

leaving virtually un-enforced the laws that should protect basic labor rights, and indeed often treating the exercise of those rights as criminal activity. In the past three years, the number of collective bargaining agreements has fallen to a fraction of its previous number, and abuse of some new forms of hiring and employment have become common practice to undermine workers' ability to organize and bargain collectively.¹

In Venezuela, President Chavez consolidated political control in the recall referendum and regional elections in 2004. In December 2005 the presence of opposition parties was completely eliminated from the National Assembly, leaving the legislative body in the hands of exclusively pro-Chavez parties.² Despite public calls for conciliation, the government has increased measures to limit political opposition activities, curb freedom of expression, and increase control over popular organization and participation.³ President Chavez has come to command such control over the institutions of the country precisely because his message keys into the deep resentment of many of the poor and marginalized working people of the country.

Democratically elected leaders need to provide both economic opportunities and ensure a fair distribution of the benefits of growth resulting from rapid economic opening and foreign investment. In its most recent report on the subject, Francois Bourguignon, Senior Vice President and Chief Economist to the World Bank states, "equity is complementary to the pursuit of long-term prosperity. Greater equity is doubly good for poverty reduction. It tends to favor sustained overall development, and it delivers increased opportunities to the poorest groups in a society."⁴

Democratic trade unions are fundamental institutions that provide workers a means to constructively seek greater equity in the economy and exercise basic freedoms to participate in economic decision making. As such, democratic unions are a bulwark against the powerlessness that leads to marginalization, upheaval, instability, and the support of authoritarian tendencies. When democratic trade unions are so weakened as to eliminate their ability to organize workers, negotiate decent working conditions and provide a structure for working families to have a voice in the formation of economic policies that impact them, radical, undemocratic alternatives more easily gain favor, often destroying the institutions necessary to build greater inclusion.

Effective unions counter authoritarian tendencies in very fundamental ways. First, as economic agents, they promote a culture of participation and negotiation through collective bargaining, which inherently undermines the tendency of economic power to be concentrated by small groups in the workplace and in society. Second, as political agents, unions give organized workers a voice in the political process, which promotes participation and reinforces democratic control of economic decision-making. Finally, unions are in many cases "laboratories of democracy," with internal processes for electing officers, setting policy, and adjudicating disputes. It is no surprise, therefore, that anti-democratic forces throughout the region have targeted trade unions for repression.

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1. See Solidarity Center report on key labor rights obstructions in Colombia, available upon request.
 2. Opposition parties pulled out of the parliamentary elections in December 2005 due to unfair elections conditions, and a last minute finding that the electronic voting system did not guarantee the secrecy of the ballot.
 3. The Venezuelan Government has increased control over political and public activities through the recent promulgation of penal code reforms, including a new law controlling mass media, constitutional reforms allowing it to control the Supreme Court (TSJ) politically, and increased punitive actions for political crimes by opposition figures. Government intervention in the internal affairs of union organizations vis-à-vis the national electoral commission (CNE), as well as a bill to reform the labor code, indicate the possibility of increased pressure on organized labor.
 4. World Development Report 2006: Equity and Development. Available at: <http://econ.worldbank.org/wdr/>

government (“chavista”) unions have become targets of scorn when they take positions in favor of protecting worker rights. Independent trade unionists continue to be arrested and jailed for leading legitimate union protests seeking remedies for workplace issues, with 120 trade unionists so far affected in the first nine months of 2012. In addition, violence against trade unionists is carried out with almost complete impunity, with 65 union leaders murdered in the first nine months of 2012. Following his reelection in October 2012, President Hugo Chavez announced the full and accelerated implementation of the “Communal State,” which is the centerpiece of the government’s *Plan Socialista 2013 -2019*. The plan is underpinned in the Organic Law of Communes of December 2010 and various legislation governing “communal councils.” This policy is set to impact every aspect of Venezuelan life and is meant to redefine social, political and economic relations in the country. The communes are comprised of localized communal councils formed for the self-management of local administrative, legal, economic and social matters. They are meant to “empower” and establish “self-government, greater participation and greater responsibility of citizens;” however, they are actually tied to the government and political parties. The laws that govern these new entities establish a vertical relationship to the presidency and in practice function as grassroots organizations for the PSUV party. Through control over access to goods and services, these communes can exercise political control at the local level. Government announcements promoting the “Communal State” indicate that the workplace form of community councils, “worker councils,” will now be aggressively promoted. The role and function of worker councils has yet to be clearly defined, but those that currently exist are similar to community councils and are set up by the executive branch of government – they must be approved by the Ministry of Communes, which reports directly to the Presidency. As defined in the Law of Popular Participation (*Ley de Participación Popular*), community councils cannot be formed by or include general assembly participants that are not members of the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela* or PSUV) or who are not “known supporters” of “Twenty-first Century Socialism.” Hence, the worker councils are not independent, democratic entities like trade unions, but rather function as PSUV grassroots structures at the workplace. As in the case of community councils, worker councils are being established alongside existing trade unions. Worker councils established in the Basic Industries (primarily mining and metals sectors), for example, have included workers, management, and surrounding community members. They have assumed functions that include coordination with management on workplace and production issues and the elimination of workplace conflict, rendering the representation and bargaining functions of the union obsolete. In another case, in which an independent union (non-PSUV members) formed a worker council (*Sintraferrominera*), the council was not approved by the Ministry of Communes. The worker councils purportedly promote participation but increasingly impose political structures and demand political obedience. While this may seem contradictory to the new labor law passed in 2012 (LOTTT), which preserves labor unions as legal structures, the law defines the first objective of trade unions as the “protection and defense of the social process of work,” and not the defense of worker rights (LOTTT, Articles 365, 367.2, 367.3). In the face of this shift, local level unions and regional and industrial union federations are struggling to defend their rights and maintain their membership bases. National union centers have been mired in internal political conflict, hampering their ability to respond adequately to the new challenges. However, a broad initiative to revitalize the union movement at the national level has resulted in a resurgence of trade union participation in the broader political debate over rights and freedoms. The [REDACTED] formed in late 2009, brought together both traditionally pro-government and independent trade union forces in a coordinating body focused on defending fundamental labor rights. In 2011, the organization expanded its participation to include a broader range of unions, represented in the [REDACTED] [REDACTED] has for the last year and a half played an important role in coordinating union demands, policy proposals, and the mobilization of broad support around basic worker rights issues, and it continues to expand its representation.

redefine their union movement, focusing on consolidating and supporting local level unions and regional and industrial federations, while de-emphasizing the cumbersome, politicized national confederation structures that workers are increasingly reluctant to follow. ACILS will support industrial unions' efforts to resist the imposition of undemocratic workplace organizations, and to defend unions' basic rights to organize and represent workers. In this important election year, ACILS will continue to support the MSL and [REDACTED] to unite union leaders of traditionally hostile political tendencies to defend core labor rights via a nonpartisan, rights-based platform, ensuring their effectiveness in representing worker's issues of employment, working conditions, and worker rights in the public and political debate. Emphasis will be placed on the metals and mining sector (known as "basic industries"), the communications sector, the agro-industrial sector (presently undergoing nationalization), the petroleum sector, the press sector, the industrial sector, and the public sector.

Colombia

In the past year, Colombia has made important progress with regards to labor rights and the exercise of democratic trade unionism. In April 2011, the President of Colombia signed a Labor Action Plan with the President of the United States that outlines key modifications to labor policy and labor administration, including the creation of a dedicated Ministry of Labor. While many of the items in the plan are in initial stages, full implementation could result in improved rights framework and labor stabilization for hundreds of thousands of workers. Among the most promising improvements are the new limits placed on the use of fraudulent subcontracting arrangements, which have left most of Colombia's working people outside of the provisions of the labor code, and new legal protections that more severely penalize violations of freedom of association. The Labor Action Plan includes many reforms that the Colombian labor movement has advocated for years, including some proposals that have been developed and advocated by the labor movement through previous American Center for International Labor Solidarity (ACILS) NED-funded programs. While this new labor agenda marks a significant shift in Colombia's labor rights policy, there remain serious challenges to its full implementation and success. Threats and violence against trade unionists continue to affect the exercise of core trade union functions and fundamental rights. Over the last two decades, in many geographic areas of the country, and in various industrial sectors, violence and intimidation have been used to weaken union resistance to the imposition of increasingly flexible hiring systems, de-linking workers from the labor code and associated legal protections for workers. As a result, presently, of the 19 million working people in Colombia, only about two million can join a union, and of those only half can be covered by collective bargaining agreements. The rest are working in varying levels of informality, including those employed in the public sector and robust, highly profitable industrial and agro-industrial sectors. The creation of decent work opportunities for large groups of Colombian workers, and expansion of legal protections and guarantees of the exercise of basic rights, could have significant impact on the quality of democracy and civic participation in Colombia. The legal and policy modifications present clear opportunities for the advancement of human and labor rights, but only if they are effectively implemented and translate into real improvements for workers at the workplace level. In Colombia in 2012, ACILS proposes to focus its program to specifically prepare trade unionists to understand and effectively capitalize on the new opportunities presented by these administrative and legal changes. Building on previous ACILS work toward policy change and union membership strengthening, ACILS will train union leaders and legal representatives on new legal prescriptions, will build capacity to analyze improvements and challenges to fundamental rights, and will assist in developing legal strategies and test cases to press for real implementation of the regulatory and policy changes. Activities will be targeted to union leaders at the national level as well as affiliated unions in economic sectors where changes in the regulatory environment could set important precedents to positively impact labor relations across the country.

II. OBJECTIVES

VENEZUELA:

- **Objective 1:** To strengthen the capacity of Venezuelan union partners and new coordinating bodies to defend their right to organize and represent workers, and bargain collectively over working conditions.
- **Objective 2:** To strengthen the capacity of Venezuelan trade union partners to develop and advocate for policies for increased protection of fundamental rights at the workplace, industry and national levels.

COLOMBIA:

- **Objective 3:** To build the capacity of Colombian unions to understand and utilize new legal prescriptions, normative instruments and labor rights protection processes.

III. PROPOSED ACTIVITIES

VENEZUELA

To address Objective 1: To strengthen the capacity of Venezuelan union partners and new coordinating bodies to defend basic worker rights and the role of trade unions to organize and represent workers, and bargain collectively over working conditions, ACILS proposes the following activity:

Activity 1: ACILS will conduct training workshops with local and regional leaders on defense of worker rights and the role of trade unions. The workshops will focus on organized responding to specific pressures facing specific unions or economic sectors and the erosion of basic rights and working conditions. Specific areas of focus will be:

1) Addressing present and future threats to specific trade union organizations and to the trade union movement more broadly. The primary threats to unions include the outright persecution of union leaders for protest or strike activities; the erosion of collective bargaining agreements through non-compliance with existing contracts, or refusal to negotiate new contracts; the imposition of "worker councils" charged with usurping representation functions and subjugating workers to politicized, undemocratic organizational structures; the imposition of political obedience in the workplace (requiring workers to participate in political activities both inside and outside of the workplace); and replacing labor contracts with subcontracting systems such as cooperatives or with social production companies. A combination of responses will be developed to confront these threats, starting with building basic awareness of the issues among rank and file membership, mounting legal defense strategies, coordinating concerted resistance actions, building coalitions among unions and broader civil society allies where possible, advocating policies political leaders in government and the National Assembly, and developing broader community support.

2) Strategic planning for defense of labor rights, collective bargaining, conflict management and negotiation. This area of training involves developing a structured planning process to identify the strengths and assets a union has to bring to bear against specific challenges, and then setting out a work plan to utilize those assets. Years of unresponsive leadership and cronyism in the Venezuelan union movement have weakened membership involvement. The strategic planning process will focus on revitalizing rank-and-file involvement in fundamental union functions, such as development of bargaining proposals, the bargaining process, conflict management, and negotiation.

III. PROPOSED ACTIVITIES

VENEZUELA

To address Objective 1, to strengthen the capacity of Venezuelan union partners and coordinating bodies to defend their right to organize and represent workers, ACILS proposes the following activities:

Activity 1: ACILS will conduct six 2-day workshops with 30 local and regional leaders (total 180 participants) on defense of worker rights, specifically on the role of trade unions, the impacts of new “worker councils,” and strategies for defending representational functions. ACILS will coordinate with national and local leaders of the [REDACTED] federations, and [REDACTED] both in identifying and conducting the workshops. The workshops will also focus on organized responses to specific pressures facing unions or economic sectors, and the erosion of basic rights and working conditions. These include identifying threats to specific trade union organizations and to the trade union movement more broadly. The structural threat most likely to impact trade unions will be the erosion of workers’ right to freedom of association vis-à-vis the imposition of worker councils. Other threats that will likely increase include the persecution of independent trade union leaders for protest or strike activities, and the elimination of collective bargaining through non-compliance with existing contracts, or refusal to negotiate new contracts. A combination of responses will be developed to confront these rights violations, starting with basic awareness-raising in the rank-and-file membership, legal challenges, coalition building, lobbying of government and National Assembly leaders, and the development of community support. Trade unions’ best defense against the imposition of non-democratic structures replacing trade unions is the conscientious fulfillment of fundamental representational duties, such as conflict management and collective bargaining that seeks involvement of the rank-and-file members of the union. Accordingly, ACILS will provide technical support for defense of labor rights, collective bargaining, conflict management and negotiation, while providing technical and legal support to unions for specific cases. ACILS will provide stipends to two technical/legal advisors to assist in building strategies for labor rights defense, support unions in collective bargaining efforts, and assist unions in conflict situations. The ACILS full-time, local program coordinator in Venezuela will work closely with these technical/legal advisors to provide constant contact and follow-on support, including site visits, between formal workshops as workers exercise basic rights.

Activity 1 consists of six 2-day workshops with a total of 180 participants, and will cover catering, venue rental, training supplies and transportation for participants from Caracas and immediate surrounding areas, as well as travel costs and per diem for participants from other parts of Venezuela. The trainings will be combined with national conferences (Activity 2) to strengthen the development of strategies to defend worker rights and freedom of association, and to develop rights-based policy platforms. ACILS will also provide economic support for two technical/ legal advisors to support training activities and labor rights defense, collective bargaining, and organizing initiatives, and will provide a modest amount of travel costs so the technical/legal advisors can conduct follow-up activities with unions.

To address Objective 2, to strengthen the capacity of Venezuelan trade union partners to develop and advocate for national trade union platforms on freedom of association at the workplace, industry and national levels, ACILS proposes the following activities:

Activity 2: ACILS will conduct two 1-day national conferences to bring together 40 leaders from local, regional and national union organizations (for a total of 80 union leaders) to identify the major obstacles and threats to freedom of association and the exercise of basic labor rights, and to define approaches for confronting these obstacles. ACILS will coordinate with national and local leaders of the [REDACTED], federations and [REDACTED] both in identifying and conducting the conferences. The conferences will

forms of worker association more easily controlled by the ruling party, while continuing to negate collective bargaining for hundreds of thousands of workers. The government also continues to promote the use of subcontracting through service cooperatives, a form of third-party contracting, and "social production companies" (*empresas de producción social*) -- quasi-worker-state managed companies -- in an effort to undercut union influence and workers' benefits. In response to recent government attacks on collective bargaining rights in important unions in the mining and metals sector, the petroleum sector, and the public sector, all of which have significant Bolivarian ("chavista") presence in their unions, Venezuelan workers find themselves increasingly in a defensive mode. The independent national trade union centers are ineffectual and hampered by political interference. The regional and industrial union federations have been left to operate alone, and are diminished by government-promoted union parallelism and weak responses to members' needs. Finally, government institutions traditionally charged with mediating labor disputes and protecting basic rights are unable to act independently of the ruling party, and have therefore been weak, absent or complicit in cases of violations of worker rights.

In 2009, ACILS supported efforts of industrial sector union leaders to begin to reformulate the union movement, focusing on consolidating and defending rank-and file-unions and regional and industrial federations, while de-emphasizing the national confederation structures that workers are wary of supporting given the present political situation. As a result, union leaders of traditionally hostile political tendencies (traditionally chavista, non-chavista, left and center) recently formed a coordinating body called the [REDACTED]. This coordinating body, launched in an ACILS-supported national conference in July, 2009 was founded on the basis of explicit respect for the political positions of its members, while focusing actions solely on defense of labor rights and working conditions. ACILS program for 2010 will support the development of the [REDACTED] and its labor rights platform. In addition, the ACILS will continue to support important efforts of unions to defend basic rights (as it did with the metals and mining sector known as "basic industries" in 2009), and promote labor code reform proposals developed by the [REDACTED] in the policy discussion on labor legislation, which is on the National Assembly agenda for 2010.

In Colombia, the government has made great efforts to reduce the power of the various armed organizations in the country, modernize the economy, and attract foreign investment, but has maintained its animosity toward labor unions. Laws that protect basic labor rights are often unenforced, while trade unionists continue to be targeted by violent actors; 24 trade unionists were murdered in the first eight months of 2009. Colombian authorities have not effectively applied the laws that should protect workers' basic rights to organize and bargain collectively. The national government has persistently refused to negotiate working conditions in the public sector, and labor relations are relegated to a vice ministry within the Ministry of Social Protection, which is poorly equipped to administer labor relations. Finally, employer abuse of sub-contracting schemes has expanded informal, unprotected working conditions for thousands of workers. In fact, of the roughly 18 million working people in the country, only about 2 million can actually join a union under present law and practice, and only half of those can bargain collectively.

In 2010, ACILS will conduct a program in Colombia to address the National Endowment for Democracy (NED) objective on promotion of freedom of association. ACILS' program in Colombia will seek to improve trade unions' capacity to organize workers and bargain around workplace and sector issues. The program will focus on representation functions at workplace-level unions and/or industrial unions or federations to stave off the trend toward diminishing collective bargaining. The program will assist trade unions in increasing the inclusion of workers with flexible contracts who have little protection and limited exposure to trade unionism.