



Amazon Watch Issue Brief: Indigenous Mobilizations in the Peruvian Amazon

CONTEXT: Peruvian President Alan Garcia’s economic plan has focused on encouraging international investment in extractive industries. Amongst these efforts is a campaign to weaken the rights of local communities to determine and influence development plans that directly impact them. In an opinion piece published in October 2007 in Peru’s most prominent business paper, *El Comercio*, the President publicly expressed his intention vis-à-vis the Amazon in an opinion piece, titled “Syndrome of the gardener’s dog.” He implied that indigenous peoples’ traditional use of their lands is an obstacle to progress and development.

Diverse environmental, human rights, and indigenous organizations – both Peruvian and international – have repeatedly expressed their profound concern about the predictable devastating impacts of unbridled extractive activities in the Peruvian Amazon, which makes up roughly 11% of the Amazon basin’s total rainforests. Oil, gas, and forestry concessions in the Amazon, greatly increased in recent years by the Peruvian authorities, overlap titled indigenous communities, government recognized natural protected areas (in addition to many other environmentally sensitive areas) and regions known to be inhabited by indigenous groups living in voluntary isolation and initial contact.

In earlier 2008, the Peruvian congress passed Law 29157, which “delegated to the Executive Power the faculty to legislate, for a period of one hundred eighty (180) calendar days, around diverse themes related to the implementation of the United State – Peru Trade Promotion Act and related to helping economic competitiveness to take advantage of the Act.” It was in this context that Peruvian President Garcia issued ninety-nine Legislative Decrees, including the infamous DL 1015 (later modified to 1073), designed to facilitate the privatization of collectively held lands.

Indigenous organizations and human rights groups immediately denounced various of these decrees on the grounds that they systematically undermined the legal rights of indigenous peoples to their territories, reverting titled areas considered abandoned or idle to government control, and providing incentives to the privatization of communally-held lands, amongst others. Although these decrees directly affect indigenous peoples, they were not consulted with them in direct contravention of treaty 169 of the International Labor Organization (ILO 169), of which Peru is a signatory.



MOBILIZATIONS: Responding to the package of Decrees in general and DL1015 in particular, AIDSESEP initiated an Amazon-wide mobilization in early August of 2008. President Garcia's government took a hard line, responding by declaring States of Emergency in select departments. At the same time, they deployed recently appointed Minister of the Environment, Antonio Brack, to dialogue with AIDSESEP's leadership. Viewing Minister Brack as lacking the requisite political weight, AIDSESEP suspended negotiations, demanding that the Government avail a wider range of Ministers to the dialogue. Simultaneously, AIDSESEP entered into talks with Congressional leaders, including President of the Congress. The situation was ultimately defused when Congress agreed to rescind DL 1073 (a modified version of DL 1015), review other Legislative Decrees, and request that the Executive repeal the State of Emergency.

Since April 9th the indigenous people of the Peruvian Amazon have again been on strike, closing down jungle towns, blocking roads and river traffic. In each region indigenous groups have their own specific demands, but they are united in protest at a government policy that does not recognize their rights and a model of development based on unsustainable natural resource extraction for the benefit of a handful of individuals and large companies. According to press accounts, demonstrations have been carried out by indigenous peoples in the regions of Amazonas, Loreto, Ucayali, Madre de Dios, Cuzco and Junin.

PERUVIAN GOVERNMENT RESPONSE: Repeating strategies carried out during the first mobilization, the Peruvian executive issued a 60-day State of Emergency on the 9th of May. The executive order applies to the following areas in which indigenous groups are protesting: The districts of Echarate and Kimbiri (Cusco region); Sepahua, (Ucayali); Napo, Andoas, Pastaza, Morona and Manseriche (Loreto); and Imaza (Amazonas). The State of Emergency rescinds rights to protection against search and seizure and freedoms of assembly, personal liberty and movement. According to Peru's *El Comercio* paper, this action was taken "with the objective of re-establishing public order in the face of violent actions that place at risk the production, transport, and distribution of natural gas and hydrocarbon resources. . . Said violent actions have included obstructing the access ways to the aforementioned concessions, the expulsion of workers, among others such as threats used to paralyze the exploration and extraction of hydrocarbon resources, necessary to assure the energy security of the country."

On-the-ground implementation of the State of Emergency has translated into militarization of the protest areas and in some cases violent repression. The government crackdown is happening in the context of other recent legislative changes geared toward the criminalization of social protests. A previous package of legislative decrees, issued in July of 2007, instituted measures such as increased jail time for "crimes against public peace", immunity for armed forces members that harm or kill protesters, the penalization of participation of public functionaries in social protests, among others.

Several examples within the context of the current mobilization include:

(1) Corral Quemado (Bagua province, Amazonas region): AIDSESEP has reported that police efforts to disperse demonstrators has resulted in numerous injuries. According to their lawyer, the police kicked and beat demonstrators after launching tear gas into the crowd. Two people have been hospitalized, with numerous others having returned to their own communities for traditional healing. One person is still missing and feared dead.

(2) Napo River (Loreto region): Quechua and Arabela community members have been restricting river access to oil concession 67. The situation intensified when two boats broke through the blockade, including one from the oil company Perenco. Survival International reported that gunshots were fired at indigenous people who chased the boats. Thereafter, some 80 police officers were sent from DINOES (Peruvian national police special operations) to clear the road near the "El Vado" port along the Napo River. Navy boats have arrived in the region to support police operations.

Perhaps working to avoid the widespread publicity associated with the first mobilization, the government appears to be carrying out a strategy to control press coverage of both the mobilization and the response. On May 14th the Lima-based Press and Society Institute denounced that radio journalist Jhon Vargas Sangama of the station La Voz de la Selva has been intimidated and threatened by soldiers for carrying out his work. Mr. Vargas was sent to the community of Santa Clotilde, the capital of Napo district (Loreto), in order to report on the month-long mobilizations there and the impacts of the recently-declared State of Emergency. He has issued news reports of the Peruvian navy intimidating demonstrators along the Curaray River.

INDIGENOUS DEMANDS: Amongst other demands, Peru's Amazonian indigenous movement is asking for the repeal of four of these decrees:

DL 1064 Article 8.4: Removes the requirement for any negotiation with a community prior to the declaration eminent domain for projects on their land. The government has an obligation under ILO 169 to consult with indigenous people prior to signing contracts and establishing any development projects that will affect them. This has never happened, but there has always been a requirement for companies to at least negotiate a financial settlement with a community prior to moving in. This article removes this requirement, "facilitating development" at the expense of indigenous rights.

DL 1064 Article 7: Reclassifies communal land rights as subordinate to individual and private ownership. Under international law (article 14 of ILO 169) indigenous peoples' land rights have greater protection than other land rights. The sub-clauses of article 7 give favor in any conflict to individuals and companies, and to settlers who have invaded indigenous territory.

DL 1089: Expands the role of COFOPRI, the institution responsible for formalizing urban property rights, to also assume the responsibilities of PETT for titling community land in rural areas. Indigenous people are concerned about COFOPRI's policy in the field, which has been to promote individual land titles, offering credit to individuals who rescind their communal land for individual titles.

DL 1020: Is problematic for its omission, rather than its content. It establishes a system of credit for rural cooperatives, individual farmers and small companies. However indigenous people living in communal land are excluded from receiving any government support.

Water Law 29338: Improves previous legislation around the use of water resources. However, the law is focused on the arid coastal area and does not take into consideration the reality of the Amazon basin and the rights of the indigenous peoples living there. The indigenous movement together with several civil society groups had been participating in the development of a proposal for a new water law with a congressional commission since the Toledo administration. All this work was disregarded and excluded from the current Water Law.

RECOMMENDATIONS TO THE US GOVERNMENT:

- (1) Encourage the Peruvian authorities to lift the “State of Emergency” and refrain from using violence and repression in their response to mobilizations.
- (2) Insist that the Peruvian government comply with ILO Convention 169 for indigenous peoples' rights, which Peru has ratified, as has been done with ILO workers rights, specifically in reference to the creation of new legislation for the implementation of the FTA.

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