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Workers without Rights: Labor Activists in Valle del Cauca's Sugar Sector under Fire

In August 2010, WOLA staff traveled to Valle del Cauca, Colombia to investigate the labor conditions of more than 30,000 workers employed in the sugar industry. Interviews with sugarcane cutters' organizations, workers' unions, non-governmental organizations (NGOs), and Colombian Senate offices revealed that serious labor abuses are pervasive throughout the sugarcane sector in Valle del Cauca. Workers are simultaneously deprived of basic labor rights and persecuted for organizing to defend their constitutional rights. In particular, we observed that the use of Associative Labor Cooperatives (CTAs) – an employment model where workers are hired through sub-contractors – undermines worker protections and labor rights. **In light of the pending Free Trade Agreement (FTA) with Colombia, the U.S. Congress must evaluate these serious labor concerns and promote the creation of a climate where workers' rights are respected.**

Based on our observations, WOLA recommends that:

- To ensure that Colombia meets internationally accepted labor rights standards, the U.S. should wait until Colombia has eliminated the CTA model prior to debating the FTA. Currently, there is a legislative proposal in Colombia (Article 63 of '*La ley de formalización y generación de empleo*') to disband CTAs by July 2013. WOLA believes that this time period is too long and that CTAs must be disbanded before the FTA is debated. Furthermore, there is not an outright ban on sub-contractors.ⁱ
- Colombia's Labor Ministry should receive the support necessary to remove the CTAs and effectively transition employees into the formal workforce with direct contracts. Colombian labor standards, like those of other trading partners, should reflect internationally recognized standards.
- The Colombian authorities provide protection for the sugar cane cutters and Colombian Senatorial staff whose advocacy for labor rights has made them subject to baseless political attacks. In particular, the case against Senator Lopez's aides is a clear attempt to discredit the workers in the sugar cane sector that demand their constitutional rights.
- The Colombian government investigate threats against members of civil society, including the organizations of sugarcane cutters, Corporación Humanidad "Maestra Vida," and other organizations working to defend labor rights in Colombia and bring the perpetrators of such threats to justice.

CTAs: Denying Direct Contracts with Refineries

The Colombian sugar industry continues to grow, though the majority of workers in the refineries, or *ingenios*, do not reap the benefits of increasing profits. Tax incentives from the Colombian government to pursue sugar-based ethanol production are partly responsible for the 15.1% growth in the sector in 2009.ⁱⁱ Despite a bleaker outlook for 2010-11 due to widespread flooding and subsequent crop damages, the industry is likely to rebound and expand.

Sugar and ethanol refineries utilize CTAs as a means of sub-contracting labor to third parties. By sub-contracting labor to the CTAs, the refineries avoid the obligations of the Colombian constitution and labor code in regards to labor rights. CTAs became the primary form of contracting sugarcane cutters during the Administration of Álvaro Uribe Vélez (2002-2010).

Despite oppressive working conditions, sugarcane cutters are not guaranteed direct contracts with sugarcane refineries. Sugarcane cutters, many of them Afro-descendent and indigenous men fleeing with their families from conflict-related violence in Cauca and Nariño, earn only \$7,000 COP (\$3.74 USD) per ton of sugarcane that they cut. On average, sugarcane cutters cut 5.3 tons of sugar cane a day in 9 to 10 hours. They frequently work seven days a week without job stability.

"I do not have a formal education. My family suffers from a lack of opportunities. I work six days a week to provide them with the opportunity of a better life, but [the company] does not provide me with a contract. I don't know what I'll do if I can't return."

-Anonymous Sugarcane Cutter

Many sugarcane cutters are required by refineries to belong to a CTA in order to gain employment. More than 12,000 manual laborers in the sugarcane sector of Valle del Cauca are affiliated with CTAs, totaling more than 40% of the workforce. Some of those who are not employed under the CTA model work under even more precarious conditions, such as women and minors who are partially employed in the planting of crops. According to a 2009 study, workers who belong to CTAs pay out 45.9% of their gross income to the CTAs for social security, support fees for the CTA, credit payments, and other dues. Therefore, sugarcane cutters employed under CTAs make 44.6% less than those directly employed by the refineries.ⁱⁱⁱ That is to say, a sugarcane cutter employed by a CTA nets between \$440,000 and \$520,000 COP a month (\$235.24-\$278.00 USD), while the minimum wage in Colombia for 2011 is \$535,600 COP per month (\$286.35 USD).

"The principle violators of labor rights are these Cooperatives...It is unjust that the workers who loan their labor services through the Associative Labor Cooperatives are not protected by labor laws but by the commercial regime; it is a retrogression of more than 200 centuries for our country (sic)."

-Colombian Vice President Angelino Garzón, November 4, 2010

Sugarcane Cutters Protest Unjust Working Conditions

In 2008, deteriorating labor conditions led 18,000 sugar cane workers to organize themselves to demand their rights. Their protest had the support of other labor and social movements in the country, in addition to a significant subset of public opinion. Some supporters initiated a hunger strike in Bogotá in solidarity with the demands of the cutters. Nevertheless, some refineries threatened to fire workers if they participated in the "Public Hearing on the Impact of the Sugar Cane Monoculture in the Geographic Valley of the Cauca River," which was approved by the Senate Plenary and convened on June 14, 2008, in Pradera, Valle del Cauca. The right to unionize was also threatened by the state's security apparatuses in conjunction with regional political elites due to the supposed threat that the strike presented to the region. Despite immense pressure to acquiesce, the workers went on strike on September 15, 2008, for more than eighty days and involved eight sugar and ethanol refineries.

The sugarcane cutters' strike demanded direct contracts with the refineries; job stability; just salaries; social services (housing, education and health); changing rooms; community investment; vacation days; and guarantees to the right to unionize among other things. The government and regional elites attempted to portray the protests as violent in order to propagate an unfavorable public image of the lawful protests, and the employers resisted negotiation of the cutters' demands.^{iv} Nevertheless, an agreement was reached with refineries, which included an 11.5% increase in pay for the sugarcane cutters. But workers are still threatened, and the refineries do not respect the agreement's conditions. The workers are not guaranteed labor protections because they do not possess direct contracts with the refineries.

Criminalizing the Defense of Labor Rights

The efforts to delegitimize the strike resulted in legal charges against six strike supporters (four strikers, a Colombian Senate staffer and an NGO activist) for allegedly conspiring to commit a crime, sabotage, and inflicting harm in September 2008.^v Since September 21, 2010, there have been five public proceedings against the accused. The case against the labor activists is based on informants' reports asserting that the FARC was allegedly present at a meeting held during the strike. As it happens, WOLA staff was at the 2008 meeting and can attest to the fact that the FARC was not present. During meetings that WOLA had in August 2010, the strike supporters expressed deep concern with the judicial proceedings against them. This form of political intimidation intends to discredit the movement representing the interests of sugarcane cutters and

could result in the imprisonment of people attempting to practice their legitimate right to organize.^{vi}

Despite the agreement reached in 2008, serious problems with the CTAs persist, and paramilitary groups regularly threaten workers and supporters attempting to organize in the sugar industry. The week before WOLA staff arrived in August 2010, disguised men distributed bulletins in several sugarcane-cutting municipalities that suggested that two of the accused, Alberto Bejarano and Juan Pablo Ochoa, had ties to the FARC.^{vii} Additionally, on November 4, 2010, the Central Tumaco Refinery S.A. arbitrarily fired 152 sugar cane cutters that belonged to the Palmicorte and Renovación CTA. Similarly, in April 2010, the Maria Luisa Refinery fired 184 workers. Both layoffs were in violation of the 2008 agreement.

The grave labor rights situation faced by workers contracted by CTAs requires concerted action by the Colombian government. Given recent statements by Vice-President Garzón questioning the CTA model, WOLA hopes that the new government will eliminate the CTA model and promote an atmosphere where the rights of workers are respected. The elimination of the CTAs should be a prerequisite to the negotiation of an FTA between Colombia and the United States. The Colombian government must end the persecution of labor rights defenders.

January 19, 2010

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ⁱ According to the new law, CTAs, or subsequent models of the CTAs, can still be used for temporary, fixed-duration work and for work that is not the "*actividad misional permanente*." "*Actividad misional permanente*" is the "non-core" work of an enterprise which can still be carried out by the CTA under the new law. There is not an explicit definition for the "*actividad misional permanente*," therefore leaving too much space for interpretation. WOLA is concerned that much work will be classified outside of the coverage of this item. While the fines against the CTAs that violate the laws are high, it is not clear what remedies are available to the workers who are affected by breaches in the law.

ⁱⁱ Portafolio. "Sector azucarero creció 15,1 por ciento en 2009: Asocaña." May 5, 2010.

ⁱⁱⁱ "Deuda Social y Ambiental del Negocio de la Caña de Azúcar." Bogotá, March 2009. Background on the authors: Mario Pérez Rincón is a Professor at the *Universidad del Valle* and Paula Alvarez Roa is a researcher at the Colombian NGO *Grupo Semillas*.

^{iv} Semana. "Paros que se hacen sentir." September 27, 2010.

^v The six supporters included four sugar cane cutters (Omar Enrique Cedano, Oscar de Jesús Bedoya, Raúl Antonio Chacón y José Oney Valencia); an aide to Senator Alexander Lopez Maya of the Alternative Democratic Pole Party (Alberto Bejarano); and a member of *Corporacion Humanidad "Maestra" Vida*, an NGO that accompanies sugarcane cutters (Juan Pablo Ochoa).

^{vi} For more information on the use of state entities to intimidate members of civil society see "Far Worse than Watergate" by the Washington Office on Latin America, Latin American Working Group, Center for International Policy and U.S. Office on Colombia, June 2010.

^{vii} Some of these bulletins emanate from corteros.obolog.com