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HUMAN RIGHTS WATCH/AMERICAS
PETITION TO USTR
REGARDING LABOR RIGHTS PRACTICES
IN COLOMBIA

June 14, 1995

Human Rights Watch/Americas is hereby submitting a petition with the U.S. Trade Representative, pursuant to Section 502 (b) (8) of the Trade Act of 1974, as amended. We are requesting a review of the labor rights situation in Colombia because we believe that labor rights abuses in that country are sufficient to suspend Colombia's trade benefits under the Generalized System of Preferences (GSP). Under the GSP legislation, the term "internationally recognized workers rights" includes the right to freedom of association and the right to organize and bargain collectively.

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Although on paper, the Colombian constitution guarantees the right of workers to organize, in practice this right is violated in the most fundamental way possible: by violating the right to life. Hundreds of workers have been killed and threatened simply for belonging to a union, participating in a contract negotiation, or trying to form union locals. There is abundant and convincing evidence linking state agents and the paramilitary and death squads often working as their allies or associates to the killings of trade unionists. Guerrillas have also been responsible for many murders of unionists.

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According to the U.S. State Department's *Annual Country Review of Human Rights for 1994*, the general human rights situation in Colombia remains "critical, with a variety of violent actors--including the police and security forces--continuing to commit abuses such as political and extrajudicial killings, disappearances, torture, and other physical mistreatment... The police and military forces continued to be implicated in cases of extrajudicial killings in 1994."¹

The Colombian government has systematically failed to act to protect workers, investigate the crimes committed against them, or prosecute in a fair, timely, and impartial way the individuals implicated in crimes, especially when they have been clearly identified as members of the security forces. For the killers of trade unionists, impunity reigns.

¹ U.S. State Department, *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government, 1995), p. 351.

This petition is divided into three sections, and begins with an overview of attacks on trade unionists. The first section describes violent repression of the union movement. The second discusses the state's failure to investigate, prosecute, and punish those who violate the rights of workers. The final section addresses infringements on the right to unionize and strike.

Killings of Trade Unionists

Leading or belonging to a trade union in Colombia has become an invitation to be killed. Especially at risk are members of unions with ties to leftist political parties or perceived as being part of the left, guerrilla organizations, or rival political movements. In 1994, three of every five union workers killed in the world were Colombian according to the Unified Workers Central (CUT), which represents sixty percent of Colombia's unionized workers.²

As a group, trade unionists rank second only to peasants among the estimated 4,000 Colombians murdered for political motives annually.³ Killings reached an all-time high in 1993, with 190 trade unionists murdered, among them eleven trade union leaders.⁴ The department with the highest number was Antioquia, whose work force is one of the most highly unionized in Colombia.⁵

Killings of trade unionists remained high in 1994, with 101 registered by the National Union School (ENS), a human rights organization that reports on unions. Of those, thirty-five took place in Antioquia. The department with the next highest number of killings was Santander, with seventeen, five of them leaders.⁶

Among the perpetrators of attacks against trade unionists are the security forces, paramilitary groups often working in close coordination with them, and guerrillas. Although no general statistics refer specifically to trade unionists, the Andean

² "¿Ser líder es perder?" *El Colombiano*, May 1, 1995.

³ Andean Commission of Jurists-Colombian Section (CAJ-SC), *Entre el dicho y el hecho*, December 6, 1994, p. 7.

⁴ Escuela Nacional Sindical (ENS), Banco de datos, 1994.

⁵ Jorge Giraldo, "Sindicalismo y Relaciones Laborales en Antioquia," ENS, May 1994, p. 7.

⁶ ENS, Banco de datos, 1994.

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Commission of Jurists-Colombian Section (CAJ-SC) has estimated that of the political murders registered in Colombia in 1994 where a perpetrator has been identified, sixty-six percent were attributed to members of the security forces, their paramilitary allies, and death squads, while thirty-four percent were attributed to guerrillas or guerrilla-backed militias.⁷

Among the most clearly political killings of trade unionists in 1994 were those of two members of the Unified Federation of Antioquia Workers (FUTRAN), which represents most Antioquia trade unionists. At the time of the attacks, FUTRAN was considered a leading force modernizing the union movement.⁸

FUTRAN Education Secretary Guillermo Marin had reported receiving death threats to government authorities before he was killed on July 18, 1994. In the company of other trade unionists, Marin was gunned down in broad daylight as he left the offices of the Social Security Worker's Union in Medellín.⁹

Two months later, police employed by the Attorney General's office (Fiscalía) held an interview in the FUTRAN offices with FUTRAN President Belisario Restrepo to gather information about Marin's killing. Hours after the interview ended, four heavily armed men identifying themselves as Fiscalía employees forced their way in.¹⁰ In the library, three members were meeting to plan a human rights event while Hugo Zapata, FUTRAN secretary of solidarity, was reading a book. One gunman asked for Restrepo. When he was told Restrepo had left, he shot Zapata point blank in the head, killing him. The men shot Carlos Posada, FUTRAN human rights secretary, five times.¹¹

Posada was rushed to a nearby public hospital. When two police guards stationed in the emergency room learned that Posada was a trade unionist, Posada's companions say they barred him from

⁷ As the CAJ-SC points out, however, most perpetrators of political killings are never identified and so would not figure in these numbers. CAJ-SC, *Entre el Dicho*, pp. 2-3.

⁸ Giraldo, "Sindicalismo," pp. 7, 9.

⁹ CUT, "En Colombia, la guerra sucia contra los sindicalistas no se detiene," September 27, 1994.

¹⁰ CUT, "En Colombia, la guerra sucia contra los sindicalistas no se detiene," September 27, 1994.

¹¹ HRW/Americas interview, FUTRAN, Medellín, April 18, 1995.

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being treated, [saying "unionists, no [expletive] way."] *beat 9*
 ("Sindicalistas ni por el [expletive]...") Posada was rushed to a private hospital, where doctors discovered that the delay had almost cost him his life." The bullet that severed his sciatic nerve left him crippled for life.¹²

The day after Hugo Zapata was buried, a caller asked a FUTRAN member, "How did your eyes do with the body, you son of a bitch?" (*¿Cómo les fue el ojo con el muerto hijo de puta?*) Posada continues to be followed by unidentified men.¹³ As of the writing of this petition, there had been no progress in investigating or prosecuting this case despite indications that police dressed in civilian clothes may have been involved.¹⁴ *Pract (2)*

In 1994, paramilitary groups in particular appeared to be waging a campaign to eliminate unions in several regions, including Antioquia, Ocaña, and the Middle Magdalena. The U.S. State Department reported that "paramilitary groups also perpetrated scores of extrajudicial killings ... often with the alleged complicity of military units or individuals. Indigenous community and labor leaders frequently were the victims of this violence."¹⁵

A paramilitary group calling itself Colombia Without Guerrillas, or COLSINGUE, claimed responsibility for the 1994 killings of Marín and two other trade union leaders killed the same week (see cases listed below). A communiqué subsequently published by leading newspapers and attributed to COLSINGUE declared "total war" on guerrillas and announced that "we will not exempt their political and trade union cadres."¹⁶ ↓

Paramilitary groups, including COLSINGUE, are estimated by the Public Ombudsman's office (Defensoría del Pueblo) to number more than 200.¹⁷ Human Rights Watch/Americas and Colombian human

¹² Ibid.

¹³ Ibid.

¹⁴ HRW/Americas telephone interview, ENS, June 9, 1995.

¹⁵ State Department, *Country Reports*, p. 351.

¹⁶ The communiqué mentioned Marín, Efrén Correa, and Jairo León Agudelo by name. "Nace grupo paramilitar," *La Prensa*, July 30, 1994.

rights groups suspect COLSINGUE may include active-duty police officers.¹⁸ Other killings of trade unionists include:

Diego Alberto Ortiz Prieto, a member of the Cauca Instructors Association (ASOINCA), was "disappeared" on April 27, 1995, as he was travelling by motorcycle from the school in San Luis, department of Cauca, where he teaches, to the town of Corinto. Witnesses say he was abducted by heavily armed men believed to be working for a paramilitary group active in the area. Ortiz had recently received threats as a result of his union activity.¹⁹

Ernesto Fernández Fetzer, a teacher and member of the Association of Educators of the department of Cesar (ADUCESAR) and the Civic-Communal Integration Movement of Pailitas, was shot and killed on February 20, 1995, as he drove his two children home. Witnesses say Fernández, who has been receiving death threats since 1989, was attacked by three hit men, who managed to flee despite the strong police and military presence in the area.²⁰ Subsequently, Fernández's wife, also a Civic-Communal Movement member, and eldest son, also a teacher, were harassed by men believed to be paramilitaries.²¹

Mario Rodas Cardona, president of the local branch of the Sugar Cane Workers' Union (SINTRACANAIZUCOL), was killed on November 1, 1994, apparently by a hired hit man in retaliation for having reported irregularities at the El Ingenio Cooperative near La Virginia, department of Risaralda. The CUT called the killing "another demonstration

¹⁷ "Human Rights Ombudsman Issues Report," *El Espectador*, in Foreign Information Broadcast Service (FBIS), Latin America, April 11, 1995, pp. 31-32.

¹⁸ HRW/Americas interview, Jorge Giraldo, ENS, April 18, 1995.

¹⁹ Amnesty International, Urgent Action 110/95, May 12, 1995.

²⁰ Minga (a Bogotá-based human rights group), Acción Urgente, February 21, 1995.

²¹ Amnesty International, Urgent Action, Further information on UA 359/94, March 22, 1995.

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of intolerance and persecution of the union movement."²²

Hernando Cuadros, leader of the Tibú branch of the Workers Alliance Union (USO), which represents state oil company workers, was abducted and killed on October 11, 1994. Cuadros' killers had attempted to abduct four other USO members at the same time. Paramilitary groups working in coordination with the military are believed responsible.²³

Jairo de León Agudelo, president of the local branch of the Agricultural Workers' Union, was killed near Salgar, department of Antioquia, on July 26, 1994, in an incident attributed to the paramilitary group COLSINGUE.²⁴ Agudelo had survived several previous attempts on his life perpetrated during union contract negotiations.²⁵

Efrén Correa, vice-president of the textile workers' union SINTRASATEXO, was shot dead on July 23, 1994, in Medellín by hit men in an attack carried out by COLSINGUE.²⁶

Jorge Rodríguez de León, treasurer of the Palmeras de la Costa Workers' Union, was shot and killed by armed men believed to belong to a paramilitary group funded by local landowners on April 20, 1994, in El Copey, department of Cesar. At the time, the union was in tense negotiations with management.²⁷

Hundreds more trade unionists have been subjected to death threats. Trade unionists are among the estimated 600,000

²² Intercongregational Commission for Justice and Peace (Justice and Peace), "Boletín Informativo," Vol. 7, No. 4, October-December, 1994, p. 63.

²³ CUT, "A las organizaciones sindicales internacionales," October 12, 1994.

²⁴ "Despiertan los 'Paras,'" *El País* (Cali), August 19, 1994.

²⁵ Justice and Peace, "Boletín Informativo," Vol. 7, No. 3, July-September, 1994, p. 38.

²⁶ "Despiertan los 'Paras,'" *El País* (Cali), August 19, 1994.

²⁷ Justice and Peace, "Boletín Informativo," Vol. 7, No. 2, April-June, 1994, p. 29.

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Colombians forced to flee their homes because of threats on their lives or the lives of their family members.²⁸ According to the Association of Arauca Educators (ASEDAR), 100 of their 2,500 members had received death threats in 1994, forcing nineteen to leave their posts.²⁹ The Ocaña branch of the Association of Educators of the department of Norte de Santander (ASINORT) suspended activities in July 1994 after receiving the last of a series of death threats from a paramilitary group calling itself "Black Hand."³⁰

Other incidents include:

José Lozano Correa, president of the Santander Workers Union (USITRAS-Barrancabermeja), has received repeated threats on his life and the lives of his family members, including a young son.³¹

Alirio Félix, president of the CUT branch in the department of Meta was among those members of the Meta Civic Committee for Human Rights who received personal death threats at the end of 1994 and beginning of 1995, prompting the closing of the Committee. Along with other members of the Committee, Félix, who was forced to leave Meta soon afterwards, believes both the CUT telephone and his residential telephone were tapped by police working with paramilitary groups.³²

Francisco Ramírez Cuellar, president of the Mineralco Workers Union (SINTRAMINERALCO), began receiving death threats in 1983, linked to a dispute between the union and management. Threats include telephone calls, telegrams, and the presence of armed men at his office and home. Two

²⁸ Conferencia Episcopal de Colombia, "Derechos Humanos y Desplazamiento Interno en Colombia," December 1994, p. 40.

²⁹ "Asesinados dos profesores en el nororiente," *El Tiempo*, April 7, 1994.

³⁰ HRW/Americas interview, Ocaña teachers, Ocaña, April 16, 1995; and "Desmantelan subdirectiva del magisterio en Ocaña," *La Opinión*, July 19, 1994.

³¹ Letter to HRW/Americas from Luis Eduardo Garzón, CUT, June 9, 1995.

³² Letter to HRW/Americas from Meta Civic Committee for Human Rights, March 13, 1995.

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attempts were made on his life in 1993, and one attempt in January 1994. Although the Procuraduría Human Rights office attempted to send Ramírez out of the country to protect his life, Mineralco management refused to provide his severance pay. Ramírez remains in serious danger.³³

Luis Carlos Acero, president of the Unified Agricultural Union Federation (FENSUAGRO), reported being followed by suspicious individuals and receiving multiple written and telephone death threats in late 1994.³⁴ 208

Domingo Rafael Tovar Arrieta, a member of the CUT leadership and the National Federation of Educators (FECODE) was forcibly detained by men believed to belong to state intelligence services on July 14, 1994, in Santafé de Bogotá. Tovar, a union activist from the department of Sucre, had fled to Bogotá because of threats and an attempt on his life. Forced into a car, Tovar was questioned about other trade unionists detained at the same time and later released.³⁵ FECODE, which represents over 200,000 teachers, reported that 662 of its members received death threats in 1994. Most worked in Antioquia.³⁶ 209 Proof

Urabá

Urabá is home to some of Colombia's strongest -- but most embattled -- unions. Violence against trade unionists there stems in part from tension between large landowners, companies that control banana production, and unions faced with an uncertain international market.³⁷ These factors overlap with a

³³ Minga, Acción Urgente, September 15, 1994.

³⁴ S.O.S. Torture, Urgent Action, COL 18-11-94.

³⁵ CUT, Acción Urgente, July 15, 1994.

³⁶ "Maestros: sancionados y amenazados," *El Tiempo*, February 19; and "Colombian Labor Unrest Threatens to Worsen," *Reuters News Service*, May 9, 1995.

³⁷ Along with other Latin American nations, Colombia is caught in a banana war between the European Economic Union and the United States, which has sought to decrease the quota of Latin American bananas shipped to Europe in order to favor North American producers. "Banano al borde de su peor crisis," *El Tiempo*, May 14, 1995. 209 662 871 Death threats

deadly political struggle among guerrilla groups and paramilitaries as well.

Eight members of the National Union of Agricultural Industry Workers (SINTRAINAGRO), which represents over 18,000 banana workers, were slain in 1994.³⁸

OH [Also present in Urabá are paramilitaries believed to be waging a campaign against perceived guerrilla sympathizers. In the late 1980s, groups like "Death to Revolutionary Trade Unionists of Urabá" targeted the leaders of banana worker unions. These groups reappeared in 1995, apparently led by well-known paramilitary chief Fidel Castaño, convicted in absentia for his role in massacres of banana workers in 1988.³⁹

The recent killings of three trade unionists in Urabá may be the work of paramilitaries and augur a new round of violence.⁴⁰ Trade unionists and leftist leaders suspect paramilitaries led by Castaño may be taking advantage of the fratricidal fight between guerrilla groups to execute outspoken union leaders, prevent unions from being formed, and threaten the left.⁴¹ Armed paramilitaries members have been seen patrolling with government troops, passing checkpoints with ease.⁴²

Despite the heavy concentration of security forces in Urabá, the

³⁸ CAJ-SC, *Urabá* (Santafé de Bogotá: CAJ-SC, 1994), pp. 41, 103-106; and HRW/Americas telephone interview, ENS, June 9, 1995.

³⁹ The guilty verdict against Castaño was upheld by the Supreme Court on February 16, 1994, and confirmed a twenty-year sentence. The massacres were carried out with the help of officers from the nearby Voltigeros Battalion. Nevertheless, Castaño, currently the focus of seven additional arrest warrants, continues to live and work in Colombia with little apparent fear of arrest and prosecution. HRW/Americas interview, Defensoría-Medellín, April 18, 1995; and "Corte condena a 'Rambo,'" *El Tiempo*, February 17, 1994.

⁴⁰ HRW/Americas telephone interview, ENS, June 9, 1995; and HRW/Americas interview, Defensoría-Medellín, April 18, 1995.

⁴¹ Letter to HRW/Americas from the Patriotic Union, June 7, 1995; and CAJ-SC, *Urabá*, p. 110.

⁴² FENSUAGRO-CUT, "Continúa el asesinato de dirigentes y activistas sindicales de Urabá," June 7, 1995.

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