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## Colombia

### **Killings, arbitrary detentions, and death threats -- the reality of trade unionism in Colombia**

July 2007

Summary

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More than 2,000 trade unionists have been killed and 138 have been victims of enforced disappearance in Colombia over the last two decades. In more than 90 per cent of cases, those responsible have not been brought to justice. Despite a reduction in recent years in the number of trade unionists killed, Amnesty International (AI) considers that the human rights situation facing trade unionists remains serious. The Colombian authorities have taken some steps to improve their safety. However, more decisive action must be taken to ensure that freedom of association rights are respected, in practice as well as in law.

Despite the supposed demobilization of army-backed paramilitary groups, trade unionists continue to be threatened and killed by paramilitaries who have ostensibly been demobilized. The security forces have also been directly responsible for killing trade unionists and instigating arbitrary criminal proceedings against them. AI considers that a co-ordinated military-paramilitary strategy designed to undermine the work of trade unionists continues to be pursued both through their physical elimination and by seeking to discredit the legitimacy of trade union work. Guerrilla forces have also been responsible for killings of trade unionists.

It is not always possible to determine the motivation behind killings or death threats against trade unionists. In the context of Colombia's long-running internal armed conflict, trade unionists have often been targeted for human rights abuses because of their political affiliation or motives other than their trade union activities. However, there is a pattern of human rights abuses against trade unionists taking place in the context of labour disputes which indicates that trade unionists are targeted precisely because of their trade union work.

AI considers that the international community has an important role to play in efforts to guarantee the right to freedom of association in Colombia. The decision of the International Labour Organization (ILO) in 2006 to appoint a permanent representative to Colombia to observe freedom of association rights provides a welcome opportunity for the international community to monitor closely the human rights crisis faced by trade unionists and to call on the Colombian authorities to take decisive action to ensure their safety.

This report summarizes a 55-page document (26,233 words), *Colombia: Killings, arbitrary detentions, and death threats -- the reality of trade unionism in Colombia* (AI Index: AMR 23/001/2007) issued by Amnesty International in July 2007. Anyone wanting further details or wishing to take action on this issue should consult the full document. An extensive range of AI materials on this and other subjects is available at <http://www.amnesty.org> and AI news releases can be received by email: [http://www.amnesty.org/email/email\\_updates.html](http://www.amnesty.org/email/email_updates.html)

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# **Colombia**

## **Killings, arbitrary detentions, and death threats -- the reality of trade unionism in Colombia**

### **Introduction: the human rights crisis and trade unionists**

Over the last four decades, Colombia has faced an armed conflict which has pitted the security forces and paramilitaries against guerrilla forces, the largest of which are the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC), and the much smaller National Liberation Army (Ejército de Liberación Nacional, ELN). The conflict has been marked by the widespread and systematic violation of human rights and breaches of international humanitarian law by all the parties.

During the armed conflict, the armed forces and their paramilitary allies have pursued a counter-insurgency strategy which has sought to deny guerrilla forces any imagined or real support from the civilian population. Terror is integral to this strategy: enforced disappearances, torture, sexual and other forms of violence against women, death threats, and killings of civilians are designed to break any real or perceived links between civilians and the guerrilla.

Terror tactics are also used to enable powerful economic elites to protect, expand and consolidate their interests. Over 60 per cent of the more than 3 million internally displaced people in Colombia have been forced from their homes and lands in areas of mineral, agricultural or other economic importance. The conflict provides a useful cover for those seeking to expand and protect economic interests. It is in this context that trade unionists are the target of numerous human rights violations. Trade unionists are repeatedly labelled as subversive by the security forces and paramilitaries. Such criticisms are often followed by human rights violations which also frequently coincide with periods of labour unrest or negotiations over working conditions.

Impunity is a key component of this counter-insurgency strategy – the knowledge that the perpetrators of human rights violations will not be brought to justice sends a clear and powerful message to individuals and organizations not to seek justice. It also sends a clear message to such groups that their members and leaders could suffer further human rights violations if they do not put an end to their activities. Impunity ensures that the perpetrators of human rights violations are still at large and more than willing to repeat their actions.

The impunity enjoyed by security force personnel responsible for human rights violations has been guaranteed through a variety of techniques designed to ensure that crimes are not fully investigated. The security forces have covered up their involvement by using paramilitary groups to carry out their “dirty war” tactics and have sought to improve their human rights

image by denying that paramilitaries operate with their acquiescence, support or, as is often the case, under their coordination.

The use of paramilitaries provides another dimension of terror to the Colombian conflict. At the national and international level the armed forces and Colombian government deny links between the armed forces and the paramilitaries, at most admitting to individual cases of collusion involving a few “rotten apples”. However, at local level these links are often not denied and are sometimes even deliberately made evident in order to increase fear among the civilian population. In essence, the message is “who are you going to turn to for help?”

Guerrilla forces are responsible for repeated and widespread breaches of international humanitarian law. These include killings of those they consider to be siding with their enemies or who oppose their interests – including trade unionists; kidnappings and hostage-taking; sexual abuse and other forms of violence against women; and indiscriminate and disproportionate attacks against military targets which have often resulted in civilian deaths.<sup>1</sup> Guerrilla forces have also targeted industrial infrastructure and kidnapped company employees as a means of extorting money from companies or of expressing their opposition to the company’s investment activities.

Colombia continues to face a human rights crisis, despite improvements in certain indicators of violence associated with the armed conflict, such as killings and kidnappings. In particular, Amnesty International (AI) continues to be concerned about the still high numbers of internally displaced people; killings of and threats against trade unionists and human rights defenders, mainly by paramilitary groups; continued enforced disappearances, arbitrary detentions and extrajudicial killings by the security forces; and killings and kidnappings of civilians by guerrilla groups. All parties to the conflict continue to commit war crimes, crimes against humanity and other crimes under international law.

Although more than 30,000 paramilitaries have reportedly been “demobilized” in the last three years in a controversial government-sponsored demobilization process, there is strong evidence that paramilitary groups continue to operate and have been responsible for human rights violations including threats, killings, and enforced disappearances, sometimes committed with the acquiescence of or in collusion with the security forces. Although the Justice and Peace Law, designed to regulate the demobilization process, has been modified by the Constitutional Court, concerns remain that the legislation will exacerbate the endemic problem of impunity and deny victims their right to truth, justice and reparation, especially since the government subsequently reversed some of the Court’s modifications in its Decree 3391 (see Appendix 1).

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<sup>1</sup> For more information on Colombia’s armed conflict, the armed forces’ counter-insurgency strategy and breaches of international humanitarian law by guerrilla groups, see Amnesty International reports *Colombia: Political Violence in Colombia: Myth and Reality* (AI Index: AMR 23/001/1994); *Colombia: Laboratory of War: Repression and Violence in Arauca* (AI Index: AMR 23/004/2004); *Colombia: The Paramilitaries in Medellín: Demobilization or Legalization?* (AI Index: AMR 23/019/2005); and *Colombia: Letter for the Attention of Mr Manuel Marulanda, Revolutionary Armed Forces of Colombia – People’s Army* (AI Index: AMR 23/124/2002).

In recent years, the percentage of human rights abuses against trade unionists which cannot be attributed to a particular party to the conflict has increased significantly. Nevertheless, cases in which clear evidence of responsibility is available indicates that in 2005 around 49 per cent of human rights abuses against trade unionists were committed by paramilitaries and some 43 per cent directly by the security forces. Just over 2 per cent were attributable to guerrilla forces (primarily the FARC and ELN) and just over 4 per cent to criminally-motivated actions. According to the non-governmental human rights organization National Trade Union School (Escuela Nacional Sindical, ENS), the number of trade unionists killed and forcibly disappeared has fallen, from 209 in 2001 to 73 in 2005, although there was a slight increase to 77 in 2006.<sup>2</sup> AI has received information on at least six killings attributed to guerrilla forces in 2006. Nine trade unionists were reportedly killed in the first four months of 2007.

It is often not possible to determine the motivation behind killings or death threats against trade unionists. In the context of Colombia's long-running armed conflict, trade unionists have often been the target of human rights abuses as a result of their political affiliations or motives other than their trade union activities. However, the fact that a high proportion of human rights abuses against trade unionists take place in the course of labour disputes does point to a pattern that indicates trade unionists are targeted because of their work in support of socio-economic rights.

Many of the cases documented in this report refer to killings of and threats against trade unionists which have taken place in a context of labour disputes, including those involving trade union campaigns against the privatization of public services or public sector companies. It is also important to underline that often it is the relatives of trade unionists who have been killed and threatened. Attacks against relatives are intended to intimidate trade unionists and undermine their work and may also be designed to limit the numbers of human rights violations registered as attacks against trade unionists.

This report also includes several cases of human rights abuses against women trade unionists. According to the ENS, at least 13 women trade unionists were killed in the first 11 months of 2006, compared to 15 in the whole of 2005 and 16 in 2004. There were also 102 recorded death threats against women trade unionists in 2005, compared to 187 in 2004. Only 14 death threats were recorded in 2001 and six in 2002. The ENS notes that in 2005 men accounted for some 65 per cent of victims of anti-trade union violence and women for around 34 per cent.<sup>3</sup>

By assuming activist roles in Colombian trade unions and other organizations, Colombian women are challenging traditional gender roles. For women to secure such leadership roles may require significantly more effort than that invested by male colleagues. Threats and

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<sup>2</sup> See *Libertades Sindicales en Colombia*, ENS. See [www.ens.org.co/aa/img\\_upload/45bdec76fa6b8848acf029430d10bb5a/LAS\\_LIBERTADES\\_SINDICALES\\_EN\\_COLOMBIA.doc](http://www.ens.org.co/aa/img_upload/45bdec76fa6b8848acf029430d10bb5a/LAS_LIBERTADES_SINDICALES_EN_COLOMBIA.doc)

<sup>3</sup> *Informe sobre la violación a los derechos humanos a los y las sindicalistas colombianos en el 2005*, ENS, 2006.

killings against female trade unionists not only seek to undermine trade union activity but are a heavy blow for those women seeking to challenge traditional gender roles.

### **Government obligations to respect and uphold trade union rights**

Freedom of association is recognized under Colombian law and Colombia's 1991 Constitution. The 1991 Constitution recognizes the right of trade unions to organize and to strike (except for workers in services considered essential). In its ruling C-401 of 2005, the Constitutional Court established that International Labour Organization (ILO) Conventions No. 98 (on the right to organize and to bargain collectively) and No. 87 (on freedom of association and protection of the right to organize) should be considered as integral to the Constitution. However, the right to strike is restricted by Law 50 of 1990 which establishes that strike action which lasts longer than 60 days can be subject to compulsory arbitration, in contravention to principles established in ILO Convention No. 87.<sup>4</sup>

Trade unionists complained to the ILO High-Level Tripartite Mission to Colombia,<sup>5</sup> which took place in October 2005, about legislation and practices which restrict trade union rights. These include Law 50 (1990), which restricts the rights of trade unions to establish union committees and local branches, and the lack of regulation on collective bargaining in the public sector which had meant that those rights for public employees had been restricted in practice. Trade unionists also complained to the Mission that the practice of turning workers into cooperative associates was being used as a means to deny workers their trade union rights.<sup>6</sup>

In an April 2006 report,<sup>7</sup> the trade union confederations Trade Union Congress (Central Unitaria de Trabajadores, CUT), the General Confederation of Labour (Confederación General del Trabajo, CGT), and the Confederation of Colombian Workers (Confederación de Trabajadores de Colombia, CTC), informed the ILO that the rate of creation of new trade unions had declined. The report pointed to administrative obstacles which impeded the registration of new trade unions. According to the Social Protection Ministry, of 185 requests

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<sup>4</sup> The ILO's Committee on Freedom of Association considers : "521. ... that a system of compulsory arbitration through the labour authorities, if a dispute is not settled by other means, can result in a considerable restriction of the right of workers' organizations to organize their activities and may even involve an absolute prohibition of strikes, contrary to the principles of freedom of association." See *Digest of Decisions and Principles of the Freedom of Association Committee, 1996. Right to life, security and the physical and moral integrity of the person (Trade union rights and civil liberties)*. See <http://www.ilo.org/ilolex/english/digestq.htm>

<sup>5</sup> As a result of discussions held by the Committee on the Application of Standards of the International Labour Conference (ILC) in June 2005, a high-level mission, comprising the Chairperson of the Committee on Freedom of Association and the Employer and Worker Vice-Chairpersons of the ILC Committee on the Application of Standards, visited Colombia from 24 to 29 October 2005.

<sup>6</sup> See 340th report of the Committee on Freedom of Association, document reference CB 295/8/1, March 2006, available from <http://www.ilo.org/public/english/standards/relm/gb/docs/gb295/pdf/gb-8-1.pdf>, paragraph 99, p203.

<sup>7</sup> CUT, CTC, CGT, *Informe de las Centrales Sindicales Colombianas a la 95ª Conferencia Internacional del Trabajo, al Consejo de Administración de la Oficina Internacional del Trabajo, Al Comité de Libertad Sindical y a la Comisión de Expertos en Aplicación de Convenios y Recomendaciones del Trabajo*, 19 April 2006.



made in 2005 to register trade unions, only 114 had been accepted even though Colombian law establishes that trade unions acquire legal status automatically on their creation. The report expressed concern that a trade union's creation could be blocked through administrative decisions.

The ILO High-Level Tripartite Mission to Colombia of October 2005 concluded that “the climate of violence against trade unionists could only be understood within the context of the laws, policies and practices that it felt seriously undermined trade unionism in the country. Among the issues raised as having a severe impact on freedom of association and collective bargaining were: restructuring of companies to eliminate union representation, the use of cooperatives to disguise employment relationships and avoid unionization; subcontracting and the use of commercial and civil contracts to keep workplaces union free; collective accords and their impact on unions and collective bargaining; the use of the union contract; the denial of collective bargaining for public servants; obstacles to trade union registration; and the legal prohibition of the right to call for a strike in services not considered as essential *stricto sensu*, in many public services that are not essential *stricto sensu*...”<sup>8</sup>

The Colombian state ratified the ILO's Conventions No.87<sup>9</sup> and No. 98<sup>10</sup> on 16 November 1976. These Conventions commit the Colombian state to guarantee fundamental trade union rights including the right to freedom of association, the right to organize and the right to collective bargaining. The Committee on Freedom of Association<sup>11</sup> has made it clear that: “[t]he rights of workers' and employers' organizations can only be exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations, and it is for governments to ensure that this principle is respected.”<sup>12</sup>

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<sup>8</sup> 340th report of the Committee on Freedom of Association, document reference CB 295/8/1, March 2006, p.208.

<sup>9</sup> Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organize. Adopted on 9 July 1948 by the General Conference of the International Labour Organisation at its thirty-first session, *entry into force* 4 July 1950, in accordance with Article 15.

<sup>10</sup> Convention (No. 98) concerning the Application of the Principles of the Right to Organize and to Bargain Collectively. Adopted on 1 July 1949 by the General Conference of the International Labour Organization at its thirty-second session *entry into force* 18 July 1951, in accordance with Article 8.

<sup>11</sup> The Committee on Freedom of Association together with the Fact-Finding and Conciliation Commission on Freedom of Association are part of the Governing Body of the ILO. These bodies supervise the application of ILO standards. The Committee examines complaints of possible violations of these standards and recommends to the Governing Body whether any further action is required, whether the complaint should be brought to the attention of the relevant government to remedy the situation, or whether it should seek the approval of the government concerned for the case to be referred to the Fact-Finding and Conciliation Commission on Freedom of Association. The Committee on Freedom of Association's examination of numerous cases has enabled it to “build up a very full, balanced and coherent body of principles on freedom of association and collective bargaining, based on the provision of the Constitution of the ILO and of the relevant Conventions, Recommendations and resolutions. This body of principles... has... acquired a broadly recognized authority at both the international and national levels, where it is increasingly being used for the development of national legislation, as well as in the various bodies responsible for the application of trade union law.” Introduction to the Digest of Decisions and Principles of the Freedom of Association Committee, 1996. See <http://www.ilo.org/ilolex/english/digestq.htm> This report makes reference to key principles highlighted by the Committee.

<sup>12</sup> Digest of Decisions and Principles of the Freedom of Association Committee, 1996. Right to life, security and the physical and moral integrity of the person (Trade union rights and civil liberties). See

These rights are closely related to other fundamental human rights such as the rights to life, physical integrity and freedom of expression. As a member of the United Nations (UN) and the Organization of American States (OAS), Colombia has voluntarily undertaken a legal commitment to uphold the provisions set out in numerous international and regional human rights treaties. In addition, the supremacy of international treaties over all domestic law has been established in the 1991 Colombian Constitution.<sup>13</sup>

Trade unionists are human rights defenders. Human rights defenders are crucial actors in the struggle for political, social and economic rights. Human rights defenders are all those men and women whose actions – individual or collective – contribute to the effective elimination of all violations of fundamental rights. States have international obligations to protect human rights defenders. In December 1998 the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the Declaration on Human Rights Defenders). The Declaration is a set of principles based on legal standards enshrined in international human rights law.<sup>14</sup> It sets out the rights of human rights defenders and the specific freedoms and activities which are fundamental to their work. These include the right to know, seek, obtain and receive information about human rights and fundamental freedoms; the right to participate in peaceful activities against violations of human rights; the right to criticize and complain when governments fail to comply with human rights standards; and the right to make proposals for improvement.

The governments of the Americas have acknowledged the importance of individuals, groups and non-governmental organizations (NGOs) that promote human rights in several resolutions, the most recent of which, on human rights defenders, was adopted by the OAS in June 2006.<sup>15</sup>

### ***Government security measures for trade unionists***

Over the years, successive Colombian governments have taken action to improve the safety of trade unionists through a variety of measures designed to increase their security. This support is coordinated by the Protection Programme of the Ministry of Interior and Justice. This has included the provision of bodyguards, armour-plated vehicles and mobile telephones. Any measures to protect trade unionists, in line with what those under threat deem to be appropriate, are to be welcomed.

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<http://www.ilo.org/ilolex/english/digestq.htm>

<sup>13</sup> Article 93, para. 1 of the Constitution of Colombia states: “International treaties and agreements ratified by the Congress that recognize human rights and that prohibit their limitation in states of emergency, have priority domestically. The rights and duties mentioned in this Charter will be implemented in accordance with international treaties on human rights ratified by Colombia.”

<sup>14</sup> See *Colombia: Fear and Intimidation: The dangers of human rights work* (AI Index: AMR 23/033/2006).

<sup>15</sup> Human Rights Defenders: Support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas. G/RES. 2177 (XXXVI-O/06), 2006.

AI is concerned, however, that such measures have sometimes been withdrawn or restricted, even at times of heightened security risk for the trade unionists benefiting from these measures. Budgetary constraints are often used by the authorities to justify these restrictions. This report does not seek to evaluate the protection programme; AI considers that the high number of killings of trade unionists is indicative that such security measures on their own are not sufficient. The government must take concrete action to end the impunity enjoyed by those responsible for abusing the human rights of trade unionists and to ensure a sustained and substantive improvement in the human rights situation.

### ***The establishment of a permanent ILO presence in Colombia***

During the 95<sup>th</sup> International Labour Conference (ILC) of the ILO, held from 31 May to 16 June 2006,<sup>16</sup> an agreement was reached with the government to establish a permanent ILO presence in Colombia. This would, among other things, promote and defend the basic rights of trade unionists in the country.<sup>17</sup> The agreement<sup>18</sup> also included a commitment to monitor closely progress made by a special investigation unit of Colombia's Office of the Attorney General (Fiscalía General de la Nación)<sup>19</sup> set up to investigate killings and arbitrary detentions of trade unionists. On 17 October 2006, further to this agreement, the Office of the Attorney General stated that it had deployed a significant number of investigative attorneys in order to end impunity in cases of violations of the right to life against trade unionists and the Colombian government announced that it was designating economic resources to the Office of the Attorney General to undertake this work. AI welcomes the commitment made by the government to end impunity in these cases and hopes this initiative will achieve significant results.

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<sup>16</sup> The International Labour Conference (ILC) takes place once a year in Geneva. All ILO member states are represented, as are trade unions and employers. The ILC's role is, *inter alia*, to oversee compliance with international labour standards.

<sup>17</sup> This recommendation followed an ILO High-Level Tripartite Mission to Colombia in October 2005 to review the application of ILO Convention No. 87 and an ILO technical cooperation programme in Colombia designed to support full respect of ILO Conventions No. 87 and No. 98 in Colombia. The mission concluded that technical cooperation and efforts by the Colombian government to ensure full respect for Conventions No. 87 and No. 98 were insufficient to overcome the crisis confronting trade unionists in Colombia and recommended the establishment of a permanent ILO office in Colombia to support the development of a programme to combat impunity and promote and defend the fundamental human rights of workers and freedom of association.

<sup>18</sup> The agreement, Tripartite Agreement for the Right to Association and Democracy (Acuerdo Tripartito por el Derecho de Asociación y la Democracia, unofficial translation), was signed by the Colombian government, Colombian workers and employer representatives on 1 June 2006. The agreement establishes that the Colombian government will work with the ILO and worker and employer representatives on establishing a permanent ILO presence in Colombia "whose priority task will be technical cooperation aimed at promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers. The parties request the Governing Body to put this agreement into effect and to provide the logistics and structure for its implementation". The full text of the agreement is included in Appendix 3.

<sup>19</sup> The Office of the Attorney General was set up by the 1991 Constitution to investigate and prosecute all crimes committed in Colombia, including human rights violations and abuses.

On 18 October 2006, an agreement was reached between the government and trade union and employer representatives on the mandate of the Permanent Representation of the ILO in Colombia, and the Permanent Representation began operating on 15 January 2007.

### **The endemic problem of impunity**

Substantive improvement in the human rights situation faced by trade unionists will not be secured without decisive action to end the impunity enjoyed by the vast majority of perpetrators of human rights abuses against trade unionists. Since 1991, the ENS estimates that there have been 2,245 killings, 3,400 threats and 138 enforced disappearances of trade unionists.<sup>20</sup> Impunity in these cases remains at over 90 per cent. AI is concerned by the fact that the Colombian government has promoted legislation – such as the Justice and Peace Law, Decree 128 of 2003 and Law 906 of 2004 – which is threatening to consolidate impunity by providing *de facto* amnesties to paramilitaries and guerrillas responsible for human rights abuses.<sup>21</sup> These measures could also consolidate the impunity of third parties, including members of the security forces, responsible for supporting or coordinating paramilitary groups. Measures which strengthen impunity run counter to recommendations made by the UN High Commissioner for Human Rights and to international human rights standards the Colombian state is obliged to respect, including ILO standards.

In repeated statements, the ILO's Committee on Freedom of Association has established that violations of the right to life of trade unionists must be investigated:

“The killing, disappearance or serious injury of trade union leaders and trade unionists requires the institution of independent judicial inquiries in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events.”<sup>22</sup>

The Committee has also made it clear that:

“In the event that judicial investigations into the murder and disappearance of trade unionists are rarely successful, the Committee has considered it indispensable that measures be taken to identify, bring to trial and convict the guilty parties and has

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<sup>20</sup> See *Libertades Sindicales en Colombia*, ENS [www.ens.org.co/aa/img\\_upload/45bdec76fa6b8848acf029430d10bb5a/LAS\\_LIBERTADES\\_SINDICALES\\_EN\\_COLOMBIA.doc](http://www.ens.org.co/aa/img_upload/45bdec76fa6b8848acf029430d10bb5a/LAS_LIBERTADES_SINDICALES_EN_COLOMBIA.doc)

<sup>21</sup> For more information on these pieces of legislation and why AI considers Decree 128 provides for *de facto* amnesties see *Colombia: The Paramilitaries in Medellín: Demobilization or Legalization?* (AI Index: AMR 23/019/2005), and Appendix 1 of this report.

<sup>22</sup> Digest of Decisions and Principles of the Freedom of Association Committee, 1996. Right to life, security and the physical and moral integrity of the person (Trade union rights and civil liberties). See <http://www.ilo.org/ilolex/english/digestq.htm>

pointed out that such a situation means that, in practice, the guilty parties enjoy impunity which reinforces the climate of violence and insecurity and thus has an extremely damaging effect on the exercise of trade union rights.”<sup>23</sup>

Analysis of the information provided by the Colombian government to the Committee on Freedom of Association and other information which appears in the 340th report of the Committee published in March 2006 confirms the high levels of impunity.<sup>24</sup> Of 298 cases of killings of trade unionists between 2002 and 2004 which are under investigation by the Office of the Attorney General only four have resulted in a sentence, that is to say, just over 1.3 per cent.

### **Wilson Borja**

Among the few cases in which criminal investigations have advanced is that of the attempt on the life of former trade union leader and member of Congress Wilson Borja Díaz. On 15 December 2000, gunmen opened fire on the then trade union leader seriously wounding him. Criminal investigations established that the attempt on his life was part of a military-paramilitary operation and resulted in sentences of between 42 months and 28 years’ imprisonment being passed against several paramilitaries, including paramilitary leader Carlos Castaño Gil, who was sentenced *in absentia*, and several members of the security forces, including army Major César Alonso Maldonado Vidales. Information on these sentences was submitted by the government to the Committee on Freedom of Association and included in the Committee’s 340<sup>th</sup> Report.

However, the government appears to have omitted to inform the Committee that on 3 November 2004, one of the main perpetrators, Major César Alonso Maldonado Vidales, was able to escape from the military base where he was being held. It is not clear what efforts, if any, the authorities have undertaken to secure his re-capture. Before his conviction, it was alleged that Major Maldonado had undertaken intelligence work from the Bogotá military police barracks where he was being held, and had been free to come and go at will.

### **The killing of the SINTRAMIENERGETICA trade union leadership**

On 12 March 2001, Valmore Locarno Rodríguez and Víctor Hugo Orcasita Amaya, President and Vice-president, respectively, of the National Mining and Energy Workers’ Union (Sindicato Nacional de Trabajadores de Empresas Mineras y Energéticas, SINTRAMIENERGETICA), were reportedly forced off the bus on which they were travelling in El Paso Municipality, Cesar Department, by paramilitaries. Valmore Locarno was shot in

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<sup>23</sup> Digest of Decisions and Principles of the Freedom of Association Committee, 1996. Right to life, security and the physical and moral integrity of the person (Trade union rights and civil liberties). See <http://www.ilo.org/ilolex/english/digestq.htm>

<sup>24</sup> 340th report of the Committee on Freedom of Association, document reference CB 295/8/1, March 2006, available on <http://www.ilo.org/public/english/standards/reim/gb/docs/gb295/pdf/gb-8-1.pdf>

the head several times and killed. Víctor Hugo Orcasita was reportedly tied up and thrown into a vehicle. His body was found several hours later by the roadside. He had been tortured before being shot dead. The killings occurred during the course of negotiations regarding contracts with the US mining concern, Drummond Company.

Criminal investigations into the killings have been slow to advance beyond the preliminary phase (which is designed to identify individuals who may be implicated in crimes). On 2 May 2007 the Office of the Attorney General issued an arrest warrant against paramilitary leader Rodrigo Tovar Pupo, alias Jorge 40, for his alleged part in the killing of Valmore Locarno Rodríguez and Víctor Hugo Orcasita Amaya.

On 14 March 2002, SINTRAMIENERGETICA and relatives of Valmore Locarno Rodríguez and Víctor Hugo Orcasita Amaya filed a lawsuit under the terms of the US Alien Tort Claims Act,<sup>25</sup> with the US District Court, N.D. Alabama, Western Division, against Drummond Company in relation to the company's possible role in the killings of these two trade union leaders and Gustavo Soler Mora (see below). On 14 April 2003, the US Court considering the lawsuit ruled it would proceed with at least some of the claims made by the plaintiffs. According to information in the possession of the District Court, whilst the contract negotiations with the trade union were under way, pamphlets were circulated on Drummond Company premises labelling SINTRAMIENERGETICA a "guerrilla union" and accusing Víctor Hugo Orcasita and Valmore Locarno of being guerrilla supporters. According to the court document, Valmore Locarno wrote to Drummond Ltd<sup>26</sup> protesting that the pamphlets had been circulated in La Loma mine in Cesar Department.

Valmore Locarno and Víctor Hugo Orcasita had requested that they be allowed to sleep at the coalmine rather than leave the premises because of fears for their safety. This request was denied. Following their killings, Gustavo Soler Mora assumed the presidency of SINTRAMIENERGETICA. He and other leaders of SINTRAMIENERGETICA reportedly reiterated the request for union leaders to be allowed to sleep on the premises; again the request was denied. Gustavo Soler was killed by paramilitaries who reportedly forced him off the bus on which he was travelling in the direction of his home in the town of Chiriguaná, Cesar Department, on 5 October 2001. According to information received, the paramilitaries forced the bus to stop, boarded the vehicle and called Gustavo Soler by name. His body, which showed signs of torture, was found in the area on 7 October 2001.

On 13 May 2006, Rafael García, a former high-ranking official from the Civilian Intelligence Department (Departamento Administrativo de Seguridad, DAS), had given a sworn statement filed with the US Court considering the lawsuit against Drummond Company in which he claimed to have witnessed company officials handing over money to a paramilitary leader in order to kill Valmore Locarno and Víctor Hugo Orcasita (see section below on security force-

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<sup>25</sup> The Alien Tort Claims Act of 1789 enables non-US citizens to use federal courts to hold legal persons, including corporations, accountable for certain wrongful acts committed in violation of international law.

<sup>26</sup> Drummond Ltd. is a company based in Alabama, USA, under the ownership of Drummond Company Inc. and manages the coal operations of Drummond Company in Colombia.

paramilitary operations to target trade unionists). The company has publicly rejected these accusations. The judge hearing the case has decided to allow the parties to proceed to submit Rafael Garcia's deposition in Colombia. If this deposition is taken – a process which would allow defendants to cross-examine Rafael Garcia on his testimony – the deposition transcript would be permitted for use at trial. More recently the judge has ruled that the allegations made by a former member of the Colombian army may also be presented to the trial. In a sworn statement made on 3 April 2007 filed with the court, the former soldier alleges that Drummond had provided paramilitaries with vehicles.

Trade unionists representing Drummond Company workers continue to be the target of human rights violations (see section below on trade unionists in strategic sectors).

### ***The killing of three trade unionists in Arauca***

Three trade unionists – Héctor Alirio Martínez, leader of the *Asociación Departamental de Usuarios Campesinos* (ADUC), Arauca Department Association of Peasant Farmers, Leonel Goyeneche, a CUT member in Arauca, and Jorge Prieto, a hospital worker and president of the Arauca Branch of the health-worker's union National Association of Workers and Employees of Hospitals, Clinics, Consultancies, and Organizations Dedicated to the Provision of Community Health (*Asociación Nacional de Trabajadores y Empleados de Hospitales, Clínicas, Consultorios y Entidades Dedicadas a Procurar la Salud de la Comunidad, ANTHOC*), – were killed by army soldiers on 5 August 2004. The three were reportedly forced out of Jorge Prieto's house in the hamlet of Caño Seco, Saravena Municipality, Arauca Department, by soldiers belonging to the "General Gabriel Revéiz Pizarro" Battalion (Batallón "General Gabriel Revéiz Pizarro"), of the XVIII Brigade of the army and shot dead.

According to the then commander of the 2<sup>nd</sup> Division, to which the XVIII Brigade belongs, General Luis Fabio García, the three trade unionists were killed in combat by soldiers of the "General Gabriel Revéiz Pizarro" Battalion. Arrest warrants had reportedly been issued against the three men. Subsequent investigations revealed that the three trade unionists were not killed in combat and had been shot in the back. In July 2005 an army lieutenant, three soldiers and a civilian were charged with the killings. The investigations also reportedly revealed that the civilian under investigation accused the three trade unionists of being subversives in a radio programme broadcast from the "General Gabriel Revéiz Pizarro" Battalion base in Saravena Municipality. It is of concern that criminal investigations have not established possible chain-of-command responsibility in the killings despite the killings taking place within an official military operation and that a battalion commander had labelled Jorge Prieto a guerrilla prior to his killing.

On 2 May 2006 the Office of the Procurator General,<sup>27</sup> reported it had opened disciplinary investigations against several members of the "General Gabriel Revéiz Pizarro" Battalion,

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<sup>27</sup> The role of the Office of the Procurator General is to carry out disciplinary investigations into allegations of misconduct, including human rights violations, by public officials, such as members of the security forces.



including its commander, for their possible responsibility in the killings. The Office of the Procurator General referred to the fact that criminal investigations against senior officers for their possible involvement had not advanced.

### **Security force-paramilitary operations to target trade unionists**

In recent years, AI has received information of a number of security force and paramilitary plans to target trade unionists. Many of these plans appear to indicate the existence of operations coordinated at national or regional level by the security forces operating in collusion with paramilitary forces to target trade unionists. Many of these operations involve human rights violations such as extrajudicial executions. These operations often coincide with arbitrary legal proceedings against trade unionists which are coordinated by the armed forces and often rely on the evidence of paid military informers rather than on full and impartial criminal investigations by civilian investigating authorities.



Luis Hernández Monrroy in front of a banner put up in Cali in the early 2000s, accusing the union of links with guerrilla forces © AI

#### **Operation Dragon**

On 23 August 2004, National Congress representative Alexánder López Maya, a former president of the Cali Trade Union of Municipal Service Workers (Sindicato de Trabajadores de las Empresas Municipales de Cali, SINTRAEMCALI), revealed the existence of an alleged plan to kill him together with the then president of SINTRAEMCALI, Luis Hernández Monrroy, and Berenice

Celeyta Alayón of the human rights NGO, NOMADESC. Details of the alleged plot had been passed to him by a source believed to have been in the army. On 25 August, Alexánder López filed a formal complaint with the Office of the Attorney General. Alexánder López provided judicial officials with two addresses in Medellín and Cali from which surveillance work against the trade unionists was allegedly being co-ordinated. He named an army lieutenant-colonel allegedly involved in the operation and provided his mobile telephone number. On the same day judicial officials carried out a search of the Cali address Alexánder López had provided.

The lieutenant-colonel, who identified himself as a member of the army, was at the address. Reports indicate that he had been on active service until at least 10 August 2004. The number of one of the mobile telephones in his possession matched that provided by Alexánder López. According to the officer he was working for a security company contracted by Cali Municipal



Services (Empresas Municipales de Cali, EMCALI), to “determine the threats [the company] faced.”

During the search, judicial officials discovered a military intelligence report in the possession of the army officer dated 24 May 2004 from the, Regional Military Intelligence No.3 (Ejército Regional de Inteligencia Militar No.3), addressed to central military intelligence in Bogotá which reportedly refers to SINTRAEMCALI as one of the most belligerent unions in the country “with a high degree of subversive infiltration by the ELN and the FARC”. The army officer claimed that the document had been handed to the company he worked for by EMCALI and that the police and other security services were aware of the work the company was undertaking. The company was reportedly not licensed to undertake security-related work.

The Office of the Attorney General initiated criminal investigations into what became known as Operation Dragon (Operación Dragón). Criminal investigations to determine the nature or existence of Operación Dragón, and the possible link between the work undertaken by the security company contracted by EMCALI, the alleged plot to kill trade unionists and human rights defenders and any possible involvement of the security forces has made little progress. There have also been reports that the criminal investigation into this case may be closed.

SINTRAEMCALI had been campaigning against government plans to privatize the Cali electricity, water, and sanitation companies. Its members have been subjected to repeated death threats, killings or enforced disappearances by paramilitaries in recent years. AI is concerned that death threats against Alexander López, Berenice Celeyta and Luis Hernández have continued and yet criminal investigations to determine the veracity or otherwise of the allegations raised and to determine whether the security forces were involved in any plan to kill trade union activists have not advanced.

### ***The DAS list***

In April 2006, the former head of the DAS’ Information Technology and Communications Office, Rafael García, reported that in 2004 he had uncovered information which indicated that the DAS had provided a list of 24 trade union leaders working in Bolívar, La Guajira, Sucre and Atlántico Departments to commanders of the Northern Bloc (Bloque Norte) of the paramilitary umbrella organization United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia, AUC). The trade unionists reportedly on the list belonged to the, Atlántico Department Agricultural Workers’ Union (Sindicato de Trabajadores Agrícolas del Atlántico, SINTRAGRICOLAS), the Sucre Union of Peasant Farmers (Sindicato de Pequeños Agricultores de Sucre, SINDEAGRICULTORES), the National United Trade Union of Agricultural Workers (Federación Nacional Sindical Unitaria Agropecuaria, FENSUAGRO), ANTHOC, and the CGT.

According to the DAS official, in November 2003 DAS agents and AUC members under orders from paramilitary commander “Jorge 40” killed Zully Codina Pérez, a hospital nurse in

Santa Marta, Magdalena Department, and member of the CGT who was also named in the death list. She had reportedly been detained by the security forces and subsequently released.

According to an article in the weekly news magazine *Semana* published in April 2006, ANTHOC Vice-President Gilberto Martínez was one of those included in the list. He told the magazine that in 2003 death threats against ANTHOC increased and “Since that time we have repeatedly lodged complaints about the cooperation of the DAS with paramilitaries in Atlántico Department in order to threaten and kill members of our trade union, complaints which have not been investigated.”

On 13 January 2004, a written death threat was reportedly left in the offices of the Atlántico Department branch of ANTHOC. In the message, leaders of ANTHOC were threatened and Gilberto Martínez, Carmen Torres and Álvaro Márquez, all members of the departmental executive council, and Angel Salas, a member of ANTHOC’s national executive council, were named in the death threat. The message was signed by the AUC.

This report contains information on further killings and threats carried out by paramilitaries against ANTHOC, SINTRAGRICOLAS, and FENSUAGRO members in Atlántico Department, and on some individuals allegedly included in the DAS list.

### ***Other alleged operations to kill trade unionists***

There were further reports of alleged plans to kill trade unionists in 2005 and 2006. On 11 March 2005, the CUT issued a press release in which it stated that paramilitary leaders concentrated in Santa Fé de Ralito, Córdoba Department, as part of the negotiations with the government on their supposed demobilization,<sup>28</sup> had drawn up a list of trade unionists to be killed reportedly because of their critical stance towards the negotiation process. The CUT stated that the XVII and XIII Brigades of the Colombian army would be involved in the execution of these plans. According to the CUT statement, the Director of the CUT’s human rights department, Domingo Tovar, was a key target. According to the statement, his family had received repeated death threats, while Domingo Tovar had been subject to surveillance by unidentified individuals. These death threats continued in 2006 (see Appendix 2).

On 2 March 2006, the *Vanguardia Liberal* newspaper reported that a paramilitary group calling itself the Magdalena Medio Regional Command (Comando Regional del Magdalena Medio), had issued a statement in which it threatened to kill trade unionists and other social activists running for Congress in the March 2006 elections. Among those listed as targets were: members of the Oil Workers’ Union (Unión Sindical Obrera de la Industria del Petróleo, USO), the CUT, the Association of Departmental Workers (Asociación de Trabajadores Departamentales, ASTDEMP), the Santander Workers’ Trade Union (Unión Sindical de Trabajadores de Santander, USITRAS), and the Coordinación Metropolitana de Desplazados, an organization that assists forcibly displaced people. The group stated it was committed to

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<sup>28</sup> See *Colombia: The Paramilitaries in Medellín: Demobilization or Legalization?* (AI Index: AMR 23/019/2005).

the “demobilization” process, but that “[n]otwithstanding, we will continue with this fight until we have eliminated the last guerrilla terrorist and their infiltrated auxiliaries.” That same day USO leader Héctor Díaz Serrano was shot dead in Barrancabermeja, Santander Department (see section on trade unionists in strategic mining, oil, gas and energy sectors).

In the same report, *Vanguardia Liberal* quoted the regional police commander for the Magdalena Medio as claiming that the paramilitary group responsible for the death threat had demobilized a few weeks previously and that some of the trade unionists standing for election in the region were already being protected by a special security detail. However, the same commander reportedly stated that he had not heard of the paramilitary statement, nor of any threats made against trade unionists or social activists standing in the upcoming election.

### **Misuse of the judicial system**

Over recent years, AI has received information of the possible use of arbitrary legal proceedings relating to charges of subversion against trade unionists and other human rights defenders.<sup>29</sup> These legal proceedings have often coincided with paramilitary killings and death threats against members of the trade union to which the trade unionist under investigation belongs. Often, it is the trade unionists under investigation who have been the subject of death threats or attempts on their lives. On numerous occasions trade unionists have been killed whilst under criminal investigation or shortly after charges against them were dropped.

States and their judicial authorities have a right and a duty to investigate any criminal activity and bring to justice those responsible. These investigations should be conducted legally and should conform to international standards of fair trial.<sup>30</sup> AI is concerned, however, that many of the criminal proceedings opened against trade unionists have been initiated in the course of operations coordinated by the security force merely on the basis of accusations by the security forces and not on evidence gathered in the course of independent and impartial criminal investigations by the civilian investigative authorities. These legal proceedings are often based on spurious information provided by military intelligence and paid informers that does not seem to have been confirmed through full and impartial investigations before detentions are carried out. The fact that these proceedings often coincide with death threats and killings by the security forces and paramilitaries raises concerns that a coordinated security force-paramilitary strategy exists to undermine the work of trade unionists.

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<sup>29</sup> See Amnesty International, *Colombia: Fear and Intimidation: The dangers of human rights work* (AI Index: AMR 23/033/2006).

<sup>30</sup> Fair trial standards include the right to a lawyer, right to liberty, right to adequate time and facilities to prepare a defence, the right to trial within a reasonable time, the right to equality before the law and courts, the right to a fair hearing, and the rights to call and examine witnesses. See Amnesty International, *Fair Trials Manual*: (AI Index: POL 30/002/1998), available at <http://www.amnesty.org/ailib/intcam/fairtrial/fairtria.htm>

### **Samuel Morales, Raquel Castro and Alonso Campiño Bedoya**



Samuel Morales © Marie-Anne Ventoura, AI - UK

On 5 August 2004, on the same day that three other trade unionists were killed in Arauca Department by members of the army (see section above on impunity), Samuel Morales, president of the CUT in Arauca, and Raquel Castro, a leader of the Arauca Teachers' Association (Asociación de Educadores de Arauca, ASEDAR), were arrested. Raquel Castro was arrested by the army in the same house in which the three trade unionists had been staying before they were killed.

On 3 January 2005, Samuel Morales and Raquel Castro were charged with rebellion. In November 2006 they were found guilty and sentenced to six years in prison. AI understands that defence lawyers initiated appeal proceedings in early 2007. Samuel Morales was released in April 2007 and Raquel Castro will be released from prison later this year given that they have or will have effectively completed their sentences.

There is concern that the evidence against these activists was provided by informers in the pay or at least under the tutelage of the security forces. Among the key prosecution witnesses against Samuel Morales and Raquel Castro were several military informers whose statements also reportedly led to arrest warrants being issued against at least two of the trade unionists killed in August 2004, Héctor Alirio Martínez and Leonel Goyeneche. At least some of these informers were reportedly presented to the court as former guerrillas who had surrendered to the authorities in June 2003, when they allegedly presented their testimonies. However, in their statements they made clear that they had surrendered to the authorities in January 2003. In court proceedings on 9 September 2004, one of the informers was asked why the long period of time between his surrender in January 2003 and his testimony. He told the court that he had given his testimony over June and July 2003. This statement appears to confirm reports indicating that the informers spent several months in the XVIII Brigade installations in Arauca preparing the evidence they were going to give when they made their statements. The informer indicated that he prepared a list with the names of 90 people against whom he was going to give evidence implicating them in subversive activities. He stated that while he was in the XVIII Brigade installations "my job was to remember names and remember dates". When he finally made his statement, he reportedly was allowed to do so with a written list of names in front of him, even though the court proceedings revealed no official record was made by the investigating authorities that he had produced a list. According to information received, some of the witnesses were even able to provide the identity card numbers of numerous people against whom they were testifying. It is an unfortunate coincidence that the

civilian under investigation for his part in the killings of the three trade unionists is one of the prosecution witnesses against Samuel Morales and Raquel Castro, particularly in light of the fact that the latter was a witness to the killings.

The testimony of these and possibly other military informers led to the detention of around 40 social activists in August 2003 in Saravena. The vice-president of the Arauca branch of the CUT, Alonso Campiño Bedoya, was among those detained. The Office of the Attorney General appealed a December 2004 court decision granting him house arrest arguing that he had confessed to subversive activities, an allegation his defence lawyers deny, and that he had expressed his intention to continue to work to overthrow the government. In court proceedings, Alonso Campiño had reportedly simply stated that he did not regret his trade union or human rights work and that when released he would resume this activity. Although last year Alonso Campiño was found guilty of rebellion, he was granted provisional freedom due to the length of time he had already spent in prison. His lawyers are appealing the verdict.

During the criminal proceedings against Samuel Morales and Raquel Castro, military informants were allegedly asked about the trade union and human rights work of the defendants. The objective appeared to be to discredit the legitimate work of trade unionists and human rights defenders by equating their work with subversion. For example, one witness was questioned about work Samuel Morales had undertaken in organizing meetings with UN representatives. Another informant stated that Samuel Morales travelled to Bogotá to work on behalf of the NGO “Joel Sierra” Human Rights Committee and to meet people linked to ELN organizations in the capital.

On 13 October 2004, defence lawyers representing Samuel Morales and Raquel Castro lodged a formal complaint with the Office of the Attorney General calling for criminal investigations to be initiated against the judicial officials who had led criminal investigations against them and other social activists detained as part of the same investigations. Defence lawyers accuse officials in the Office of the Attorney General of irregularities in the judicial proceedings. There is no information to indicate that criminal investigations into these allegations have been opened or advanced. There is also concern that, despite the fact that the trial finished in August 2005, it was not until November 2006 that the judge issued a sentence; by law a sentence should have been given within 15 days.

There is serious concern for the safety of Samuel Morales and his family. The fact that Raquel Castro is a witness to the August 2003 killings could have implications for her security. On 29 July 2005, while Samuel Morales was in custody at a police station in Saravena before he was transferred to the La Modelo prison in Bogotá, the station commander reportedly told him that he knew where his sisters worked, and where to find his wife. In previous weeks, his sisters had reportedly been held up repeatedly at military checkpoints, for many hours. Police officers had also reportedly pressured the director of a local hospital to dismiss Samuel Morales’ wife simply because she is married to him.

Paramilitaries reportedly threatened to kill Samuel Morales' sisters. Omayra and Gladys Morales worked as schoolteachers in Arauquita, Arauca Department. On 21 September 2005, the secretary at the school where Gladys and Omayra Morales were working received a telephone call from a man who said he was from the AUC. He told her: "Tell the teachers Gladys and Omayra Morales that they have 72 hours to leave the department, that members of Mr Samuel Morales' family are our military target and they must disappear from Arauca; further that Samuel Morales still has outstanding scores to settle with us, the AUC." The secretary at the school where Matilde Morales, another of Samuel Morales' sisters, was working received a similar telephoned threat between 10.30 and 11am on the same day. A further threatening call was made to Omayra Morales' house at 6.30pm.

In a letter to AI's UK Section, dated 8 August 2006, the then Colombian Ambassador in London said the government and state officials had visited Samuel Morales in prison to evaluate his security and to offer him security measures for his protection and that of his family. Government and state officials also visited Raquel Castro in prison on 19 July 2006 to evaluate her security. Whilst AI appreciates government efforts to discuss security measures with the detainees, it remains concerned for their safety, especially after their release.

### ***Hermes Vallejo Jiménez***



**Hermes Vallejo (with microphone) © Private**

On 12 August 2003, Hermes Vallejo Jiménez, a peasant farmer leader in Tolima Department and one of the founders of the Association of Small and Medium Farmers of Tolima Department (Asociación de Pequeños y Medianos Agricultores del Tolima, ASOPEMA), was detained by the security forces in Bogotá. Hermes Vallejo participated in several peasant farmer demonstrations and rural strikes in 1995 and 1999 and acted as a representative of peasant farmers in negotiations with the authorities.

Peasant farmer leaders who have participated in rural demonstrations and represented peasant farmers in negotiations with the authorities have often been labelled subversive and have been the victims of serious human rights violations carried out by the security forces or paramilitaries. In 2001, paramilitary death threats against Hermes Vallejo forced him to leave the area.

His arrest was reportedly the result of a criminal investigation based on intelligence work by the investigative unit of the Joint Action Units for Personal Liberty (Grupos de Acción

Unificada por la Libertad Personal, GAULA), a security force anti-kidnapping unit. These criminal investigations also resulted in the detention of more than 25 people, including two Tolima Department ANTHOC leaders, Amanda Cortes Buritica and Arley Antonio Osorio Orozco.

Criminal investigations against Hermes Vallejo were reportedly based on the statements of two security force informants, allegedly former guerrillas. One of the informants claimed that Hermes Vallejo was a member of the ELN militia and that he worked for a municipal body, the Municipal Technical Farming Assistance Unit (Unidad Municipal de Asistencia Técnica Agropecuaria, UMATA). Hermes Vallejo's defence lawyers stated that he did not work for UMATA and pointed out that the informant failed to provide any evidence to back the allegation that he was a militia member.

Another informant claimed that he had seen Hermes Vallejo armed and in combat uniform, but as defence lawyers pointed out, this informant failed to state exactly when or where this had occurred. This second informant reportedly made clear in his testimony that his information was taken from military intelligence reports. Disciplinary investigations carried out by the Office of the Procurator General established that an official of the Office of the Attorney General had provided the same informant with information from security force intelligence reports in March 2003, although it is not clear whether or not this information referred specifically to Hermes Vallejo.

The court examining the case against several of those detained, including Hermes Vallejo, established that the other informant had also been given access to allegations made in intelligence documents. Hermes Vallejo's defence expressed concern that it was unable to cross-examine the prosecution's informants before the Office of the Attorney General closed the preliminary investigative phase of judicial proceedings in order to initiate court proceedings.<sup>31</sup> AI was informed by the defence of its concern that the Office of the Attorney General failed to make at least one prosecution informant available for cross-examination.

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<sup>31</sup> Article 14 of the International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, and *entry into force* 23 March 1976, obliges states to guarantee the right of the defence in criminal prosecutions to cross-examine prosecution witnesses and to have adequate time to prepare a defence case: "*Article 14* 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. 2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. 3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his

Disciplinary investigations carried out by the Office of the Procurator General uncovered evidence that the two informers who gave statements against Hermes Vallejo and others who were arrested as part of the same criminal investigation were offered money and support in securing their certificates of reincorporation into civilian life in return for testifying against several people. Although disciplinary investigations do not appear to have established that this occurred specifically in the case of Hermes Vallejo, the findings of disciplinary investigations do call into question the reliability of the testimonies provided by the two informers.

Defence lawyers also expressed concern that one of the informants had had a personal dispute with Hermes Vallejo. On 26 October 2004, the court examining the case declared the charges against Hermes Vallejo unfounded and released him provisionally on bail. However, the Office of the Attorney General has reportedly lodged an appeal against this decision.

AI is not only concerned that legal proceedings against Hermes Vallejo, which have apparently failed to meet international standards for fair trial, may continue but is also concerned for his safety should they fail. Several people in the same or other criminal proceedings accused of subversion have been killed. Gabriel Arévalo was killed on 15 November 2003 in the Yarumal area of the municipality of Villahermosa, Tolima Department. An arrest warrant had reportedly been issued against him on charges of subversion as part of the same criminal proceedings which had led to the arrest of Hermes Vallejo. On 2 February 2004, Aurelio Aguirre and Sanín Aguirre were reportedly abducted by paramilitaries in the municipality of Palocabildo, Tolima Department. Their bodies were reportedly found in the San Pedro area of the municipality of Guayabal, Tolima Department, on 10 February 2004. They had reportedly been released two months previously by the Office of the Attorney General after being detained on charges of subversion.

### ***Miguel Ángel Bobadilla***

On 11 May 2006, members of the GAULA entered the Bogotá house of Miguel Angel Bobadilla and his partner Nieves Mayusa and detained the couple. During the operation the security forces reportedly attempted to force the couple's elder child to say that their parents were FARC guerrillas. Miguel Ángel Bobadilla is a leader of FENSUAGRO. His name, together with that of other national leaders of FENSUAGRO, reportedly appears in the death list presented to paramilitaries by the DAS (see section on security force-paramilitary operations to target trade unionists).

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presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him ...” .



On 15 March 2006, Miguel Ángel Bobadilla was reportedly followed by two unidentified men when he left his office in Bogotá. In addition, unidentified individuals have kept his office under constant surveillance. Prior to his detention, two individuals claiming to be judicial police officers had reportedly gone to his home demanding to know his whereabouts. The Office of the Attorney General denied that they had sent any agents to the house. Nieves Mayusa is also a member of FENSUAGRO and belongs to a family which has been closely associated with the Colombian Communist Party and the Patriotic Union Party (Unión Patriótica, UP). Since the UP was founded in 1985, more than 3,000 UP members have been killed or been victims of enforced disappearances, the vast majority carried out by the security forces and paramilitaries.

It is of concern that television reports have presented Miguel Ángel Bobadilla as a FARC member involved in kidnappings and accused him of using telephones issued by the government's protection programme to coordinate these operations.

Shortly after their arrest, Nieves Mayusa's sisters Carmen Mayusa, an ANTHOC leader, and Janeth Mayusa, a FENSUAGRO activist, were also reportedly detained by the security forces. Carmen Mayusa's name subsequently appeared in a written paramilitary death threat against ANTHOC (see below). According to the latest information received, they all remain in detention.

## **Killings and death threats**

Harassment, threats and physical attacks are recognized as a threat to the right to freedom of association. The ILO's Committee on Freedom of Association has stated: "A climate of violence, coercion and threats of any type aimed at trade union leaders and their families does not encourage the free exercise and full enjoyment of the rights and freedoms set out in Conventions Nos. 87 and 98. All States have the undeniable duty to promote and defend a social climate where respect of the law reigns as the only way of guaranteeing respect for and protection of life".<sup>32</sup>

AI continues to receive and document cases of threats and killings of trade unionists. Several of the cases AI has documented provide clear evidence of the strong correlation between arbitrary criminal proceedings instigated by the security forces and threats and killings committed by paramilitaries against members of trade unions facing such proceedings. Some of the cases in this document relate to the killings of trade unionists included in the DAS death list. The material documented is extensive. Cases related to the trade unionists in the

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<sup>32</sup> Digest of Decisions and Principles of the Freedom of Association Committee, 1996. Right to life, security and the physical and moral integrity of the person (Trade union rights and civil liberties). See <http://www.ilo.org/ilolex/english/digestq.htm>

food industry and strategic sectors of the economy are included below and to trade unionists in other sectors in Appendix 2.

### ***The strategic mining, oil, gas and energy sectors***

The mining, oil, gas and energy sectors are among Colombia's most lucrative industries. Oil and mining exports provide an important source of income to the economy. Colombia's vast wealth in water resources has also provided the country with significant hydroelectric energy capacity. Much of the electricity produced is exported to neighbouring countries providing Colombia with an important source of income. Colombia's wealth in water and mining, oil and gas, coupled with increased privatization of important parts of these industries, has attracted major transnational corporations to the country. Trade unionists in these sectors have faced repeated human rights violations, often because of their opposition to privatization. Trade unionists representing mine workers in artisanal mines whose livelihoods are potentially threatened by large-scale investment by international mining interests have also faced repeated human rights violations. Trade unionists representing workers in multinational firms have also faced human rights violations often in the course of labour disputes.

**The electricity workers' union:** On 2 March 2005, Orlando Paredes and Henry Moreno, leaders from the Colombian Electricity Workers' Union (Sindicato de Trabajadores de la Electricidad de Colombia, SINTRAELECOL); Pablo Peña, a member of the same union; and Teódulo Muñoz, the driver of the van in which they were travelling, were reportedly abducted by the FARC and released a few days later.

On 2 April 2006, Daniel Cortez Cortez of SINTRAELECOL was killed by a gunman who shot him twice in the face in the Montoyas area of the municipality of Puerto Parra, Santander Department. The killing of Daniel Cortez Cortez took place in an area reportedly under the control of supposedly demobilized paramilitaries.

On 2 May 2005, Adán Alberto Pacheco Rodríguez, a member and former leader of SINTRAELECOL, was reportedly shot dead at 5.40pm by two gunmen whilst he was on the balcony of his home in Barranquilla. Two days later the written death threat against SINTRAELECOL, CUT and ANTHOC from the paramilitary group Death to Trade Unionists (Muerte a Sindicalistas, MAS) was received in the offices of ANTHOC in Barranquilla (see the section in Appendix 2 on the education, health and public services sector). On 13 April 2004, members of the DAS had reportedly carried out an unauthorized search of his home. At the time he was sharing his home with a lawyer who was arrested and accused of rebellion and of being a member of the FARC.

An article in the magazine *Semana* published on 4 September 2006 reported that the Office of the Attorney General had found information on a computer in the possession of a commander of the Bloque Norte paramilitary group relating to the killing of around 60 people by the same group. One of the documents, dated 2 May 2005, refers to the killing of Adán Alberto Pacheco who is described as a member of the FARC.

**Oil Workers' Union:** Héctor Díaz Serrano, a member of USO, was shot dead while he was on his way to work on 2 March 2006 in Barrancabermeja. The same day *Vanguardia Liberal* reported paramilitary threats against trade unionists in Santander Department (see section above on security force-paramilitary operations to target trade unionists).

On 17 May 2006, USO was among a number of Colombian organizations reportedly threatened in an e-mail sent by alleged paramilitaries. The e-mail stated: "YOU ARE ALL WARNED that here we do not tolerate third-rate supposed lawyers... leaders... human rights defenders...that only come to align the people to retrograde communist and subversive guerrilla thought, precisely when we have been able to clean our territories of these grovellers and servile idiots who harbour these intentions, WE WILL NOT BE RESPONSIBLE for the safety of anyone who comes with such a purpose."

On 25 November 2006, gunmen travelling on two motorcycles opened fire on the bullet-proof car used by USO leader Rodolfo Vecino Acevedo (who was not in the vehicle at the time) on the road between Barranquilla, Atlántico Department, and Cartagena, Bolívar Department. Rodolfo Vecino's wife, Martha Cecilia Marrugo Ahumada, and an acquaintance, Edward Martínez Martínez, and Rodolfo Vecino's bodyguard, Álvaro Marrugo, who were in the car at the time, managed to escape unharmed. This vehicle was assigned by the state oil company ECOPETROL to Rodolfo Vecino. The Inter-American Court of Human Rights of the OAS has called on the Colombian authorities to take measures to guarantee the safety of Rodolfo Vecino and his family. In July 2005, Rodolfo Vecino Acevedo had been threatened by the Urban Front (Frente Urbano) of the AUC. In a written statement the paramilitaries threatened Rodolfo Vecino and his family if he did not abandon his union work. In May 2006, according to media reports, an unidentified individual approached Rodolfo Vecino while he was attending a meeting in Barranquilla and reportedly informed him that there was a plan, coordinated by paramilitaries, security forces and business interests, to kill him and two other USO members. On 27 November 2006, a member of the USO's Human Rights and Peace Commission, Fernando Ramírez, reportedly received a telephone death threat. In an e-mailed death threat sent to the USO on 28 November 2006 the Bloque Norte of the AUC reportedly claimed responsibility for the attempt on the life of Rodolfo Vecino and announced its intention to kill USO and student activists in the north of the country.<sup>33</sup> The paramilitary death threat gave USO leaders and student activists at the University of Cartagena 20 days to abandon the region:

“... DESPITE OUR DEMOBILIZATION WE RETAIN OUR MILITARY AND INTELLIGENCE POWER FOR THIS REASON WE WANT THE FOLLOWING TO HAPPEN SON-OF-A-BITCH USO TRADE UNIONISTS SON-OF-A-BITCH CARTAGENA UNIVERSITY LEADERS AND THOSE THAT CAMOUFLAGE THEMSELVES IN PRIVATE UNIVERSITIES YOU HAVE 20 DAYS TO LEAVE

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<sup>33</sup> The Bloque Norte had supposedly been demobilized in a process stretching between 10 December 2004 and 10 March 2006.

YOUR CITIES... IF YOU DO NOT OBEY... BE PREPARED FOR THE CONSEQUENCES WE KNOW EVERYTHING SO AVOID PROBLEMS”.



Francisco Ramírez Cuéllar © AI

**Mining and energy workers’ unions:** On 10 October 2004, Francisco Ramírez Cuéllar, President of the Trade Union of the National Mining Industry (Sindicato de Trabajadores de la Empresa Minera Nacional, SINTRAMINERCOL), which represents workers from the state mining corporation MINERCOL, escaped an apparent attempt to kill him in Bogotá. Two men on a high-powered motorbike, one with a gun on his lap, approached Francisco Ramírez Cuéllar who immediately sought cover. The motorbike had stopped, and was holding

up traffic, so other vehicles honked their horns, forcing it to move on. Had it not been for the other vehicles, Francisco Ramírez believes the gunman would have been able to shoot him.<sup>34</sup>

A few days previously, he had reportedly noticed men keeping watch on his home and SINTRAMINERCOL offices. The attempt on his life followed the publication of a SINTRAMINERCOL report condemning human rights violations in mining areas and implicating the security forces. In August 2006, an individual thought to be a member of a paramilitary group went to the SINTRAMINERCOL office and asked about the whereabouts of the union president or any other union member. The same individual was reported to have been seen keeping the office under surveillance. Francisco Ramírez is also Secretary-General of the United Federation of Mining and Energy Workers (Federación Unitaria de Trabajadores Mineros y Energéticos, FUNTRAENERGETICA). FUNTRAENERGETICA is a Federation which includes SINTRAMINERCOL and SINTRAMIENERGETICA. As Secretary-General of FUNTRAENERGETICA, Francisco Ramírez played a part in advising SINTRAMIENERGETICA trade unionists taking strike action against Drummond Company.

SINTRAMIENERGETICA trade unionists faced a severe security situation throughout 2006. On 25 March 2006, Harvey Jovanny Morales Guevara, a worker for Drummond Company and member and activist of SINTRAMIENERGETICA, was killed reportedly by unidentified gunmen in the centre of Santa Marta, Atlántico Department.

On 29 April 2006, members of SINTRAMIENERGETICA were reportedly threatened during a trade union demonstration in the municipality of Paso, Cesar Department. A local police commander reportedly accused the trade unionists of being guerrillas. A member of the police

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<sup>34</sup> Following the attempt on his life, the Inter-American Commission on Human Rights (IACHR) of the OAS issued precautionary measures on behalf of Francisco Ramírez Cuéllar.

allegedly pointed his rifle at trade union leader Luis Antonio Garzón. The demonstration was taking place on the same day as a meeting between Drummond Company representatives and SINTRAMIENERGETICA leaders. At this meeting the trade union was seeking to negotiate improvements to labour and employment conditions for employees of the mining company.

On 1 May 2006, after participating in a march in La Loma Municipality, Cesar Department, the vehicle in which the President of the Chiriguaná (Cesar Department) branch of SINTRAMIENERGETICA, Raúl Sosa Avellaneda, was travelling was reportedly followed by several men in a number of vehicles. Witnesses said that the men travelling in at least one of the vehicles were paramilitaries. The paramilitaries reportedly stopped following them after the trade unionists reported to a military checkpoint that they were being followed.

There were continued concerns for the safety of SINTRAMIENERGETICA trade unionists after trade union members working for Drummond Company began strike action on 22 May 2006 (the strike ended on 25 June 2006). On 13 June 2006, unidentified gunmen travelling on a motorcycle allegedly opened fire on Álvaro Mercado, a SINTRAMIENERGETICA leader, as he was entering his home in the Villa del Rosario area of Valledupar, Cesar Department. Members of the police reportedly arrested one of the gunmen and another two gunmen a few hours later. All three were subsequently released by the Office of the Attorney General.

Also on 13 June, individuals, whom witnesses identified as paramilitaries, were reportedly searching for Estivenson Avila, a SINTRAMIENERGETICA negotiator in Valledupar. On 6 and 8 June 2006, individuals also thought to be paramilitaries by witnesses reportedly searched for Rubén Morrón, a leader of the Chiriguaná branch of SINTRAMIENERGETICA, at his home in Barranquilla. He was unable to return home because of fears for his safety. AI has not received information on whether he has been able to return since.

On 19 September 2006, members of the Colombian army's Nueva Granada Anti-Aircraft Battalion (Batallón Antiaéreo Nueva Granada), reportedly killed Alejandro Uribe Chacón as he was on his way back to Mina Gallo, municipality of Morales, Bolívar Department. Alejandro Uribe was a leader of the Association of Miners of Bolívar Department (Asociación de Mineros del Bolívar), and President of the Community Action Council (Junta de Acción Comunal), of the community of Mina Gallo. The Association of Miners of Bolívar Department is linked to the Agro-mining Federation of the south of Bolívar Department (Federación Agrominera del Sur de Bolívar, FEDEAGROMISBOL). Witnesses reported seeing soldiers taking his body towards a military base in San Luquitas in Santa Rosa Municipality. On 20 September, the army reportedly presented Alejandro Uribe's body to the judicial authorities as that of a guerrilla killed in combat. Witnesses have reportedly stated that over the last year members of the Nueva Granada Anti-Aircraft Battalion have threatened to kill FEDEAGROMISBOL leaders. Soldiers have also reportedly told local residents that their operations aim to guarantee the presence of international corporate mining interests in the area. This is an area in which the gold-mining company AngloGold Ashanti (Kedahda

S.A.) has interests.<sup>35</sup> Alejandro Uribe and other local miners had opposed the arrival of this company in the area.<sup>36</sup>

In December 2006 the National Trade Union of Workers of the Coal Industry (Sindicato Nacional de Trabajadores de la Industria del Carbón, SINTRACARBON), was one of several trade unions threatened in a written message circulated by a paramilitary group operating

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<sup>35</sup> In a statement issued by FEDEAGROMISBOL and NGOs on 20 September 2006, the union stated that: “*La ejecución de Alejandro Uribe se inscribe en la cadena de atentados, bloqueos, amenazas y asesinatos ejecutados por parte de personal del Batallón Nueva Granada, los cuales han abiertamente manifestado que la finalidad del operativo desarrollado en la zona es garantizar la presencia de la multinacional del oro Anglo Gold Ashanti (Kedahda S.A.), a lo cual se han opuesto los mineros de la región, entre ellos Alejandro Uribe*”. “The killing of Alejandro Uribe is part of a pattern of attacks, blockades, threats and killings carried out by members of the Nueva Granada Battalion who have clearly stated that the aim of the operations they are carrying out in the region is to guarantee the presence of the gold-mining multinational company Anglo Gold Ashanti (Kedahda S.A) which had been opposed by miners in the region, including Alejandro Uribe”.

Other information received by AI indicates that the security forces have repeatedly stated that they are in the area to protect multinational interests.

On 2 April 2006 a witness reported that a member of the Nueva Granada Battalion had stated that they were in the area under orders from the President to protect the multinational.

On 22 September 2006, the Diocese of Magangué issued a press release in which it stated that Alejandro Uribe had participated in a preparatory meeting for the Permanent Peoples’ Tribunal (Tribunal Permanente de los Pueblos), on the mining industry due to be held on 11 and 12 November 2006. At this meeting community members had, according to the press release, condemned abuses committed by the army “*con el propósito de posibilitar la entrada a la región de la Multinacional Kedahda S.A. filial de la Anglo Gold Ashanti*”, “with the object of enabling the multinational Kedahda Ltd affiliated to Anglo Gold Ashanti to come into the area.”

A statement issued on 3 October 2006 by FEDEAGROMISBOL reported that during a meeting with local mayors the union, representing communities in areas of mining interests, had condemned repeated human rights violations committed by army units including the Nueva Granada Battalion and stated that “*es evidente la relación que existe entre la entrada de la multinacional Kedahda y el número de hechos de violación de derechos humanos que ocurren en la región del sur de Bolívar*”, “the relation between the arrival of the multinational Kedahda and the number of human rights violations cases in the south of Bolívar is evident”.

On 5 October 2006 members of the Nueva Granada Battalion reportedly told witnesses in the municipality of Santa Rosa: “*ustedes lo que deben hacer es apoyar a la multinacional Anglo Ashanti Gold*”, “what you should do is support the multinational Anglo Ashanti Gold”.

AngloGold Ashanti wrote to AI on 5 June 2007 stating that it could not comment on “the intentions of the Colombian armed forces regarding their presence in the Bolívar Department”. Referring to the Voluntary Principles on Security and Human Rights, the company also informed AI that AngloGold Ashanti was “developing our internal systems for ensuring the implementation of the Principles throughout our organisation”.

<sup>36</sup> On 26 April 2006 during the Anglo American plc AGM, company executives reportedly confirmed that Kedahda was 100% owned by Anglo Gold Ashanti See

<http://www.minesandcommunities.org/Action/press1058.htm> downloaded on 21 November 2006. Anglo American plc owns just under 42% of AngloGold Ashanti, according to information provided to AI by Anglo American plc. In an email communication to AI sent on 10 June 2007 Anglo American plc stated that “Major companies such as AGA [AngloGold Ashanti] (and Anglo American) have a clear commitment to respecting human rights”. The company informed AI that whilst maintaining regular contacts with AngloGold Ashanti and cooperating with this company in the “implementation of the Voluntary Principles on security and Human Rights, we do not have management control”.

under the name of Black Eagles (Águilas Negras) (see section on the food worker's union below).

### ***The food workers' union***

Over recent years the food workers' union SINALTRAINAL has been involved in labour disputes, often with large multinational companies. Human rights violations have often coincided with periods of labour dispute and with efforts by SINALTRAINAL members to advance lawsuits in the USA against bottling plants operating in Colombia under licence for Coca Cola concerning allegations that bottling plant personnel were implicated in killings and other human rights violations against trade unionists by paramilitaries.<sup>37</sup>

On 4 February 2006, Plutarco Vargas Roldán, a member of SINALTRAINAL in Bogotá and a worker at a bottling plant operating under licence for Coca Cola, reportedly received written death threats at his home, in which he and his family were threatened: "You are in trouble,

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<sup>37</sup> On 20 July 2001, the United Steel Workers Union and the International Labor Rights Fund filed a suit against Coca Cola USA, its wholly-owned subsidiary Coca Cola Colombia and several bottling plants operating under agreement with Coca Cola. According to information presented to the United States District Court of the Southern District of Florida hearing the case, these bottling plants included 17 bottling plants operated by Panamco Colombia S.A., a wholly-owned subsidiary of US company Panamerican Beverages Inc. which operated bottling plants in several Latin American countries through its wholly-owned subsidiary Panamco. Coca Cola owned a 24 per cent share in Panamco. Bebidas y Alimentos de Urabá S.A. is a Coca Cola bottling plant in the municipality of Carepa, Antioquia Department, and owned by members of the Kirkland family. The company, according to information provided to the Southern District of Florida Court, is managed and controlled from the USA. According to information provided to the District Court: "Defendant Coke ultimately has complete control over Defendants Panamco and Bebidas y Alimentos because these companies exist solely to bottle and distribute Coke products". In May 2003 Coca Cola FEMSA bought 100 per cent of Panamco. Coca Cola FEMSA is "a company whose capital stock is owned 45.7 per cent by a wholly-owned subsidiary of Fomento Económico Mexicano, S.A. de C.V. (FEMSA), 39.6 per cent by wholly-owned subsidiaries of The Coca-Cola Company, and 14.7 per cent by the public." (Quoted from Coca Cola FEMSA website: [http://www.coca-colafemsa.com/kof/ABOUT/ENG/indexabout\\_eng.htm](http://www.coca-colafemsa.com/kof/ABOUT/ENG/indexabout_eng.htm), visited 11 December 2006).

The suit was filed under the US Alien Tort Claims Act. on behalf of SINALTRAINAL, several SINALTRAINAL members and the Estate of Isidro Segundo Gil, a member of SINALTRAINAL who was killed allegedly by paramilitaries on 5 December 1996 in Carepa Municipality, Antioquia Department, as he entered the bottling plant where he worked. The case against Coca Cola Company and Coca Cola Colombia was dismissed by the Court on 28 March 2003 for lack of subject matter jurisdiction. However, four separate but consolidated claims against Coca Cola bottlers were considered by the US District court. As the court described them, "The essence of the complaints is that each of the bottling companies in Colombia is responsible for the efforts of its agents to intimidate members of the SINALTRAINAL unions at each of the respective plants involved in the suits through cooperation with the Colombian right-wing paramilitaries." On 29 September 2006, the US Court ruled that it lacked subject matter jurisdiction to adjudicate the complaints. The Alien Tort Claims Act requires a pleading that a tort has been committed in violation of the law of nations, which the court considered would require a showing of tortious state conduct. The court noted the difficulties in demonstrating vicarious liability of the company and in ascribing the conduct of the state to the company. The court made no findings as to the factual allegations, including whether or not Coca Cola and the bottling plants operating under licence for Coca Cola in Colombia bore responsibility for the allegations of human rights abuses levelled against them.

In 2006 the ILO agreed to investigate labour relations and workers' rights in bottling plants operating under licence for Coca Cola.

don't give us any excuses... Look after what is yours because we really want to get you... You are in our sights."

Plutarco Vargas was threatened after SINALTRAINAL members staged a demonstration in Bogotá on 31 January 2006. During the protest, trade unionists were allegedly harassed and photographed by unidentified individuals.

On 20 April 2004, Gabriel Remolina, and his partner, Fanny Robles, were killed by unidentified gunmen. Gabriel Remolina was the brother-in-law of Efraín Guerrero, a leading trade unionist from the Bucaramanga Branch of SINALTRAINAL. The gunmen, who were reported to have been looking for Efraín Guerrero, forced their way into Gabriel Remolina's home in Bucaramanga, Santander Department, and opened fire indiscriminately. Three of his children were injured in the attack and one of them, his adult son, Robinson Remolina, died shortly afterwards in hospital.

SINALTRAINAL members working for bottling plants operating under licence for Coca Cola had initiated a national hunger strike on 15 March 2004, shortly before the killings, as part of their on-going labour dispute with the company. The union's leaders subsequently reported that they had received death threats. The hunger strike ended on 27 March when the union reached an agreement with the company. Although Gabriel Remolina and his partner were not members of SINALTRAINAL, information received indicates that members of Efraín Guerrero's family had supported the union's hunger strike. It is of concern that these killings may represent an attempt to intimidate SINALTRAINAL through attacks against members' relatives.

Several SINALTRAINAL members who had been closely involved in presenting the case against bottling plants operating under licence for Coca Cola before US courts under the Alien Torts Claims Act have been among those threatened, including Javier Correa, President of SINALTRAINAL, Eurípides Yance, Limberto Carranza, Campo Elías Quintero, Juan Carlos Galvis, Vice-President of the National Executive Committee of SINALTRAINAL, and William Mendoza (see footnote 37 for details).

On 1 May and again on 13 May 2006, a leader of SINALTRAINAL reportedly received a telephone call from a paramilitary in prison for his alleged involvement in the killing of Rafael Jaimes, a leader of USO. He reportedly insisted that two leaders of the trade union come and talk to him in prison, threatening that if they refused, two demobilized combatants would make false testimonies against William Mendoza and Juan Carlos Galvis. The implication was that criminal proceedings would be initiated against these two trade unionists. The same paramilitary had reportedly stated previously that SINALTRAINAL leaders William Mendoza, Juan Carlos Galvis, Javier Correa and Edgar Páez would be killed.

On 15 May 2006, a written death threat was found in the SINALTRAINAL offices in Barranquilla, Atlántico Department. Members of SINALTRAINAL and other trade unions were threatened in the message which read: "MAS [Death to Trade Unionists] These are the



names of the propagandists and indoctrinators who are messing up this city, Eurípides [sic] Yancen [sic], Limberto Carranza, Campo Quintero, Jesús Tovar, Eduardo Arévalo, Tomas Ramos, Henry Gordón, Gastón Tesillo, Carlos Hernández. The time has come to eradicate the tentacles that grow day by day in the trade unions, universities and organizations that allow themselves to be led astray.” The next day, telephone death threats were reportedly made against Eurípides Yance and Limberto Carranza.

On 3 August 2006, police agents, who identified themselves as members of the National Criminal Investigation and Intelligence Service (Servicio de Investigaciones Judiciales e Inteligencia, SIJIN), reportedly searched the offices of SINALTRAINAL without a judicial warrant. The agents stated that they were carrying out a search to prevent any threat to public order on the inauguration of President Álvaro Uribe’s second term of office on 7 August 2006. Trade union leaders believe that this operation may have been an attempt to suggest that SINALTRAINAL was involved in illegal activities.

On 17 August 2006, Carlos Arturo Montes Bonilla, a member of SINALTRAINAL in Barrancabermeja, was reportedly killed by unidentified gunmen. He had participated in union protests against Coca Cola and other trade union activities in the city. AI has received information that a soldier was temporarily detained for the killing and allegedly admitted to the killing. Judicial authorities reportedly claimed the killing was the result of a family dispute, since the soldier was reported to be Carlos Arturo Montes’ stepson. The soldier was subsequently released. AI has no information as to whether criminal proceedings against him are continuing.

On 14 December 2006, a written death threat signed by the paramilitary group Águilas Negras was left at the home of Eurípides Yance in Barranquilla. It threatened SINALTRAINAL leaders Eurípides Yance, Limberto Carranza and Campo Elías Quintero. The death threat also coincided with a period of negotiation between SINALTRAINAL and bottling plants operating under licence for Coca Cola on working conditions. The death threat gave trade unionists a week to leave Barranquilla:

“You the infiltrators, guerrilla informers, pamphleteers think that bullets will not get you, but you are completely wrong. What, have you forgotten what happened to many of those that accompanied you between 1997 and 2005.

You have a week to leave our city.”

The death threat was addressed to SINALTRAINAL and other trade unions, including student organizations in the University of Atlántico.

On 10 February 2007 a written paramilitary death threat addressed to SINALTRAINAL members was pushed under the door of the ASTDEMP offices in Bucaramanga, Santander Department. The death threat named several SINALTRAINAL activists Javier Correa, Luis García, Domingo Flores and Nelson Pérez, and accused them of being “terrorist Coca Cola

trade unionists". The trade unionists were warned to put an end to the "trouble in the Coca Cola company as enough damage has already been caused" and that if they failed to do so, they would become military targets of the Águilas Negras. The death threat was on a sheet of paper with "AUC Aguilas Negras" at the top of the page and supposedly came from the "Aguilas Negras Front Lebrija" ("Frente Aguilas Negras Lebrija").

In a letter to Amnesty International of 7 June 2007, Coca Cola Company explained that it had communicated with the Colombian authorities on several occasions in respect to threats against SINALTRAINAL activists calling on the authorities to undertake investigations into these threats and guarantee the safety of the threatened trade unionists.<sup>38</sup>

On 11 September 2005, Luciano Enrique Romero Molina's body was found with his hands tied and more than 40 stab wounds. The body was found in the Las Palmeras farm in the La Nevada neighbourhood of Valledupar, an area reportedly under the control of paramilitaries, despite the fact that paramilitary forces operating in the region were supposedly engaged in a process of demobilization between December 2004 and March 2006.

Luciano Romero had been a leader of the Cesar branch of SINALTRAINAL and of the human rights organization Political Prisoners Solidarity Committee (Comité de Solidaridad con los Presos Políticos, CSPP). On 28 February 2002, SINALTRAINAL had presented a series of demands for improved working conditions to the Nestlé-CICOLAC company.<sup>39</sup>

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<sup>38</sup> Following death threats against Plutarco Vargas Roldán Coca Cola FEMSA wrote to the Ministry of Interior and Justice on 8 February 2006 calling for action to be taken to guarantee the safety of the trade unionist and investigate the threats. The company informed SINALTRAINAL in a letter dated 9 February 2007 that it had written to other government and Colombian state authorities calling for measures to guarantee the safety of the trade unionist and investigations into the threats. On 22 May 2006, Coca Cola FEMSA wrote to police authorities in Santander Department calling for action to be taken to investigate reported harassment suffered by Javier Correa and Efraín Guerrero on 1 May 2006 and to guarantee the trade unionists' safety. The letter was copied to State authorities. In a letter sent by the company to the Director of the Presidential Programme for Human Rights and International Humanitarian Law, the company called for action to be taken to protect William Mendoza, Juan Carlos Galvis, and Javier Correa following threats they had received in May 2006. The letter also called for action to protect SINALTRAINAL activists named in the written death threat found in the trade union's offices in Barranquilla on 15 May 2006. Coca Cola FEMSA also wrote to state authorities on 18 December 2006 in response to the Águilas Negras death threat against SINALTRAINAL leaders in Barranquilla that month. The company again called on state authorities to investigate the threats and guarantee the protection of the trade unionists under threat. In a letter of 12 February 2007, Coca Cola FEMSA called on state authorities to take action to guarantee the safety of Javier Correa, Luis García, Domingo Flores and Nelson Pérez after they were named in the 10 February 2007 paramilitary Águilas Negras death threat. The company also called on state authorities to investigate the threat.

<sup>39</sup> In 1944 Swiss firm Nestlé and US company Borden Inc. founded the Compañía Colombiana de Alimentos Lácteos (CICOLAC S.A). In the same year Nestlé created the Industria Nacional de Productos Alimenticios (INPA S.A) which in 1985 became Nestlé de Colombia S.A. In 1998 Nestlé bought out Borden's share in CICOLAC. In 2004 Nestlé entered a joint venture agreement with Fonterra Co-operative Group Ltd which operates in Colombia through DPA (Dairy Partners Americas) Manufacturing Colombia Ltda. Fonterra now runs the factory formerly known as the CICOLAC plant in Valledupar, Cesar Department, whilst Nestlé markets its products. Nestlé's other concerns in Colombia include: Comestibles la Rosa S.A in Dos Quebradas, Risaralda Department (in 1984 Nestlé purchased 100 per cent of this company; formerly it had owned 51 per cent), and Nestlé de Colombia S.A in Bugalagrande, Valle del Cauca Department.

When these demands were not met, the trade union undertook strike action on 12 July. Paramilitary death threats against SINALTRAINAL leaders increased after strike action was initiated. In October 2002, Luciano Romero and other colleagues were sacked from their jobs at the Nestlé-CICOLAC plant in Valledupar. Luciano Romero was reportedly threatened by paramilitary groups and forced to flee his home and then the country, before returning to Colombia in April 2005. Luciano Romero had been due to travel to Switzerland to attend a meeting on 29 to 30 October 2005 as a witness to death threats against trade unionists representing workers in Nestlé plants in Colombia.

On 12 September 2005, a car was seen driving around José Onofre Esquivel Luna's house in Bugalagrande Municipality, Valle del Cauca Department. José Esquivel Luna is a leader of the Bugalagrande Branch of SINALTRAINAL. On 19 September, an armed man was again seen prowling around his house. His neighbours were reportedly asked about his whereabouts on a number of occasions by people he did not know. The Colombian government claimed that measures had been taken to guarantee his safety. It also said the DAS would re-evaluate his security situation and the police would take action to guarantee his safety.

José Onofre Esquivel has previously been declared a military target by paramilitaries from the Centre of Valle Cauca Bloc (Bloque Centro del Valle del Cauca), of the AUC. On 11 October 2003, he found a written death threat in his locker at the company where he works. The death threat was addressed to José Onofre Esquivel and his trade union colleagues, Rogelio Sánchez, Alfonso Espinosa and Freddy Ocoro. Fearing for his safety, Freddy Ocoro left the country.

On 18 August 2006, a death threat was sent to the home of Héctor Jairo Paz, a leader of the Bugalagrande Branch of SINALTRAINAL. The death threat was reportedly written in the form of a message of condolence, a traditional form of threat. The death threat was signed by the paramilitary group MAS (see section above on security force-paramilitary operations to target trade unionists). Héctor Jairo Paz is a worker at the Nestlé de Colombia S.A. plant in Bugalagrande and the death threat followed a previous death threat made against the leaders of the Bugalagrande Branch of SINALTRAINAL 10 days earlier. This death threat was received during a SINALTRAINAL protest against the reported dismissal of 90 workers.

Nestlé informed AI in a letter dated 4 June 2007 that CICOLAC and Nestlé de Colombia had communicated with the Colombian authorities calling on them to investigate the killing of Luciano Enrique Romero Molina, to investigate death threats against José Onofre Esquivel Luna and to assist Héctor Jairo Paz in taking measures to guarantee his safety. The company also reportedly offered some assistance directly to Héctor Jairo Paz.<sup>40</sup>

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<sup>40</sup> In its letter, the company informed AI that it had called on Colombian authorities to investigate death threats against José Onofre Esquivel Luna in October 2003. Nestlé informed AI that following fears for José Onofre Esquivel's safety which arose in September 2005, it had invited SINALTRAINAL leaders to a meeting on 28 September 2005 to discuss the possibility of the company helping to present the trade unionist's security concerns to the Colombian authorities. Nestlé also told AI that the company had provided support to Héctor Jairo Paz after he had been threatened.

Luis Antonio Arismendi was President of the Manuela Beltrán Trade Union of Food and Drink Street Sellers (Sindicato Manuela Beltrán de Trabajadores y Expendedores de Alimentos y Bebidas, SINDIMANUELA), a union linked to the CGT. Luis Antonio Arismendi and his friend Belquis Dayana Goyeneche were last seen on 28 April 2006 in the Market Square (Plaza de Mercado), in the San Francisco area of Ciudad Bolívar in Bogotá. The previous day, Luis Arismendi had reportedly informed the police that unknown individuals had been seen patrolling in Market Square. On the morning of 28 April, members of the police were reportedly seen accompanied by the same individuals who had been patrolling Market Square the day before. Luis Arismendi's body was found subsequently in the municipality of Zipacón, Cundinamarca Department. Over the last year, several activists have allegedly been killed by paramilitaries operating in Ciudad Bolívar. AI has received no further information to indicate that criminal investigations into Luis Arismendi's killing or his friend's enforced disappearance have advanced.

### ***Guerrilla force killings of trade unionists in 2006***

As indicated earlier in this report, at least six trade union members were reportedly killed in 2006 by guerrilla forces. However, it is not clear from the cases highlighted below whether the killings were the result of the victims' trade union activities or because the victim was perceived to be acting against guerrilla interests or had been suspected of cooperating with "enemies" of the guerrilla group concerned.

**María Isabel Fuentes Millán**, a member of the Valle United Union of Education Workers (Sindicato Único de Trabajadores de la Educación del Valle, SUTEV), was killed on 23 January 2006 in Tochecito in the community of Altos del Rocío, between Sevilla and Tuluá Municipalities, Valle del Cauca Department. Gunmen reportedly forced teachers and students in the school where she worked to gather and shot her in front of them. The authorities have blamed the FARC for the killing.

**Luz Miriam Farias Rodríguez** was a member of ASEDAR and a teacher in the Caño Claro Guahibo-Makaguán Indigenous reservation, municipality of Tame, Arauca Department. On 6 March 2006, she left the Indigenous community to search for the body of her husband, Juan Ramírez Villamizar, the Indigenous governor of the reservation. He had reportedly been killed by FARC guerrillas on 5 March for not obeying their "armed strike" order, which prohibited travel on the roads in the region. After finding his body, the vehicle in which she was travelling was reportedly forced to stop in the Flor Amarillo area by FARC guerrillas. Luz Miriam was forced out of the vehicle by the guerrillas who ordered the driver to take Juan Ramírez Villamizar's body to Tame. According to information received, Luz Miriam Farias was shot dead and her body was found on 7 March.

**Wilson García Reatiga**, a member of the National Association of Peasant Farmers – Unity and Reconstruction (Asociación Nacional de Usuarios Campesinos – Unidad y Reconstrucción, ANUC-UR), and president of the Community Action Council of the Santo

Domingo area of the municipality of Tame, Arauca Department, was killed on 22 March 2006 in the La Siberia area of Tame Municipality. A few days before he was killed, Wilson García had reportedly been threatened by the FARC.

**Arselio Peñas Guatico** and **Jhon Jairo Osorio Pisario** were members of the Wounáan Indigenous community in Chocó Department. They were teachers and members of the Union of Teachers of Chocó Department (Unión de Maestros del Chocó). Arselio Peñas Guatico was reportedly forced out of the school where he was teaching in the community of Unión Wounáan, municipality of Medio San Juan, Chocó Department, by FARC guerrillas, on 30 March 2006. His body was found later the same day outside the community. Jhon Jairo Osorio Pisario was reportedly forced out of the boat in which he was travelling towards the municipality of Istmina by FARC guerrillas on 31 March. His body was found the next day. According to the Indigenous communities, the FARC had accused the two teachers of being army informants and had also accused another five teachers of being informants.

**Francisco Ernesto García**, a teacher working in the El Tambillo Educational Centre (Centro Educativo El Tambillo), in Sandoná Municipality, Nariño Department, was reportedly killed by the FARC. His body was found on the road between Providencia and Samaniego Municipalities on 6 July 2006. He had reportedly left his home four days previously to meet with local FARC commanders to negotiate the release of his 14-year-old nephew who had been kidnapped. He was reportedly going to ask the FARC to take him hostage in return for his nephew's release. His body reportedly showed signs of torture. Francisco Ernesto García was a member of SIMANA. AI has no further information about his nephew.

## **Conclusions and recommendations**

The human rights situation faced by trade unionists in Colombia remains critical. The spate of death threats in 2006 against trade unionists by paramilitaries is a dramatic illustration that the Colombian government's much publicized "demobilization" process is not resulting in an improvement in the human rights situation for trade unionists. The process is also failing to dismantle paramilitary structures which continue to operate in collusion with security forces, sometimes under new names.

Successive Colombian governments have indeed implemented several policies to improve the safety of trade unionists, including a programme which allocates, among other things, armed escorts, bullet-proof vehicles and telephones to threatened trade unionists. This support is an important factor that may have improved security for some, but has proved insufficient to effectively guarantee the safety of trade unionists.

The long-term security of trade unionists depends on decisive action by the Colombian authorities to end the impunity which protects the vast majority of those responsible for human rights abuses against them. Without measures to end impunity there can be no substantive and definitive improvement in the security situation faced by trade unionists. In

this respect, the commitment made by the Colombian government on 17 October 2006 to support the Office of the Attorney General's special investigation unit set up to investigate killings of trade unionists is welcome. However, given the endemic problem of impunity in Colombia, and the large number of cases of human rights abuses against trade unionists, the government should ensure that it provides adequate resources to enable this unit to operate effectively.

Similarly, the decision taken during the 95<sup>th</sup> ILC to secure a permanent ILO presence in Colombia provides an important opportunity for the international community to monitor closely the human rights situation faced by trade unionists and to adopt a proactive role in insisting that the Colombian government take decisive action to guarantee freedom of association and the safety of trade unionists. AI trusts that the Colombian government will cooperate fully with the ILO to ensure that the ILO presence in Colombia can fulfil the duties defined in the June 2006 Tripartite Agreement to promote and defend the fundamental rights of trade unionists, including their right to the right to life and freedom of association.

The request to establish a permanent ILO presence in Colombia is an acknowledgement of the seriousness of the human rights crisis facing Colombian trade unionists. AI hopes that the focus the ILO presence will provide on this crisis will mobilize parties to the ILO, notably member states, employer representatives and workers' organizations, to call for decisive action by the Colombian government to resolve the crisis, and to call on the guerrilla to put an end to the serious human rights abuses it commits against trade unionists.

AI also hopes that in light of the continued human rights crisis facing trade unionists, the ILO will continue to prioritize consideration of the human rights abuses against trade unionists and monitor efforts by the Colombian authorities and government to fully implement ILO standards and the principles and criteria of the Committee on Freedom of Association.

AI considers that the repeated death threats and killings of trade unionists coupled with numerous arbitrary judicial proceedings against trade unionists and the virtual impunity enjoyed by the perpetrators of these human rights abuses, represent a direct attack on the rights encompassed in ILO Convention No. 98 on the Right to Organize and Collective Bargaining and ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize. AI also considers that human rights violations and abuses committed against trade unionists by all parties to the conflict are intended to undermine the legitimate work of trade union organizations, and that the arbitrary judicial proceedings initiated against numerous trade union activists is designed to discredit their work.

Action by the government to guarantee the safety of trade unionists would, therefore, be in line with repeated recommendations made to successive Colombian governments by the UN High Commissioner for Human Rights, and with the government's obligations under the ILO Conventions and guidance provided by other ILO instruments, including the ILO Declaration

on fundamental principles and rights at work.<sup>41</sup> This stipulates that ILO member States “even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining.”<sup>42</sup>

The ILO Declaration on fundamental principles and rights at work is complemented by the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.<sup>43</sup> The Tripartite Declaration also reminds its parties that they should respect “the Constitution of the International Labour Organization and its principles according to which freedom of expression and association are essential to sustained progress”. The Tripartite Declaration “invites governments of States Members of the ILO, the employers’ and workers’ organizations concerned and the multinational enterprises operating in their territories to observe the principles embodied therein”. The ILO Tripartite Declaration is not binding on business, but businesses may be bound to its requirements to the degree that Member States embody them in domestic legislation. Furthermore, insofar as the Tripartite Declaration was adopted by employers’ representatives together with representatives of governments and workers organizations, it provides useful guidance to businesses on principles to which they should adhere. The Tripartite Declaration includes a call to all its parties “to respect the Universal Declaration of Human Rights (UDHR) and the corresponding international Covenants adopted by the General Assembly of the United Nations”. As such, the Declaration represents a recognition by all parties that they should uphold the human rights obligations defined in the Universal Declaration and the two covenants,<sup>44</sup> which together with the UDHR constitute the International Bill on Human Rights and are legally binding on States.<sup>45</sup> The Tripartite Declaration states that all parties should contribute to the fulfilment of the ILO Declaration on Fundamental Principles and Rights at Work. This language effectively calls on all ILO parties to uphold the fundamental principles of the ILO which include freedom of association and the effective recognition of the right to collective bargaining.

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<sup>41</sup> Declaration adopted during the 86th session of the ILC in June 1998.

<sup>42</sup> Declaration adopted during the 86th session of the ILC in June 1998.

<sup>43</sup> Declaration adopted by the Governing Body of the International Labour Office at its 204th Session Geneva, November 1977, with subsequent amendments.

<sup>44</sup> This is argued by Andrew Clapham in his book *Human Rights Obligations of Non-State Actors*, Oxford University Press, Oxford 2006, pp. 213-214.

<sup>45</sup> The International Covenant on Civil and Political Rights of 16 December 1966 which came into force on 23 March 1976, and the International Covenant on Economic, Social and Cultural Rights of 16 December 1966, which came into force on 3 January 1976; both were ratified by Colombia on 29 October 1969. Together with the UDHR these two covenants make up the International Bill of Human Rights which is legally binding on states. The Office of the High Commissioner for Human Rights underlines that the UDHR, however, “is truly universal in scope, as it preserves its validity for every member of the human family, everywhere, regardless of whether or not Governments have formally accepted its principles or ratified the Covenants”, see Fact Sheet No.2 (Rev.1), the International Bill of Human Rights, Geneva, June 1996.

In 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights adopted the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (the UN Norms). AI believes the UN Norms provide the most comprehensive guidance to date on the human rights responsibilities of companies and that companies should adopt human rights policies based on the UN Norms and ensure implementation of those policies across their global operations. The UN Norms also act as a benchmark against which national legislation regulating the human rights responsibilities of companies can be judged.

Given the establishment of a permanent ILO presence in Colombia to promote and defend the basic rights of trade unionists, and the ongoing human rights crisis facing trade unionists, including those working for foreign companies, AI considers this an opportune moment to remind companies of the principles which the ILO calls on firms to respect under the Tripartite Declaration.

AI considers that the establishment of an ILO permanent presence in Colombia provides companies with a vehicle to demand decisive action by the Colombian government to guarantee the safety of trade unionists, to end impunity in cases of human rights abuses against trade unionists, and to put an end to arbitrary judicial proceedings against trade unionists. By taking such action companies will be promoting internationally proclaimed human rights as required under the UN Norms and other standards referred to above, as well as implementing the policy commitments that many companies have made.

International standards increasingly reflect the human rights responsibilities of companies in respecting, protecting and promoting human rights. Companies may be held accountable for and must not profit from human rights abuses for which, through their conduct they may bear responsibility. This report highlights cases, policies and situations which threaten the freedom of association rights of the specific named trade unions and potentially of the Colombian trade union movement as a whole. In highlighting these cases AI trusts that companies that operate in Colombia, whether named in this report or not, will take all appropriate measures in order to create conditions that allow the enjoyment of freedom of association rights and to ensure that the Colombian authorities provide for the full realization of these rights. This is the minimum action companies should take.

If companies are to be in a better position to avoid such allegations they should fully abide by the recommendations addressed to them below.

**Amnesty International calls on the Colombian government to:**

- Adopt the long delayed national human rights action plan, which should include full implementation of the recommendations of the UN High Commissioner for Human Rights to end impunity in human rights cases, break the links between the security forces and paramilitaries, and guarantee the safety of sectors of civilian society at



particular risk, including trade unionists, as well as the recommendations made by the UN Special Representative on Human Rights Defenders.

- Adopt measures to guarantee the safety of trade unionists and guarantee all their rights related to the exercise of freedom of association.
- Bring to justice those responsible for human rights abuses against trade unionists; ensure that a legal framework to regulate demobilization processes is put in place which respects the right of victims to truth, justice and reparation; and ensure that the special investigation unit of the Office of the Attorney General, which is investigating cases of right to life violations against trade unionists, is adequately resourced.
- Ensure that the ILO permanent presence in Colombia is able to promote and monitor effectively freedom of association rights in line with the June 2006 Tripartite Agreement, and to abide fully by ILO recommendations.

**Amnesty International calls on guerrilla forces to:**

- Put an end to threats and killings of trade unionists and other civilians.
- Fully comply with international humanitarian law in line with the repeated recommendations of the UN High Commissioner for Human Rights.

**Amnesty International calls on the Colombian government and guerrilla forces to:**

- Urgently reach a humanitarian agreement to shield the civilian population from the conflict and respect the right of civilians not to be drawn into the armed conflict.

**Amnesty International calls on the international community to:**

- Insist on the full and prompt implementation of the recommendations of the UN High Commissioner for Human Rights by the Colombian government.
- Monitor the security situation faced by trade unionists and insist that the Colombian government adopt measures to guarantee their safety and bring to justice those responsible for human rights abuses and violations.
- Monitor efforts by the Colombian government to abide by recommendations issued by the ILO, including those issued as a result of the ILO's permanent presence in Colombia, and insist the government ensure that the ILO presence is able to promote

and monitor effectively freedom of association rights in line with the June 2006 Tripartite Agreement.

- Call on the Colombian government to ensure that the special investigation unit of the Office of the Attorney General, which is investigating cases of right to life violations against trade unionists, is adequately resourced.
- Refrain from providing, or freeze, any financial or political support to projects and policies related to the demobilization process which might benefit human rights abusers and exacerbate the problem of impunity, such as those which could facilitate the legalization of lands and other assets stolen through war crimes and crimes against humanity.

**Amnesty International calls on the International Labour Organization to:**

- Ensure that the permanent presence of the ILO in Colombia is able to fully perform its duties in line with the June 2006 Tripartite Agreement.
- Call on the Colombian government to ensure that the special investigation unit of the Office of the Attorney General, which is investigating cases of right to life violations against trade unionists, is adequately resourced.
- Ensure that it continues to give priority to its focus on the human rights situation of trade unionists in Colombia.
- Call on the Colombian government to respect and fulfil the recommendations of the Committee of Freedom of Association.

**Amnesty International calls on companies operating in Colombia to:**

- Call on the Colombian government to abide by the recommendations addressed to it above.
- Call on the government to take decisive action to guarantee the safety of trade unionists and their rights to freedom of association in accordance with the government's international human rights obligations. Companies should bear in mind that action in this respect would be in line with the principles companies are called upon to respect under the ILO Tripartite Declaration and the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.

- Call on the government to ensure that the ILO permanent presence in Colombia can effectively promote and defend freedom of association rights in line with the June 2006 Tripartite Agreement, and to fully abide by ILO recommendations.
- Call on the government to fully implement recommendations made by the ILO, including those issued as a result of its permanent presence in Colombia to guarantee the safety of trade unionists and to take decisive action to end impunity in cases of human rights abuses against trade unionists in line with the June 2006 Tripartite Agreement and to give full backing to these recommendations.
- Play an active role in calling for full implementation of the UN High Commissioner for Human Rights' recommendations to guerrilla forces to uphold international humanitarian law (IHL) and the government to take measures to guarantee that IHL standards are fully respected within the context of the conflict.
- Take proactive measures, in line with international human rights law and standards, to ensure the safety of their workforce, including trade union activists. Such measures should recognize the extremely difficult operating environment for trade unionists in Colombia, including by:
  - (a) making public their commitment to uphold the human rights of their workforce, including the right to freedom of association;
  - (b) proactively engaging with local law enforcement officials when any trade unionist representing their workforce or the workforce of their subsidiary companies in Colombia is killed, becomes the victim of enforced disappearance, or is assaulted or threatened, calling for full impartial investigations and appropriate protection measures, in line with international human rights law;
  - (c) fully cooperating with investigations by the authorities into human rights violations against trade unionists on or representing their workforce, and regularly follow up on such investigations; insist that the government take appropriate measures to ensure that criminal investigations advance; and
  - (d) committing publicly to take all appropriate actions to ensure the safety of their workforce; reporting to the ILO; and seeking advice from the ILO permanent representative on what other action they should be taking to guarantee the safety of trade unionists representing their workforce or the workforce of their subsidiary companies in Colombia.

**Amnesty International calls on members of the international labour movement to:**

- Consider strengthening solidarity links with and appropriate support for their trade union counterparts in Colombia.
- Call on their own governments to take decisive action to demand that the Colombian government fulfil the recommendations outlined above.
- Call on employer representatives in their own countries to support recommendations made by the ILO, including those issued as a result of the ILO's permanent presence in Colombia, to guarantee the safety of trade unionists and end impunity in cases of human rights abuses against trade unionists.
- Call on companies for which they may work, and which also operate in Colombia, to fulfil the recommendations outlined above.

## APPENDIX 1: The Demobilization process and Justice and Peace Law

AI is concerned that Decree 128 of 2003,<sup>46</sup> Law 906 of 2004 and the Justice and Peace Law of 2005, together with other legislative initiatives associated with the demobilization of members of illegal armed groups, including paramilitary and guerrilla forces, threaten to consolidate the impunity which benefits perpetrators of human rights abuses, including against trade unionists. Since human rights abusers can be confident that they will not be held to account for these or future abuses, these policies expose trade unionists to continued risk of attack.

Although the Constitutional Court issued a ruling in May 2006<sup>47</sup> – made public in July – declaring many of the more controversial parts of the Justice and Peace Law unconstitutional or null and void, the legal framework regulating the demobilization is still inadequate:

(a) The Justice and Peace Law is designed to benefit only those few members of illegal armed groups who are under investigation or have been sentenced for human rights abuses. Given the high levels of impunity most paramilitaries and guerrillas are not under investigation for such offences. Only around 2,600 of the more than 30,000 paramilitaries who have supposedly demobilized are eligible to benefit from the Justice and Peace Law. The vast majority have thus benefited from *de facto* amnesties under Decree 128.

(b) AI has repeatedly underlined its concern that the legal framework to regulate the paramilitary process is not only designed to guarantee the impunity of paramilitaries responsible for human rights violations but seeks to ensure that the responsibility of third parties, including members of the security forces, in coordinating or supporting paramilitary structures is not exposed or investigated. This concern persists despite the Court's ruling:

- Under the Justice and Peace Law, a Justice and Peace Unit (Unidad de Justicia y Paz) of the Office of the Attorney General is investigating human rights abuses committed by members of illegal armed groups. But human rights cases implicating the security forces will remain with the Human Rights Unit (Unidad de Derechos Humanos) of the Office of the Attorney General. Since many cases of human rights violations involve collusion between paramilitaries and the security forces, there are fears that separating such cases into different investigating bodies could weaken criminal investigations into security force responsibility in cases of human rights violations.
- Although the Constitutional Court's ruling removed the strict time limits on criminal investigations, the still-small number of judicial investigators employed by the Justice and Peace Unit is severely limiting their capacity to effectively investigate.

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<sup>46</sup> Decree 128 grants *de facto* pardons to members of illegal armed groups who surrender to the authorities and who are not under criminal investigations for human rights abuses or violations or have not been sentenced for such crimes. The problem is that the vast majority of rank-and-file paramilitaries or guerrillas are not under investigation for such crimes or have not been sentenced for such crimes. This decree may therefore ensure the *de facto* amnesty of combatants before any form of judicial investigation into their possible criminal past.

<sup>47</sup> Constitutional Court Sentence C-370/2006, 18 May 2006.

Investigators are thus likely to be focusing on the individual responsibility of the combatant rather than on the armed structure to which s/he belonged or on the role that the security forces and others played in the activities of these structures.

- Since those benefiting from Decree 128 of 2003 are not subject to full and impartial investigations, their responsibility, and that of others, in human rights abuses, including war crimes and crimes against humanity, are unlikely to be exposed. There are fears, therefore, that both the Justice and Peace Law and Decree 128 will ensure that the responsibility of third parties in human rights violations will not be exposed.
- The Principle of Opportunity (*Principio de Oportunidad*) established under Law 906 of 2004 allows the Attorney General to close investigations into criminal acts, possibly including cases of human rights abuses, when it is considered that prosecution would not be “opportune”; for example, when the accused collaborates to prevent the commission of further crimes or provides essential information for the dismantling of an organized criminal group. Although the law allows for some restrictions in the application of the *Principio de Oportunidad* it does not contain language excluding war crimes. It could, in theory, lead to the closing of investigations implicating third parties in paramilitarism, since exposing such links may be deemed not to be in the public interest.

The government responded to the Constitutional Court’s ruling by issuing Decree 3391 on 29 September 2006. This Decree revives some of the most worrying aspects of the Justice and Peace Law. It includes language which may enable demobilizing combatants to benefit from the reduced sentences afforded by the Justice and Peace Law even if they do not freely admit to all the human rights abuses or violations for which they are responsible. Article 9 of the Decree establishes that a demobilized combatant must provide “a complete and truthful confession of the all the crimes in which [the demobilizing combatant] participated or of which he has certain knowledge”. It is of concern that this provision could present the demobilizing combatant with an opportunity to omit confessing to certain crimes arguing that s/he did not have “certain knowledge” of the criminal act.

The Decree develops the *Principio de Oportunidad* by stipulating that the Office of the Attorney General can decide to close criminal investigations into third parties when it is considered that prosecution would not be opportune. In particular, investigations into the possible criminal responsibility of third parties (known as *testaferros*) who are responsible for managing assets – obtained through the illegal activities of armed groups – on behalf of demobilizing combatants, could be closed. This stipulation would prevent criminal investigations to determine the direct involvement or support of these third parties in human rights abuses or violations committed by the demobilizing group.

The Decree reincorporates the deduction of up to 18 months from the reduced sentences established under the Justice and Peace Law (five to eight years) for time spent by demobilizing combatants in the so-called “concentration zones” (*zonas de ubicación*). The

Constitutional Court had established that such deductions were unconstitutional since concentration in those zones by paramilitaries had been voluntary.

Furthermore, the Decree may ensure that “demobilized” paramilitaries are permitted to spend their sentences in security force installations. This is of serious concern given the strong links between the security forces and paramilitaries. Alternatively they may spend, part, if not all, their sentences working in productive, including agricultural, projects in areas which they control and potentially on lands they may have expropriated through war crimes and crimes against humanity. In other words to reap profit from these illegally obtained assets.

(c) The fact that combatants may reap benefit from illegally obtained assets has serious implications for the right to reparation of victims. AI is concerned that Decree 3391 and Decree 4760 of December 2005, which regulates the Justice and Peace Law, may undermine rights to reparation. Under Decree 4760 illegally-obtained assets, such as land, can be classified as reparation if they are deemed to be of economic benefit to the local community and demobilized paramilitaries. Demobilized paramilitaries who declare such lands to be of economic benefit to the local community and others, including demobilized combatants, could become eligible for grants to develop agricultural projects on these lands under the government’s “rural reinsertion” programme. This programme envisages government financing for agro-industrial projects which bring together peasant farmers, displaced peoples and demobilized paramilitaries. The latter will account for half of those working in each project. Decree 3391 recognizes “rural reinsertion” programmes as part of a restorative justice effort. These projects could thus see peasant and displaced communities working alongside those who forced them off their lands with threats, or killed or carried out enforced disappearances against their relatives.

The fact that Decree 3391 allows for the *Principio de Oportunidad* to be applied to third parties who are responsible for managing assets, obtained through the illegal activities of armed groups, could seriously limit the authorities’ ability to identify all stolen assets.

Furthermore, Decree 3391 establishes that a combatant’s legally held assets may only be used to cover reparation costs of victims if the illegal assets they hold do not cover these costs. AI is concerned that, first, it is unlikely that all the illicit assets held by a combatant will be fully identified, partly as a result to the application of the *Principio de Oportunidad* and, second, the combatant does not have to provide the authorities with a list of all their legally held assets. This means combatants could transfer these to third parties to protect them.

(d) AI continues to be concerned about government policies which facilitate the re-emergence of paramilitarism and the recycling of combatants into the conflict. These policies include:

- A legal framework which provides *de facto* amnesties for human rights abusers and does little to expose third party responsibility in such abuses. This leaves paramilitary infrastructure intact and free to re-emerge, sometimes under a new legal guise.

- Demobilized combatants are being encouraged to join “civilian informer networks”, which provide military intelligence to the security forces, or to become “civic guards”, who provide security in towns, public parks and highways and elsewhere but whose true role is the provision of military intelligence to the security forces. There are no guarantees that human rights abusers are not being integrated into such structures, including private security firms – which form part of the informer networks – where they could be armed and so be in a position to exert power and commit further abuses. Media reports over the last year indicate the government is encouraging the employment of supposedly demobilized paramilitaries in the Urabá area of Antioquia Department to provide security on roads.



## **APPENDIX 2: Further cases of killings and death threats**

### ***Education, health and public services sector***

Trade unionists in the education and health sectors are targeted not only because of their trade union work, but also often because they work in areas of intense conflict where combatants often accuse them of siding with their enemies. Medical professionals are often accused by the security forces of siding with the guerrilla, particularly when they treat wounded combatants which they may do voluntarily or through coercion, while guerrilla groups do likewise when medical personnel treat security force personnel. Health, education and public service sector trade unionists have also been targeted because of their campaigns against proposed government reforms, including privatization.

**Education:** Trade unionists in the education sector accounted for the highest number of killings: 35 education workers were killed in 2006, compared to 44 in 2005 and 48 in 2004.

On 15 February 2004, Janeth del Socorro Vélez Galeano, a teacher in Antioquia Department and member of the Teachers' Association of Antioquia (Asociación de Institutores de Antioquia, ADIDA), was shot dead, reportedly by members of the ELN in the hamlet of Asomadera, municipality of Remedios, Antioquia Department.

Jorge Eliécer Valencia Oviedo, president of the SUTEV, was killed in Tuluá, Valle del Cauca Department, on 21 August 2004, by gunmen thought to be paramilitaries. Jorge Eliécer had led protests against proposed local government reforms to the education sector. A number of other SUTEV members were killed by unidentified gunmen in Cali, Valle del Cauca Department, in 2005, including Luis Francisco (killed on 26 January), Elena María Díaz (24 May) and Iriel Ferro (25 November).

**Health:** On 3 February 2005, unidentified gunmen shot dead Lilia Ramírez Ortiz, a leader of ANTHOC, in the municipality of Sabana de Torres, Santander Department.

On 13 March 2005, gunmen, thought to be paramilitaries, reportedly stopped Elieser Morales Sánchez, an ANTHOC member in the Teusaquillo area of Bogotá, and tried to force him into a vehicle. When he refused, the gunmen opened fire and he was wounded in the stomach. This was reportedly the fourth attempt on his life and occurred in an area of Bogotá where many supposedly demobilized paramilitaries had reportedly been located. Elieser Morales Sánchez had reportedly received a written death threat on 7 January 2005 which arrived in the ANTHOC office in Bogotá. On 18 August 2006, another attempt was reportedly made on the life of Elieser Morales in Bogotá by paramilitaries he reportedly recognized as being members of paramilitary groups under the command of Ramón Isaza. Ramón Isaza and 990 members of the Magdalena Medio Peasant Farm Self-Defence Forces (Autodefensas Campesinas del Magdalena Medio, ACMM) were supposedly demobilized on 7 February 2006.

On 4 May 2005, a written death threat against several trade union leaders in Atlántico Department was received by fax in the office of ANTHOC in the departmental capital Barranquilla. The death threat was from the MAS paramilitary group. In its written statement MAS claimed it was not linked to other armed groups which operate in the rest of Colombia. However, the MAS acronym is closely associated to paramilitary structures and its use appears to be deliberate. Among the other trade unions named in the death threat were SINTRAELECOL and the CUT (see below).

On 12 July 2005, an anonymous telephone call was received in the national offices of ANTHOC. The caller threatened Juan Osorio Jiménez, the treasurer of the *Junta Directiva Nacional*, National Executive Council, of the union and other members of ANTHOC: “Tell that son-of-a-bitch that he should look after himself ... and tell everyone in that office to look after themselves”. Juan Osorio had been forced to flee Magangué, Bolívar Department, after receiving death threats. In March 2005, ANTHOC had denounced the growing control of the health sector in Magangué by sectors linked to paramilitary groups.

On 25 November 2005, a bomb exploded in the conference hall of the María Inmaculada Hospital in Florencia, Caquetá Department. At the time, a meeting organized by ANTHOC was underway to discuss changes to the provision of health care promoted by regional health authorities, including moves towards the privatization of health service provision and the laying-off of health workers. The explosion resulted in seven people being injured and the death of Jairo Antonio Fajardo, a health worker and community leader in the municipality of Cartagena del Chairá. According to information received, the authorities claimed that Jairo Antonio had planted the bomb. Jairo Antonio Fajardo had been detained for eight months accused of rebellion and subsequently released as a result of a lack of evidence against him. Reportedly, the explosion occurred after ANTHOC leaders Wilson Pérez Méndez and Alfredo Castro had received telephoned death threats, allegedly made by paramilitaries.

On 14 May 2006, two gunmen reportedly visited the home in Barranquilla of Eduardo García Fuente, a leader of the Atlántico Department branch of ANTHOC. When they found that he was not at home, they shot his son wounding him in the back.

Gastón Tesillo and Carlos Hernández, ANTHOC leaders in Atlántico Department, were among several trade unionists who received a written death threat at the offices of SINALTRAINAL, in Barranquilla on 15 May 2006 (see section above on the food workers’ union).

On 14 June 2006, a written death threat signed by paramilitaries identifying themselves as the “Armed wing of the ex AUC” was sent to ANTHOC’s office in Bogotá. The paramilitaries stated that they would not truly demobilize until they had “extermin[ated] the last son-of-a-bitch trade unionist and communist that exists”.

The death threat continued "... so that you see that we are not talking shit we give you the names of some of those we want to fumigate ...". The list gives the name of ANTHOC leaders around the country:

"Yesit Camacho, Juan Flores, Alberto Laines, Alberto Meneses, Wilson Perez [sic], Maria [sic] Helena Tobon [sic], Carmen Mayusa, Juan Osorio, Ediomar Botello, Luís Santana, Gladis Criado, William Vanegas, Angel [sic] Salas, Alfredo Castro, Aurelio Ladino, Antonio Ger, Lus Erenia Saac, Lina Gamarra, Hector [sic] Alvis, Wilson Narvaez, Bertulfo Solarte, Nubia Fonseca, Martha Lozano, Ortalides Castro, Gaston [sic] Tesillo, Gilberto Martines [sic], Fernando Santamaria [sic], Ligia Galeano, Raquel Salinas, Jose [sic] Merino [sic], Ricardo Baron [sic], Martha Ligia Castro, Carlos Bermeo, Arnulfo Parra, Billy Rusbel Beltrán, Rosa Luz Palencia, Edgar Pua, Wilson Gutierrez ...".<sup>48</sup>

This death threat was allegedly received shortly after ANTHOC participated in a demonstration, the Humanitarian Camp for the Right to Health in Colombia (Campamento Humanitario por el Derecho a la Salud en Colombia), from 28 April to 1 May 2006 in Bogotá.

In December 2006, members of ANTHOC were amongst a number of trade unionists threatened in a written message circulated by the Águilas Negras paramilitary group (see section above on the food workers' union).

On 15 July 2005, while entering her house in the neighbourhood of La Provenza, in the municipality of Bucaramanga, Santander Department, Carmen Elisa Nova Hernández was reportedly shot dead by paramilitaries travelling on a motorbike. She was a leader of the Santander Trade Union of Hospital and Clinical Workers (Sindicato de Trabajadores de Hospitales y Clínicas de Santander, SINTRACLINICAS). Her killing followed repeated death threats against the president of SINTRACLINICAS, Teresa Báez, in 2004.

**Public services:** On 26 June 2005, Rafael Antonio Ovalle Archila, a leader of the Union of Workers and Employees in the Autonomous Public Services and Decentralized Institutions (Sindicato de Trabajadores y Empleados de Servicios Públicos Autónomos e Institutos Descentralizados de Colombia, SINTRAEMSDES), was among several trade unionists threatened in two written AUC death threats in Bucaramanga, Santander Department (see section below on continued attacks and threats against trade union confederations).

Martha Cecilia Díaz Suárez, president of ASTDEMP, was abducted by unknown individuals on 15 August 2006 in Bucaramanga. They forced her to board a vehicle and took her to an area bordering the municipalities of Floridablanca and Girón. Her assailants accused her of being a guerrilla, demanded information on the president and treasurer of the CUT branch of Santander Department, David Florez and César Plazas, and beat her. They also showed her a

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<sup>48</sup> The names of several of these trade union leaders was reportedly included in the DAS death list (see section above on Security force-paramilitary operations to target trade unionists).

photograph of one of her daughters and told her that they had killed her. She was subsequently released. Martha Cecilia was shown photographs of herself participating in a CUT demonstration the previous week in Bucaramanga. Martha Cecilia's abduction also follows death threats against ASTDEMP and USITRAS in March 2006 (see section above on security force-paramilitary operations to target trade unionists). On 22 September 2006 the IACHR of the OAS called on the Colombian government to take measures to protect Martha Cecilia Díaz and the Vice-President of ASTDEMP, María Paz Mancilla Gamboa. On 8 March 2007 an attempted attack by unidentified gunmen who were reportedly looking for Martha Cecilia Díaz in Floridablanca was foiled by private security guards.

On 13 September 2006, Gabriel Izquierdo Meléndez was shot dead in the Bulevar de la Ceiba district of Arauca, capital of Arauca Department. Gregorio Izquierdo Meléndez was president of the Trade Union of Arauca Public Services (Sindicato de Servicios Públicos de Arauca, SINTRAEMSERPA) and a leading member of the Arauca branch of the human rights NGO Permanent Committee for the Defence of Human Rights (Comité Permanente por la Defensa de los Derechos Humanos, CPDH).

Gregorio Izquierdo Meléndez has been repeatedly threatened by paramilitaries. In October 2002 he had reportedly received a written death threat from the Victors of Arauca Bloc (Bloque Vencedores del Arauca) of the AUC<sup>49</sup> in which he was told that if he did not leave the city he would be declared a "military target". On 10 December 2004, an individual identifying himself as a member of the AUC telephoned the offices of SINTRAEMSERPA and asked the trade union's secretary why the president had not left Arauca despite strict AUC orders and told the secretary they were going to take "drastic measures against the president of the trade union". On 13 December 2004, Gregorio Izquierdo reportedly received a further telephone death threat from a caller who did not identify himself. In a letter to Colombian authorities, dated 21 December 2004, he stated that the caller had said "that I had to leave Arauca as soon as possible or if not they would not take responsibility for my physical security or whatever could happen to me". A further telephoned death threat was reportedly made on 21 January 2005. The secretary of the CPDH's branch in Arauca was told by an unidentified caller: "tell him that we are looking for him".

A letter from the DAS sent to Gregorio Izquierdo Meléndez on 23 December 2004 informed him it was unable to provide him with security. It recommended he refer to the security forces and offered to provide him with security advice. In February 2004 the IACHR had issued the CPDH in Arauca with precautionary measures, calling on the Colombian state to take measures to guarantee its members' security.

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<sup>49</sup> 548 members of the Bloque Vencedores del Arauca were supposedly demobilized in the Puerto Gaitán area of Arauca Department on 23 December 2005.

### **Peasant farmer unions**

Members of peasant farmer unions in areas of conflict have repeatedly been the victim of human rights violations and abuses. Those campaigning for land rights have often been labelled subversive by the security forces and the paramilitaries. These accusations have repeatedly been followed by serious human rights violations committed against members of peasant farmer organizations by the security forces or paramilitaries. Within the context of Colombia's long-running armed conflict more than 3 million people have been forcibly displaced from their lands, with over 310,000 in 2005 alone and a further 220,000 in 2006. Many of these lands have been occupied by paramilitaries and powerful economic interests eager to exploit the land's agro-industrial, mineral wealth or other economic potential. Over two million hectares is estimated by human rights NGOs to have been illegally obtained by paramilitaries and interests associated with paramilitary forces. FARC threats and killings of peasant farmers have also resulted in forced displacement of large numbers of peasant farmers.

AI is concerned that legislative initiatives the government is promoting will provide a means for those who have committed war crimes and crimes against humanity to legalize tenure of lands they have occupied by force (see Appendix 1). AI is also concerned that the context in which ownership of illegally-obtained lands is being legalized may explain much of the current violence against peasant farmer organizations. Threats and human rights violations have affected both national and regional peasant farmer organizations.

**FENSUAGRO:** FENSUAGRO is a national confederation of agricultural workers' unions. On 18 March 2005, members of the army reportedly killed FENSUAGRO leaders Javier Alexander Cubillos Torres, Wilder Cubillos Torres and Heriberto Delgado Morales in the La Hoya del Nevado area of the municipality of Sumapaz, Cundinamarca Department. The three were members of the UP and the Communist Party. Members of the High Mountain Battalion No.13 (Batallón 13 de Alta Montaña) reportedly told the relatives to look for the bodies in the Fusagusagá morgue where they were found a week later. The bodies were reportedly naked and in plastic bags and showed signs of torture. The three were reportedly presented to the media by the army as guerrillas killed in combat. According to media reports the military justice system was reportedly handling the case until at least June 2005 when the Office of Attorney General claimed jurisdiction of the case. AI does not have information confirming whether the case has been transferred to the civilian justice system.

On 21 April 2005, Socorro Vallejo was killed reportedly by AUC paramilitaries on the road between El Empalme, where she lived, and the municipal capital Orito, Putumayo Department. The vehicle in which she was travelling had reportedly been forced to stop by four paramilitaries who forced her out of the vehicle and shot her seven times. The killing reportedly took place less than a kilometre away from a police and army checkpoint. Socorro Vallejo was a member of FENSUAGRO and the El Progreso Peasant Farmer Organization (Fundación Campesina El Progreso).

According to information received, Jairo González, a national leader of FENSUAGRO and leader of the Peasant Farmer Union of Bolívar (Sindicato de Pequeños Agricultores de Bolívar, SINPABOL), was killed on 29 July 2005 in the El Hobo area of the municipality of El Carmen de Bolívar by gunmen wearing military-style uniforms. Along with other national leaders of FENSUAGRO his name appeared on the DAS list reportedly handed over to paramilitaries (See section above on security force-paramilitary operations to target trade unionists).

On 6 February 2006, José Gildardo Parra Osorio of FENSUAGRO was killed in Puerto Rico Municipality, Meta Department, allegedly by paramilitaries. The body was left in the municipal rubbish dump. When relatives attempted to retrieve the body they were reportedly prevented from doing so by paramilitaries: “You are not collecting that son-of-a-bitch, he stays there, and none of you dare talk or leave the town”.

**SINTRAGRICOLAS:** On 2 September 2003, three members of SINTRAGRICOLAS (which is affiliated to FENSUAGRO), César Augusto Fonseca Morales, José Rafael Fonseca Cassiani, and José Ramón Fonseca Cassiani Morales were killed, reportedly by paramilitaries, in Ponedera Municipality, Atlántico Department. Their dismembered bodies were found the next day. The acting president of SINTRAGRICOLAS, Víctor Jiménez Fruto, was reportedly abducted and subsequently forcibly disappeared on 22 October 2002 in the municipality of Ponedera. On 24 July 2002 he had lodged a complaint with the Office of the Attorney General regarding repeated death threats he had received. His predecessor, Saúl Colpas Castro, was shot dead in front of his family on 13 July 2001 in the Puerto Giraldo area of the municipality of Ponedera.

On 17 May 2005, SINTRAGRICOLAS member José María Maldonado was killed in the municipality of Ponedera, allegedly by two paramilitaries travelling on a motorcycle. He had reportedly survived a previous attempt on his life carried out 15 days previously. All the SINTRAGRICOLAS members mentioned above were reportedly on the DAS list.

**SINTRAINAGRO:** On 2 January 2006, the body of Carlos Arciniegas Niño, a former member of the executive council of the National Trade Union of Farm Workers (Sindicato Nacional de Trabajadores de la Industria Agropecuaria, SINTRAINAGRO), was discovered in Puerto Wilches Municipality, Santander Department. Carlos Arciniegas had been missing since 30 December 2005, when he was reported to have been in Barrancabermeja. The body reportedly showed signs of torture. Carlos Arciniegas had been bound and shot three times. The killing has been attributed to the Central Bolívar Bloc (Bloque Central Bolívar, BCB), of the AUC.<sup>50</sup> He had allegedly been threatened by paramilitaries before his death. Carlos Arciniegas had represented African Palm plantation workers in talks with employers.

**SINTRAGRITOL:** Over recent years, AI has received reports of numerous threats, killings and possible arbitrary detentions of members of the Tolima Agricultural Workers' Union

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<sup>50</sup> The BCB supposedly demobilized between 25 September 2005 and 1 March 2006.

(Sindicato de Trabajadores Agrícolas del Tolima, SINTRAGRITOL). Arturo Díaz García of SINTRAGRITOL was killed on 21 December 2005 after gunmen reportedly abducted him in the El Toche area of Cajamarca Municipality, Tolima Department. His body, which allegedly showed signs of torture, was found the next day a short distance from El Toche. On 26 June 2005, Arturo Díaz had reportedly been temporarily detained by the security forces and accused of having links with the FARC. Prior to his detention, Arturo Díaz denounced that he had been victim of paramilitary death threats at the end of March 2005. Paramilitaries had reportedly circulated pamphlets in El Toche declaring Arturo Díaz to be a military target.

**ADUC:** On 4 February 2006, Alirio Sepúlveda Jaimes, a leader of ADUC, was killed in the municipality of Saravena, Arauca Department. He was reportedly killed by a gunman a short distance from a police post. Witnesses claim to have seen the gunman in the company of troops belonging to the army's "General Gabriel Revéiz Pizarro" Battalion. Alirio Sepúlveda was one of several activists detained by the security forces on 12 November 2002. He was subsequently released (see section above on the misuse of the judicial system).

**SINDEAGRICULTORES:** Luis Miguel Gómez Porto, President of SINDEAGRICULTORES and a FENSUAGRO leader, was killed on 3 May 2007, reportedly by members of the Battalion of Fusiliers of the Marine Infantry No.4 (Batallón de Fusileros Infantería de Marina No. 4) in the Ojito area of the municipality of Ovejas, Sucre Department. According to information received, he had been arrested in April 2005 on charges of subversion. He was released on 18 May 2006. It is not clear if the case against him had been closed. Luis Gómez was reported to have been killed after he left his home to visit relatives; the army claimed that he was a guerrilla killed in combat. The fact that several members of SINDEAGRICULTORES were named in the DAS list raised concerns that Luis Gómez may have been extrajudicially executed.

### ***The trade union confederations***

AI continues to document cases of human rights violations against trade union confederations, in particular the CUT. These attacks appear to be part of the coordinated strategy to undermine trade union work at the national level. National confederations play an active role in bringing to global attention the human rights crisis facing trade unionists in Colombia, including at the annual International Labour Conference (ILC) of the ILO.

On 26 June 2005, Rafael Antonio Ovalle Archila, a leader of the CUT and SINTRAEMSDES, was among several trade unionists threatened in two written AUC death threats. The threats were sent to the offices of SINTRAEMSDES in Bucaramanga, Santander Department:

'Death Certificate: For a Colombia Free of Trade Unionists and Guerrillas

The Central Bolívar Bloc of the AUC has commissioned the "companies without trade unions" squad to cleanse the city of "trade unionists and servile worms" of the

guerrilla, and warns the leaders of the CUT in Santander to abandon the area or, if not, warns them that they are sentenced to death.’

This threat followed a similarly worded death threat against trade unionists in Bucaramanga issued on 13 June 2005 and which named several members of the CUT.

A written death threat addressed to Mario de Jesús Castañeda, a leader of the CUT in Huila, was sent to the CUT offices in Neiva, Huila Department, on 22 September 2005. The note was sent by the BCB paramilitary group days before the start of its supposed demobilization:

“Today we remind you that for some time you have been annoying us with your vulgarity against the government...We are in the peace process in this area where we are active, when we have the opportunity, we will accomplish what we have said we would do to characters like you and other revolutionary trade unionists that are slandering each government we have as well as respectable people...For the moment we will continue to act in good order but in an effective way and we will not stop until we see this area in peace and clean of people like you. Leave, shut up or we will act”.

On 20 September 2005, Mario de Jesús Castañeda had reportedly been searched by the police at the coach station in Neiva. He was detained for some 50 minutes during which time the police reportedly photocopied the documents he was carrying. These reportedly contained information about the alleged rape of a woman by paramilitaries, which Mario de Jesús Castañeda was collecting before presenting a formal complaint to the authorities. Concerns for his safety were heightened by the fact that those who report human rights violations by the security forces or the paramilitaries have often been the target of human rights violations.

On 3 October 2005, Pedro Orozco Pérez was shot by two unidentified gunmen travelling on a motorcycle at 8:35am in Barranquilla. He subsequently died of his wounds. Pedro Orozco was an adviser to the Atlántico branch of the CUT. On 4 October 2005, Rafael Angel Charris Charris was shot dead by unidentified gunmen travelling on a motorcycle in the municipality of Santo Tomás, Atlántico Department. Rafael Angel Charris was a former leader of the Atlántico Department branch of the CUT. Jesús Tovar Castro, Henry Gordon and Tomás Ramos Quiroz, leaders of the Atlántico Department branch of the CUT, were among several trade unionists whose names appeared on the death threat delivered to the SINALTRAINAL offices in Barranquilla on 15 May 2006 (see section above on the food workers’ union).

On 31 August 2006 a written death threat was received in the offices of the CUT in Bucaramanga, Santander Department. The written death threat was headed with the initials of the AUC-linked paramilitary group BCB and states that through intelligence work it has undertaken it has discovered that the CUT has been responsible for making “false denunciations” against the “demobilized” paramilitaries: “So we have decided to defend ourselves undertaking a well planned military operation to once and for all locate, exterminate, disappear and finish off this trade union cell... .”



The death threat labels trade unionists as “guerrilla political cadres”. This same text was allegedly received in the CUT’s national offices. It is of concern that this threat was made months after the BCB supposedly demobilized.

On 5 September 2006, Domingo Tovar, Director of the CUT’s human rights department, sent a letter to the government and the IACHR denouncing continued surveillance by unknown individuals, and telephoned death threats against him and his family. He also claimed that because of budget cuts to the government’s protection programme he had been unable to travel with his escorts. On 4 December 2006, Marqueza Arrieta, Domingo Tovar’s mother, was threatened in Corozal Municipality, Sucre Department, by two men on a motorcycle who forced her to stop and told her: “we’re going to kill you, you are warned”. This was the latest of a string of threats she had received in recent years.

In December 2006, members of the CUT in the Atlántico Department were amongst trade unionists threatened by the Águilas Negras in the written death threat the paramilitary group circulated in the city of Barranquilla (see section above on the food workers’ union).

### **APPENDIX 3: Tripartite Agreement on Freedom of Association and Democracy**

In the framework of ILO Conventions Nos. 87 and 98, the Colombian tripartite delegation to the 95th Session of the International Labour Conference, desirous of putting into effect the matters agreed to, declares to the Committee on the Application of Standards that the following agreements have been reached:

(a) The Government of Colombia will, with the assistance of the ILO secretariat and with the support of workers and employers, guarantee a renewed presence of the International Labour Organization in the country, through a permanent representation of the aforesaid Organization, whose priority task will be technical cooperation aimed at promoting decent work and the defence of the fundamental rights of workers, their trade union leaders and their organizations, specifically as regards their physical integrity, trade union freedoms, freedom of association and of speech and collective bargaining, as well as free enterprise for employers. The parties request the Governing Body to put this agreement into effect and to provide the logistics and structure for its implementation.

(b) With regard to technical cooperation, the Colombian Government undertakes to seek economic support that will guarantee the achievement of the proposals made and, to this end, will seek financial assistance from the ILO. With this in mind, the national Government will make available the necessary resources to activate and implement the programme. The Government also requests the ILO to take action to obtain additional resources from donor nations and other international organizations, with a view to reinforcing the cooperation programme.

(c) In the fight against impunity, the parties have agreed on a rigorous follow-up of the findings of the special investigation group set up by the Office of the Attorney-General to bring to light crimes against the physical integrity and freedom of workers and trade union leaders and to punish those guilty.

(d) The Colombian Government, the employers and the workers undertake to provide a new impetus to ILO principles with a view to giving effect to fundamental rights at work. In this perspective, the National Commission on Wage and Labour Policies will be convened with a permanent agenda, and the ILO will be requested to provide it with appropriate assistance in its work. The commitments made hereby are intended to seize the opportunity offered by the Committee on the Application of Standards to disseminate this Agreement and to reaffirm the implementation of ILO policies on cooperation, social dialogue, collective bargaining, trade union freedoms, defence of workers' human rights, freedom of association and freedom of enterprise.

Geneva, 1 June 2006.

For the Government:

(*signed*) Jorge León Sánchez Mesa,

Deputy Minister for Labour Relations of the Ministry of Social Protection.

For the workers:

*(signed)* Carlos Rodríguez Díaz,  
President of the Single Confederation of Workers of Colombia (CUT).

Julio Roberto Gómez Esguerra,  
Secretary General of the General Confederation of Labour (CGT).

Apecides Alviz Fernández,  
President of the Workers' Confederation of Colombia (CTC).

For the employers:

*(signed)* Luis Carlos Villegas Echeverri,  
President of the National Employers' Association of Colombia (ANDI).