

05
de
J
U
N
I
O
2009

En memoria a los Fallecidos

**PERU: BAGUA,
SIX MONTHS ON**

“JUST BECAUSE WE
THINK AND SPEAK
DIFFERENTLY, THEY
ARE DOING THIS
INJUSTICE TO US”

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in 2009 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Copyright Amnesty International Publications 2008

Index: AMR 46/017/2009
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publishers.

Cover photo: © Ronar Espinoza/Vicariato de Jaén

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

**AMNESTY
INTERNATIONAL**



CONTENTS

1/INTRODUCTION	7
2/BACKGROUND	10
3/THE ORIGINS OF THE PROTESTS IN THE AMAZON REGION	12
4/THE POLICE OPERATION TO DISPERSE THE ROAD BLOCKADE	14
4.1 EXCESSIVE USE OF FORCE	14
4.2 ILL-TREATMENT OF DETAINEES AND VIOLATIONS TO THEIR RIGHT TO A FAIR TRIAL.....	18
4.3 INTIMIDATION AND HARASSMENT OF INDIGENOUS LEADERS AND AIDSEP POST 5 JUNE	19
4.4 VIOLATIONS TO THE RIGHT TO FREEDOM OF EXPRESSION; THE CASE OF RADIO 'LA VOZ DE BAGUA'	22
5/MEASURES TAKEN SINCE 5 JUNE TO ADDRESS HUMAN RIGHTS VIOLATIONS AND CONCERNS OF INDIGENOUS PEOPLES	23
6/CONCLUSIONS AND RECOMMENDATIONS	25
7/TESTIMONIES AND CASES	27





Approximate distances: Bagua – Imacita: 80km; Bagua – Chachapoyas: 100km; Bagua – El Milagro: 5km; Bagua – Chiclayo: 300km. The thin red line indicates a road that includes non-surfaced stretches.

“We are asking for respect, we want to be [treated] equal to any other Peruvian, we want to enjoy freedom ... an injustice is being done to us, we are being condemned to a cruel life just because we think and speak differently ... this policy of giving away our lands is [like] a slow death.”

The words of an Awajún leader and member of the *Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP)*, Interethnic Development Association of the Peruvian Jungle. Interview conducted at the AIDSESP offices in Lima, Peru.

“We don’t go to Lima and sell off their land but in our case they are selling off everything as if we didn’t exist, as if we Awajún and Wampís and the rest of our Amazonian brothers were not human beings. They refuse to recognize us as human beings, we are just like those who live in the city. We [are here], without weapons, respecting each other, conversing, holding talks in a dignified manner, the most important thing about human beings, without using weapons. [The government] [d]id not use eviction as was said during the protests, it made war on us ... because it killed us with weapons of war.”

The words of an Awajún protestor from Imaza, Bagua province, Amazon department.

1/INTRODUCTION

Six months ago, on 5 June 2009, 33 people were killed and at least 200 injured after police officers dispersed a road blockade organised by Awajún and Wampís Indigenous people¹ in a stretch of the *Fernando Belaúnde Terry* highway,² known as the *Curva del Diablo* (Devil's Bend), leading to the towns of Bagua in Bagua province, and Bagua Grande in Utcubamba province, in the department of Amazonas. For over 50 days, thousands of Indigenous people had been peacefully blockading the road in protest against a series of decree laws over the use of land and resources which they claim pose a threat to their rights to their ancestral land and livelihood.

Among the 33 people who were killed, 23 were police officers and 10 were civilians, including five Indigenous people. Eleven of the police officers were killed while they were held hostage by Indigenous protestors at the Petroperú³ Pumping Station No. 6, 80km from Bagua near the town of Imacita, Bagua province; 12 were killed during the police operation at the road blockade and the whereabouts of one police officer remains unknown.

According to medical reports, of those injured 82 suffered firearm wounds, 41 had contusions and 22 showed signs of intoxication, bruising and burns caused by tear gas. However, the number of wounded is likely to have been greater since, for fear of reprisals, some Indigenous people returned to their communities without receiving medical treatment.

Amnesty International considers that these tragic events were the predictable and preventable result of the continued disregard by the Peruvian authorities of their duty to respect, promote and protect the rights of Indigenous Peoples in the Amazon region. International human rights standards, including the International Labour Organization's Convention 169 and the UN Declaration on the Rights of Indigenous Peoples, which protect Indigenous Peoples against losing their land and resources in the name of development have been adopted precisely to avoid loss of life and livelihood and to ensure that communities enjoy all their human rights, indispensable for their dignity, without discrimination.

Indigenous peoples have the right to be consulted in good faith before the adoption and implementation of legislative or administrative measures that may affect them. However, in 2008, the authorities passed a series of decree laws over the use of land and resources in regions of the country rich in natural resources including the Amazon region and did not consult them. When Indigenous peoples protested against these decree laws demanding their human rights, not only were they not listened to, but on 5 June 2009 they suffered ill-treatment and torture, they were arbitrarily detained, and some were killed.

Six months on, the authorities do not seem to be doing enough to guarantee the rights of the victims and their relatives to truth, justice and reparation, and Indigenous leaders and their organizations continue to be harassed and intimidated.

Amnesty International believes that if the Peruvian authorities are serious about respecting and protecting the rights of all people in Peru, they must uphold the right of Indigenous

Peoples to free, prior and informed consent, as well as their right to land and resources and to non-discrimination. Furthermore, all the human rights abuses that occurred six months ago on 5 June 2009 and resulted in the death of 33 individuals and over 200 wounded have to be investigated, those responsible must be brought to justice and the victims and their relatives have to receive redress.

In July 2009 Amnesty International visited the towns of Bagua, Bagua Grande, and some of the Indigenous communities who took part in the road blockade and protests. Amnesty International interviewed relatives of those who died, including relatives of police officers who were killed, as well as protestors, detainees, eyewitnesses, and Indigenous and community leaders.

The organization also held meetings with civil society organizations, human rights non-governmental organizations and Indigenous organizations, including the *Asociación Interétnica de Desarrollo de la Selva Peruana* (AIDSESP), and with government officials, including the Minister of Foreign Affairs and the Executive President of the *Instituto Nacional de Desarrollo de Pueblos Andinos, Amazónicos y Afroperuanos* (INDEPA), as well as with members of Congress, including the *Comisión de Pueblos Andinos, Amazónicos, Afroperuanos, Ambiente y Ecología*, and with the Public Prosecutor's Office and the Human Rights Ombudswoman.

This report and all the interviews in it are the result of Amnesty International's visit to Peru in July 2009. ⁴

Testimony

“It was a peaceful protest. We had been announcing it through the media, that's how we started. (...) [L]ast week a group of DINOES [the police who carried out the dispersal operation] came looking for me, according to them charges had been brought against us for rioting, incitement, aggravated homicide, grievous bodily harm, impeding public transport, attacking public property and illegal possession of weapons. I don't even have a cerbatana ⁵, how am I going to get hold of a weapon... we are human beings, just like any other human being in the world, except that we haven't had the chance to go further afield. And has the government made any effort to teach [us] to read and write?

(...) The government should be responsible for looking after the whole country, where we have three regions: the coast, the mountains and the jungle. Because we are human beings too. All the economic resources are concentrated in the capital and our Amazon region is marginalised and now we have said “that's enough”. We are not going to back down, we are going to push forward with our demands. All the groups have come together to fight because it was to defend the environment, it wasn't only for the Awajún, Wampís, Shapra, Asháninka, the Andeans, we have all come together to demand protection for the environment which is the lung of the world.

(...) [W]hen people come together, they can make things happen. I witnessed each community bringing 50 or 60 bunches of bananas, together with masatos.⁶ Tons of bananas brought as far as Curva del Diablo to feed [everyone] (...) We spent 54 days on a battle

“Just because we think and speak differently, they are doing this injustice to us”

footing. (...) The packages of laws were known to be unconstitutional. They already knew it, I don't know why they kept on and on delaying so that there would be actual bloodshed, with the whole world only then finding out that there are problems in Bagua. We started our struggle back on 9 April. There were documents, we sent out statements, we sent open letters and it was all filed away. (...)”.

Interview with Joel, a Wampís demonstrator who was in *Curva del Diablo* on 5 June.

2/BACKGROUND

More than 300,000 Indigenous people belonging to 59 Indigenous Peoples and 15 linguistic families, live in the Peruvian Amazon. The Amazon region covers 60 percent of the nation's territory with approximately 77 million hectares. Twenty percent of the Amazon territory is under some form of Natural Protected Area status,⁷ with nearly 11 million hectares belonging to Indigenous communities with titled territories, and 2.8 million hectares set aside as territorial reserves for Indigenous Peoples living in voluntary isolation.⁸ Of the more than 1,500 Indigenous communities, approximately 155 still have no titles to the land they live on, and there are five proposed reserves for Indigenous Peoples in voluntary isolation in an area covering 1.9 million hectares which have not yet been created. In total, Indigenous people and other communities living along the Amazon River known as 'ribereño' populations, have title to or possess around 15.7 million hectares, that is, 25.8 percent of the Peruvian Amazon.⁹

Recent studies indicate that over 70 per cent of the Peruvian Amazon has been granted over the years in concession to national, international and multinational oil and gas companies. Most of the blocks under contract in the Amazon region, are on titled land belonging to Indigenous Peoples, many are also on protected areas, reserves for Indigenous communities, and proposed or created reserves for Indigenous Peoples in voluntary isolation.¹⁰ [See map on p.41]

The Ombudswoman's office reports that most of the recent social conflicts in the country are linked to extractive projects and that between 2004 and 2007, 77 per cent of all social conflicts were related to mining and 10 per cent to oil extraction.¹¹

To date there is no clear and consistent procedure to carry out consultation with Indigenous Peoples and to incorporate their views before any legislation or administrative decisions which might affect their human rights come into effect or are implemented. For decades natural resources have been exploited in Peru without consultation with the Indigenous Peoples who inhabit those lands.

The lack of a clear process of consultation with Indigenous Peoples has been a concern of international and regional human rights bodies for many years. In 2000 the Inter-American Commission on Human Rights recommended that the Peruvian state “ensure (...) that all projects to build infrastructure or exploit natural resources in the indigenous area or that affect their *habitat* or culture is processed and decided on with the participation of and in consultation with the peoples interested, with a view to obtaining their consent and possible participation in the benefits”.¹²

More recently, in February 2009, the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization expressed concern that “from the communications [received by the Committee, which have been] drawn up with full participation of the indigenous peoples, ... [Peru's] efforts appear to be isolated and sporadic and at times not in line with the Convention [169] (for example, information meetings being

held rather than consultations). There is a lack of participation and consultation for tackling the numerous disputes connected with the exploitation of resources in lands traditionally occupied by indigenous peoples...”. The Committee urged the “[Peruvian] Government to adopt the necessary measures, with the participation and consultation of the indigenous peoples, to ensure ... the participation and consultation of the indigenous peoples in a coordinated and systematic manner”.¹³

Furthermore, after the events of 5 June, this same Committee expressed its concern that the Peruvian government had repeatedly failed to provide replies to the specific requests for information made by the Committee of Experts, and stressed the government’s obligation to establish appropriate and effective mechanisms for consultation and participation of Indigenous Peoples, which are the cornerstone of the Convention [169]. The Committee urged the State to immediately establish a dialogue with Indigenous Peoples’ representatives in a climate of mutual trust and respect, as well as to establish dialogue mechanisms, as required under the Convention, in order to ensure systematic and effective consultation and participation.¹⁴

Amnesty International has documented many cases of communities who have been denied their right to free, prior and informed consent in relation to development projects. In many of these cases human rights defenders, and Indigenous and community leaders have been threatened, intimidated, ill-treated and charged with unfounded offences when they have campaigned against extractive developments on their land or defended their right to be consulted before the government grants a concession for exploration or extraction of natural resources.

3/THE ORIGINS OF THE PROTESTS IN THE AMAZON REGION

The social unrest and protests in the Amazon region which led to the events of 5 June in Bagua and Utucabamba provinces is the conclusion of over two years of tensions between the government and Indigenous Peoples over the use of land and resources in the region.

Since President Alan García came to power in 2006, he has repeatedly stressed the need to develop the extractive industry. Between March and June 2008, the government passed 99 decree laws regulating the use of land and resources, including land inhabited or owned by Indigenous Peoples in the Amazon.¹⁵ Indigenous Peoples in the Amazon began to mobilise immediately against these decree laws which they said violated their rights to their ancestral land and resources and their right to be consulted in good faith before the adoption and implementation of legislative or administrative measures that could affect their livelihood.

In August 2008, under the leadership of AIDSESEP, an organization representing 1,350 Indigenous communities in the Amazon region, members of Indigenous communities began to demonstrate to demand that the decree laws be annulled and that a process of consultation in good faith be set up prior to any legal enactment. Indigenous protests included short term blockades of rivers and roads near their communities to stop the transit of extractive companies which have been given concessions to operate in Indigenous land. Some communities occupied extractive companies' installations. Hundreds of Indigenous protestors also blockaded for a few days the *Corral Quemado* bridge on the *Fernando Belaúnde Terry* highway near the town of Bagua in the department of Amazonas. There were no reports of use of violence during these protests.

On 20 August 2008, Indigenous protestors suspended the demonstrations when discussions started between AIDSESEP and government and congressional authorities. An outcome of these negotiations was that Congress agreed to annul one of the decree laws questioned by Indigenous communities, a decree law which reduced the number of votes necessary in an Indigenous community to sell communal land.¹⁶

Six months later, however, in February 2009, Congress failed to fulfil the agreement reached with AIDSESEP to present for discussion in Congress the report by the *Comisión Multipartidaria Encargada de Estudiar y Recomendar la Solución a la Problemática de los Pueblos Indígenas*, the Commission which had been set up to evaluate the decree laws and which had issued a report questioning the legality of some of them.

From April 2009, Indigenous organizations intensified their protests. Members of the Awajún and Wampís people, two of the Indigenous Peoples affected, occupied the state-owned oil company *Petroperú* Pumping Station No. 6, near the town of Imacita in Imaza district, Bagua province. Hundreds of Indigenous protestors blockaded first the *Corral Quemado* bridge, and later the stretch of road called the *Curva del Diablo* on the *Fernando Belaúnde Terry* highway.

The blockade was reportedly lifted periodically to allow the transit of vehicles, people and goods.

Since the decree laws came to effect the protests were accompanied by negotiations between the authorities and the Indigenous Peoples through their elected representatives at AIDSESEP. However, the dialogue finally reached a standstill on 4 June 2009, when Congress suspended the debate on the decree laws, thus delaying once again a decision on whether the legislation would be annulled or not, which was the main demand of Indigenous protestors.

Some Indigenous leaders, police officers, local authorities and members of the Catholic Church began discussing the possibility of an end to the road blockade. However, and to the protestors' surprise, the following day on 5 June, the special operations group of the National Police known as *Dirección Nacional de Operativos Especiales* (DINOES), started the operation to disperse the road blockade which resulted in 33 deaths and 200 people injured.

Following the events of 5 June, already too late for those who died, lost their loved ones or were injured, President Alan García publicly acknowledged that the decree laws had not been consulted with Indigenous Peoples: "It is true that the leaders of the communities were not informed or consulted on the original Decree Law because it was not considered, I repeat, it did not affect in any way the land owned by these communities."¹⁷

On 18 June, Congress agreed to annul another two of the decree laws, one which regulated the use of land for agriculture, Decree Law 1064, and Decree law 1090 which regulated the development of forest land. The rest of the decree laws remain in force to this date.

4/THE POLICE OPERATION TO DISPERSE THE ROAD BLOCKADE

4.1 EXCESSIVE USE OF FORCE

On 5 June, hundreds of Indigenous protestors were peacefully blockading the stretch of the *Fernando Belaúnde Terry* highway known as the *Curva del Diablo* when the special operations unit of the National Police (DINOES), moved to disperse them. Some of the protestors were carrying spears to identify themselves as Indigenous people belonging to the Indigenous Awajún and Wampís Peoples. None of them carried firearms as was confirmed by the Junta de Fiscales de Amazonas (Board of Prosecutors of Amazonas department) after an initial investigation carried out in July 2009.¹⁸

On the other hand, the DINOES - an elite force trained for terrorism-related police operations- was equipped with military weapons such as grenades and AKM rifles¹⁹ and reportedly began to shoot indiscriminately against protestors. The protestors started fleeing and the crowd spread to the towns of Bagua and Bagua Grande where the indiscriminate shooting continued. Both Indigenous people and local people in the town were now at risk of being killed. This was the case of Abel Ticlla Sánchez [see interview with his parents on pp. 38-40]

Testimony

“We were waiting for the President to give us the result but, without giving us the result, they wanted to invade us like that, how is it possible? We resisted there, without weapons, with the spears that it is our custom to carry, spears, but spears can't kill at one kilometre or at 10 metres, it's a [form of] identification, they know very well that we don't have weapons, why do they go and shoot directly at our bodies, that is not possible. ... [T]hey fired directly at the body. I saw my mates falling down and it upset me. And so it made us even more bitter, seeing the blood like that. As we had no weapons, how were we going to defend [ourselves] and at that point, since they were firing at the body like that, the police were shooting at our bodies, we also knew and so we kept jumping out of the way and the bullets didn't reach us. Then one of them got me with a bullet to the ribs and I stayed right there. I stayed there and I could see my comrades falling to the ground, crying. [For them to shoot] directly at the body, how is it possible?”

Interview with an Indigenous demonstrator from the community of Wawás who was at the *Curva del Diablo*

Amnesty International considers that the use of military equipment such as AKM rifles or grenades is unsuitable for policing peaceful demonstrations, especially when employed by officers who lack training in human rights standards relevant to policing demonstrations. Peru must ensure that law enforcement officials use force only when strictly necessary and if other means remain ineffective or without any promise of achieving the intended result, as stated

in the UN Code of Conduct for Law Enforcement Officials and in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²⁰ Force must be used in a manner that minimizes risks of injury and death and in all cases, use of firearms is only permitted to protect against an imminent threat of death or serious injury.



Police beating a protestor on the road to Bagua, 5 June 2009.
© Thomas Quirynen

Governments and law enforcement agencies, in line with Principle 2 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials should “...develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury”.

In the case of the police operation at the stretch of road known as the *Curva del Diablo*, and the towns of Bagua and Bagua Grande, the indiscriminate and disproportionate use of firearms by police, including the use of military weapons, such as AKM rifles, caused deaths of unarmed protestors and bystanders as well as severe injuries, which in some cases resulted in amputations. Protestors

who were occupying the state-owned oil company Petroperú Pumping Station No. 6 near Imacita, a town approximately 80km from the *Curva del Diablo*, responded to news of this police operation by murdering 11 of the police officers they were holding hostage. Twelve other police officers who participated in the operation at the *Curva del Diablo*, were reportedly disarmed and killed with their own weapons by protestors. The whereabouts of one police officer remains unknown to this date. [See interviews with the widow of a police officer killed at the Petroperú Pumping Station No. 6, pp. 29-30 and with an Indigenous protestor present there at the time when the police officers were killed, pp.28-29].

Amnesty International interviewed dozens of people injured, as well as many of the relatives of those killed, both civilians and police officers, and heard the testimonies of scores of eyewitnesses. Reports and witnesses’ accounts, in addition to photographic and video evidence obtained by Amnesty International corroborate that during the police operation on the *Fernando Belaúnde Terry* highway between the *Curva del Diablo* and the crossroads known as *El Reposo*, there was indiscriminate and disproportionate use of firearms against unarmed civilians, and ill-treatment of protestors.



Police beating a protestor on the road towards Bagua, 5 June 2009.
© Thomas Quirynen

In the towns of Bagua and Bagua Grande, where injured protestors were being taken and townspeople gathered, some of them to help the injured, others to protest against the operation at the *Curva del Diablo*, police officers also appear to have been responsible for an indiscriminate and disproportionate use of firearms against defenceless civilians, including children.²¹ [See interview with the parents of Abel Ticlla Sánchez on pp. 38-40].

Testimony

“It would have been about eleven o’clock in the morning and the dead policeman arrived [at the hospital] and the police started shooting from the roof, from the balcony in the Plaza de Armas, the police were shooting, can you believe it? at the population of Bagua”.

“There was a mob of boys saying “Let’s go to the building! Let’s go to the building!”. They were going to what is the justice building, that famous police station, to burn it down (...) people reacted like that, but it wasn’t the reaction of the whole of the population, because [there were] people who reacted like that, mainly young people, some said even criminals, at any rate, people. They were the ones who were going round burning down institutions, they burned down about three institutions, but not in the square. I don’t know what madness took hold of them for them to end up doing that (...) That was much later (...) people had already died, they had already killed Felipe Sabio and the other boy, a student [Abel Ticlla] as a result of the shooting in the square”.

Interview with an eyewitness of the events in Bagua



DINOES police officers using tear gas against protestors on the road towards Bagua, 5 June 2009.

© Thomas Quirynen

breakfast by the side of the road. Eyewitness accounts indicate that the majority of protestors were woken up by the sound of bullets and tear gas smoke.

Amnesty International also documented that police officers at the *Curva del Diablo* failed to make their presence known or give clear warning to the protestors before discharging their firearms and using teargas, in order to minimize damage and injury. This contravenes Principle 10 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which states that law enforcement officials “shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons”.

The operation to disperse the crowd blocking the road started in the early hours of the morning of 5 June, at around six am. Police officers reportedly approached the area from a hill above the road. The vast majority of protestors were asleep and some were cooking

Testimony

“[I] could see that the top, the crest of the hill was absolutely full of police, the shooting continued and there was a point when it got so intense that I said: Everyone here is going to die (...) The bullets were being fired in bursts. I've never experienced anything like it, to start with there were single shots (...) but later they came in bursts, and they were going in different directions, in bursts.”

Interview with a woman who was present in *Curva del Diablo* at the time of the eviction

Interviews with protestors at the *Curva del Diablo* indicated that tear gas canisters were thrown indiscriminately, including from the air from helicopters. This clearly contravenes Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which states that “when force is used, states must [e]xercise restraint in such use

and act in proportion to the seriousness of the offence and the legitimate objective to be achieved" and "[m]inimize damage and injury".²² Due to its ability to cause pain, discomfort, illness and possible death the deployment of non-lethal incapacitating weapons, such as tear gas, should be carefully evaluated in order to minimize the risk of endangering uninvolved



Police helicopter flying over the police operation on the road to Bagua, 5 June 2009. © Thomas Quirynen

persons, and the use of such weapons should be carefully controlled.

Amnesty International was also informed that police officers restricted the access of the public prosecutor's office and prevented the access of health professionals and humanitarian aid to the hills above the *Fernando Belaúnde Terry* highway, where people had reported the presence of injured protestors. According to reports, nobody was allowed into the area until 10 June 2009. This is again a grave violation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which state that whenever the use of force and firearms is unavoidable, law enforcement officials shall "ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment" and that "[e]xceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles."²³

4.2 ILL-TREATMENT OF DETAINEES AND VIOLATIONS TO THEIR RIGHT TO A FAIR TRIAL

According to the Ombudswoman's office, during the police operation of 5 June 83 adults and nine adolescents were detained. The majority of the detainees, 39 of them, were held at the military base at El Milagro, in Utcubamba province, which is approximately 5km from Bagua.

According to the Ombudswoman's office, 65 adults and 7 adolescents detained for the events on 5 June were later released, some of them conditionally, including two adolescents. 18 adults were remanded in custody charged with different offences including the killing and kidnapping of police officers, illegal possession of firearms, crimes against public property, and disturbances. To date five people remain detained in Huancas prison.

Another 99 people were also detained during the following days for violating the curfew imposed under the state of emergency which had been declared previously²⁴. All of them were later released.

The Awajún Indigenous leader, Santiago Manuín Valera, who was shot by police at the *Curva del Diablo* was remanded in police custody in the hospital of Chiclayo, the capital of Lambayeque department which is approximately 300km from Bagua, because it has the nearest hospital where he could be treated for the wounds suffered. Santiago Manuín was remanded in police custody in hospital until 2 September when his arrest warrant was changed for an order to appear in court [see the case of Santiago Manuín Valera on p. 22].

Individuals interviewed by Amnesty International indicated that they were ill-treated at the time of their arrest and while in custody [see interviews on pp. 29-33].

In addition, human rights organizations documented violations to the right of detainees to a fair trial. According to reports, most detainees had no knowledge of the reason for their arrest and had no access to a lawyer of their choice during the first few days after their arrest. In addition, no interpreters were present when those whose first language is not Spanish gave their first statement at police stations.²⁵

On 16 June, the 18 adults remanded in custody were reportedly transferred without a judicial order to the prison of Huancas, on the outskirts of Chachapoyas, the capital of Amazon department. Chachapoyas is approximately 100km from Bagua and Bagua Grande and is a relatively isolated town over 2,000 meters above sea level in the mountains. Local human rights organizations and the legal representatives of the detainees raised concerns that the access of detainees to their lawyers and families was being restricted due to the distance to the prison and difficult accessibility. This same concern was raised by the Ombudswoman, who also showed concern about the health of the detainees because of the diet, climate and cultural differences. As stated by international human rights standards "communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days"²⁶. To date, five detainees remain detained in Chachapoyas, and their families and relatives have to travel three hours by bus from Bagua to visit them.

4.3 INTIMIDATION AND HARASSMENT OF INDIGENOUS LEADERS AND AIDSESEP POST 5 JUNE

Since the events of 5 June, Indigenous people, their leaders and AIDSESEP, one of the main organizations which represents them, have been intimidated and harassed. Indigenous leaders have been charged with offences that appear not to be based on solid and verifiable evidence, but on mere suppositions and hypotheses about the responsibility of the leaders on the criminal actions which took place on the day. The intimidation and harassment includes the request by the Ministry of Justice to dissolve AIDSESEP, and the Public Prosecutor's office decision that there was a case to answer.

Indigenous leaders were first accused on 15 May 2009, following a press conference in which the then President of AIDSESEP, Segundo Alberto Pizango Chota called for an “indigenous insurgency” against the government. At the press conference Alberto Pizango apparently clarified that the call for insurgency was a call to the government to annul the decree laws being passed without their free, prior and informed consent as a first step to initiate a dialogue as equals.

Following this call, Alberto Pizango was accused of the crimes of ‘rebellion, sedition and conspiracy against the state and the constitutional order’²⁷, as well as with ‘apology of crimes against public order’²⁸. In addition, Saúl Puerta Peña, recording secretary of AIDSESEP, Cervando Puerta Peña, President of the *Organización Regional de Pueblos Indígenas Amazónicos del Norte del Perú* (ORPIAN), Daniel Marzano Campos, President of the *Organización Regional Indígena de Atalaya* (OIRA), Marcial Mudarra Taki, Coordinator of the *Coordinadora Regional de los Pueblos Indígenas de San Lorenzo* (COREPI – SL), and Teresita Anzatú López, President of the *Unidad Nacional de Pueblos Asháninkas y Yaneshas* (UNAY), who were also present at the press conference, were accused of ‘apology of crimes against public order’.

The public prosecutor’s office was swift to decide that there might be a case to answer even though on the day following the press conference, 16 May, AIDSESEP together with the Ombudswoman’s office, issued a public statement undertaking to respect the rule of law during the protests and leaving without effect the call to “insurgency”.²⁹

Nonetheless, all the leaders present at the press conference were charged with instigating the kidnap, killing and grave bodily harm of police officers, despite the fact that none of them were in the region on 5 June but in Lima, the capital, negotiating with the authorities a fair outcome to their demands.

Other Indigenous leaders have also been charged without any clear evidence of crimes they do not appear to have committed [see the case of Santiago Manuín Valera on p. 22].

Testimony

We had set out to have a clean protest, without weapons, spears are a means of identification, you can't shoot with a spear, you can't throw it long distances (...) In every organization there is a representative, the same in these protests, they were also elected, in other words to represent them in demanding their just rights. There was absolutely no question of the leaders saying 'Look here, brothers – do this', no. That's why I'm saying that it was the reaction of all the people, all my brothers, out of desperation on hearing about what was happening over there in Curva del Diablo, and we can't know who (...) I don't know who it was”.

Interview with one of the Indigenous people who participated in the occupation of Petroperú Pumping Station No. 6

The UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, in his report on the events of 5 June has called on the authorities to “review the penal charges against Indigenous people and their leaders” and to “justify very carefully any future charges, in view of the special circumstances surrounding the alleged

crimes and the need to create adequate conditions for the dialogue”, as well as emphasising that “the use of criminal legal procedures should be the last resort to address social conflicts and protests”, and that this “should be strictly limited in a democratic society by the principle of imperative public interest”.³⁰

The Special Rapporteur has also noted that “the lack of a mechanism to demand their legitimate rights to be consulted or to protect their land and territories, can contribute to Indigenous peoples’ feeling that they have no adequate options to defend their rights and as a result, they opt to forms of social protest, which in some cases could result in act against the law”.³¹

In addition, the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights has stated that criminal sanctions as a way of restricting freedom of expression and the right of assembly exercised through a demonstration, in the streets or other public space, must be shown to satisfy an imperative public interest that is necessary for the functioning of a democratic society. The Special Rapporteur has argued that criminalisation “could have an intimidating effect on this form of participatory expression among those sectors of society that lack access to other channels of complaint or petition, such as the traditional press or the right of petition within the state body from which the object of the claim arose. Curtailing free speech by imprisoning those who make use of this means of expression would have a dissuading effect on those sectors of society that express their points of view or criticisms of the authorities as a way of influencing the processes whereby state decisions and policies that directly affect them are made”.³²

Santiago Manuín Valera

On 5 June 2009, Santiago Manuín was shot with an AKM rifle in the stomach by police officers. According to Santiago Manuín and eyewitnesses’ interviewed by Amnesty International, he was unarmed and had his hands in the air when the police officers shot him. On that day, Santiago Manuín was taken to a hospital in Bagua where he had an emergency operation. Later, because of the severity of his injuries he was transferred to a hospital in Chiclayo, the capital of Lambayeque department, to have further treatment and two more operations. His doctors told Amnesty International that the bullet perforated his intestines eight times. Santiago Manuín has now been discharged from hospital and at the time of writing he was still in Chiclayo recovering from his injuries until he is able to go back to his community.

Santiago Manuín and other Indigenous leaders, were charged on 12 June 2009 with: instigating the killing and grievous bodily harm of 12 police officers³³; instigating acts to stop transport, communications and public services³⁴; instigating acts against the state and the constitutional order³⁵; instigating acts of public disorder³⁶; instigating acts against public safety by possessing illegal arms and removing arms or ammunition for official use³⁷; and instigating acts against private property³⁸. A day later, a judge in Bagua Grande ordered his arrest. This order has now been revoked and changed to an order to appear in court for trial.

Amnesty International has carried out extensive research on Santiago Manuín’s case, including an interview with him in hospital and with members of his family, meetings with

eyewitnesses present at the road block in the *Curva del Diablo*, including at the time when Santiago Manuín was shot, as well as with his legal representatives, and members of the Catholic church who know him.

According to eyewitnesses, Santiago Manuín was near the road when the shooting started above the road at the *Curva del Diablo*. On hearing the shooting, he and others made their way up the hill whilst at the same time the police were chasing people back down towards the road. On coming face to face with a group of police officers, the police reportedly shot at them injuring at least one of Manuín's companions. Manuín then stepped forward with his hands in the air to ask them to stop shooting which is when he was shot in the stomach.

4.4 VIOLATIONS TO THE RIGHT TO FREEDOM OF EXPRESSION; THE CASE OF RADIO ‘LA VOZ DE BAGUA’

Local journalists and radio stations also suffered after the 5 June. Authorities blamed them for inciting the violent acts that took place on the day. The culmination of these threats was the order of the closure of Radio ‘La Voz de Bagua’, a local radio station in the town of Bagua Grande, by the Ministry of Transport and Communications on 8 June. The Ministry stated that the reason for the closure was that the radio station had failed to comply with some technical requirement and its equipment had not the necessary certificates, even though only in February 2009 the very same ministry had issued a report stating that the equipment used by Radio ‘La Voz de Bagua’ was certified.

Radio ‘La Voz de Bagua’ appealed against this decision on 19 July, however, on 28 September the Ministry of Transport and Communications rejected the appeal, and the radio station remains closed to this date.

The closure of the radio station ‘La Voz de Bagua’ would appear to be in reprisal for the content of their reporting of the events on 5 June. A decision which not only violates the right to freedom of expression, but sends a message of intimidation to other media outlets and journalists in the region who are critical of government policies. As stated by the Inter-American Court of Human Rights in several of its rulings, “freedom of expression, including the right to political criticism and social protest, is a fundamental right that must be guaranteed not only in relation to broadcast ideas and information which are viewed favourably or are considered inoffensive or indifferent, but also those which the State is uncomfortable with. Such pluralism, tolerance and openness are essential in a democratic society”³⁹.

Both the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights and the Peruvian Press Council (Consejo de la Prensa Peruana) have expressed their concern over the decision to close Radio ‘La Voz de Bagua’, and have called on the Peruvian state to evaluate the appeal and ensure that freedom of expression is respected, promoted and protected, as enshrined under article 13 of the American Convention on Human Rights⁴⁰.

5/MEASURES TAKEN SINCE 5 JUNE TO ADDRESS HUMAN RIGHTS VIOLATIONS AND CONCERNS OF INDIGENOUS PEOPLES

Amnesty International welcomes the authorities' efforts to bring to justice those who committed serious abuses on 5 June. Amnesty International, however, is concerned that there appears to be more effort to clarify how the police officers died or were injured during the operation, than to clarify how all of the 33 people killed died and how over 200 were injured. Indigenous people interviewed by Amnesty International are clearly aware of this imbalance and stressed that this is a sign of the state-sanctioned discrimination against Peruvian society's most marginalised people which has been embedded in the state's apparatus for decades [see interviews on pp. 6 and 32].

Charges were rapidly brought against 84 people, mainly Indigenous protestors, including two adolescents⁴¹. The charges against the 82 adults include: disturbances, damage to public property and public transport, illegal possession of firearms, kidnapping of 28 police officers at Petroperú Pumping Station No. 6, killing of 11 police officers at Petroperú Pumping Station No. 6, killing of 12 police officers at the *Curva del Diablo*, and grave bodily harm of 18 police officers at the *Curva del Diablo*.

At present, five people are held in Huancas prison on the outskirts of Chiclayo, the capital of Lambayeque department, the remaining 13 have been conditionally released. Of the 84 people accused, 23 have arrest orders against them, but to date have not been found by the authorities, and the rest have orders to appear in court.

On 18 June, the Ministry of the Interior announced that Peru would pay reparations to the relatives of the 23 police officers who died during the police operation in Bagua and Bagua Grande, as well as to the family of Major Bazán Soles, the police officer whose whereabouts remain unknown.

However, Indigenous protestors and others from Bagua, Bagua Grande, surrounding towns and Indigenous communities where the protestors came from, are still awaiting truth, justice and reparation.

During its visit to Peru in July 2009, Amnesty International raised its concerns with the Public Prosecutor's Office and other authorities, that the focus of the investigations appeared to be solely on the alleged crimes committed by the Indigenous protestors and townspeople from Bagua.

In August, the organization received information that charges had been brought by the public prosecutor's office of Chachapoyas against some of the police officers, including the two higher ranking officers in charge of the police operation, for the murder (homicidio calificado) of six people, grave bodily harm (lesiones graves) of seven people and injuries (lesiones leves) of 21 people. However, to date, the public prosecutor's office has not finalised these investigations or confirmed charges against them.

In September, a Special Commission to investigate the events that occurred on 5 June 2009, (Comisión Especial para Investigar y Analizar los sucesos de Bagua) was set up. The Commission depends on and reports to the Minister of Agriculture⁴², and has a mandate of 90 days to “determine the social, cultural, political and religious causes and consequences which led to the events of 5 June, with an aim to reach reconciliation.”⁴³

In addition, Congress also established a multiparty Commission in September which has 120 days to carry out its investigation into the events of 5 June.

Amnesty International expects these two Commissions to look into the circumstances that led and contributed to the serious human rights abuses that were committed, including looking into the responsibilities of all those involved, with the final aim to ensure that all the victims have access to the whole truth, that all the perpetrators are brought to justice, and that all the victims are given adequate reparation. In addition, the Commissions should ensure that their reports include recommendations to guarantee the non-discrimination of Indigenous Peoples, their right to free, prior and informed consent when proposals that affect their rights are being discussed, as well as steps forward to ensure that the events of 5 June do not happen ever again and that all the rights of the most marginalised in society are respected, promoted and protected.

A positive outcome that can be salvaged from the tragedy of 5 June is that the government appears to have acknowledged that they have a duty to consult Indigenous Peoples on issues that concern their rights and have started a process of dialogue with them apparently in good faith. On 10 June the authorities set up the Coordinating National Group for the Development of the Amazon Peoples (Grupo Nacional de Coordinación para el Desarrollo de los pueblos amazónicos)⁴⁴, a working group with representation from the Ministries of Agriculture, Environment, Women's Affairs and Development, and Health, as well as the regional governments of the Amazon departments (Loreto, Ucayali, Amazonas, San Martín, Madre de Dios); and 10 Indigenous Peoples' representatives.

This Coordinating Group was reformed on 25 August to include representation from the regional governments of Cuzco, Huánuco, Pasco, Junín, Ayacucho and Cajamarca, as well as from the Ministries of the Environment, Energy and Mines, Education, Transport and Communications, Housing, and Construction and Sanitation and is chaired by the Ministry of Agriculture⁴⁵. Once established the Coordinating National Group decided to set up four working groups (mesas de diálogo). One group will investigate the events of 5 June. Another group will issue recommendations on the decree laws passed in 2008 and propose alternative legislation. The third and fourth groups will be issuing recommendations on a process of consultation with Indigenous Peoples and propose a National Plan of Development in the Amazon, respectively. The working groups have until the end of year to issue their reports.

6/CONCLUSIONS AND RECOMMENDATIONS

Serious acts of violence and human rights violations were committed on 5 June 2009 in the Peruvian Amazon region, which resulted in 33 deaths and over 200 people injured. The root causes of this tragedy originated a long time before that day. This crisis was brought about by decades of blunt disregard by the authorities of the rights of Indigenous people and the systematic discrimination against the most marginalised in Peruvian society.

In the short term, measures must be taken to bring all the alleged perpetrators of these grave human rights abuses to justice and give adequate reparation to all the victims.

At the same time, and equally important, is the urgent need to set up a long term and far-reaching plan of action to ensure that the human rights of Indigenous people are fully promoted, respected, protected and fulfilled, without discrimination. The Peruvian government cannot continue to ignore the human rights of its Indigenous population in the name of development.

As a matter of urgency, Amnesty International urges the authorities to:

- Carry out an independent and impartial investigation into the events of 5 June to determine all responsibilities. The results of the investigation must be made public and all alleged perpetrators must be brought to justice;
- Drop unsubstantiated charges against Indigenous people and put an end to the persecution and harassment against them and Indigenous organizations;
- Guarantee the right to all detainees not to be subjected to torture, ill-treatment or any form of cruel, inhuman or degrading treatment;
- Guarantee the right to a fair trial for all the accused, including access to interpreter, if the accused requires one, and to legal aid, as well as to ensure that all information obtained under duress is excluded as evidence during the trial;
- Guarantee the right to reparation to all the victims, including access to health care and rehabilitation for all those injured;
- Ensure that from now on, all security forces personnel involved in policing of demonstrations receive adequate training required on alternatives to the use of force and firearms, peaceful settlement of conflicts, understanding of crowd behaviour, and methods of persuasion, negotiation and mediation;

26 Peru: Bagua, six months on
"Just because we think and speak differently, they are doing this injustice to us"

- Give priority to agree and approve in the briefest time possible a process to guarantee the right of Indigenous Peoples to free, prior and informed consent on any decision which could affect their right to land and resources;
- To suspend decree laws that affect Indigenous Peoples' right to land and resources until an evaluation, in consultation with the Indigenous communities affected, has been carried out to establish the possible impact on their rights;
- To review urgently all concessions that have been granted to extractive industries in areas where such activity could affect the rights of Indigenous Peoples, with a view to taking appropriate action to respect and protect human rights; no activity should take place in these concession areas until the review is complete; the review must include a clear process of consultation with affected communities.

7/TESTIMONIES AND CASES

Interview with a woman who participated in the blockade of *Curva del Diablo* and who witnessed the clash between police and Indigenous demonstrators on the hill above the highway:

"[The police] were throwing tear gas bombs, the two groups were moving towards each other because there was quite a distance between the highway where [the Indigenous people] had first assembled and the crest [of the hill]. The group of police officers and that first group of natives were gradually getting closer to each other (...) but neither of them made the least effort or gave any sign of backing off (...) [W]hen they were about 30 metres away, the police crouched down and covered themselves with their shields and on seeing that, [the natives] were taken aback and it was then (...) at that moment that we realized that there were not many of us to confront them and it was then that they [the police] started shouting 'come on, come on, come on' and indeed the hill was completely overrun and they were all on top of each other. In fact, everyone, all the groups from all directions went up there. Then (...) the first bullet hit someone in the leg, (...) some people said: "Don't be afraid, it's from a toy gun" ... and then we saw the blood. It was blood, then straightaway the second bullet came and then straightaway the man standing next to me got a bullet in the chest. He died instantaneously, the shot that got that boy must have been well-aimed, perhaps at his heart, what do I know (...) a bullseye, he was dead, and that was the magic word: dead, dead, a native⁴⁶ was dead".

Interview with one of the Indigenous people who participated in the occupation of Petroperú Pumping Station No. 6:

"We had been [in Pumping Station No. 6] for 54 days, in contact with the DINOES, in contact with the military. The government (...) paid no attention to our leaders, day after day meetings were called off (...) the government had turned a blind eye and in the end ordered them to evict us by use of arms. Then we got the news here in Pumping Station No. 6 about what was going on in Curva del Diablo. We heard the news early on about what was happening in Curva del Diablo (...) it was sad news, it was worrying that they also had orders to evict us (...) our concern was to coordinate or negotiate with the people from the DINOES to prevent things going the same way, and so at that point the whole population was desperate. Everyone was leaving, things got out of control at that point because their relatives were already being shot dead, were being killed over there (...) At that point we could also hear the choppers [helicopters] coming, we were told that choppers were on their way, that two choppers were on their way. And so the fear was that they were going to evict us in the same way as they had over there, that was our fear. Helicopters were circling overhead, there were two helicopter gunships circling (...)

We at that point had organized ourselves to meet with the soldiers to carry out negotiations, so that (...) there would be no shooting, no bloodshed. That was what we were doing, I was there with a friend talking to the Commander, to the Major, so that there would be no more bloodshed, and so they listened to us and we asked for half an hour to be able to talk to our

leaders (...) [and we went] to inform our leaders (...) [but] the leaders had already left (...) because the crowd was desperate, because they could see the helicopters already circling, and so a crowd of people had already taken a group of police officers away to kill [them] (...) I don't know who they were (...) with the desperation of knowing that over there in Curva del Diablo their sons and brothers were being slaughtered, were being killed, they reacted in that way out of vengeance. We did not reach an understanding. That thing happened in Pumping Station No. 6 and now I don't know, according to these brothers here, I understand that there are four people in detention who actually are or who have admitted that they were responsible for the crime and who are accusing us of having been actively involved (...)

Interview with Flor de María Vásquez de Montenegro, wife of Commander Miguel Antón Montenegro Castillo, the highest-ranking police officer to die at the Petroperú Pumping Station No. 6:

"In Pumping Station [No.] 6 there had been two changes of personnel, that is to say that [they had been there] for about 57 days of which my husband had only been there for a week⁴⁷, but virtually as hostages. It could be said that they had a non-aggression agreement with the natives and talks were taking place with the Apus [Indigenous leaders] (...) The natives decided how many police personnel could enter the base, what things could come in or out. [The police] couldn't use their weapons, they had to be left in a specific place and only those who were looking after the outside of the Pumping Station could use their weapons, in other words those on guard. The police couldn't leave the installations, that is to say they were obliged to do things that to me seem very unusual, in other words things that were not in keeping with the ideal performance of what constitutes police security. In other words, in my opinion, they should never have sent personnel there under those conditions.

The agreement was respected, in other words the natives did not behave badly with the police, things were stable.

But there was a spark. The day before, when no agreement was reached with Congress, people were getting more exasperated. Early on the following day [came] the events at Curva del Diablo (...) Then, knowing the bad situation that had taken place there, why didn't [the police] send in a rescue group? First of all, [the DINOES] did not inform them, that's a fact, they should have told them that an eviction operation was going to take place, but they were not informed..."

"We know that [no one] went to rescue them, to send in reinforcements or to get them out of there before everyone gathered at Pumping Station No. 6, the three thousand [Indigenous people who were occupying it], the ones who had been (...) The people in Pumping Station 6 were being brought out and you could hear the helicopter flying overhead too, in other words there was firsthand information at that point to enable [the police officers who were in the helicopters] to at least say to [their superiors]: 'They are in danger, they are being surrounded'. It's a situation that could have been avoided and, when they were being brought out to be killed, they could have been rescued, they could have been saved.

Why did nobody come? That explanation has not been given to us. I would like to hear that explanation one day and for them to pay for their sins, not the native people. Well, everyone will pay for their individual sins, it may be a police matter at the moment if they can track

them down, [but t]he real guilty ones are not them ..."

"Two officers who were in Pumping Station No. 6 recounted what happened: They found out about [the eviction in Curva del Diablo] on 5 June itself, when watching the news on a cable channel. They also found out that Curva del Diablo had already been taken and that some police officers had died. That was when they said: 'Commander, they've already taken Curva', and when they went outside, Pumping Station No. 6 was already completely surrounded. They say that [there were] two or three thousand Indigenous people. They gathered together in one of the large rooms and there the Commander ordered them not to use their weapons: 'We're not going to use weapons, we're going to hold talks, we have an agreement with the Apu'. The Apu and the Commander went out to talk to the natives and to explain to them that they had nothing to do with Curva del Diablo and that it was of no relevance to that situation and that they were there to guarantee [the security of] Pumping Station No. 6, not to clash with the natives, but the mob had already taken over the premises and what they were saying was 'Death', 'Death', because they had been told that there had been many killings in Curva del Diablo. That is why they grabbed the police officers and took them to a small school where they held them hostage and unarmed. They separated out 18 of them and took them away somewhere. They killed 11 of the 18. Seven survived. They said that when they were being moved, they could hear the helicopters and so they thought 'Now they're coming to rescue us' but none of the helicopters came down or arrived. What is more, when that officer left the hospital, he went to the DINOES and another higher-ranking officer told him that they had been ready in Jaén to take control of Pumping Station No. 6 but unfortunately they received no orders from their commanding officers to do so".

Interview with a local living near the crossroads known as *El Reposo*:

"Some twelve natives [took refuge in my house]. Over there [in the yard of my neighbour's house] there were at least 50 people, there at the side. They hid here (...) Six policemen came in to get them. Look, that's what they threw in, look there [indicating the tear gas bombs], to force people to leave. Then the police came, they threw tear gas bombs from the roof to force people out. As the people didn't come out and I was standing at the door to stop them coming in, one of the policemen hit me with the butt of his gun and broke the door down and at that point they started beating them to force them out one by one, and the blows were making them cough up blood. One man, who had had his ponytail pulled off and who had blood running all down his face, was taken and carried outside where they kept on hitting him and they made them squat down afterwards, that's when they took us all out (...) Once they had taken them out [of the house], they made them line up over there in front (...)

Some of the people who had taken refuge there, in the end they didn't manage to get them out and they got into the neighbour's yard and as they did not get the ones who were at the bottom of the yard, in the duck pen, they managed to escape at night and when they got out, some of them managed to escape by going down (...) But the ones who were unable to run were caught and they killed them down there near that house [an abandoned house behind the homes next to the highway]. They killed them, they killed them there. [I saw] two of them [being killed]. At that point we were told not to show ourselves or to go out and look but we could hear. There was shouting and shots, you could hear the shot and the cry of the person (...)

Look how cunning they were, two days after they did what they did, they came to pick up their bullet cases. They came to ask, they told us to hand over any cases we had, if not they would put us in prison (...)

*The natives came from down [the road] and they left with bullet wounds in their arms (...)
The ones that stayed here and who tried to take refuge were taken away in the end, they were taken out of here. First they made them line up here, near that tyre, and another group over there. There were about 50 people, including civilians as well, and later the group over there was taken to that pampa over there. Then they began to take the ones from here up, they put them into a helicopter, (...) and those over here they put into that house, an empty house, all lying on their stomachs (...) and they hit them, they kicked them, they were asking for water because it was hot and they told them 'we'll bring you water in a minute' and they swore at them and kicked them. We and the neighbour wanted to go and give them water in a container but [we were told] 'No, no, no. Everything is under curfew, go home, you bastards' because we're going to kill you, they kept telling us.*

During the night (...) the police stayed ... [near] the houses and they slept there under the awnings [opposite the houses] on top of their shields. (...)

With so much tear gas around, the animals ended up dead. There were over 40 of them. We were afraid that we would be taken out and shot and no one would know.

I couldn't relax, how could I? (...) The police were supposed to be providing security, the police were supposed to be looking after us and our animals which are our means of support, [instead] they destroyed everything, they killed, they killed our animals and told us to go back to our [houses]. What security did we have?

Whenever they saw a native running, they said, "Kill him, kill him!".

All [we residents of El Reposo] were left here feeling faint, trying to revive ourselves, choking, recovering [from the teargas] and yet again, right in front of us [they were beating them]. If one of them moved, they went to get him and took him out. 'Sir, please don't beat him like that.' To no avail, kicks in the stomach, kicks all over, coughing up blood... "Shut up, you bastards, you're all going to die!".

Interview with an Indigenous man from the Cenepa area, on the border with Ecuador. He was arrested on 5 June at the crossroads known as *El Reposo*, Bagua Province:

We participated in the peaceful protest (...) we were demanding our land (...) we are Awajún, to live happily we need the environment, the land, pure water. We had been demanding our rights since 9 April. We are reservists, who are well-trained, well-drilled by the government. We served [in the war against Ecuador that ended in 1998], we learned how to defend our land.

When the eviction began, it was very early and we were cooking. We did not expect to die, we expected that when the police came, we were going to talk: Why have you come? We need to talk to the government. You too are the children of peasants. They attacked us from the hill and from the other side of the road.

Now we are weeping for our dead brothers. They died next to me, they were shot down. We had no weapons with which to defend ourselves. My friends were running all over the place. The police caught one of them and killed him. I ran because I didn't want to die and I reached El Reposo. I was having a rest there, crying (...) Why did they betray us? We participated when the conflict [with Ecuador] was going on, we participated, we are ex-combatants (...) they used us as guides to beat the Ecuadorians but now they don't need us, now they want to get rid of us. They should put their weapons away (...) killing their brothers, their sons, Peruvians shouldn't kill each other.

My friends got scared when they [started] dropping tear gas bombs on them from the helicopters. My friends were running all over the place and we carried those who were getting injured. They were flying over us very low, very near and firing with machine guns. That's what I saw...

On top of that they are putting us in prison. I was in jail for 35 days. Still being badly beaten, injured, threatened. They put a pistol in my mouth and threatened me: 'Tell him who the leaders were, who killed the [police] major, who killed the policemen'. But we didn't see, we don't know who they were, we don't even know all our Indigenous people, they come from different areas, different communities (...) Every time they beat me, I said: I'd rather you just killed me.

They swore at me, they hit me, they beat me up to find out who set fire to the prosecutor's car, (...) but I wasn't there. I was participating but I wasn't sufficiently involved to be able to say what happened.

The judges are ensuring that justice is done for the major who died. Why aren't they filing complaints on behalf of the [Indigenous people] who died? We are just like them, we are children of the State. We should also be recognized. Why don't the police go to the prison to clarify things?

Sometimes Indigenous people and mestizos⁴⁸ who were working in Bagua were arrested, picked up, accused [of crimes] and asked for their papers. In other words, without seeing any evidence, the DINOES simply used to pick you up and during curfew they picked people up and used to record their details at the police station: What community are you from?; and they recorded the names of the dead policemen and later on: the above-mentioned man is guilty of the [following] offences: rioting, aggravated homicide, setting fire to buildings. That is what has happened to the brothers who are in Huancas [Prison]. They are humble people.

Why is no complaint filed against the DINOES? It was they who killed the Indigenous people with their weapons but no one's interested in them [Indigenous people], they have rights as well. The police who died were human beings. Why don't they recognize the Awajún too? The police who died have already been recognized, the women who were left widowed, they already have a pension. Here the women who have sons who died participating in the protest are suffering. How are we going to provide support? We are just poor people, with what can we give support?

I was arrested on 5 June 2009 at 12 noon in El Reposo, I was hiding in a house. When they

took us out, they were beating us with the butts of their AKMs. They were ridiculing us, calling us 'shitty Indians'. We're not Indians, we are Awajún Indigenous Peruvians. I was held for 35 days. Ten days in Milagro, five days sleeping on the floor with no mattress, sleeping naked. Then the Red Cross arrived with clothing, a mattress and toiletries.

When I was in El Reposo (...) a friend of mine was beaten up because they found him with a spear used by Indigenous people. They wanted to kill him because he was carrying a spear. That spear is a symbol used during protests. Our ancestors used to fight with those spears but we don't use them now. We were surrounded by 20 policemen. They kept us crouched down, we weren't allowed to look, if we looked, they beat us. We heard him crying. He was badly injured when he came out, very slowly, he could hardly walk.

At 8 pm, so that the press wouldn't see us, they drove us to El Milagro barracks. [My friend] (...) spent three days [in El Milagro military barracks]. Scarcely able to walk, and every night he woke up crying. The Prosecutor's Office took him to Bagua... [to the hospital].

In El Milagro they questioned me without a lawyer present, they made me sign documents without giving me time to read them. "Read it", they said, but there were so many documents, I couldn't study them that quickly, and so I just signed. They threatened us: "As well as killing policemen, you like reading?" So that they wouldn't get more angry, I just signed. We had no interpreters. Although I speak [Spanish], I don't speak it very well and the justice [system] uses lots of technical [words]. They didn't hit us in front of the prosecutor, it was when they arrested us in El Reposo that they hit us. When we were being transferred, the handcuffs were put on very tight and in the van they hit us in the ribs and on the head with pistols. I couldn't even walk, my arms were swollen [because of the handcuffs]. They put a pistol butt in my mouth [saying]: "Talk, you killed my cousin".

The police should be tried too, just like they are trying us. We are equal human beings. Just as the National Police matter, we too matter.

Interview with an Indigenous minor living in Bagua Grande but originally from the province of Condorcanqui. He was detained on 5 June in Bagua Grande. Amnesty International researchers spoke to him and his mother during their visit to Peru in July 2009.

Elvin (not his real name) was detained by the police in Bagua Grande on 5 June 2009. Elvin, his mother, brother and sister have lived in Bagua Grande for over a year. Elvin moved from Condorcanqui to find a job and support his family. He works in a shop. Elvin did not take part in the Indigenous protests or in the road blockade.

On 5 June, Elvin had left his rented room at around 3 pm and went to a public phone box to call his grandmother. On the way there he saw the police and heard shooting. Elvin ran and sought cover behind a motorbike. He was then detained by three police officers. At the time of his arrest he was kicked, punched and beaten with the butt of the police weapons.

Elvin was taken to the police station where he was held for three days. While in police custody, he was beaten and threatened with death by police officers. Elvin told Amnesty International how while he was being questioned he was kicked in the stomach, beaten with a belt and had his head smashed against a wall. According to his testimony he was threatened with death if he did not admit to having been at the *Curva del Diablo* and if he did not identify the

“Just because we think and speak differently, they are doing this injustice to us”

Indigenous leaders who organised the protest. He was also shown video footage and told to identify the people shown .

Elvin was told he would be transferred to a prison in the city of Chiclayo, the capital of Lambayeque department, with other detainees but was released after three days without charge. According to Elvin's testimony, he was not given any water or food during the three days of his arrest.

THE CASE OF FELIPE SABIO CÉSAR SÁNCHEZ, INDIGENOUS LEADER FROM THE WAWÁS INDIGENOUS COMMUNITY AND RADIO CORRESPONDENT FOR RADIO MARAÑÓN.

Felipe Sabio was 30 years old. He lived in the Indigenous community of Wawás, in Imaza district in the province of Bagua, with his wife and their three sons of ages between four and two years old. At the time of his death his wife, Violeta Piitug Wampush, was heavily pregnant. The baby girl was born days after Felipe Sabio's passing. Felipe Sabio was a member of the Organización de los Pueblos Indígenas del Norte del Perú (ORPIAN), Organization of the Indigenous Peoples of Northern Peru, and a reporter for Radio Marañón, a local radio in the town of Jaén, in Cajamarca department. On 5 June 2009, he was at the *Curva del Diablo* taking part in the protest and working as a reporter for Radio Marañón. Felipe Sabio César was reportedly shot dead on his way out from the hospital in Bagua. He had travelled to Bagua, to enquire and report for the radio station about the Indigenous people killed and injured during the police operation at the *Fernando Belaúnde Terry* highway.



Felipe Sabio César Sánchez' family in their home in the Indigenous community of Wawás, Imaza, July 2009
© Ronar Espinoza/Vicariato de Jaén

Interviews with those who knew Felipe Sabio César Sánchez:

“The representative Mr Felipe [Sabio César] was shot at, he got a bullet in one side. He was a leader in Bagua, he was a representative. On one occasion when there was an attack he

“Just because we think and speak differently, they are doing this injustice to us”

[began] to count how many deaths, how many people [had died]. At that moment, since the police, the soldiers were firing at people directly, they fired directly at him.”

Indigenous person from Wawás Indigenous community, Imaza district, Bagua province

“Felipe Sabio is (...) a very important fighter and the founder of the indigenous and peasant patrols. He’s a very important person whom we have lost and are never going to get back, for that reason we want compensation from the State.”

Indigenous person from Wawás Indigenous community, Imaza district, Bagua province

“And so in the same way as (...) they are recognizing the police [who died on 5 June], as servants of the State, her husband who fell defending Amazon territory should also [be recognized] (...) four children have been left orphans and who’s going to support them (...) he should be recognized and the government should also take responsibility for recognizing [him] because we are all Peruvian human beings.”

Awajún translator relaying the words of Violeta Piitug Wampush, Felipe Sabio’s widow

“My son was a leader, he wasn’t a thief or anything like that, he was never imprisoned for any reason, he was a leader who worked honestly with the people. He was elected as regional secretary during that Amazon protest because he was also working in ORPIAN. On 5 June he participated as leader of the group of protestors, then at that moment he was killed directly. Just as (...) [they are] paying out for the police who died, they should also recognize my son who died, who was killed directly by the police.... I demand that his young children who have been left orphaned be given the care they should receive and also, if possible, if the government takes its responsibility, that my right as the mother of her dead son be recognized also. He was my only son who gave me financial support to build my little house, everything (...).”

Felipe Sabio Cesar’s mother

THE CASE OF JORGE ÁNGEL POZO CHIPANA, A 58 YEAR-OLD INHABITANT OF BAGUA

Jorge Ángel Pozo Chipana was reportedly shot in the abdomen by a police officer, Amnesty International researchers interviewed his wife and son.



Jorge Ángel Pozo Chipana's widow and son, Bagua, 16 July 2009.
© Amnesty International

“My husband, Jorge Ángel Pozo Chipana, was shot dead by the police near the house, near our home. I was there at that moment when we were going outside my home because the smoke, that gas, the tear gas, was already too suffocating, we felt as though we were being choked, and we went outside. I was standing there with my husband and at that point I said to him, ‘Run’, and my son was there too, the three of us, and I said, ‘Run!’. At that point I turned round to see if he was still behind me and I saw him lying on the ground, but I saw a policeman (...) come running straight at him firing at his body, not even into the air.”

Jorge Angel Pozo Chipana's widow

"Just as we were having breakfast, they started throwing tear gas bombs and because of the suffocating smoke, we ran outside with a damp cloth and we were standing just a metre from the path outside my house together with all the neighbours from block 4 of Amazonas Street and at that point the police were standing there. On Comercio Street they surrounded the Mendoza Hotel and were shooting at the people standing there at point-blank range and at that point a bullet hit my father and passed through his body, leaving a hole in his liver, according to the report by the doctor who operated on my father, and his spine. If my father had lived, he would have been left an invalid but my father didn't want to live anymore. We needed blood and because I wanted him to be saved, I gave blood and we bought more blood because my father was already bleeding internally because of the bullet."

(...) "My father had been taking responsibility for my two nephews, the sons of my brother, and my brother still has no permanent job. I had a permanent job back in Lima but unfortunately because of what's been happening here in Bagua, because of my father and my humble mother who is suffering, unfortunately I have now lost my job. And now what saddens me is that my mother and my nephews have nobody at all to support them, with the money I have earned and saved I am supporting them so that they can survive and my nephews are studying here and I want to see justice done."

Jorge Angel Pozo Chipana's son

THE CASE OF ABEL TICLLA SÁNCHEZ, 27 YEAR-OLD STUDENT AT THE ‘ESCUELA SUPERIOR DE FORMACIÓN ARTÍSTICA’.

Abel Ticlla Sánchez was reportedly shot three times in the abdomen by police officers from the roof of the police station in Bagua. He lived in La Peca district, Bagua province, with his family. On 5 June 2009 Abel Ticlla had come to the town of Bagua to help his father who was working as a driver transporting sand from Bagua to La Peca.



Abel Ticlla Sánchez' family, Bagua, 16 July 2009
© Amnesty International

Amnesty International interviewed his family:

“My son Abel Ticlla Sánchez was shot dead (...) from the roof of the police [station], one block away, he had been shot three times, and then they took him (...) to hospital. Unfortunately he died in the hospital. I was the one who had the nerve to get my son up early to go out to work. And that day (...) we reached this city of Bagua and he was driving a truck and then he stopped the truck in the market and had breakfast and (...) I don't know how, he was walking [around the city streets near where he was having breakfast] and he was shot three times right there. And I had no idea, I was waiting for my son to return to load up (...)

Then ... I met my oldest son ... and he asked me, 'Where is Abel?'. And I said: 'He went to the San Luis store and he's not come back'; and then he said: 'But what the hell did he go there for? There are bullets flying around all over the place there, let's hope he's not killed by a stray bullet'. Yes, and then I said to him: 'Do you have any credit [on your mobile phone]?' And he said: 'Yes, I'm going to ring him on his mobile.' The boy had only just bought his mobile (...) he'd just been paid 400 soles and he used it to buy his mobile. And then when he rang him, there was no answer. At that point he rang one of my nieces who has a market stall, selling fruit. He rang and she said to my son: 'Where are you?... Abel's been shot. He's in the hospital, go and see him'. And we rushed off to the hospital.

I asked in the emergency room, he wasn't there, I went out to the yard to look, as I had been told to, (...). I looked around and there they were (...) [the people with] injuries, excuse my language, like poisoned animals, (...) One of the nurses, a girl from La Peca [the district where Abel lived] said [that] unfortunately he had died.

The pain was terrible, I still can't bear it. We went to see him (...) he was lying there in a room where they put the dead. (...)

Well, my son died and I, in the desperation of having to ... let's say, deal with the death of my son, spoke at that time to several people who said there are no guarantees, there's no recourse, there's nowhere to go to complain. And so I didn't know what to do, where to go, what door to knock on, what authority to turn to, and so, because of what I'd been told, I didn't file a complaint. And then to boost my spirits and to give him a Christian burial, I simply sought the intervention of the prosecutor to have the body removed. When it was removed (here's the removal order), it was taken to the morgue so that an autopsy could be done. I think that because there was no doctor, no autopsy was done, and after that 25 days went by. 25 days later the autopsy has now been done, with the body being taken out again for the autopsy, here are the results: it says no bullets were found inside the body, only three entry and exit wounds.

That was the cause of my son's death. Only I now understand that it's very clear that, let's say, those responsible for the death of my son were the police. I think that there's a superintendent there, a head of personnel who ordered his snipers, the police (...) to kill my son. I don't know, perhaps they got an order to shoot my son, because he was shot three times at point-blank range. If it had been a stray bullet, then you can understand one, but not the three that entered my son's body.

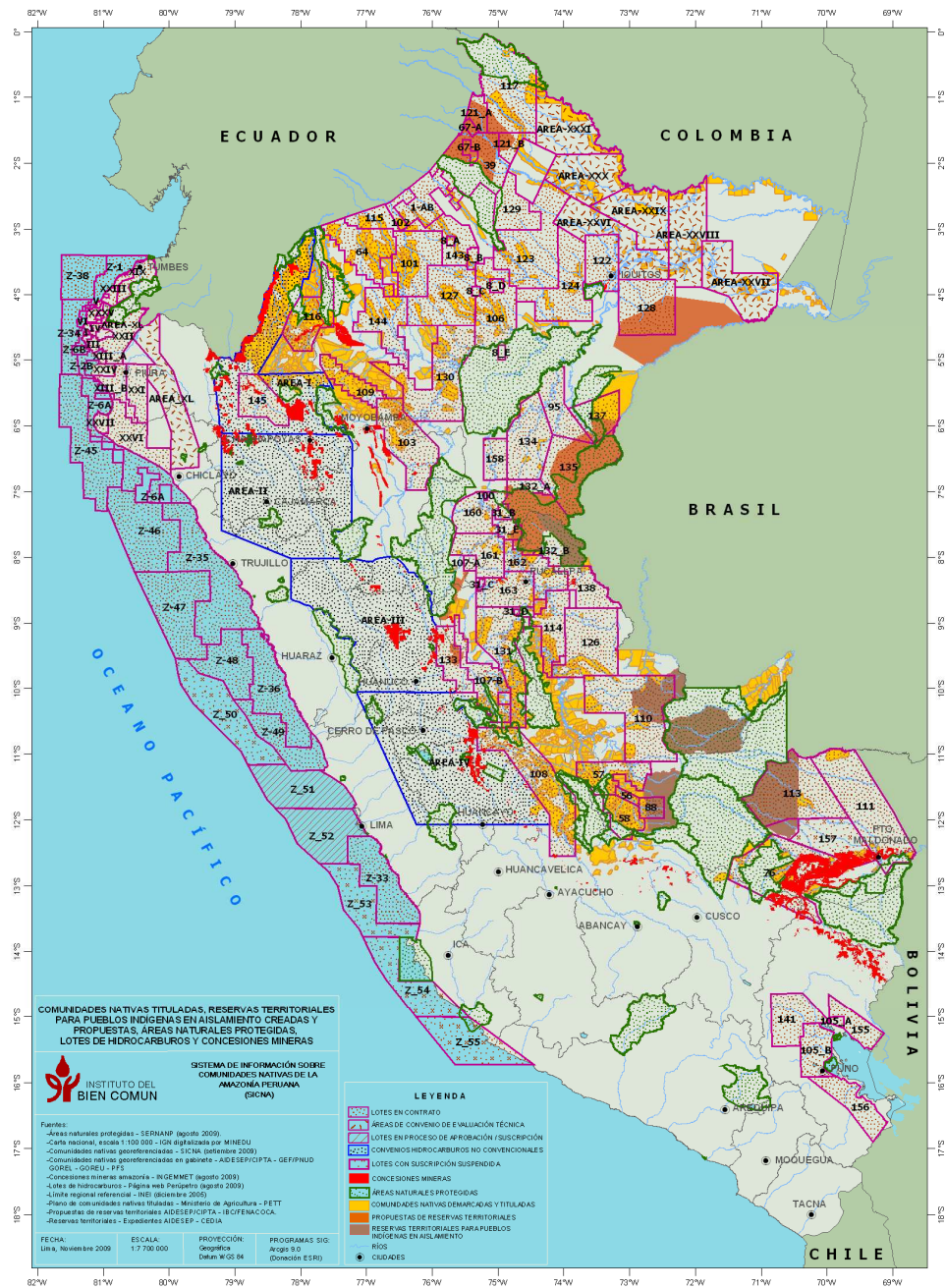
The only thing I am asking for is justice (...) I would like to ask for support because I am a father, I have two minors and one other, but I have a grandson, I support him too (...), I don't have a plot of land, I don't have, I have an old car that just about earns me a living."

Abel Ticlla Sánchez's mother explained to Amnesty International the obstacles they faced when trying to file a complaint for the killing of their son:

"The police say and the prosecutor says that they need evidence, they still say they need evidence. We're unable to get hold of a single piece of evidence to enable us to file a complaint. We poor devils are stuck here, we have nowhere to go to get a lawyer, to get hold of something with which to confront them and say, gentlemen, here is [the evidence we need]

to file a complaint about them.

We filed a complaint with the prosecutor but because they went to exhume the body 25 days after burial and it was exhumed and they say that no bullet was found inside and that there is no evidence on which to base a complaint about [the action of] the police. That is what we want to file a complaint about so that it doesn't go unpunished because my son was working (...) he went out early, he left at 5 o'clock in the morning, with a truckload of sand, (...) A year ago, [my husband] had a fall, his truck turned over right here and he injured his arm and can't work, but [my son] was the only person supporting us. We have young children to maintain and support, he was the only one. The day his dad turned the truck over, he said: I'm going to help you, I'm going to support you until dad is better, until he can work. Now he's dead and there's no one to help us, no one to support us, he was the only one supporting us and now we want justice."



This map produced by the Instituto del Bien Común shows the land of titled Indigenous communities, the created and proposed protected areas for Indigenous Peoples in voluntary isolation, protected natural areas, and the mining, oil and gas concessions that exist on top of all of these. © Instituto del Bien Común

¹ The Awajún and Wampís Indigenous Peoples live in the Alto Marañón region and belong to the Jíbaro ethnolinguistic family located on both sides of the border between Peru and Ecuador. The Alto Marañón region is in the department of Amazonas and is made up of the three districts of the province of Condorcanqui: Río Santiago, Nieva, and El Cenepa, and of the district of Imaza in the province of Bagua. According to the 2007 census figures there are around 45,000 Awajún and over 8,000 Wampís. Other Indigenous Peoples belonging to this group are the Shiwiar and Achuar in Peru and the Shuar and Achuar in Ecuador. In total there are over 150,000 Indigenous people in the Jíbaro family. It is one of the most populous Indigenous ethno-linguistic groups in the Amazon. See <http://www.ibcperu.org/doc/isis/5519.pdf> visited on 20 November 2009; and INEI, Censos Nacionales 2007: XI de Población y VI de Vivienda – Resultados definitivos de Comunidades Indígenas, Tomo I, Diciembre de 2008, pp. 111-113.

² The *Fernando Belaúnde Terry* highway is over 1,000 kilometres long and runs from the Peru-Ecuador border down through the country in an Andean parallel to the coast road known as the Pan-American highway. It goes through the departments of Loreto, San Martín, Amazonas, Cajamarca and Piura.

³ State-owned oil company

⁴ All of the interviews that Amnesty International carried out were recorded, with the exception of two, see pp. 21 and 32, and people's exact words have been transcribed. Names have in some cases been withheld or changed to protect people's identities, in accordance with their wishes. Only when Amnesty International was given permission has the full name of the person been included.

⁵ A *cerbatana* is a tube made out of a reed that is used by some Indigenous Peoples in Latin America as a hunting weapon with which to shoot arrows. The arrow is inserted into the tube and forced out of one end of the tube by blowing hard down the other.

⁶ *Masato* is a local drink of some importance throughout Peru that is made of mashed, fermented yucca. An open air fermenting process is used, and the fermentation traditionally begins with women chewing mouthfuls of mashed yucca and spitting it back into the vat.

⁷ The National Protected Natural Areas System (SINAMPE) was created in 1990 and the 1997 Natural Protected Areas Law established three kinds of protected areas: areas of indirect use and greatest levels of protection (national parks, national sanctuaries, historic sanctuaries); areas of direct use with lower levels of protection (national reserves, scenic reserves, wildlife refuges, communal reserves, protected forests and hunting grounds); and areas in an undefined category (reserve zones).

⁸ Indigenous people in voluntary isolation are those groups of Amazonian Indigenous Peoples who have opted to remain isolated from the national society. According to the Instituto del Bien Común, in Peru 14 ethno-linguistic groups living in voluntary isolation have been detected. They include the Kugapakori, Nanti, Kirineri, Asháninka and Poyenitzare, belonging to the Arahua linguistic family, and the Chitonahua, Maxonahua, Morunahua, Marínahua and Sharanahua, of the Pano linguistic family. The number of isolated Indigenous people has been estimated as between 5,000 and 10,000 people, living in the Apurímac, Cusco, Huánuco, Loreto, Madre de Dios and Ucayali regions. These groups are extremely vulnerable, given the risks they run if they come into contact with outsiders, including from contagious diseases and mortal epidemics. In addition, their way of life, removed from civilization, is constantly threatened by invasions of their lands for the exploration and exploitation of oil, wood and gold. One of the protection strategies for these groups has been the creation of territorial reserves, areas demarcated and protected to guarantee space for these Indigenous Peoples to maintain their traditional ways of life and ensure their wellbeing and health. There are currently five territorial reserves in Peru:

Kugapakori-Nahua, Madre de Dios, Mashco Piro, Murunahua and Isconahua.

⁹ See http://ibcperu.nuxit.net/index_ant.php?lg=EN&sit_rb=1146 downloaded on 11 November 2009

¹⁰ See Finer M. et al, Oil and gas projects in the Western Amazon: Threats to wilderness, Biodiversity and Indigenous peoples at <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0002932> visited on 17 June 2009

¹¹ See Informe Defensorial Extraordinario, Los Conflictos Socioambientales por actividad Extractiva en el Perú, 17 de Abril de 2007.

¹² See SECOND REPORT ON THE SITUATION OF HUMAN RIGHTS IN PERU, OEA/Ser.L/V/II.106, Doc. 59 rev. June 2, 2000, Chapter X, para. 39.5.
<http://www.cidh.oas.org/countryrep/Peru2000en/chapter10.htm#H.%20%20%20%20%20%20%20%20%20%20%20%20RECOMMENDATIONS>

¹³ See CEACR: Individual Observation concerning Indigenous and Tribal Peoples Convention, 1989 (No. 169) Peru (ratification: 1994) Published: 2009 <http://www.ilo.org/ilolex/english/newcountryframeE.htm>

¹⁴ See International Labour Conference Provisional Record 98th Session, Geneva, 2009, Report of the Committee on the Application of Standards PART TWO - OBSERVATIONS AND INFORMATION CONCERNING PARTICULAR COUNTRIES, pag. 143-144.

¹⁵ See http://sc.pcm.gob.pe/web/úimages/stories/interior/docs/sit_dl.pdf viewed on 20 November 2009

¹⁶ Decree law 1015.

¹⁷ Address to the nation by President Alan García Pérez, 17 June 2009.

¹⁸ According to press reports, the *Junta de Fiscales de Amazonas* has concluded that Indigenous protestors had not carried firearms and that police officers were shot with their own firearms when protestors allegedly took possession of the officers' arms during the clashes between a small group of police officers and protestors at the hill above the *Fernando Belaúnde Terry* highway.

¹⁹ AKM stands for "automatic rifle Kalashnikov modernized". It is a 7.62mm assault rifle designed by Mikhail Kalashnikov and used by many military forces worldwide.

²⁰ Article 3 of the UN Code of Conduct for Law Enforcement Officials states that they "may use force only when strictly necessary and to the extent required for the performance of their duty." According to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, they "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result." Principle 5 states that "whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: ... [e]xercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved". Principle 9 states that "intentional lethal use of firearms" should only be used "when strictly unavoidable in order to protect life".

²¹ Amnesty International interviewed dozens of local townspeople in Bagua and Bagua Grande who were in the streets on 5 June and who were victims of the police shootings, amongst them were several minors, including a seven year-old girl who was taken to the hospital in Bagua Grande after receiving a bullet in the chest.

44 Peru: Bagua, six months on
“Just because we think and speak differently, they are doing this injustice to us”

²² Principle 3 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

²³ Principles 5 and 8 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

²⁴ On 9 May 2009 the authorities declared a 60-day state of emergency in Cuzco, Ucayali, Loreto and Amazonas departments (Decreto Supremo N° 027-2009-PCM). The state of emergency was extended on 5 June to the whole of the Amazonas department, the province of Datem del Marañón in Loreto Department, and the provinces of Jaén and San Ignacio, in Cajamarca department (Decreto Supremo N° 035-2009-PCM). Under the state of emergency the rights to freedom and free movement, inviolability of the home and freedom of assembly were suspended. On the same day, the armed forces took responsibility for maintaining public order in all the departments under state of emergency (Resolución Suprema N° 192-2009-DE/SG). In Bagua and Utcubamba provinces a curfew was established between 15:00 and 6:00 (Resolución Suprema N° 193-2009-DE/SG (05/06/2009).

²⁵ The right of detainees to be informed immediately of the reason for their arrest is guaranteed under article 9.2 of the UN Covenant of Civil and Political Rights, article 7.4 of the American Convention of Human Rights; and principles 10 and 11.2 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The right of detainees to legal representation includes the right to be represented by a lawyer of their choice as stated under principles 1 and 5 of the UN Basic Principles on the Role of Lawyers. The right of detainees who do not speak or understand the language of the authorities to have access to an interpreter is stated in principle 14 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

²⁶ See Principle 15 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

²⁷ The crimes of rebellion, sedition and ‘conspiracy to commit rebellion or sedition’, under articles 346, 347 and 349 of the Penal Code can carry a maximum sentence of up to 20 years imprisonment.

²⁸ Under article 316 of the Penal Code the crime of apology when it involves apology to crimes against public order carries a sentence of between four and six years imprisonment.

²⁹ See *Acta de la Defensoría del Pueblo*, 16 May 2009

³⁰ See UN doc A/HRC/12/34/Add.8, page 18, para. 47, 18 August 2009 (unofficial translation by Amnesty International)

³¹ *Ibidem*, page 18, paras. 48-50.

³² See ANNUAL REPORT OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION 2002, Chapter IV, Vol. III, OEA/Ser. L/V/II. 117, Doc. 5 rev. 1, para. 35.

³³ The crime of homicide (*delito de homicidio calificado*) carries a sentence of at least 15 years imprisonment under article 108 of the Penal Code. The crime of ‘grave bodily harm’ (*delito de lesiones graves*) carries a sentence of between 4 and 8 years imprisonment under article 121 of the Penal Code.

³⁴ The crime of ‘acts to impede transport, communication and public services’ (*delito contra los medios de transporte, comunicaciones y otros servicios públicos*) carries a sentence of between three and six years imprisonment under article 280 of the Penal Code.

³⁵ The crime of ‘acts against the state and the constitutional order’ (*delito contra los poderes del Estado*)

y el orden Constitucional) carries a sentence of between one and six years imprisonment under article 348 of the Penal Code.

³⁶ The crime of 'public disorder' (*delito contra la tranquilidad pública*) carries a sentence of between 6 and 8 years under article 315 of the Penal Code.

³⁷ The crime of 'acts against public safety by possessing illegal arms and removing arms or ammunitions for official use' (*delito contra la seguridad pública en la modalidad de tenencia ilegal de armas y arrebatado de armamento de uso oficial*) carries a sentence of between 6 and 15 years under article 279 and 279b of the Penal Code. If the act of removing the arms or ammunition results in the killing or grave bodily harm of others, the sentence is life imprisonment.

³⁸ The crime of 'acts against private property' (*delito contra el patrimonio*) carries a sentence of up to six years imprisonment under articles 205 and 206 of the Penal Code.

³⁹ See ruling by the Inter-American Court of Human Rights: Corte IDH, *Caso Herrera Ulloa*, Sentencia del 2 de julio de 2004, Serie C No. 107; Corte I.D.H., *Caso Ivcher Bronstein*, Sentencia del 6 de febrero de 2001, Serie C No. 74 y Corte I.D.H., *Caso La Ultima Tentación de Cristo – Olmedo Bustos y otros*, Sentencia del 5 de febrero de 2001, Serie C No. 73. Unofficial translation by Amnesty International.

⁴⁰ See Press Release R41-09, 'Office of the Special Rapporteur for freedom of expression expresses concern over the situation of radio in Peru', 26 June 2009; and press releases of the *Consejo de la Prensa Peruana* 'Carta de Consejo de la Prensa Peruana a Ministro Enrique Cornejo Ramírez insiste sobre sustento documentario en clausura de radio La Voz de Bagua' 28 August 2009 and 'Consejo de la Prensa pide a gobierno dejar sin efecto clausura de radio La Voz de Bagua', 4 September 2009.

⁴¹ Amnesty International has not been able to obtain information on the exact charges against the adolescent detainees.

⁴² The commissioners are: Catholic nun Carmen Gómez Calleja, former Minister of the Interior and Minister of Health Pilar Mazzetti Soler, former Minister of Employment and Minister of Women's Affairs and Social Development Susana Pinilla Cisneros, Catholic priest Ricardo Alvarez Lobos, former President of the National Environmental Council (CONAM) Manuel Ernesto Bernales Alvarado, President of the *Colegio de Abogados* Walter Gutiérrez Camacho; and the Awajún teacher Jesús Manacés Valverde, who presides the Commission.

⁴³ See Resolución Ministerial No. 0664-2009-AG 7 September 2009.

⁴⁴ See Resolución Suprema No. 117-2009-PCM of 10 June 2009.

⁴⁵ See Resolución Suprema No. 211-2009-PCM of 25 August 2009.

⁴⁶ 'Native' is a translation of the word 'nativo' which is commonly used in Peru to mean an Indigenous person.

⁴⁷ During the time that Petroperú Pumping Station No. 6 was occupied by Indigenous protestors, from April 2009, there was apparently a change of police officers on duty, with a new contingent relieving the previous police officers. The authorities to this date have not explained how this change of guard was undertaken and if the authorities knew that the original police officers on duty were being held captive. Nor has it been explained how the situation of these police officers was taken into account during the planning of the police operation to remove the road block at the *Curva del Diablo*. It seems that the Indigenous protestors occupying Pumping Station No. 6 had a pact of non-aggression with the police

46 Peru: Bagua, six months on
“Just because we think and speak differently, they are doing this injustice to us”

officers as long as pumping was suspended, with each party in respective occupying different parts of the buildings. The testimonies received by Amnesty International delegates indicate that both sides maintained cordial relations until 5 June.

⁴⁸ People of mixed race.

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW

www.amnesty.org

**AMNESTY
INTERNATIONAL**

