

# EMBASSY OF PERÚ

1700 Massachusetts Avenue, NW  
Washington DC, 20036

## EVENTS IN BAGUA, AMAZONAS

It is of public knowledge that on June 5 and 6, 2009, there were violent clashes between police agents and residents of the city of Bagua, located in the Amazonas Region, on the North-East of Peru.

According to official information, so far there are 33 deaths, 24 of them are police agents and 9 civilians. This information has been confirmed by other government organizations such as the Ombudsman's Office. Moreover, it has been confirmed that the officers were cold blooded murdered. The Peruvian Government regrets the death of the 32 fellow citizens and shares their families' grief.

The Government of Peru, through its institutions responsible for justice administration and law enforcement (Public Prosecutor, Public Defenders, Ombudsman's Office, the Police and the Army), is making every effort to clarify these unfortunate events, with due observance of the principles of a democratic Government and the Rule of Law.

There are inaccurate versions circulating not only in Peru but also internationally stating that the Peruvian Government had resorted to the use of force in a disproportionate and arbitrary manner, causing a high number of casualties among the civilian population.

The Government of Peru has made public in a timely manner about the actions adopted to restore security and public order, as well as to normalize the provision of essential services which were interrupted for 55 days. The residents who disturbed public order have justified their actions arguing that the "Forest and Wildlife Law" violates their rights, in particular property rights and that the Law was passed before consulting them. The Government believes that this position is the result of a flagrant disinformation caused by the leaders of those communities.

Peru has a long tradition and constitutional commitment to the protection and promotion of human rights. In this context, it has actively supported various international initiatives that seek to recognize the rights of indigenous peoples, such as the Declaration on the Rights of Indigenous Peoples of the United Nations. In fact, the negotiating process that led to this agreement was chaired by Peru from its inception until its enactment by the General Assembly of the United Nations in 2007.

## BACKGROUND

By Law No. 29157 published on December 20, 2007, the Congress delegated legislative powers to the Executive branch on various subjects related to the Peru-US Trade Promotion Agreement and to support improvements in economic competitiveness.

Under this provision, the Legislative Decree (LD) No. 1090 "Forest and Wildlife law" was enacted on June 28, 2008. This norm updated the old forestry system and aimed at promoting an orderly and sustainable development of our natural resources for the benefit of all Peruvians.

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On September 26, 2008, a group of representatives of the Interethnic Association for the Development of the Peruvian Amazon - AIDESEP- requested the abrogation of LD 1090, because in their opinion a) it infringed their property rights and b) it was issued without prior consultation as called for by Convention No. 169 of the International Labor Organization (ILO) concerning Indigenous and Tribal Peoples in Independent Countries.

From January to June 2008, the representatives of AIDESEP channeled their concerns through the Peruvian Congress, holding a number of meetings with members of relevant committees. These deliberations concluded with the drafting of an amended bill that included their recommendations. The Ombudsman and the Legal Defense Institute contributed with position papers to the drafting of the amendments.

On January 14, 2009, the Law No. 29317 was passed. This Law amended articles of the LD No. 1090<sup>1</sup>.

Notwithstanding, representatives of AIDESEP pressured to obtain the repeal of both laws. By mid-April 2009, the AIDESEP's leaders prompted their associate members to adopt a more belligerent stance, including demonstrations and roadblocks, which halted transportation of cargo and passengers, and the supply of energy. Simultaneously, the Congressional Constitution Committee continued discussing the possible unconstitutionality of the LD 1090.

As the interruption of public services and roadblocks worsened, on May 9, 2009 the Government of Peru issued Supreme Decree No. 027-2009-PCM declaring the state of emergency in certain districts of Cusco, Ucayali, Loreto and Amazonas (Bagua). Pursuant to the Convention on Civil and Political Rights and the American Convention on Human Rights, the Peruvian Government informed its decision to the General Secretariats of the United Nations and the Organization of American States (OAS).

On May 14, 2009, the President of AIDESEP, Alberto Pizango Chota made a further call on associate members and allied political forces to force a change of the Peruvian state model and to prepare to declare a state of insurgency.<sup>2</sup>

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<sup>1</sup> The modified articles were: Article 1. Object of the law; Article 4. National Plan for Forest and wildlife Development; Article 6: National Forest and Wildlife Patrimony; Article 8 Forest zonification; Article 18. Economic compensation for the utilization of forest and wildlife resources; Article 25: Suppression of Vegetation Coverage in private land susceptible to agriculture and pecuary; Article 37: Evaluation and control; Article 41. Acquisition with good faith, confiscation and sanctions of products or forest and wildlife species.

<sup>2</sup>See: [http://agenciaperu.tv/view\\_video.php?viewkey=48894b8ea294e4f23b41&category=&section=12](http://agenciaperu.tv/view_video.php?viewkey=48894b8ea294e4f23b41&category=&section=12) y <http://www.youtube.com/watch?v=WMwEiSiK3AM>

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On May 20, 2009, and in part to address the lack of a national legislative framework to norm the implementation of the ILO agreement, the Peruvian government established a Multisector Standing Committee in order to enhance the participatory process and dialogue. The Committee comprised the Presidency of the Cabinet and 9 other state ministries (Environment, Gender, Agriculture, Energy and Mining, Education, Interior, Health, Transport and Communications, Housing), 7 representatives of AIDSESEP, a representative of the National Institute of Andean, Amazonian and Afro-Peruvians, and a representative of the mayors of the Amazon area plus one representative of the Amazon's regions Presidents.

At the same time, on May 20, 2009, the Commission on Constitutional Affairs approved the Report prepared by the minority in Congress that supported the abrogation of the LD 1090, with seven votes in favor, six against and one abstention. The Report was ready to be presented to all members of Congress which if approved would have been elevated to the Constitutional Tribunal for its final decision.

The Government of Peru reaffirms, as it follows from the text of the above mentioned laws, that neither the LD 1090 nor the amending Law affect in any way the property rights of indigenous peoples. It is legally established that the 12 million hectares are rightfully owned by the 400 thousand native inhabitants of the Amazon, which together the 15 million hectares of reserve areas for ecological sanctuaries and natural parks are untouchable.

## **DIRECT DIALOGUE PROCESS BETWEEN STATE REPRESENTATIVES AND THE LEADERS OF INDIGENOUS PEOPLES<sup>3</sup>**

There has been substantive progress to promote dialogue with the representatives of the indigenous peoples.

A Dialogue Roundtable of the Multisector Standing Committee was set up on May 26, 2009 and was chaired by the President of the Cabinet of Ministers with the participation of the representatives of AIDSESEC.

After two meetings, the process was halted on June 1, 2009 by the decision of the leadership of AIDSESEP of suspending the dialogue.

On June 4, 2009 the Peruvian Congress decided not to hold a plenary session to debate and vote on the report that recommended the abolishment of Legislative Decree 1090.

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<sup>3</sup> See the paper prepared by the Presidency of the Cabinet dated on 8.6.09: "Actions regarding the Amazonian communities strike," which states that "the Third Session of the Multi sector Committee was not possible because of the absence of the representatives of AIDSESEP.

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## RESTORATION OF PUBLIC ORDER

The Peruvian National Police in coordination with the Ministry of Defense, according to the Articles 166 and 137 of the Peruvian Constitution, are in charge to restore and guarantee public order in areas disrupted by violence.

**On June 5, 2009** the Government, in full power of its constitutional rights, instructed the National Police to re open the Fernando Belaunde Highway that was blocked by rioters in the location known as Devil's Curve. In that occasion the National Police agents were attacked by organized rioters who acted violently against them, executing 13 agents. 38 other police officers and 1 civilian were taken as hostages when they were guarding Pump Station Number 6 of the Peruvian North West Oil Pipeline.

An urban mob that falsely claimed to represent the indigenous populations attacked and burned down some public buildings and also destroyed private property. Police agents, in the presence of public prosecutors, arrested the rioters. The public prosecutors will be in charge of conducting the investigation of possible crimes and if applicable start criminal proceedings against the offenders.

In this context and due to the high number of persons detained as suspects of criminal acts, the "El Milagro" Military Base is used temporarily until the detainees are transferred to the locations where they will be taken to court. It is important to mention that this situation is closely monitored and supervised by the prosecutors especially appointed to guarantee the life and security of all parties involved. Legal public defenders have been appointed to provide legal assistance to all involved parties.

**On June 6, 2009**, it was learned that 10 of the police agents that were taken as hostages the day before had been executed. These police agents were instructed not to fire against the rioters.

In light of these events, the next day the Government extended the State of Emergency and established a curfew in Bagua. At the same time, the judiciary ordered the detention of Mr. Pizango, but in the event he has sought and obtained political asylum by the Embassy of Nicaragua in Peru on **June 8, 2009**.

The Ministry of Foreign Affairs of Peru informed of the declaration of the State of Emergency to the Secretary General of the Organization of American States and the United Nations.

The Government of Peru has requested the participation of prominent people and the mediation of the Church in order to reestablish the dialogue within the shortest time.

**June 9.** The Church agrees to mediate in the conflict.

**June 10.** The Congress suspends the application of LD 1090, for 90 days to allow its full review. The previous legislation will be temporarily in effect while the Multisector

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Standing Committee will be broadened to enhance the representation of the indigenous communities.

**FINAL COMMENTS**

The Government of Peru considers that the sequence of events above described constitute a conspiracy against the democratic system, to which the State has responded according to the Constitution mandated authority. The fundamental rights of all citizens involved in these acts were respected without any kind of discrimination, providing them with legal assistance and under the supervision of relevant authorities. Once the judicial process begins, all persons involved will continue to enjoy all the guarantees provided by the law.

The Government of Peru is determined to protect all citizens and to take measures to prevent the resurgence of violence that may arise through the exacerbation of the original conflict with due respect to and observance of the Constitution.

The Government of Peru reiterates its firm commitment to democracy, the promotion and protection of Human Rights and the Rule of Law, and its permanent will to engage in a constructive dialogue with all parties involved.

Washington, June 10, 2009.