forced to work for the Myanmar armed forces, and although some reported a recent decrease in the practice, most of them told Amnesty International that they had to do forced labour within the last year, some as recently as February 2002.

Amnesty International welcomes the agreement reached in March 2002 between the Myanmar Government and the ILO with regard to an extended ILO presence in the country. This agreement provides for a liaison officer to take up residence by June 2002 (see Recommendation 10 below).

The most common forms of forced labour reported to Amnesty International were, as usual, working on infrastructure projects, mainly roads, as well as working in fields confiscated by the military from the villagers. However some also reported having to act as porters for the military, and were sometimes beaten if they could not carry their loads or keep up with the military column.

Shan, Lahu, and Akha people reported a high level of forced labour in the townships affected by SPDC<sup>7</sup> counter-insurgency activities in the central-southern Shan State.

One 30 year old Shan subsistence rice farmer from Namsarng township<sup>8</sup>, southern Shan State, reported to Amnesty International that there was an increase in forced labour in his area during the last four years. He said that he had to work one day per week for the military, digging trenches at military bases or working on military farms. The last time he had to perform forced labour was 10 February 2002. At around the same time he also was forced to porter for the army. He had to carry dried meat from the villagers' cattle which the Myanmar army had shot for their own consumption. In general he paid porter fees about twice a month in order to avoid being taken for forced portering duties.

When asked if they had heard about Order 1/99<sup>9</sup>, a decree issued by the SPDC in 1999 forbidding forced labour, several of them said that they had heard of these decrees when their village headman called them together and relayed a message from the

<sup>7</sup> SPDC: the State Peace and Development Council, the highest legislative authority as well as the highest organ of state power in Myanmar.

<sup>8</sup> For security considerations names of witnesses interviewed are not given.

<sup>9</sup> Order no. 1/99, issued on 14 May 1999 and the Order Supplementing order No. 1/99 stipulates that requisition of forced labour is illegal and forbids such acts, and that it is an offence under the Laws of the Union of Myanmar.

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SPDC that there would be no more forced labour. However every one of them said that there had been no change whatsoever in the level of forced labour which they were experiencing.

In addition people in this area in the Shan State were subject to arbitrary fees, sometimes amounting to extortion including porter fees and security fees. They were forced to sell a certain amount of their paddy and other crops at about half the market price to the SPDC; this amount did not vary according to yields but remained at a fixed rate. ILO jurisprudence previously established by the Committee of Experts states under Convention No. 29 that taxation must be in a form that can actually be paid and that if it is not a cash economy, but rather a subsistence economy, the demand for fees, when there is no means of raising this cash amounts to forcing them to work to secure the money.

People also reported forced labour they had been subjected to in some areas of the Mon and southern Karen States as well as in some townships in the Tenasserim Division. Less people from these areas knew about SPDC Order 1/99 but some had heard of it, generally from their village headman.

A 27 year old Mon betelnut farmer who had arrived in Thailand in late February 2002, said that one of the reasons he left his village in Ye Township, Mon State, was because of forced labour. He often had to work repairing the road between Ye town and Kawza for Light Infantry Battalion 299, based at "13 mile" from Ye town. The last time he did this was in February 2002. He reported that he had never been paid for this forced labour, and that he was 17 the first time he had to work for the army. He said that in May 2001 his village headman had called all of the villagers together in order to inform them that there would no longer be any forced labour under SPDC Order 1/99. However he said that there was no change in the rate of forced labour after this meeting, and said that Order 1/99 is "a big joke in this region". He also had to work on military rubber and betelnut plantations, and perform forced portering duties for the army.

From the evidence gathered by Amnesty International from these eastern areas, there does not appear to be a serious attempt by the SPDC to eradicate the practice.

As in the past, villages living near military bases had to do more forced labour than those living away from military installations. Not one of the 100 people interviewed had ever been paid for their labour. It is clear the unpaid forced labour of ethnic minority civilians is continuing, particularly where there are high numbers of SPDC troops moving through an area. Forced labour in combination with other factors mentioned above, continues to generate large outflows of Burmese people into Thailand. Such practices appear to be entrenched and endemic in areas of counter-insurgency activities by the SPDC, and in other areas near military installations.

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The government of Myanmar has ratified the Forced Labour Convention, 1939 (No.29) which requires, within the shortest possible period, the suppression of forced or compulsory labour in all its forms, forced labour being defined as “*all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily*”.

The Abolition of Forced Labour Convention, 1957 (No. 105) prohibits the use of any form of forced or compulsory labour as a means of political coercion or education. Although not a Convention ratified by the Government of Myanmar it is one of the eight Fundamental Conventions and as such the Government is under an obligation to respect in good faith the principles which are the subject of that Convention.

***Recommendation 8:*** In the light of the continuing breaches of international labour standards as binding upon all member states of the ILO Amnesty International is calling for an immediate implementation by all member states of the Resolution passed at the 88<sup>th</sup> session of the International Labour Conference under Article 33 of the ILO constitution. Governments, Workers and Employers of all member states must review their relations with Myanmar to ensure that Myanmar can not take advantage of such relations to perpetuate or extend forced labour.

***Recommendation 9:*** Amnesty International urges the International Labour Conference to hold the Government of Myanmar to account for its responsibilities under Convention No. 29 and for the said Government to implement its duties under this international legislation immediately.

***Recommendation 10:*** Amnesty International urges the Myanmar Government to extend full cooperation to the ILO officer, including access to all parts of the country and population.

## ANNEX I

### The Fundamental ILO Conventions

#### Convention No. 29: Forced Labour Convention (1930)

Requires the suppression of forced or compulsory labour in all its forms. Forced labour is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Certain exceptions are permitted, such as military service; work or service which is part of normal civic obligations; work or service exacted as a consequence of a conviction in a court of law, under certain conditions; work exacted in cases of emergencies such as wars, fires, earthquakes, etc.; and minor communal services as defined. The Convention requires “really adequate” and strictly enforced penal penalties at the national level in cases of illegal exaction of forced or compulsory labour.

#### Convention No. 87: Freedom of Association and Protection of the Right to Organize Convention (1948)

Establishes the right of all workers and employers to form and join organizations of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organizations without interference by the public authorities. Only the armed forces and the police may be exempted by national laws or regulations. Organizations have the right to establish and join federations and confederations. Organizations, federations and confederations have the right to affiliate with international organizations of workers and employers.

Convention No. 98: Right to Organize and Collective Bargaining Convention  
(1949)

Provides for protection against anti-union discrimination, for protection of workers' and employers' organizations against acts of interference by each other, and for measures to promote and encourage collective bargaining. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, particularly in respect of acts calculated (1) to make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership, and (2) to cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities. Workers' and employers' organizations shall be protected against interference by each other or each other's agents or members. In particular, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference. The Convention requires measures appropriate to national conditions to be taken to encourage and promote full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Convention No. 100: Equal Remuneration Convention (1951)

Calls for equal pay for men and women for work of equal value. The Convention defines equal remuneration for work of equal value as remuneration established without discrimination based on sex. States having ratified the Convention shall promote and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. This principle may be applied by means of national laws or regulations, legal machinery for wage determination, collective agreements or a combination of these various means. One of the means specified for assisting in giving effect to the Convention is the objective appraisal of jobs on the basis of the work to be performed. The Convention provides that governments shall co-operate with employers and workers' organizations for the purpose of giving effect to its provisions.

#### Convention No. 105: Abolition of Forced Labour Convention (1957)

Prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization for purposes of economic development, labour discipline, punishment for participation in strikes, or racial, social, national or religious discrimination.

#### Convention No. 111: Discrimination (Employment and Occupation) Convention (1958)

Calls for a national policy to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, and to promote equality of opportunity and treatment. Member states having ratified this Convention undertake to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with this policy, and to enact legislation and promote educational programmes which favour its acceptance and implementation in co-operation with employers' and workers' organizations. This policy shall be pursued and observed in respect of employment under the direct control of a national authority, and of vocational guidance and training, and placement services under the direction of such an authority.

#### Convention No. 138: Minimum Age Convention (1973)

Requires ratifying states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. One of the principal means to be taken for this purpose is the prohibition of employment or work for children under the duly fixed minimum age. The Convention sets a number of minimum ages depending on the type of employment or work. The minimum age should not be less than the age for completing compulsory schooling and in no event less than age 15. For countries whose economic and educational facilities are insufficiently developed, the age can be set initially at 14. A higher minimum age should be set for hazardous work. This age may not be less than 18. In the case of light work, the minimum age can be set at 13 years, or 12 years where the economy and educational facilities are insufficiently developed.

### Convention No. 182: Worst Form of Child Labour Convention (1999)

Applies to all persons under the age of 18 and calls for “immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.” The Convention defines the worst forms of child labour as: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, serfdom and forced or compulsory labour; forced or compulsory recruitment of children for use in armed conflict; use of a child for prostitution, production of pornography or pornographic performances; use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs; work which is likely to harm the health, safety or morals of children. The Convention requires ratifying states to “design and implement programmes of action” to eliminate the worst forms of child labour as a priority and “establish or designate appropriate mechanisms” for monitoring implementation of the Convention, in consultation with employers’ and workers’ organizations. Furthermore, ratifying states should “provide support for the removal of children from the worst forms of child labour and their rehabilitation; ensure access to free basic education or vocational training for all children removed from the worst forms of child labour; identify children at special risk; and take into account the special situation of girls.”









Name of Member State	Number of Conventions Ratified	Forced Labour		Freedom of association		Discrimination		Child Labour	
		c.29	c.105	c.87	c.98	c.100	c.111	c.138	c.182
Thailand	4	U	U	X	X	U	X	X	U
The Former Yugoslav Republic of Macedonia	6	U	X	U	U	U	U	U	X
Togo	8	U	U	U	U	U	U	U	U
Trinidad & Tobago	6	U	U	U	U	U	U	X	X
Tunisia	8	U	U	U	U	U	U	U	U
Turkey	8	U	U	U	U	U	U	U	U
Turkmenistan	6	U	U	U	U	U	U	X	X
Uganda	4	U	U	X	U	X	X	X	U
Ukraine	8	U	U	U	U	U	U	U	U
United Arab Emirates	6	U	U	X	X	U	U	U	U
United Kingdom	8	U	U	U	U	U	U	U	U
United Republic of Tanzania	6	U	U	U	U	X	X	U	U
United States of America	2	X	U	X	X	X	X	X	U
Uruguay	8	U	U	U	U	U	U	U	U
Uzbekistan	5	U	U	X	U	U	U	X	X
Venezuela	7	U	U	U	U	U	U	U	X
Vietnam	3	X	X	X	X	U	U	X	U
Yemen	8	U	U	U	U	U	U	U	U
Yugoslavia	6	U	X	U	U	U	U	U	X
Zambia	8	U	U	U	U	U	U	U	U
Zimbabwe	7	U	U	X	U	U	U	U	U