

**Report from
Inaugural Meeting of International Commission for Labor Rights
and
Administrative Council Meeting of International Centre for Trade Union Rights
Geneva, Switzerland
June 14, 2003¹**

On June 14, 2003, I attended the first formal meeting of the International Commission for Labor Rights (ICLR), representing the Labor and Employment Committee of the National Lawyers Guild of the United States (NLG). The same day, I also attended the 19th Administrative Council meeting of the International Centre for Trade Union Rights (ICTUR). Both meetings took place at the headquarters of the International Labor Organization (ILO) in Geneva, concurrently with the annual session of that tripartite international institution. Foremost among the many critical projects being initiated by the ICLR are 1) sending Commissions of preeminent labor lawyers to Colombia to investigate the assassinations and disappearances of union activists; and 2) preparing a publication which will provide practical assistance to workers' advocates seeking to enforce compliance with core international labor standards by international financial institutions.

Background

The ICLR is an international network of labor lawyers constituted jointly by ICTUR and the International Association of Democratic Lawyers (IADL), a United Nations (UN) accredited NGO. The Commission is a response to increasing attacks on working people worldwide stemming from the rise of globalization under the neoliberal model. The ICLR will recruit leading lawyers into panels of Commissioners to engage in a variety of actions intended to protect the human rights of workers and international labor standards. The Commission is independent of the trade union movement but has attracted support from the international trade secretariats (international sectoral labor organizations within the ICFTU) and intends to work closely with the ILO. More information about the ICLR, its purposes and preliminary activities is available at its web site, www.labourcommission.org.

ICTUR, founded in 1987, is also accredited by both the UN and the ILO. It exists to defend and extend the rights of unions and workers worldwide. Its committees and correspondents include trade unionists, academics, human rights workers and labor lawyers. ICTUR publishes the journal *International Union Rights*.

By way of context, it should be noted that immediately prior to the ICTUR and ICLR meetings, the management and government representatives to the ILO succeeded for the seventh consecutive year in blocking an initiative by the labor representatives to appoint a Commission of Inquiry to investigate the endemic murders of union activists and their perceived supporters in Colombia. Yet the ILO delegates managed to reach agreement on language condemning lesser restrictions on union activity in both Cuba and Venezuela. The prevalence of this double standard framed much of the discussion at the ICTUR and ICLR meetings.

Both the ICTUR and ICLR meetings were attended by delegates representing France, Germany, Japan, Canada, the United States, the United Kingdom, Colombia, Panama, Australia and Switzerland, the Secretary General of the Organization for African Trade Union Unity, and officers of several of the International Trade Secretariats. Both meetings were chaired by John Hendy, Q.C., a prominent British labor lawyer.

ICTUR MEETING - Human Rights of Colombian Union Activists

The primary item on the agenda of the ICTUR meeting, which took place the morning of June 14, was a presentation and discussion regarding the ongoing human and workers' rights tragedy unfolding in Colombia. The body received reports from the Presidents of Colombia's three principal trade union federations, Carlos Rodriguez of CUT, Julio Roberto Gomez of the CGTD (General Confederation of Democratic Workers), and Alphicides Alvis of the CTC, as well as Francisco Ramirez, an attorney for the Colombian mine workers' union who is part of a

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Colombian lawyers' collective which is coordinating legal actions against several multinationals, and Peter Drury of Amnesty International in London. It was significant that the Presidents of all three labor federations appeared together, given recent tensions over whether and to what extent to cooperate with the right wing government of Uribe. The speakers were unanimous both in analyzing the murders of trade unionists as one of an arsenal of tactics in the strategy of implementing the neoliberal economic model in Colombia, and in calling for international solidarity to support Colombians in reaching an autonomous solution.

Colombia has the highest rate of assassinations of union activists of any nation, by far. Among the thousands of killings per year in political violence in Colombia, the vast majority of which are carried out by the country's armed forces and allied right wing paramilitaries, an astonishing number take place in the context of labor disputes. Indeed, Mr. Drury of Amnesty stated that 80-90% of the acts of political violence are the responsibility of the security forces and paramilitaries, and of these fully 25% are against members of trade unions. Further, 80-90% of the murders of trade unionists take place in the context of a labor dispute either against privatization or over natural resources, according to Mr. Drury. Since 1986, over 4,000 union activists have been assassinated in Colombia, according to ICTUR.² 12 million people are internally displaced as a result of the political violence.

Sr. Rodriguez of the CUT emphasized that these acts of violence take place in the context of an economy controlled by a small number of powerful economic actors; for example, 4 economic groups own 80% of the media, which makes it very difficult for the unions to reach public opinion. The country has a 33% unemployment rate and a growing informal sector. The majority of government spending goes to service debt owed to international financial institutions. In addition to the assassinations, legal "reforms" liberalizing subcontracting and indefinite contracts are another factor leading to the decline in unionism in Colombia. As Sr. Gomez of the CGTD expressed it, the implementation of the neoliberal model has led not only to violence, but to greater poverty and "the marginalization of the majority." According to Sr. Gomez, the neoliberal model has been the destruction of national productive power in favor of foreign imports. For example, a country that formally produced virtually all its own food (importing only 70,000 tons in 1960) now imports 11 million tons of food annually.

Sr. Gomez pointed out that the Inter-American Development Bank in particular is responsible for formulating and financing policies such as the infamous "municipal performance plans" which between 1998 and 2000 resulted in the layoffs of more than 60,000 workers and the firings of union leaders. Privatized industries include transportation, the merchant marines, fisheries, and most recently, telecommunications. In this most ironic episode, the coercive power of the state—the military—has been used to forcibly privatize the state telecommunications company Telecom. Thousands of workers have been fired, installations have been militarized by the police forces and the army is occupying facilities.

Sr. Rodriguez concluded that the unions are not simply a "wall of lamentation." Not only have they made concrete gains for their members, they have proposed and are advocating an alternative model of development. He points out that without an alternative to a model which perpetuates poverty and social exclusion, any peace treaty will be meaningless.

Sr. Alvis of the CTC detailed the attempt of the Uribe government to institutionalize anti-democratic political and economic changes consistent with the neoliberal model through a popular referendum on constitutional "reform," and the efforts of the trade union movement to defend the people and the institutions of Colombian society from this assault via a campaign of abstention.

Sr. Ramirez, the mine workers lawyer, briefly discussed the legal complaints in U.S. courts under the Alien Tort Claims Act against 3 multinationals (Coca-Cola, Occidental and Drummond) arising from the murders of workers and union leaders, before placing the situation in the mineral extraction and natural resources industries in its geopolitical context: Ramirez argues that the campaign to eliminate the union movement in Colombia is supported by the governments of the United States, the United Kingdom, Europe and numerous transnational corporations. He states that attorneys for transnational corporations drafted the laws which protect the interests of those corporations in the mining sector. The transnationals with natural resources interests in Colombia include an oil company in which George W. Bush has or had an ownership stake, according to Ramirez. He charges that the

² ICTUR Columbia Newsletter, March/April 2003, p. 2.

strongest military and paramilitary presence is precisely in those areas of the countries where transnationals are planning to develop mining projects, and that those areas are effectively occupied by the paramilitaries with the cooperation of the military. According to Ramirez, the CIA itself provided \$30 million to the paramilitaries, based on a December 2002 statement from the CIA itself. He charges that the U.S. government, while it claims to be fighting against narco-trafficking, is in fact aiding the narco-traffickers to support the paramilitaries in the areas where transnational mining interests are operating.

Sr. Ramirez states that Colombian Army officers who were in charge of the areas in which union leaders were murdered after Drummond started its operations in Colombia in 1982 were subsequently hired by Drummond to head its security operations. The internal security of the company is now in the hands of former army officers who have acted in concert with the paramilitaries in the mining areas, according to Ramirez.

According to the CUT's Human Rights Department, 42% of the human rights violations in Colombia take place in the energy and mining sectors. The killings of trade unionists to advance the interests of companies wishing to extract Colombia's natural resources is linked to human rights violations against other groups. For example, he discussed legal complaints against Occidental and BP arising from the killings of indigenous women to force displacement of their community in order to extract oil. He concluded that Colombian trade unionists are not murdered because they are guerrillas; not one has been killed in armed conflict.

The legal actions are not limited to the U.S. courts. The lawyers' collective with which Ramirez is affiliated is planning war crimes charges in the International Court of Justice against the Presidents of transnational corporations implicated in the murders of unionists.

Peter Drury of Amnesty confirmed that the violence in Colombia is not just a case of government vs. guerrillas, but that it arises from an effort to consolidate control over economic resources and stems in large part from a desire to profitably access natural resources. He stated that principal responsibility for the deterioration of human rights in Colombia rests with the armed forces' counterinsurgency strategy, which is largely carried out by their paramilitary allies in the form of killings, "disappearances," internal displacement and other forms of state and quasi-state terror. He also noted that the FARC, Colombia's principal guerrilla organization, has committed violations of international humanitarian law, principally through the use of kidnaping

Drury stated that "impunity," or the ability to carry out atrocities without legal consequences, is intrinsic to the counterinsurgency strategy. With respect to the killings of trade unionists, there is "100% impunity." *Of the hundreds of unionists murdered in 2000-2002, there has not been a single conviction of a killer.* Some of the reasons the policy of impunity thrives include the murder and disappearance of attorneys investigating human rights cases, as well as the ability of the Colombian Attorney General to remove attorneys from such investigations and to determine which if any are investigated. Another factor encouraging the climate of impunity is the fact that the victims of human rights violations are portrayed in the press as associated with "subversive" or "terrorist" organizations, which limits public support for investigation of these cases. In addition, proposed Decree 128 would provide amnesty to "surrendering combatants."

When asked by the delegates what can be done to assist our trade union brethren in Colombia, all the Union Presidents agreed all the Union Presidents agreed upon one proposed form of assistance among the many discussed: Workers around the world should bring pressure on their governments to support the establishment of a Commission of Inquiry to examine and report to the ILO on the realities of the situation. A representative from SOLIDAR, the European trade union organization providing welfare benefits to the families of union members, proposed to cooperate with the Colombian unions to constitute a fund for family members of union victims of political violence.

Ron Oswald, the General Secretary of the international union of workers in hotel, food and related trades, cautioned against "one size fits all" legal and political campaigns directed against all forms of foreign investment in Colombia. He argued that the Coca-Cola ATCA case in particular was problematic, as it had resulted in a ruling that Coke is not responsible for the actions of its franchisees, who employ half a million workers (as opposed to the 28,000 employed directly by Coke). He stated that it is important to have clear, credible evidence of allegations before commencing campaigns based upon them.

ICLR MEETING

Given the exigency of the human rights situation for union activists in Colombia, it is not surprising that Colombia was a principal focus of the inaugural meeting of the ICLR.

The ICLR was introduced as a permanent center to coordinate the activities of labor lawyers supporting workers' rights as human rights internationally, and to respond to crises. The principal items on the agenda were reports from and proposals for future action by the ICLR "working groups," and approval of the ICLR Constitution.

The ICLR has constituted working groups on Colombia, the Application of International Labor Standards to International Financial Institutions and Trade Treaty Interpretation, a Training Manual, East Asia and Pakistan.

Colombia

Steve Gibbons, the Vice-Chair of the British division of ICTUR, reported for the Colombia working group. He proposed that, at the invitation of Colombian trade unions, the ICLR take "strategic interventions" with respect to Colombia by establishing two delegations or "Commissions." The first delegation would investigate, compile information and report on the issue of impunity with respect to the assassination of union activists. The second delegation would investigate, analyze and write about labor (and related environmental and indigenous) rights issues raised by the operations of multinationals in the Colombian mining and petroleum sectors. Prior work by UN agencies would be reviewed and taken into account. The ICLR would work with the American Association of Jurists ("AAJ," the inter-American lawyers' organization) and the Colectivo de Abogados in Colombia in coordinating the delegation. Each Commission would be composed of 4-5 commissioners from Latin America, the U.S., Europe and another region. Each commissioner would be carefully selected based upon her/his knowledge of labor, international human rights law, etc. The Commission reports could be submitted to the ILO.

Meeting Chair Hendy made five important recommendations which were noted with approval by the body: 1) That the ICLR must set clear terms of reference for each Commission. 2) That the Commissions must be premised upon invitations from the Colombian trade unions. 3) That the Commissioners be self-funded, but that the ICLR engage in fundraising to cover costs of publication, etc. 4) That the ICLR produce a formal document authorizing the Commissioners to perform their work. 5) That security for the delegation be carefully planned in coordination with the Colombian unions and lawyers' collective. Subject to these recommendations, the proposal of the working group was approved.

Enforcing International Labor Standards

Peter Barnacle, a Canadian labor lawyer, reported on the working group which has been established to produce a manual to provide practical assistance to trade unions and labor lawyers around the world who are seeking to promote the application and compliance with core international labor standards by international financial institutions and in the interpretation of trade treaties. He summarized a detailed Concept Paper which was provided to those present. The Manual will contain three parts: 1) The legal framework for the application of international labor standards; 2) The application of international labor standards to the policies, activities and programs of International Financial Institutions (IFIs); and 3) the application of international labor standards in the interpretation of trade treaties. The first part will not involve original research, but will refer manual users to the basic legal arguments that require international institutions and actors to apply international labor standards. Completion of the second section will require research support from academics, their students, and labor lawyers. The operative argument is that the status of the Bretton Woods institutions opens them up to compliance proceedings under international law. This section of the manual will identify the specific IFIs, review mechanisms within the institution that could be used to promote compliance with international labor standards, and set out the forms and procedures for making complaints both within the IFI and more coercive external legal processes. The third section involves the same concept, but is more complex, even problematic, especially given that most trade treaties are enforced through private arbitration in which standing may be a concern.

Stephanie Bernstein, a Canadian Law Professor, presented a report from the group that is working to produce a broader Training Manual to be used by trade unionists, lawyers and NGOs seeking to redress human rights violations against working people and their representatives. The focus of this discussion was distinguishing the purposes of the two manuals. The focus of the latter appears to be the broader issue of enforcing the international human rights of workers in forums other than the IFIs, for example, in the inter-American Human

Rights Court and in domestic courts. Chapters have already been assigned to writers. Stephanie and Peter agreed to coordinate their work going forward to ensure that no overlap occurs.

Both Manuals could prove valuable resources for workers' advocates seeking to force IFIs and multinationals operating in Colombia to remedy violations of international labor and human rights.

Labor Advisory Panel, Constitution and Fundraising

NLG member and Detroit employment lawyer Jeanne Mirer reported that the work of the ICLR will be advised by members of the communities we are serving, who will constitute a Labor Advisory Panel. Nine to ten members will be appointed from the global labor federations, and several others will be appointed from different trade union organizations. The Executive Committee will draw up criteria for appointment, subject to modification by the body at the next annual meeting, which will once again take place in Geneva at the conclusion of the ILO's annual session.

ICLR will continue training labor and employment lawyers as Commissioners at the meetings of the IADL and the NLG.

The proposed Constitution was discussed and adopted subject to several suggested amendments. Jeanne Mirer led a discussion of fundraising. The ICLR is in urgent need of funds. A fundraising committee is seeking individual, union and foundation support.

CONCLUSION

The work of the ICLR is critical, given the globalization of the ideology of "free" (non-union) enterprise as a cover for the personal enrichment of a handful at the expense of the many through transnational corporations and international financial institutions aided by the coercive financial and military power of the United States. The ICLR's Commissions to Colombia in particular have the potential to credibly publicize the connection between terrorism carried out in the economic interests of TNCs supported by governmental allies who falsely claim to the world to be fighting against terrorism. This manipulation of the truth is believed by many, given the obsequiance of corporate media, which at best ignores the epidemic of assassinations of union activists and at worst blithely amplifies the Orwellian equation by the powerful of trade union activity with terrorism. The success of this formula has inspired emulation by others, most recently the government of Peru, perhaps fueled by the Bush Administration's post 9/11 success at labeling as terrorist those who oppose its policies.

Equally if not more important is the potential for ICLR projects to provide workers' advocates with practical tools to pursue concrete remedies for violations of workers' rights as violations of human rights under international law. This work provides hope for resurrecting the ideal, much abused and maligned of late by the Bush administration, of limiting the arbitrary global actions of the powerful through the use of international law and international institutions.

I found ICLR activists and leaders to be very open to ideas for future projects, including investigation of recent state terrorism against striking union leaders in Peru, investigation of violations of core international labor standards in the United States, and legal research to support transnational grass roots worker solidarity actions.

The most important contributions NLG members can make now to the efforts of ICLR and ICTUR are to become trained as ICLR Commissioners (contact Jeanne Mirer at mirerfam@earthlink.net), to participate in the research for the Manual on enforcing international labor standards (contact Peter Barnacle at pbarnacle@canada.com), to sign up to receive the ICTUR urgent action bulletin (www.ictur.org), to provide financial support (contact Jeanne Mirer), and to attend next year's meeting. For more information about the ICLR, contact Daniel Blackburn (iclr@labourcommission.org) or go to the ICLR website (www.labourcommission.org).