

## Massacre in the Amazon:

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### The U.S.-Peru Free Trade Agreement Sparks a Battle Over Land and Resources

On June 5, World Environment Day, Amazon Indians were massacred by the government of Alan Garcia in the latest chapter of a long war to take over common lands—a war unleashed by the signing of the Free Trade Agreement (FTA) between Peru and the United States.

Three MI-17 helicopters took off from the base of the National Police in El Milagro at six in the morning of Friday, June 5. They flew over Devil's Curve, the part of the highway that joins the jungle with the northern coast, which had been occupied for the past 10 days by some 5,000 Awajún and Wampi indigenous peoples. The copters launched tear gas on the crowd (other versions say that they also shot machine guns), while simultaneously a group of agents attacked the road block by ground, firing AKM rifles. A hundred people were wounded by gunshot and between 20-25 were killed.

The population of the nearby city of Bagua, some thousand kilometers northeast of Lima near the border with Ecuador, came out into the streets to support the indigenous people's demonstration, setting fire to state institutions and local office of the official party APRA (Alianza Popular Revolucionaria Americana). Several police officers were attacked and killed in the counter-attack, and other indigenous protestors were killed by police. At the same time, a group of 38 police who were guarding an oil station in the Amazon were taken hostage. Some were killed by their captors, while some 1,000 Indians threatened to set fire to Station Number 6 of the northern Peruvian oil pipeline.

The versions are contradictory. The government claimed days after the events that there are 11 indigenous dead and 23 police. The indigenous organizations reported 50 dead among their ranks and up to 400 disappeared. According to witnesses, the military burned bodies and threw them into the river to hide the massacre, and also took prisoners among the wounded in the hospitals. In any case, what is certain is that the government sent the armed forces to evict a peaceful protest that had been going on for 57 days in the jungle regions of five departments: Amazonas, Cusco, Loreto, San Martin, and Ucayali.

The Inter-American Human Rights Commission (CIDH), part of the Organization of American States, condemned the violent acts on June 8 and reminded the Peruvian government of its obligation to clear up the facts and to compensate for the consequences and called on both sides to promote a process of dialogue.<sup>1</sup> On June 9, the National Coordination of Human Rights announced that it found a series of irregularities and possible human rights violations in the Bagua area. It denounced the government's refusal to divulge what police are in charge of the investigation of the events, and expressed concern for the situation of 25 detained at the El Milagro base and the 99 arrested since a curfew was imposed in Bagua.<sup>2</sup>

President Garcia accused the Indians of being "terrorists" and spoke of an "international conspiracy," in which, according to government ministers, Bolivia and Venezuela are involved because as oil- and gas-producing countries they want to keep Peru from exploiting these resources and becoming a competitor.<sup>3</sup> Just a few weeks ago, Peru granted asylum to the anti-Chavez leader,

Venezuelan Manuel Rosas, accused of corruption, and three former Bolivian ministers from the government of Gonzalo Sanchez de Lazada prosecuted for the death of nearly 700 persons during the "gas war" of October 2003.

On Tuesday, June 9, the minister of Women and Social Development, Carmen Vildoso, resigned in protest of the way the government handled the situation. According to Prime Minister Yehude Simon, her resignation was due to her disapproval of a publicity spot emitted by the government in which, with the background of photos of dead police and indigenous people throwing spears and arrows, it presented the natives as "savages," "fierce assassins," and "extremists" that follow "international orders" to "stop Peru's development" and keep the country from taking advantage of its oil." The spot claims there was no repression but rather "a savage assassination of humble policemen."<sup>4</sup>

The leader of the Interethnic Association for the Development of the Peruvian Jungle (AIDSEP, by its Spanish initials), that groups some 300,000 indigenous persons and 1,350 communities, Albert Pizango, was considered a "delinquent" by the Interior Minister Mercedes Cabanillas and ordered captured. Pizango sought asylum in the Nicaraguan embassy in Lima. The parliamentary group of the official party accused the left, the leader of the Nationalist Party of Peru Ollanta Humala, and the media in the Amazon region of "having induced acts of violence so that the natives would attack the police," and threatened to accuse them of terrorism.

## **History of the Conflict**

The conflict began on April 9, when Amazon peoples mobilized to block the highways and gas and oil pipelines to protest the implementation of a series of decrees passed to implement the Free Trade Agreement with the United States. But the situation got worse on June 4, when the APRA stopped Congress from debating repeal of some laws questioned by the indigenous peoples that had already been declared unconstitutional by a Constitutions Commission.

The FTA with the United States was negotiated beginning in May of 2004 under the government of Alejandro Toledo (2000-2005). The treaty was slated to replace the Andean Trade Promotion and Drug Eradication Act signed in 2002 and in effect until December of 2006. The FTA eliminated obstacles to trade and facilitated access to goods and services and investment flows. Modeled on the North American free Trade Agreement, it also includes a broad range of issues linked to intellectual property, public contracting and services, and dispute resolution.<sup>5</sup>

The U.S-Peru FTA was signed on Dec. 8, 2005 in Washington by then-Presidents George W. Bush and Alan Garcia. In June of 2006 it was ratified by Peru and in December of 2007 by the U.S. Congress. On Feb 1, 2009, the agreement went into effect after Bush and Garcia signed it on January 16 of that year.

The signing of the FTA caused huge mobilizations in 2005, especially among peasant farmers who were the most harmed by the elimination of tariffs and trade protections. Although the government said it would provide compensation to producers, these never arrived. On February 18, 2008 they staged a National Agrarian Stoppage with road blocks throughout the country that led to four dead from police repression and the imposition of a state of emergency in eight provinces.

On October 28, 2007, Alan Garcia published a long article in the daily paper El Comercio of Lima under the title "The Syndrome of the Orchard Dog." Garcia described nature as a resource, and maintained that to refuse to exploit it was foolish, ignoring the debate over the conservation of the Amazon region. "The old anti-capitalist communist of the 19th century disguised himself as a

protectionist in the 20th century, and donned the label of an environmentalist in the 21st century."

In his opinion, those who oppose the intensive exploitation of the Amazon region are like an orchard dog, that "doesn't eat or let anyone else eat."

"There are millions of hectares that the communities and associations have not cultivated or will cultivate, as well as hundreds of mineral deposits that cannot be worked and millions of hectares of sea that cannot be used for aquaculture and production. The rivers that run down both sides of the mountain range are a fortune that pours into the ocean without producing electric energy," Garcia states in the article.

"The first resource is the Amazon," he maintains. There are 63 million hectares that he proposes be parceled out into large properties of "5,000, 10,000, or 20,000 hectares, since in less land there is no formal investment long term and high technology."

On the land, he notes that one should not "deliver small lots of land to poor families that do not have a penny to invest," and that "this same land sold in large lots will attract technology." He cares little that these lands are the collective property of the communities, since in his opinion they are just "idle lands because the owner does not have the training or the resources economic, that's why their property is feigned."

### **The Free Trade Agreement and the Legislative Decrees**

Based on this logic of converting everything into merchandise, the government asked Congress for faculties to legislate issues relative to the implementation of the FTA through Legislative Decrees (LD). On December 19, 2007, Congress gave full faculties to the government to legislate for six months by decree issues related to the FTA, through Law 29157. Mandated by these powers, the executive drafted 99 laws that are at the root of the current conflict.

An independent judicial report distributed by Oxfam America concludes that the executive branch took advantage of the powers granted it by Congress "to issue a large number of norms with no or very little effective links to the FTA, distorting and alienating the terms of the delegation of powers approved by Congress."<sup>6</sup>

Consequently, the report establishes that "such decrees can be qualified as unconstitutional for reasons of form," and that therefore "merits their derogation" by Congress or the Constitutional Tribunal. It also notes that through the 99 LDs "a substantial reform of the organizational and jurisdictional framework of various government entities has been attempted, as well as the regulatory framework applicable to economic activities of special relevance," without strict relation to the FTA.<sup>7</sup>

The most controversial of the degrees are numbers 1015 and 1073, declared unconstitutional by the Oxfam report. These decrees modify the number of votes required to sell communal lands (just three votes could place community land up for sale). Number 1015 was repealed by Congress in August of 2008. Decree 1064 (legal Framework for Use of Agrarian Lands), abolishes the requirement of the previous agreement to undertake projects and is also considered unconstitutional.

LD 1083 (Promotion of Efficient Use and Conservation of Hydraulic Resources) favors the privatization of water to large consumers such as mining companies. LD 1081, 1079, and 1020 deregulate diverse aspects of legislation in areas of mining, timber, and hydrocarbon exploitation.

But it is LD 1090 (Forestry and Woodland Fauna Law) that is at the crux of the debate. It leaves out of the forestry framework 45 million hectares, that is, 64% of the forests of Peru, including their biodiversity in flora and fauna, making it possible to sell them to transnational corporations.

On April 9, the 1,350 communities that make up the AIDESEP agreed to start demonstrating within their communities. Prime Minister Simon called the April 18 indigenous demands "capricious." On May 5, the bishops of eight Catholic dioceses demanded that President Alan Garcia repeal the decrees because they consider them "a threat to the Amazon." On May 10, the government decreed a State of Emergency in five regions of the country where road blocks and blockages of ports and oil pipelines were taking place.

On May 19, the Constitution Commission of parliament declared LD 1090 unconstitutional. The report of the Commission<sup>8</sup> concludes that the decree "does not respect the limitations that are established in Articles 101 and 104 of the Political Constitution, in terms of areas that cannot be legislated." It also notes that "it goes against Article 66 of the constitution, by regulating in the area of natural resources, that is exclusively reserved for the organic law."

In short, legislators agreed that the executive branch does not have the faculties to legislate by decree in certain areas according to the constitution, and that must be done in Congress. The decision of the Commission must still be debated in Congress, but on May 22 the minister of justice, Rosario Fernandez, denounced Alberto Pizango, leader of the AIDESEP, for sedition and conspiracy. On May 26, Awaj'un and Wampis took over the Belaunde Terry highway on Devil's Curve and some 1,200 indigenous people surrounded Station 6.

On May 26, there was a huge demonstration in Lima in support of the Amazon struggle. On May 28, community landholders from the Cusco jungle took over a second valve of the gas pipeline of Kamisea. On June 1, industrialists and exporters demanded that the government "apply the law" to free the highways and pipelines in the Amazon. On June 2, the president of the Permanent Forum of the United Nations on Indigenous Questions asked the Peruvian government to "immediately suspend the state of siege against indigenous communities and organizations and "avoid any action, such as military intervention, that could increase the conflict."<sup>9</sup>

On June 4, the APRA majority of parliament decided to suspend the debate on the unconstitutionality of LD 1090. The People's Defender presented a grievance of unconstitutionality against LD 1064. On June 5, 639 agents of Special Operatives and staff of the armed forces attacked the indigenous on Devil's Curve with dozens of dead, and hundreds of wounded and disappeared.

The Amazon protest has not died down since the massacre—nearly all the 56 Amazon indigenous peoples reaffirmed that they would continue the road blocks until the government repeals the Legislative Decrees that violate Convention 169 of the International Labor Organization and their rights over their territories. According to their testimonies, the situation is explosive. Alan Garcia has a history of violent repression. Under his first presidency in 1986, the armed forces forcefully put down a coordinated prison riot that left over a hundred prisoners shot dead. In this context, the Peruvian government could very well increase the violence unleashed on the indigenous movement.

Hugo Blanco, a well-known Peruvian movement activist and editor of the monthly *Lucha Indígena*, takes a long look in a recent editorial: "After 500 years of silencing, the Amazon peoples receive the support of the peoples of Peru and the world. It could be the greatest achievement of this campaign has been to make these nationalities visible, weaving links between diverse sectors of the country, as divided as those who dominate. By defending the Amazon we are defending the life of all of

humanity; and by not ceding to the deceit of the government, they are rewriting history, recuperating for all the sense of the word dignity."

Notes:

1. Servindi, June 9, 2009.
2. Idem.
3. La Jornada, June 7, 2009 base on reports from Reuters, AFP, and DPA.
4. Página 12, June 10, 2009.
5. Peru Gets its Free Trade Agreement with the United States, <http://americas.irc-online.org/am/4726>.
6. Francisco Eguiguren, ob. cit. p. 96.
7. Idem p. 97.
8. "Informe sobre DL 1090. Comisión de Constitución y Reglamento," May 19, 2009 at [www.servindi.org](http://www.servindi.org).
9. Chronology taken from Lucha Indígena No. 35 and Ana Maria Vidal ob. cit.

Translated for the Americas Program by Laura Carlsen.

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