

NON OFFICIAL TRANSLATION



ADJUNTÍA REPORT N° 006-2009-DP/ADHPD

**HUMANITARIAN ACTIONS UNDERTAKEN BY THE OMBUDSMAN DURING
THE EVENTS THAT TOOK PLACE ON JUNE 5, 2009, IN THE UTCUBAMBA
AND BAGUA PROVINCES OF THE AMAZON REGION, IN THE CONTEXT
OF THE AMAZON STRIKE**

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PREAMBLE

The purpose of Report No. 006-2009-DP/ADHPD is to raise awareness about the humanitarian actions undertaken by the Ombudsman since June 5, 2009, to address the events that took place in the Bagua and Utcubamba provinces of the Amazon Region, in an effort to protect the fundamental rights of all individuals.

This document does not address other actions undertaken by the Ombudsman during the Amazon strike, such as the claims of unconstitutionality raised by the institution and the proposal of the dialogue and consultation mechanism to help resolve the conflict.

In strict compliance with its constitutional mandate, the Ombudsman decided to contribute --in this manner-- to the work being developed by several State agencies including the Ministry of Health, the Office of the Attorney-General, the National Police of Peru (PNP), the Peruvian Army and the Judiciary, within the framework of their respective competencies, to ensure the fundamental rights of all people.

This document contains information obtained directly from local police, military, fiscal, and judicial authorities, as well as from representatives of the Church, human rights organizations and indigenous organization and representatives, the media and, mostly, from those directly or indirectly connected to the consequences of the events, by the staff of the Ombudsman who traveled to the affected areas to meet them.

According to the information gathered by our Institution, the acts of violence that took place on June 5, 2009, resulted in the tragic death of 33 people (23 police officers, 5 people from Bagua and 5 indigenous people), while 200 other people were injured and 83 arrested, 18 of whom were transferred to the Huancas Penitentiary Institution in Chachapoyas. Moreover, by the time this report was concluded, PNP Major Felipe Bazan Soles is still listed as disappeared.

The Ombudsman will continue its supervisory work in order to ensure full respect for the fundamental rights, as well as the best performance of the competent state agencies. Therefore, once again our Institution reaffirms its unwavering commitment to continue working for the protection and respect of the fundamental rights of individuals and of peoples.

Finally, we must acknowledge the valuable support immediately provided by the United Nations Development Program (UNDP) in order to facilitate the travel of Ombudsman officials to the provinces of Bagua and Utcubamba, as well as of itinerant missions to native communities.

I. BACKGROUND

1. In early April 2009, as part of a series of protests aimed at securing the repeal of a raft of legal provisions --including Legislative Decrees 1064 and 1090--, indigenous populations from various indigenous communities of the Amazon Region took control of several kilometers of the "Fernando Belaúnde Terry" highway, namely from the sector called "La Curva del Diablo" to "La Balanza" and "El Reposo", aiming to block that part of the highway.
2. More than 50 days after the beginning of the strike, in the early morning of June 5, a police operation was carried out in the stretch of the highway called "La Curva del Diablo" and "El Reposo" in the Utcubamba province to evict the protesters who were occupying it. Hours later, news reports said that 11 police officers had been killed at Station No. 6, located in Imaza.
3. As a result of the actions described above, the Office of the Ombudsman sent a team of commissioners from the Amazon Jaen, Lambayeque, La Libertad, Cajamarca and Lima offices to the scene in order to carry out emergency humanitarian activities destined to protect the fundamental rights of all those affected in these circumstances.

II. COMPETENCE OF THE OMBUDSMAN AND OUTLINE OF ITS HUMANITARIAN WORK

According to the Political Constitution of Peru (Article 162) and Law No. 26520, Organic Law of the Ombudsman (Article 1), this institution is responsible for protecting the constitutional and fundamental rights of the individual and of the community, as well as for overseeing the fulfillment of public administration tasks and the provision of public services to citizens.

In the context of such obvious social conflict and faced with a situation where the rights of individuals are placed at risk or violated, or in view of the violent confrontations that were affecting local, regional or national governance, the Ombudsman put in place an intervention plan with dialogue as its main instrument in order to mediate the conflict at the request of the parties and provide humanitarian care to the people directly or indirectly involved in violent situations.

The Ombudsman has always seen its humanitarian work as one that seeks to preserve the life, integrity and health of those individuals who are in a situation of conflict and/or violence. This work aims to monitor and cooperate with several State agencies in order to ensure the fundamental rights of all people.

In the case of the events that took place in Bagua and Utcubamba provinces on June 5, 2009, the Ombudsman, within the framework of its powers, felt the need to carry out urgent humanitarian work in an attempt to protect such fundamental rights as the right to life, personal integrity and health, as well as collaborate to restore public order. To that extent, the necessary arrangements were made in order to provide adequate care to all those injured, as well as verify the situation those detained, especially so that they may immediately be provided with the legal defense.

Likewise, it was also felt that it was important to gather information about the identity of those affected in order to compile lists, which will be made public in order to keep both their families and the general public informed.

III. JOINT PRESS RELEASE BETWEEN THE OMBUDSMAN AND THE PERUVIAN EPISCOPAL CONFERENCE

On June 5, 2009, a few hours after the events took place, the President of the Episcopal Conference of Peru and the Ombudsman deeply regretted the violent incidents that took place in the provinces of Bagua and Utcubamba of the Amazon Region that killed civilians and policemen and left several people injured.

In the press release, it was outlined that life is a supreme value that must be protected and privileged in all circumstances, both of our native communities historically neglected and of those who, in the fulfillment of their constitutional duty, tried to restore order.

A call for calmness was made, and it was demanded that the confrontations between fellow Peruvian should cease immediately. An urgent call was made for providing treatment without distinction to those that were wounded and to those who were at risk, as well as for re-establishing dialogue, as soon as possible, which should have never been interrupted and should always be used as the only channel through which to peacefully resolve conflicts.

Finally, after calling upon all the authorities and leaders to opt for dialogue and peace, the President of the Episcopal Conference of Peru and the Ombudsman reaffirmed their decision to be available to the country in order to help to restore calm to the affected populations and to the entire country.

IV. HUMANITARIAN ACTIONS IN THE UTCUBAMBA AND BAGUA PROVINCES, AS OF JUNE 5, 2009, ON THE OCCASION OF THE AMAZON STRIKE

As part of its constitutional duties, the Office of the Ombudsman led a number of humanitarian actions to preserve the respect for the fundamental rights of every person and help calmness and public order.

Thus, commissioners of the Amazon Ombudsman Office and of the Jaen Ombuds' Assistance Module travelled to the scene since the start of the police operation to clear the "Fernando Belaúnde Terry" highway.

The next day, June 6th, a committee chaired by the Ombudsman, Dr. Beatriz Merino, and composed of the First Deputy, Dr. Eduardo Vega, the Deputy for the Prevention of Social Conflicts and Governance, Dr. Rolando Luque, and Deputy for Human Rights and Persons with Disabilities, Dr. Gisella Vignolo, traveled to the area where the events took place.

The purpose of their visit was, firstly, to call upon those involved in the conflict to remain calm, as well as to restore dialogue as the sole means to reach a consensus and seek a solution to the crisis. Also, during the visits to health centers, detention establishments and the places set up as housing for the natives, the Committee carried out emergency humanitarian actions and provided direct assistance to the needs and requirements of the Amazon population and of police officers who remained in the area. The following provides a detailed description of the actions carried out by the Committee:

1. Working visit to Bagua's "Gustavo Lujan Lanatta" Support Hospital in order to check the status of the injured. While at the hospital, the Ombudsman met with Dr. Joseph Serquén, the Director of that hospital, and with its medical team to find out what their main requirements were to be able to adequately tend to the needs of those injured. It also held meetings with some injured people, namely: Segundo Victor Davila Panderó, Abelardo Geraldo Suicay, Daniel Manay Torres, Joan Intarek and Paulo Bitop López.
2. Interview with Police Colonel Germán Campero Chunga, member of Lima's Investigation Group "C".
3. Informed the population through the media about the purpose of the Ombudsman Committee's visit to Bagua, the situation of the wounded and the main requirements of the health centers.
4. Working visit to El Milagro Health Center (Utcubamba province), where 250 indigenous people were registered by the Office of the Attorney-General so that they may return to their communities. While there, the prosecutors in charge of the registration, police and local authorities and many indigenous who were housed in this center were interviewed.

5. Interview at "El Milagro" Military quarters with the General Commander of the Northern Region, Army Major General Carlos Miranda Velásquez, with police personnel from different units and with detainees.
6. Working meeting with Archbishop Santiago García, Bishop of Jaen's Apostolic Vicariate, and with the Provincial Mayor of Jaen, engineer Jaime Vilchez Oblitas, aiming to exchange views on the situation that took place in Bagua and mechanisms needed to restore dialogue.

Based on the work undertaken since June 5, 2009, the Ombudsman's Office has organized several support committees made up of commissioners from the Amazon, Jaen, Lambayeque, Lima, La Libertad and Cajamarca Ombudsman Office, developing its work in two clearly defined stages:

Stage one. Urgent humanitarian actions to address the immediate needs arising from the violence.

Visits were made to hospitals that belong to the Ministry of Health and EsSalud in the cities of Utcubamba, Bagua, Jaen, Chiclayo and Lima, in order to find out the status of the injured and supervise the provision of proper care by those health facilities. Where needed, co-ordinations were conducted with regional and national authorities in order to provide health centers with the necessary medicines, supplies and personnel to be able to take proper care of the wounded.

Moreover, visits were made to detention centers (police, military and penitentiary) where those allegedly involved in criminal acts of June 5 were kept. During these visits, their legal status was verified and specific recommendations were made to improve their detention conditions. The detainees' access to legal defense was also verified.

Similarly, co-ordinations were done to improve the conditions of the police personnel temporarily housed in "El Milagro" military quarter.

Furthermore, at the request of the Attorney-General's Office and of the local authorities, the Ombudsman's Office was present at the sites that had been made readily available to accommodate indigenous people, after being registered by such authority, these people returned to their communities.

Likewise, the Ombudsman's Office set up a temporary care module in the city of Bagua Grande (Utcubamba province), which operated continuously from 9 to 13 June 2009, in a site provided by the "Santiago Apostol" Parish. In this module, guidance was provided to the families of those detained and injured with regard to their whereabouts, their legal status and their state of health respectively. The father of Police Major

Felipe Bazan Soles was taken to this site. He requested the assistance of the Ombudsman' Office in searching and locating the whereabouts of his son.

In the same manner, information was gathered about those who were killed, injured, arrested or returned to their communities to quickly inform the public, which in turn would help locate those whose whereabouts were unknown. As of Sunday June 7, 2009, the lists containing such information can be found on the webpage of the Ombudsman (www.defensoria.gob.pe) and have been updated on a regular basis.

Stage two. Monitoring the performance of State administrative institutions and office where cases are reported.

Coordinations were made with the Attorney-General's Office, the Ministry of Justice (Directorate of the Court Appointed Counsel), lawyers of human rights organizations, private lawyers and family members in order to verify the legal status of detainees, their personal condition and health, as well as their legal defense.

On the other hand, as a result of allegations that were made by the media about people who still had not returned to their communities, the Ombudsman took on specific tasks to help locate their whereabouts. In this regard, in addition to the above-mentioned lists, starting from June 11, 2009, itinerant missions were made by the Attorney-General's Office to communities located in the Amazon Region.

In view of the strong public denunciation of the existence of alleged mass graves located near "La Curva del Diablo" and "El Reposo", the Ombudsman accompanied and supervised the inspection and investigation work conducted by the Attorney-General's Office in those areas and the information was not corroborated.

The result of the humanitarian work of the Ombudsman provided below, directly relates to the focus given to the subjects.

a. People who have died

The most regrettable result of the events that took place on June 5, 2009, in the provinces of Bagua and Utcubamba, is the death of 33 people: 23 Police officers, 5 citizens, residents of Bagua and 5 people who belonged to indigenous communities.

The Ombudsman was present during the procedure for the removal of the bodies of four natives that were located in the areas known as "La Curva del Diablo" and "El Reposo".

It is worth noting that in the case of the remains of Florencio Pintado Castro, whose death was known days after the events occurred thanks to information provided by a family member from San Ignacio, no autopsy (mandated by Peruvian Law) was performed because of opposition from his family members, according to the minutes signed by Higinio Pintado Castro and Edwar Duber Castro Granda (relatives of the victim), the Justice of the Peace of San Ignacio's District of Namballe, the Commissioner of that district, SO3 PNP Larry Jhon Morales Diaz, among others.

Nevertheless, there is a legal medical examination performed on the remains of Florencio Pintado Castro at the Municipality of Namballe, dated June 6, 2009, which provides an accurate verdict: "*violent death due to gunfire*". At present, the Corporate Provincial Prosecutor of San Ignacio is in charge of the investigation.

Table Nº 1
People who have died

	NAME	STATUS
1	Abel Ticia Sánchez	Civil
2	Porfirio Coronel Jiménez	Civil
3	Alejandro Salazar Huamán	Civil
4	Jorge Ángel Pozo Chipana	Civil
5	Florencio Pintado Castro	Civil
6	Romel Tenazoa Sánchez	Native
7	Felipe Sabio César Sánchez	Native
8	David Jaucito Mashigkash	Native
9	Genaro Samecash Chamik	Native
10	Jesús Carlos Timias	Native
11	Jorge Luis Callca Roque	Police
12	Javier Campos Marín	Police
13	Enrique Grei Castro Córdova	Police
14	Rely Delgado Sánchez	Police
15	Adán Higinio Dezar Rugel	Police
16	William Niebles Cahuana	Police
17	Melciades Díaz Villegas	Police
18	Ronald Gerardo Elera Yanac	Police

19	Germán Farroñán Morante	Police
20	José Alberto García Guzmán	Police
21	Marco Einstein Huanci Ramírez	Police
22	José Rosario Huamán Tume	Police
23	Francisco Martínez Tinoco	Police
24	Raúl Mayhuasca Villaverde	Police
25	Miguel Montenegro Castillo	Police
26	Luis Miranda Vásquez	Police
27	Michel Meza Gonzáles	Police
28	Néstor Núñez Choque	Police
29	Jhony Alex Sánchez Sifuentes	Police
30	Johnny Salcedo Meza	Police
31	Johan Orlando Ordinola Ruiz	Police
32	Julio César Valera Quilcate	Police
33	José Antonio Vilela Morales	Police

Source: Ministry of the Interior and the Ombudsman's Office.

Authorship: the Ombudsman's Office.

b. People injured and treated at hospitals

As a consequence of the events of June 5, 2009, the Ombudsman confirmed that 200 people were treated at the hospitals that belong to the Ministry of Health and EsSalud in the cities of Utcubamba and Bagua (Amazonas), Jaen (Cajamarca), Chiclayo (Lambayeque) and Lima.

Table No. 2
Number of people treated at hospitals
between 5 and 30 June 2009

HOSPITAL	RELEASED	CONTINUED TO BE HOSPITALIZED
Hospital Regional Docente "Las Mercedes" de Chiclayo (MINSA)	5	5 ¹
Hospital "Almanzor Aguinaga Asenjo" de Chiclayo (EsSalud)	4	2
Hospital General de Jaén (MINSA)	10	0
Hospital II de Jaén (EsSalud)	1	0

¹ Two patients have been released, but are still at the hospital waiting for a relative to come pick them up so that they may return to their place of origin.

Hospital "Héroes del Cenepa" de Bagua (EsSalud)	8	0
Hospital de Apoyo "Gustavo Lanatta Luján" de Bagua (MINSA)	44	0
Hospital de Apoyo 1 "Santiago Apóstol" de Utcubamba (MINSA)	80	0
Hospital Regional "Virgen de Fátima" de Chachapoyas (MINSA)	1	0
Hospital El Buen Samaritano de Utcubamba (EsSalud)	7	0
Hospital de la Policía "Luis N. Sáenz"	31	2
Total	191	9

Source: the Ombudsman's Office.

Authorship: the Ombudsman's Office.

Initially, the wounded were treated at the "Cenepa Heroes" and "Lanatta Gustavo Lujan" hospitals in the province of Bagua, as well as at the "Santiago Apostol" and "El Buen Samaritano" hospitals in the province of Utcubamba, and to a lesser degree at Jaen hospitals. Due to the severity of the injuries, some of the wounded were sent to hospitals in Lima. In the case of police officers, they were sent to the Central Police Hospital "Luis N. Sáenz".

As soon as the transfer of this group of police officers was confirmed, the commissioners of the Ombudsman's Office visited that hospital to interview and verify that they were receiving proper care. Likewise, visits were made to the other health centers.

Subsequently, the Ombudsman requested reports and medical records of injured civilians and police officers, to corroborate their identity and find out the diagnosis so as to monitor progress in their recovery.

In the city of Chiclayo, where the patients who suffered the most severe injuries were taken, the Ombudsman carried out several actions. Aiming to provide quick and timely care to those patients hospitalized at the "Las Mercedes" Hospital Docente Regional (MINSA), co-ordinations with the head of the Surgery Department were made to perform, as soon as possible, surgery on eight patients². Welcoming the recommendation, the office undertook the commitment to perform surgery on patients between Friday 19th and Tuesday 24th June 2009³. From the follow-up it was observed that patients were operated within the established deadline.

² Patients are Jesus Saan Intakia, Alvis Jempes Tupika, Royser Chávez Martínez, Roberto Altamirano Jara, Wilder Ushap Kunyaik, Jose Eleazar Huamán Vera, Daniel Matnai Torres and Carlos Alberto Zevallos Quispe.

³ Minutes dated June 15, 2009, signed by Dr. Raúl Fernández Vargas, Head of the Surgery Department at the Hospital Regional Docente "Las Mercedes" in Chiclayo, which is attached to this report.

In addition to addressing the situation of the wounded, co-ordinations were made to provide support to families of those patients who were at the hospital. On June 15th, while visiting the patients, it was noticed that their family members lacked financial resources to pay for their food. As a result, a communication was addressed to the president of Chiclayo's Sociedad de Beneficencia Pública, Moisés Salazar Fernández, who was asked to help ensure the daily diet of the family members; a daily menu was provided to those family members in response to the request⁴

On the other hand, it is possible to see from Table No. 3 below the different diagnoses of people attended on June 5, 82 of whom had injuries caused by firearms. This group of injured individuals included 17 who had suffered injuries caused by pellets.

Table No. 3
People attended at hospitals
according to diagnosis up to June 5, 2009

Types of injuries according to the diagnosis	Number of people attended
Injuries caused by fire arms (IFA)	82
Contusion and Multi-contusion injuries	41
Poisoning, abrasions and burns caused by teargas	22
Injuries caused by sharp objects	19
Injuries caused by shots of heat	16
Others	20
Total	200

Source: Health Ministry and EsSalud Hospitals of Chiclayo, Jaen, Utcubamba and Bagua, as well as Hospital de la Policía Nacional (Lima).

Authorship: Ombudsman's Office.

According to the table above, the wounded had, in most cases injuries caused by firearms and multi-contusions in various parts of the body. Other injuries include those resulting from poisoning, burns and abrasions as a result of tear gas, as well as injuries caused by sharp objects.

c. People arrested

As a result of the acts of protest and of police operations conducted on June 5, the Ombudsman became aware of the fact that 83 people had

⁴ Note No. 712-2009-DP/OD-LAMB, dated June 16, 2009, sent to the President of Chiclayo's Sociedad de Beneficencia Pública by the Head of Lambayeque's Ombudsman's Office.

been arrested. They were primarily taken to various police facilities and “El Milagro” military quarter as detailed in Table 4 below.

Table N° 4

Initial location of those detained between 5 and 6 of June 2009

Lugares de detención	Nº of detainees
Cuartel Militar “El Milagro” – Utcubamba (Bagua Grande)	39
Comisaría PNP de Utcubamba (Bagua Grande)	13
Comisaría PNP de Bagua	4
Seguridad del Estado de Chiclayo	17
Jefatura de Investigación Criminal (JEINCRI), Bagua Grande	4
Detenidos en el registro de la Casa Pastoral de Bagua Grande	3
Detenidos en el Centro de Salud de “El Milagro”	3
Total	83

Source: Ombudsman’s Office.

Authorship: Ombudsman’s Office.

According to Table 4 above, most detainees were taken to “El Milagro” military quarter, according to authorities due to lack of space and security of the police stations in the Amazon, which made it impossible to accommodate more detainees. The Ombudsman’s Office visited “El Milagro” military quarter to verify the situation of those prisoners whose initial confinement conditions were improved thanks to the support provided by several institutions. Likewise, 17 people were taken to Chiclayo’s State Security Unit, among whom there was a minor, who was taken to the Womens Police Station in Chiclayo.

Current status of the judicial proceedings acknowledged by the Ombudsman’s Office

To date, the Ombudsman's Office has gathered information concerning four judicial proceedings: three against adults and one against two minors for violations to the criminal law.

It should be noted that these proceedings do not necessarily include the 83 people initially arrested on a preliminary basis, since in some cases authorities decided not to press criminal charges or enter into judicial proceedings against such persons.

**Table N° 5
Adults Judicial Proceedings**

Judicial Proceedings	Charges	Total prosecuted	Order of Arrest	Order of Appearance
Case File N° 281-2009-0-0102-JR-PE-01 Criminal Court of Bagua	- Death of 11 police officers present at the Police Station N° 6. - Kidnapping of Julio Martínez Huacachi and other 27 police officers in the Police Station N° 6, Imaza, - Attacks on public property, illegal possession of armament and destruction of units of public transport service.	25	20 ⁵	5
Case File N° 189-2009-010107PJP01 First Provincial Criminal Court, Utcubamba	Riots	3	3	0
Case File N° 194-2009-010107PJP01 First Provincial Criminal Court, Utcubamba	- 12 police officers who have died. - Serious injuries against 18 police officers. - Attacks on public property, illegal possession of armament and destruction of units of public transport service.	56	18 ⁶	38

Source: Ombudsman Office.

Authorship: Ombudsman Office.

⁵ Of the 20 accused with warrants for their arrest, four are in custody at the Huancas Penitentiary Institution, Chachapoyas, and 16 can not be found.

⁶ Of the 18 accused with warrants for their arrest, 11 are in custody at the Huancas Penitentiary Institution, Chachapoyas, and seven people can not be found.

According to information gathered by the Ombudsman an investigation has been opened against 84 people.⁷ From the latter, the Criminal Courts of Bagua and Utcubamba issued arrest warrants against 41 accused and order of appearance to 43. Of the 41 people with order of arrest, 18 were initially interned in the Penitentiary Institution of Utcubamba (Bagua Grande), and subsequently transferred to the Huancas Penitentiary Institution, Chachapoyas, by decision of the National Penitentiary Institute (INPE).⁸ 23 other persons charged and with order of arrest can not be found.

In addition, two 16-year-olds were initially placed in the Youth Detention Center of Chiclayo, because the Joint Court of Utcubamba opened them a process for violation of criminal law. Subsequently, the two teenagers were released on June 26 because their punishment changed. It should be noted that seven other minors –detained at first by the authorities– were later released and returned to their families or representatives.

It should also be added that during the permanence of the two minors in the above-mentioned Youth Detention Center, the commissioners of the Ombudsman made several visits, verifying that conditions of confinement were appropriate.

⁷ Alberto Pizango is processed in two cases.

⁸ It should be clear that, weeks before the events that are the subject-matter of this report, about 44 inmates escaped from the Penitentiary Institution of Utcubamba, taking advantage its infrastructure did not provide adequate security conditions.

Table N° 6**Inmates in Huancas Penitentiary Institution, Chachapoyas,
according to the Court which issued the order of arrest**

Full Name	Order of Arrest issued by
ALVARADO GUERRERO, Hildebrando (34)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
ANAG AKINTUI, Elnor René (54)	Criminal Court of Bagua Case File 2009-0281-0-0102-JR-PE-01
BELLODAS PALMER, Napoleón Carlos (40)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
CAHUASA ROLIN, Feliciano (34)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
CÉSPEDES RAMÍREZ, Marcos Pablo (32)	1º Criminal Court of Utcubamba Case File 2009-0189-010107
CRUZ COTRINA, Juan Ramón (37)	1º Criminal Court of Utcubamba Case File 2009-0189-010107
DEKENTAI REÁTEGUI, Sixto (24)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
DÍAZ SILVA, Edgar (33)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
KAJEKUI ANTUN, Aurelio (29)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
LONGINOTE MAGICA, Rogelio Valentín (59)	Criminal Court of Bagua Case File 2009-0281-0-0102-JR-PE-01
LÓPEZ SHAWIT, Danny (26)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
MOSQUERA REYNA, Mario Grimaniel (39)	1º Criminal Court of Utcubamba Case File 2009-0189-010107
PARIATÓN JARA, Segundo Raúl (35)	1º Criminal Court of Utcubamba Case File 2009-0194-010107

PINTADO HUAMAN, Melquiades (26)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
PIZANGO UNUP, Sabino (30)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
PUJUPAT KAYAP, Néstor (31)	Criminal Court of Bagua Case File 2009-0281-0-0102-JR-PE-01
TIMIAS TANANTA, Leo (37)	1º Criminal Court of Utcubamba Case File 2009-0194-010107
WAMPUTSAG KAYAP, José (26)	Criminal Court of Bagua Case File 2009-0281-0-0102-JR-PE-01

Source: Ombudsman Office.

Authorship: Ombudsman Office.

The Ombudsman has observed that all persons who are deprived of their liberty, because of criminal charges had technical legal aid: 17 by the Vicariate of Jaen and the Episcopal Committee of Social Action y one had its own lawyer.

d. People Returning to their Communities

In response to the request of representatives of the Office of the Attorney General, and various authorities in Jaen, Utcubamba and Bagua, and the representatives of native communities, the commissioners of the Ombudsman were on the sites where the indigenous were given sheltered; after they were registered as it was ordered by the Office of the Attorney General, the indigenous returned to their communities.

**Table N° 7
People Returning to Their Communities**

Shelters	Date of Register by the Office of the Attorney General	Returning People
Centro de Salud del Distrito "El Milagro", Utcubamba	June 6th, 2009	250
Casa Pastoral Santiago Apóstol, Bagua Grande	June 9th, 2009	726
Casa Franciscana de la Inmaculada Concepción, Bagua	June 8th, 2009	209
Parroquia de Bellavista, Jaén	June 8th, 2009	59
Total		1244

Source: Attorney General Office and Ombudsman Office.

Authorship: Ombudsman Office.

For the most part, the returning people belong to the native communities located in the districts of Imaza (province of Bagua), El Cenepa, Nieva and Río Santiago (province of Condorcanqui) in the Amazonas Region, and to the districts of Huarango and San José de Lourdes (province of San Ignacio) in Cajamarca Region. Likewise it has been noted that at Casa Pastoral Santiago Apóstol, which sheltered the largest number of indigenous (726), 63 of them were minors.

e. Itinerant missions to indigenous communities to deal with cases of Missing Persons

After the clearance of “Fernando Belaúnde Terry” highway, some media reported the case of people whose whereabouts were unknown to their relatives or members of their communities. In response to this and in view of the uncertainty in the population, the Ombudsman organized and sent itinerant missions to visit indigenous communities located in the district of Imaza, as well as in the districts of El Cenepa, Nieva and Río Santiago, in the province of Condorcanqui.

These missions involved the deployment of Commissioners from the Ombudsman Offices of Amazonas, Jaen, Cajamarca and La Libertad, as well as the Ombudsman Module of Jaen, to the locations mentioned, in two-to-eight days’ trips. In these trips local authorities, aldermen and indigenous leaders were met with to explain the reason for the visit and to gather information on the status of the population.

Table N° 8
Zones visited during itinerant missions

LOCATION	N° OF COMMUNITIES VISITED	N° OF AUTHORITIES INTERVIEWED
Imaza District, Bagua	8	9
Nieva District, Condorcanqui	14	12
El Cenepa District, Condorcanqui	6	13
Río Santiago District, Condorcanqui	11	12
Total	39	46

Source: Communities Authorities of Imaza, Nieva, Rio Cenepa, Marañon and Santiago Districts.

Authorship: Ombudsman Office.

During June 11th and 12th the first Mobile mission took place to the native communities located in the Imaza and Nieva districts, provinces of Bagua and Condorcanqui, respectively. The second was from June 22nd to 27th to Imaza, El Cenepa, Nieva and Río Santiago districts.

For these missions, the Commissioners of the Ombudsman coordinated with local authorities for river transport service, with the support of the District Municipality of Santa María Nieva, El Cenepa, Río Santiago and of the United Nations Fund for Children (UNICEF). Moreover, thanks to the participation of indigenous peoples, well known in the area, they had interpreters to provide translations, allowing the accomplishment of the objectives of the visit of the commissioners.

It is appropriate to mention that the selection of the indigenous communities visited during the itinerant missions was done on the basis of their location and population. In addition, they paid more attention to the communities from which came public complaints.

Table Nº 9
Percentage of Indigenous Communities
visited during Itinerant missions

Province	District	Total CCNN	Nº Visits OMBudsman	Percentage %
Bagua	Aramango	4	0	0
	Imaza	52	8	15%
Condorcanqui	El Cenepa	42	6	14%
	Nieva	61	14	23%
	Río Santiago	22	11	50%
TOTAL		181	39	22%

Source: COFOPRI and Data Base of Indigenous Communities of the Ombudsman Office.

Authorship: Ombudsman Office.

Below is a table showing the Communities visited, with the name of the authority met with and the information obtained.

Table Nº 10
Visited Zones located in the
Imaza, El Cenepa, Nieva and Río Santiago districts
(June 11-12 and 22 – 27, 2009)

NAME OF THE ZONE OR COMMUNITY	LOCATION District/ Province	COMMUNITY AUTHORITY INTERVIEWED	STATUS OF THE INDIGENOUS PARTICIPANTS IN THE AMAZON STRIKE
Wawas	Imaza, Bagua	Heriberto Tiwijam Shuwi (Head of the Community)	All the community members returned. They indicated that the deceased Felipe Sabio César belonged to their community.
Shushug	Imaza, Bagua	Jaime Akintui Wichi (Head of the Community)	Two community members did not return: one due to arrest and the other for being hospitalized

Pakui	Imaza, Bagua	Elegías Mayak Shakay (Head of the Community)	All community members returned except one person who has been arrested.
Wachapea	Imaza, Bagua	Fernando Tuyas Atshumat (Head of the Community)	Two community members did not return: one for having been arrested and the other for being hospitalized
Nazareth	Imaza, Bagua	Wilfredo Cuñachi Caicat (Head of the Community) Salomón Awanash Wajus (Head of the Fight Committee, Imaza district)	All community members returned.
Bichanak	Imaza, Bagua	Abercio Akintui Shimpukat (Head of the Community)	All community members returned.
Chipe	Imaza, Bagua	Luis Yagkug Vílchez (Head of the Community)	All community members returned.
Uut	Imaza, Bagua	Carlin Paati Antunce (Head of the Community)	All community members returned.
Pantam	Nieva, Condorcanqui	Juan Antunce Sejekam (Head of the Community)	It was informed that two community members did not return due to arrest.
Najain Paraíso	Nieva, Condorcanqui	Rodolfo Jempe Ferreyra (Vice President) Ricardo Shawit Sanchik (Justice of the Peace)	It was informed that Danny López Shawit did not return due to arrest.
Putuyak	Nieva, Condorcanqui	Roberto Chumpi Atuyap (Head of the Community)	All community members returned.
Nueva Unida	Nieva, Condorcanqui	Gonzalo Unkunchan Pascual (Head of the Community)	All community members returned.
Tayuntsa Puente Nieva	Nieva, Condorcanqui	Efraín Agguas Pujupat, (President of FECONARIN)	The General Assembly informed that all community members returned.

Huaracayo	Nieva, Condorcanqui	Olivo Orrego Weepiu (Vice President)	All community members returned.
Uracuza	Nieva, Condorcanqui	Ambrosio Uwakchajim (President of the Aguaruna Huambiza Council)	The General Assembly informed that all community members returned.
Kawit	Nieva, Condorcanqui	Edgardo Aushuqui Taqui (Vice-President of the Aguaruna Dominguza Federation)	The General Assembly informed that all community members returned.
Chingamar	Nieva, Condorcanqui	Víctor Santiak Tuits (Head of the Community)	The General Assembly informed that all community members returned.
Ajachin	Nieva, Condorcanqui	Tulio Ukunchan Yampis (Head of the Community)	The General Assembly informed that all community members returned.
Kayants	Nieva, Condorcanqui	Community Authority	The General Assembly informed that all community members returned.
Canampa	El Cenepa, Condorcanqui	Hiran Julio Yanco Bermeo (Head of the Community)	All community members returned.
Canga	El Cenepa, Condorcanqui	Alfredo Mariano (Head of Educational Institution)	The General Assembly informed that all community members returned.
Tutino	El Cenepa, Condorcanqui	Eloy Jintash Esamat (Head of the Community) Pablo Yampitsan Wampagkit (Registrador civil) Aurelio Chigkim Sejekam (Head of Education Institution)	The General Assembly informed that all community members returned.
Wawaim	El Cenepa, Condorcanqui	Merlin Antonio Wamputsag Impi (Secretary of the Community) Pepe Semiekash Sejekam (Head of Educational Institution – Elementary School) Marco Antonio Wamputsan Sejekam (Professor)	The General Assembly informed that all community members returned. In the first mission it was mentioned that Manuel Nuginkush Pasush had not returned to his community. However, in the second mission, Imaza Justice of the Peace, Zacarías Chiroque Morales, informed us that Manuel Nuginkush Pasush did return to his community a few days later, without incident.

		Matilde Katia Rawam (Professor) Elías Campos Pérez (Director IE Secundaria)	
Mamayaque	El Cenepa, Condorcanqui	Leonidas Quiaco Taqui (Head of the Community)	The General Assembly informed that all community members returned.
Huampami	El Cenepa, Condorcanqui	Gabriel Arrobo Paredes (Head of the Community) Hugo Kayak Espejo (Vice-President) Zabelio Kayap Jempekit (President of ODECOFROC)	The General Assembly informed that all community members returned.
Nuevo Canan	El Cenepa, Condorcanqui	Community Authority	The General Assembly informed that all community members returned.
Guabal	Río Santiago, Condorcanqui	Leemke Sharup Petsa (Head of the Community)	All community members returned.
Villa Gonzalo	Río Santiago, Condorcanqui	Carmen Chávez Asacha (Vice- President)	One community member did not return for having been arrested.
Chosica	Río Santiago, Condorcanqui	Bernardino Chamik Pizango (Head of the Community)	All community members returned.
Muchinguis	Río Santiago, Condorcanqui	Dimas Sharina Shiraz	All community members returned.
Soledad	Río Santiago, Condorcanqui	Mario Tsukanka Uwijan (Head of the Community)	All community members returned.
Chapiza	Río Santiago, Condorcanqui	Alberto Yanpis Chiarnach	One community member did not return for having been arrested.
Alianza Progreso	Río Santiago, Condorcanqui	Arturo Cuja Uyungara	All community members returned but one of them is injured.
Yutupis	Río Santiago, Condorcanqui	Head of the Community	All community members returned.
Kunt - Entsa	Río Santiago, Condorcanqui	Elmer Chumac Kiak (Head of the Community)	No person in the community took part in the strike.
Guayabal	Río Santiago, Condorcanqui	Elmer Sipa Chávez (Vice-President)	All community members returned.

Belén	Río Santiago, Condorcanqui	Pepe Timias Nunie (Vice-President)	One community member did not return for being hospitalized (Chiclayo)
Puerto Galilea	Río Santiago, Condorcanqui	Rafael Wajai Carmen (Vice-President)	All community members returned.
Tampe	Nieva, Condorcanqui	Hugo Gavino Tsuamath (Docente)	No person in the community took part in the strike.

Source: Community Authorities of Imaza and Bagua provinces.

Authorship: Ombudsman Office.

It should be noted that during the visit to the Native Community of Tayuntza, Efraín Agkuas Pujapat, President of the Native Communities Federation of Río Nieva (FECONARIN), met with commissioners of the Ombudsman, providing a list of native communities that do not report cases of individuals not located from the events of Bagua. These are Boca Ambuja, Cachiyacu, Datej, Kigkis, Najankus, Uchi Chiangos, Waisim, Tuutin, all located in Condorcanqui Province and in José Olaya Village.

It is important to note that during the meetings held by the commissioners of the Ombudsman, some with the participation of community members in general assembly, fear and tension was perceived in the indigenous population because of the confusing and contradictory information reflecting the events on June 5 and subsequent days.

Similarly, in many of the communities visited, authorities and residents have shared their special concern for the people who are still in hospital, for the situation of those arrested; for the rehabilitation of the injured persons who have returned to their communities; and about the development of the investigations and proceedings.

Therefore, regular medical visits have been requested to monitor the presence of health personnel in the area. It should be noted that the Ombudsman Office of Amazonas has coordinated with the Director of the Micro Health Network of Galilea and El Cenepa, to start medical visits to monitor the rehabilitation process of the wounded.

Furthermore, it is necessary to emphasize that, besides the information gathered during the itinerant missions to the communities in Table N° 10, at a meeting held on 1st July 2009, in Santa María de Nieva, capital of the province of Condorcanqui, by the commissioners of the Ombudsman with the representative authorities of the Rio Dominguzza and Rio Nieva basins. These authorities have expressed that –to date - in their communities there are no people missing. This information is based on the minutes signed by the community authorities.

Below are the details of the interview:

Table Nº 11
Interviews with Rio Dominguza and Rio Nieva
Community Authorities

COMMUNITY AUTHORITIES	POSITION	COMMUNITY
Angel Puanchi Ashas Mateo Yampis Mayan	Vice-president Treasurer	Bajo Canampa
Tulio Juwau Yagkikat Najagkus Shajup López	Head of the Community Delegate	Cachi
Tito Esamat Mansach	Head of the Community	Alto Kuith
Roger Akus Tamapio	Head of the Community	Kigkis
Nelson Petsa Samekash Teodoro Tsencuan Puancha	Head of the Community Delegate	Kuith
Ricardo Ugkun Tukup	Head of the Community	Kuyumatak
Fermin Tetsa Sanchik	Delegate	Canampa
Juanito Agkuash Tapia	Head of [Rural] Self Defense Forces	Bajo Cachiyaco
Olin Wajuyat Tsenkuan	Community Police	Pujupat
Quispe Mashian Daikat	Head of the Community	Inayua
Ernesto Suich Mamay	Head of the Community	Saasa
Roberto Tsamash Ujukam	Head of the Community	Najagkus
Ponciano Yampis Kuun	Head of the Community	Bajo Ambuja
Enoc Tsakin Autukai	Head of the Community	Kayakusha
Mauro Yampis Ampush	Head of the Community	Kayakusha (annex Datem)
Rafael Tapia Nugkum Tito Nugkum Padilla David Agkuash Pujupat	Head of the Community Vice-president Secretary of Production	Kayamaz
Clemente Tamapiu Wampush	Secretary of the Community	Najagkus

Fernando Cuimian Chimianta	Head of the Community	Puerto Tundaza
Hernández Yukupao Yampik	Head of the Community	Campo 3 Sabinza
Lorenzo Salazar Tijias	Head of the Community	Ipakuma Centro
Oscar Chamikan Akuts	Head of the Community	Sumpa

Source: Ombudsman Office

Authorship: Ombudsman Office

From the information gathered in the 39 itinerant missions, and in the interviews with authorities in 16 other communities, we can infer that in all cases, authorities reported the return of indigenous people, except for those who remain hospitalized or detained in the Penitentiary Establishment of Chachapoyas.

The Ombudsman will remain vigilant in case of any complaint filed about people with unknown whereabouts by their relatives. In case a situation should present itself that demands support, it will act according to its constitutional duties.

f. Actions to contribute to find the whereabouts of Police Major Felipe Bazán Soles

The Ombudsman has coordinated various activities to contribute to the location of the whereabouts of Police Major Felipe Bazán Soles. To this extent, on June 22nd, commissioners from the institution visited and talked to some relatives of that officer to express their concern for this case.

It is noteworthy that during the itinerant missions there was shown special interest was shown in obtaining information that would allow to discover the whereabouts of that officer. To this purpose there has been distributed fliers made by the institution in the communities visited and, in turn, have been placed in visible places at the Ombudsman Offices of Amazonas and Jaen for wider dissemination.

On the other hand, the commissioners are monitoring the progress of the preliminary investigation concerning the disappearance of the officer, filed by Patricia Bazán before the Office of the Attorney General, which has been directed to the Amazonas Chair of the Board of Senior Prosecutors, last June 18.

By Note N° 800–2009, the Amazonas Chairman of the Board of Senior Prosecutors forwarded the complaint to the First Joint Provincial Attorney Office, Utcubamba, in charge of the Provincial Prosecutor Marleny Rojas Méndez.

As part of this investigation, the staff of the mentioned prosecutor participated in the retrieval of a body located on June 26 last, in the Marañon River, near the area called “El Valor”, originally presumed to be Police Major Bazán Soles. By order of the said Office, the body was sent to the Central Morgue of Lima. On

June 30, 2009, it sent samples for DNA testing to the Laboratory of Molecular Biology, Institute of Legal Medicine.

It should be noted that, while we do not yet have the results of that exam, on 1 July 2009, through a public statement, the Directorate of Information of the National Police said that according to the dental records of the body found, it corresponded to a woman about 50 years old, with a date of death of approximately 10 months prior.

Furthermore, the Ombudsman maintains constant communication with Police Coronel Francisco Giraldo Hernández to follow the progress in the search being carried out in Bagua. According to the information provided, these operations have included the area from “La Curva del Diablo” to Bagua Grande, passing around the right margin of “Fernando Belaunde Terry” highway, and by the riverbanks of Utcubamba River to the juncture of this river with the Marañon River.

Similarly, specialized Police mountain units from the city of Huaraz, conducted an operation in the back of the hill adjacent to “La Curva del Diablo”.

The Ombudsman will continue to be alert to the development of these operations, as well as to the results of the investigation of the Office of the Attorney General, and demands the continuation of the search which must be addressed as a priority.

g. Review of the missing persons lists

On June 6, the Ombudsman received a manuscript prepared by a local journalist, with the names of 60 individuals who, until then, had not returned to their communities,

Subsequently the cross-reference of information with the rolls (or lists) of the institution was conducted, with the result that 40 of these people are registered in the list of returnees, two are in the list of detainees in Huancas Penitentiary Institution (Chachapoyas) and six people in the list of those arrested were detained initially in several police facilities.

Of the remaining 12 it has not been possible to corroborate information to the effect that they have not returned to their communities. Nor has this information been received again from relatives or community members.

V. CONCLUSIONS

1. According to Article 162^o of the Political Constitution of Peru and Article 1 of Law N^o 26520, Organic Law of the Ombudsman, it is the duty of this institution to defend the constitutional and fundamental rights of the individual and the community and oversee the delivery of services by the administration and of public services to citizens.
2. In the context of social conflict, faced with a situation that threatens or violates the rights of individuals, the Ombudsman, among other tasks, conducts humanitarian actions understood as those who seek to preserve

life, integrity and health, in situations of conflict or violence. This work aims to monitor and contribute to the success of the actions of the various state agencies to guarantee the fundamental rights of all people.

3. In the case of events occurring in the provinces of Utcubamba and Bagua on June 5 2009, the Ombudsman found it necessary to intervene for humanitarian emergency to protect fundamental rights such as life, personal integrity, health and the preservation of public peace. To that extent the necessary coordinations were made for appropriate medical care, for all persons injured by the health staff and verified the situation of detainees, especially to secure due process and the respective legal defense.
4. The work of the Ombudsman was carried out in two phases: a) humanitarian actions to address the immediate needs of the crisis, and; b) monitoring the performance of the institutions of state administration and collections of claims.
5. As a consequence of the events of June 5, 2009, the Ombudsman took knowledge of 33 people killed (23 police officers, five residents and five indigenous); 83 people arrested; 200 injured people who received medical care in hospitals of the Ministry of Health and EsSalud; and 1,244 indigenous who returned to their native communities, after being registered by the Office of the Attorney General.
6. It took knowledge of the beginning of four criminal trials: three of them against adults (84 accused) and one for violation of the law against two teenagers – 16 years old. Of the total 84 accused, 41 under order of arrest, of which 18 are currently in custody at the Huancas Penitentiary Institution, Chachapoyas. Another 43 are under order of appearance.
7. Also, in response to the request by the Attorney General Office representatives and various authorities in Jaen, Utcubamba and Bagua, and representatives of native communities, the Ombudsman was present at the shelters of the indigenous people, who after being registered by officials of the Attorney General Office returned to their communities (as verified) in trucks that were provided by various municipal authorities.
8. The Ombudsman is particularly concerned about the status of Police Major Felipe Bazán-Soles, whose whereabouts are unknown since last June 5. Nothing causes more confusion and shock than the uncertainty as to the whereabouts of a close relative. Therefore, it requires that state authorities do not stop the search, which must be undertaken as a priority and urgent.
9. Because of the need to corroborate the information regarding the number of people who had not yet returned to their communities of origin, on June 11 and 12 and June 22 to 27, officials from the Ombudsman conducted itinerant visits to 39 native communities located in Imaza district, Bagua province, as well as in the El Cenepa, Nieva and Rio Santiago districts, Condorcanqui province. Similarly, on July 1, 2009 a meeting was held in Santa María de Nieva, capital of Condorcanqui province, where the Commission gathered information from the authorities of 16 native communities.

10. At the itinerant missions, and interviews held with various authorities of the native communities, they have confirmed that at the time, people who left their communities have returned, except those who are still hospitalized or in custody at the Huancas Penitentiary Institution, Chachapoyas.

Lima, July 2, 2009