

# **BAGUA: Consultation promised but justice not delivered**

**AMNESTY  
INTERNATIONAL**



Venue: Committee Room 3, Palace of Westminster

Date: Monday 28th June 2010

Time: 5pm - 6.30pm

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# 5 June 2009

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- 33 people killed (23 police officers; 10 civilians including 5 Indigenous people)
  - 1 police officer still missing
  - 200 people wounded - 82 suffered firearm wounds, 41 had contusions and 22 showed signs of intoxication, bruising and burns caused by tear gas.
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# Amnesty International's recommendations

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- Carry out an independent and impartial investigation into the events of 5 June
  - Drop unsubstantiated charges against Indigenous people
  - Guarantee the right to all detainees not to be subjected to torture
  - Guarantee the right to a fair trial for all the accused
  - Guarantee the right to reparation to all the victims
  - Ensure that from now on, adequate training is given to all security forces personnel involved in policing of demonstrations
  - **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;**
  - 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
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# 5 June 2010

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- No-one has been brought to trial - although three Indigenous protestors remain in prison and over a dozen Indigenous people are still under arrest warrants and many more still face charges
  - Indigenous leaders still face unsubstantiated charges
  - No police officer or government official faces charges at present
  - Criminal investigations have not been completed
  - Law on the Right of Indigenous People to Consultation approved by Congress on 19 May 2010 but NOT promulgated by President
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# Amnesty International's additional recommendations to Peru regarding the right to FPIC

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- Promulgate immediately the Law on the Right of Indigenous People to Consultation and agree a process of implementation with the participation of Indigenous Peoples.
  - Review laws and regulations that contradict the law or are contrary to State's obligations to obtain free, prior and informed consent.
  - Implement recommendations set out by the International Labour Organization Committee of Experts without delay.
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# The right to Free, Prior and Informed Consent

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## *Article 19*

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

**United Nations Declaration on the Rights of Indigenous Peoples (adopted 2007)**

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# ILO Convention 169

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## Article 6

1. In applying the provisions of this Convention, governments shall:
  - (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
  - (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;
  - (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.
2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

***Ratified by Peru in 1994***

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# Support for the *Ley de Consulta*

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“Consideramos de suma importancia el proceso de generación del marco legal para promover la consulta en el Perú”

*[We consider that the process of creation of the legal framework to promote consultation in Peru is of extreme importance]*

## **World Bank letter to Indigenous organizations in Peru – 11 June 2010**

The Committee welcomed the [Peruvian] Government’s acknowledgment of the importance of consultation and the consequent adoption by the Congress of the Republic of the Act on Prior Consultation, and trusted that it would be promulgated rapidly by the President of the Republic.

## **International Labour Conference (ILO) – 17 June 2010**

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**For more information:**

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[www.amnesty.org](http://www.amnesty.org)

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