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LADB Staff

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Peru: One-year Anniversary Of Bagua Massacre

by LADB Staff
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June 5 was an important date for many Peruvians. They celebrated World Environment Day and commemorated the one-year anniversary of the massacre in the Amazonian city of Bagua, which occurred in the context of Amazonian indigenous peoples' struggle to defend their territory. For President Alan García it was also an important day; he proclaimed the first Saturday in June, this year June 5, Día del Ron Peruano (Peruvian Rum Day), which he considers one of the best in the world. While García was most likely raising a glass of rum, some 3,000 people including students, campesinos, indigenous leaders and community members, and lawmakers met at Curva del Diablo on the Belaúnde Terry highway in Bagua, Amazonas department, where last year 33 people died (23 police and 10 Indians) when police agents cleared a blockade organized by the Awajún and Wampis communities. They had been protesting for two months against nine legislative decrees (decretos legislativos, DL) approved in 2008, which they considered threats against ancestral rights to the territories they inhabit (see NotiSur, 2009-07-24). "We certainly did not come to Curva del Diablo to celebrate anything but to honor all those who were sacrificed to history in defense of a dignified life, peace, and the lands that our ancestors handed down to us from generation to generation. In 2008 and 2009, the Amazonian indigenous peoples mobilized demanding abrogation of the legislative decrees signed by President Alan García Pérez and denouncing the violation of the right to be consulted, established by Convention 169 of the ILO [International Labor Organization], ratified by Peru, which makes it a binding international treaty for the state and the government," Alberto Pizango, president of the Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP), said in his speech at Curva del Diablo. Pizango had returned to the country from Nicaragua where he had been in exile since June 17, 2009. Although he was arrested immediately when he arrived, the following day Judge Carmen Arauco of Juzgado Penal 37 in Lima dropped the arrest order and released him on his own recognizance within the framework of the ongoing investigation into the Bagua events. "I have returned to my country, I have returned to our country, I have returned to our beloved Peru, not only to appear in court and clarify each one of the charges against me but also to contribute to reconciliation and peace among all Peruvians," said the indigenous leader. Pizango has been formally accused of "rebellion, sedition, and conspiracy against the state and constitutional order" and of "defending crimes against public order." "The charges against Alberto Pizango appear to be politically motivated and must be dropped immediately," Guadalupe Marengo, assistant director of the Amnesty International (AI) Americas program, said in late May, noting that, at the time of the events, Pizango was in Lima, hundreds of kilometers from the incident. No one is responsible "A year after the 'Baguazo,' in which 34 people lost their lives, there is nothing to celebrate and much to lament. Not only has not one of those responsible for the incident been punished under the law but the judicial processes are moving at a snail's pace," said the daily Perú 21 on June 5. Perú 21 puts the number of dead at 34 rather than 33 because it includes police major Felipe Bazán Soles, who disappeared during the Bagua events. Bazán's father attended the commemorative acts at Curva del Diablo, and Pizango directed the final words of his speech to him, saying, "We pledge to help find your son, to recover him." On June 4, the congressional commission investigating the Bagua events released majority and minority reports, a result of differences within the commission regarding naming those responsible for the 33 deaths and the disappearance...
of Bazán. In the minority report, commission president Guido Lombardi placed responsibility on the executive, Congress, the police, and the indigenous leaders. The report recommends that the constitutional-accusations subcommittee (Subcomisión de Acusaciones Constitucionales) evaluate whether to accuse three former ministers of violating the Constitution for their role in the Bagua events. The three and their alleged infractions are: former foreign trade and tourism minister Mercedes Aráoz (now economy minister) for not fulfilling her obligation to submit the DLs for prior consultation as stipulated in ILO Convention 169; former prime minister Yehude Simon for, as Cabinet president, failing to provide a timely solution to the indigenous demands; and former interior minister Mercedes Cabanillas for being in charge of the police response and for her "inexcusable omissions." The commission also said a constitutional accusation should be brought against Interior Minister Octavio Salazar for refusing to provide the Inspectoría de la Policía Nacional report requested by the commission. "Why did this happen?" Lombardi asked when he released the report. And, wrote Perú 21, he answered his own question by saying, "The president took a position, more than firm, slightly contemptuous. Congress acted abominably. On June 4 [2009], it refused to make a decision that could have changed the course of things. There was an absolute ineptness and corruption of the police and judiciary, which initiated the process against public order after the highway had been blocked for 50 days." Meanwhile, there are five criminal proceedings in the Bagua and Ulcubamba, Amazonas, courts four against indigenous people that involve 82 defendants and a fifth in which various police are being prosecuted. But nothing moves forward. President García said he felt frustrated that the judicial investigation into the tragic events in Bagua a year ago had still not produced results and even less so punishment of those responsible for the "massacre of police." García told the press, "I will not tire of denouncing that what happened in Bagua was a massacre of police." An AI special publication said, "It is urgent that the unfounded charges against indigenous leaders be withdrawn and that all people detained or against whom charges based on the law have been filed receive a fair trial without delay, as stipulated by international standards regarding due process. The unfounded cases that AI refers to are those against three Indians, accused of homicide against 12 police at Curva del Diablo. They remain in jail in Chachapoyas and Bagua even though atomic-absorption tests on two Feliciano Cahuasa Rolin and Danny López Shawit were negative and although the third Asterio Pujupat Wachapea was not provided an official interpreter. Promised consultation Although the judicial processes are not moving forward, on May 19, almost a year after the Bagua tragedy, Congress approved the prior-consultation law (Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios) called for by ILO Convention 169. "Our organizations are pleased with the congressional passage of the prior-consultation law, and we ask that the executive sign it as quickly as possible and that we move forward with applying this important law for the indigenous peoples," Mario Palacios, president of the Confederación Nacional de Comunidades Afectadas por la Minería (CONACAMI), said at a working breakfast with the national and international press on May 27. "It opens the way for participation, for effective action, for direct dialogue in decision making between the indigenous peoples and the state. It is through dialogue that agreement or consent is reached, which is the objective of consultation." "We Amazonian people view the prior-consultation law as a state duty and obligation. It is not an election, it is not a referendum, it is a permanent dialogue, a dialogue of civic conscience. It is a first step to continue talking. We only need the president to sign it without reservation; that will mean that the government is making a commitment to the Amazonian and Andean nationalities," said AIDESEP leader Denis Pashanase at the same event. The legal deadline for the president to sign the law is June 21. Indigenous leaders are accusing the executive of dragging its feet so that it can award oil-exploration concessions.
for 25 parcels in the Amazon before the measure becomes law. In his speech at the Curva del Diablo ceremony, Pizango said that, "by approving the prior-consultation law, Congress has recognized the legitimacy of our struggles and has recognized that we are right in defending our lands and territories." Indigenous representatives agree that the state Instituto Nacional de Desarrollo de los Pueblos Andinos, Amazónicos y Afroperuano (INDEPA) is not equipped to act as the specialized technical agency in charge of the consultation processes. "INDEPA has done little or nothing for indigenous peoples and must be restructured or another agency must be set up," said Pashanashe. Passage of the prior-consultation law has generated a debate on what it means. The Centro Amazónico de Antropología y Aplicación Práctica (CAAP), in its document "Alcances sobre el derecho a la consulta," explains that consultation is the right of indigenous peoples to be previously conferred with through appropriate procedures and in particular through their representative institutions whenever legislative measures or administrative projects and programs that are likely to affect them are envisioned. And it says that this process must be carried out in good faith and in a manner appropriate to the circumstances with the aim of reaching an agreement or achieving consent regarding the proposed measures. The Peruvian nongovernmental organization (NGO) CooperAcción, in a May editorial in its magazine Actualidad Minera del Perú, expressed concern at the reaction of some business leaders who have pointed out that the law only applies to measures the state decides to implement, not the private sector actions. It quoted statements by Ricardo Briceño, president of the Confederación Nacional de Instituciones Empresariales Privadas (CONFIEP), to the daily Gestión, "We're unperturbed because the mining law (Ley de Minería e Hidrocarburos) already covers the consultation that businesses must carry out, through public hearings with the populations in the interior of the country." Public hearings are not prior, free, and informed consultation processes, says CooperAcción. The required consultation is a more advanced process that must meet the following basic conditions: 1) it must be conducted before the state decides on the future use of indigenous peoples' lands; 2) it must he a free and voluntary process, without pressure, manipulation, threats, or any other abuse of power; 3) it must allow interested parties complete, accessible, and relevant information, with an intercultural focus. "It will be necessary to pay attention to the next steps so that implementing real consultation processes with indigenous peoples finally becomes a reality," concluded the CooperAcción editorial. CAAP's Hernán Coronado says the law does not require implementing regulations "because the law does not create the right to consultation, which has been in effect in Peru since the 1990s when Peru signed Convention 169 but rather the adaption of mechanisms for the process to be carried out." The coming process is not simple, many sector regulations must be adapted to the law to make consultations possible, but, before anything else, the executive needs to sign the law without delay.

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