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Trade Unionists and Witnesses in Lawsuit against Multinational Pacific Rubiales in Prison on Controversial Grounds in Colombia

Three prominent Colombian labor activists at Union Sindical Obrero (USO) and key witnesses in a lawsuit against the multinational Pacific Rubiales Energy, were imprisoned in December in what unions are calling a frame up.ⁱ Hector Sanchez, Campo Elias Ortiz, and Jose Dilio Naranjo are being accused by the Prosecutor General's Office of aggravated kidnapping and conspiracy to commit a crime, among other charges, which can carry a sentence of up to 45 years in jail. These allegations are rooted in events that occurred in 2011 during protests in Puerto Gaitan, Meta, where thousands of USO members went on strike in opposition to inadequate living conditions and unfair labor practices at the hands of Pacific Rubiales Rubiales. The accused individuals are key witnesses in a criminal complaint against national and foreign executives at Pacific Rubiales Energy, Metapetroleum Corp, and several subsidiary companies, for the allegedly conspiring to commit a crimes and violating of the rights to association and assembly, among other allegations.ⁱⁱ This is the first legal action of this nature against a multinational oil company in Colombia.

Prosecutor No. 239 Luisa Fajardo has accused the three trade unionists of holding a large group of workers hostage during the 2011 strike. However, testimony presented by Fajardo also indicates that the area in question was surrounded by members of the Colombian Armed Forces.ⁱⁱⁱ Moreover, according to a statement made by a spokesperson from the AFL-CIO's Solidarity Center, neither Sanchez nor Naranjo were in Puerto Gaitan during the dates in which Fajardo alleges that crimes occurred, but at a negotiating table in Bogota with representatives of Pacific Rubiales and high-ranking government officials.^{iv} USO attorneys are concerned about Fajardo's accusations that conspiracy to commit a crime occurred based on the reasoning that the three accused parties were members of USO, seemingly taking the position that USO is a criminal organization. According to USO spokespersons, she has also indicated that investigations are underway into some 39 additional USO leaders.^v

According to unions and other organizations, a pattern is developing in Colombia in which judicial repression is being used to cripple social movements and union activity.

Pacific Rubiales is the largest independent petroleum and gas company in Colombia. It produces over 200,000 barrels of oil per day in Puerto Gaitan alone,^{vi} but is traded in Toronto and operates with virtually no oversight in Colombia. Its four principal officers are among the 15 highest paid executives in Canada. A number of scandals involving the company have unfolded in addition to documentation of shameful labor conditions.^{vii} International unions denounced how workers were forced off picket lines at gunpoint by members of the Armed Forces during the 2011 strike and only allowed to return to work when they had renounced the union, as well as beatings and death threats at the hands of state agents targeting jailed USO members.^{viii} USO activist Milton Rivas was murdered in Puerto Gaitan on December 11, 2013.^{ix}

Colombia passed legislation in 2011 (to pave the way for the US-Colombia Free Trade agreement) that outlawed the hiring of core permanent workers through unwanted intermediaries. Three years later, however, only 600 of the 10,000 oil workers employed by Pacific Rubiales in Puerto Gaitan are hired directly by the company, while the majority continues to be hired by intermediaries on month-to-month contracts with no benefits^x.

Pacific Rubiales has also been scrutinized for irregular financial activities. In an interview, Hector Rodriguez of the Colombian news agency Primera Pagina spoke of a lawsuit in which the principal officers at Pacific Rubiales were sued by a Russian associate for fraudulent management at the company Coal Corps. Rodriguez went on to discuss how Pacific Rubiales, as well as other companies run by the same executives such as Pacific Coal, hide revenue from Colombian government agencies and investors by filtering sales through subsidiary intermediary companies and that, in 2011, Pacific Rubiales executives were sued by Alange share holders for providing them with falsified information. Pacific Rubiales has brought five lawsuits against Mr. Rodriguez in retaliation to his investigative reporting.^{xi}

USO filed a criminal complaint against Pacific Rubiales in 2013 in a the newly created Analysis and Context Unit of the Prosecutor General's Office for breach of environmental regulations, violation of the freedom of association (for its repeated efforts to deny workers their right to unionize), and illegally restricting travel on public roads. Sanchez, Ortiz, and Naranjo, community leaders as well as unionists, have provided important testimony in the case, in which the company has been accused of indiscriminately diverting foundation water and other waste products into rivers, and using private security and agents of the Colombian Army to prevent the union and policymakers from speaking to workers and verifying labor conditions.^{xii}

ⁱ <http://www.industrialunion.org/three-trade-union-leaders-detained-in-colombia>

ⁱⁱ Specifically Ronald Pantin, José Francisco Arata, Luis A. Pacheco, Peter Volk, Anthony Zaidi, and Federico Restrepo, along with executives at separate intermediary companies, Complaint no. 21036110848812 in the Prosecutor General's Office, May 30, 2013.

ⁱⁱⁱ Interview with attorneys defending the accused parties, December 6, 2013.

^{iv} Interview with Solidarity Center attorneys, January 10, 2014.

^v Ibid. i.

^{vi} Interview with Federico Restrepo, Vice-President of Corporate Affairs at Pacific Rubiales, Dinero.com, 2011.

^{vii} Working conditions included "concentration camp-like" living quarters (in the words of Senator Jorge Robledo), inadequate sanitary facilities, shared beds, third-party hiring halls to avoid unionization and payment of pension and healthcare benefits, and shifts that sometimes exceeded 16 hours for weeks on end. See transcript of Robledo's August 17, 2011 discourse in the Colombian Senate here:

<http://usofrenteobrero.org/pdf/bfonacional/bfonacional170912.pdf>

^{viii} For example, see: <http://sflaborcouncil.org/wp-content/uploads/2012/11/11-26-12ResSolidarityColombianWrkrs.pdf>

^{ix} <http://www.industrialunion.org/uso-leader-murdered-in-colombia>

^x A recent report issued by US Congresspersons George Miller and James McGovern calls attention to the lack of results attributable to the Labor Action Plan, and raises concerns about the use of non-enforceable side agreements to persuade congress to ratify international trade agreements. View report here: <http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/Colombia%20trip%20report%20-%202010.29.13%20-%20formatted%20-%20FINAL.pdf>

^{xi} This information was taken from an interview with Hector Rodriguez conducted by journalist Bruno Federico in 2013.

^{xii} Interview with attorneys investigating Pacific Rubiales in the lawsuit mentioned, October, 2013.