

HONDURAS' HUMAN RIGHTS DEFENDER LAW

Passed in 2015, the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners seeks to give effect to the UN Declaration on Human Rights Defenders and protect all at-risk activists.

The law created a 'protection mechanism' which ought to provide concrete measures with which to protect activists according to the type of risks they face. The broad range of potential protection measures included in the law could help overcome the historically narrow and ineffective response by the state. Civil society is represented alongside state officials on the advisory council tasked with monitoring and supporting the law's implementation. If its application were properly resourced and politically backed, this law could help keep activists alive.

However, a lack of leadership coupled with chronic under-resourcing has thus far shackled its impact. In order that the law can fulfill its potential and ensure security for at-risk activists, it is imperative that President Hernández prioritises its implementation.

In particular he should:

- Announce that effective implementation of the law is a governmental priority.
- Support the mandate of the general director of the protection system and fully staff all operative bodies for the law's implementation, in line with its regulations.
- Guarantee that new staff receive the training and resources required to execute their tasks effectively.
- Ensure that adequate protection measures are implemented which respond to the specific risks and context that activists face.

INTERNATIONAL AID AND INVESTMENT IN HONDURAS

It is not just failures by the Honduran state and national businesses that fuel the suffering and abuses against activists seeking to protect their land. Money funneled into Honduras from the US and other countries, through aid packages or via International Financial Institutions (IFIs) is used to fund illegally imposed projects, to develop the policy and infrastructure they need, and to train and equip police and military institutions that are attacking land and environmental defenders.

While international donors talk of stimulating growth and prosperity, the corruption and abuses surrounding these projects are fueling destruction, displacement and the death of precisely those community leaders who could contribute to a more sustainable and prosperous future. The Honduran government is encouraging foreign investment in industries that are causing unprecedented levels of violence against activists. To invest in the current context is to invest in the roots of inequality and insecurity which drove thousands of Hondurans to migrate to the US in 2016.²¹⁴

US AIDING AND ABETTING

The US is the biggest aid donor to Honduras, and also funds key IFIs, including the International Finance



The US has given millions of dollars to the Honduran government despite human rights concerns. © zrfphoto/iStock

Corporation (IFC) and the Inter-American Development Bank (IDB), which are both financing hydroelectric dams and their infrastructure in Honduras.²¹⁵ In 2016, the US provided US\$98.3 million in bilateral aid to Honduras, plus US\$750 million of regional funds to Central America to support the 'Alliance for Prosperity Plan', as well as additional money from the Department of Defense.²¹⁶ A lack of transparency makes it unclear how this aid is spent and how much is channeled through IFIs. What is clear is that US contributions to the Alliance for Prosperity vastly increase security aid to Honduras.

US aid also drives the current development model by demanding Honduras establish 'governance policies that

attract foreign investment, increase modernisation and privatisation, and encourage the adoption of regional energy solutions.²¹⁷ Fifty per cent of US direct funding to the Honduran government is in theory conditional on its meeting human rights obligations, including allowing activists ‘to operate without interference’.²¹⁸ Incredibly, after a year in which 14 land and environmental activists were killed and numerous others threatened, the US State Department still approved the disbursement of funds in October 2016.

In 2016, the Honduran military and police received US\$18 million in US aid, in spite of their abuses against activists.²¹⁹ An ex-member of a US-trained Honduran army unit claims that the military hold a hit list of human rights activists, while two soldiers are currently being prosecuted for the murder of Berta Cáceres.²²⁰ Her organisation COPINH has denounced the infiltration by a military spy, and the police guarding the Agua Zarca dam has been accused of threatening local community members. In response to military and police abuses, the Berta Cáceres Human Rights in Honduras Act has been tabled in the US Congress, calling for the suspension of US security aid to Honduras until abuses by security forces cease and perpetrators are brought to justice. The law, if passed, could represent a milestone in conditions on US aid that could force countries to clean up their act.

INTERNATIONAL FINANCIAL INSTITUTIONS

A recent damning UN report on the situation in Honduras asserted that International Finance Institutions (IFIs) share a responsibility for human rights abuses associated with the projects they invest in.²²¹ IFIs contribute by financing business projects such as hydroelectric dams and agribusiness whilst pressuring recipient states to alter their regulatory frameworks.²²²

The World Bank’s International Finance Corporation (IFC) is particularly active, and has been associated with a number of controversial investments:

➤ Between 2007 and 2011, the IFC provided US\$86.5 million to Ficohsa Bank, coinciding with the bank’s investment in the Indura Hotel, which has led to clashes with local Garifuna communities.²²³ In October 2015, OFRANEH, an organisation representing the Barra Vieja community, filed a complaint with the IFC because of its financial support for Ficohsa Bank.²²⁴ In the complaint it is alleged that IFC’s investments have led to ‘land grabbing, community displacement, lack of economic benefits and environmental degradation’.²²⁵

➤ In 2009, the IFC invested US\$30 million in the Dinant Corporation, an agribusiness giant accused of involvement in the killings of small-scale farmers opposing palm oil plantations in the Bajo Aguán region. Dinant strongly denies any direct or indirect involvement

in death squads or human rights violations. The IFC has since admitted failing to implement its own social and environmental policies when approving the loan.²²⁶

➤ More recently, the IFC invested US\$30 million in the La Vegona hydroelectric project – which in July 2016 provoked community demands for a fairer share of the profit.²²⁷

The US is the largest single IFC shareholder, followed by Japan, Germany and the UK.²²⁸ The Overseas Private Investment Corporation (OPIC), the U.S. Government’s development finance institution, also has a US\$22.5 million investment in FICOHSA bank, which backs two of the businesses featured in this report that have been accused of human rights abuses: the Indura Beach resort and agribusiness giant Dinant.²²⁹

The Inter-American Development Bank (IDB) also has a big stake in Honduras’s development. Almost 90 per cent of IDB loans to Honduras are to finance energy, trade and ‘modernisation’.²³⁰ Between 2008 and 2015, it granted at least US\$562 million to the Honduran state for investment in electricity production and renewables, particularly through the expansion of hydroelectric projects.²³¹ The bank also finances numerous agribusiness projects.²³² The US, Argentina, Brazil, Mexico and Canada are the most influential shareholders in the IDB.

The Central American Bank for Economic Integration (CABEI), the Dutch development Bank FMO, and the Finnish Development Bank, Finnfund are all investors in the controversial Agua Zarca dam. As detailed in case study 2, numerous members of COPINH, including its head Berta Cáceres, were attacked, harassed, criminalised or killed for opposing this project. Since a current employee of the company that owns Agua Zarca was arrested for the murder of Cáceres, FMO and Finnfund have committed to withdraw from the project. And yet, they had turned a blind eye to the many public threats received by Cáceres over the years. A recent UN report found that investors repeatedly failed to reassess their support even when activists had suffered grave attacks.²³³

Access to information remains an obstacle to civil society organisations working to understand the role of IFIs in development projects, with very little documentation of investments available online.

RISKY BUSINESS: FOREIGN COMPANIES IN HONDURAS

Businesses and investors too have failed in their responsibility to protect activists, with associated risks to their own reputations and the fundamental viability of their projects. Under the UN guiding principles

on business and human rights, companies have an obligation to respect international human rights law – regardless of the state’s capacity or willingness to do likewise.²³⁴

The business case for acting to protect activists is also increasingly clear.²³⁵ Defenders’ local expertise is essential in helping investors to identify, prevent and mitigate human rights abuses and therefore also minimise related adverse business impacts and avoid financial and non-financial risks, such as legal, reputational, operational, and regulatory risks.²³⁶ Many features of a safe and enabling environment for defenders are strongly associated with a stable operating environment for business, with companies and defenders alike thriving in contexts of transparency, rule of law, non-discrimination, and freedom of association.

Markets and consumers often reward businesses which are proactive in managing environmental, social and governance risks, and which have a good reputation in regards to rights and ethics. Nonetheless in Honduras, businesses are more likely to undermine the security of defenders, either by attacking activists themselves or criminalising and delegitimising their activities.

Whilst international capital lies behind many of the projects, the majority of the businesses around which defenders are being threatened are Honduran. However, both the Honduran government and foreign embassies are preparing the ground for an increase in activity by overseas businesses in the country. Foreign direct investment (FDI) is on the rise²³⁷ and Honduran exports to the EU grew by 21 per cent in 2015.²³⁸ As well as having a free trade agreement with the US, Honduras also signed the EU-Central America Association Agreement in 2012 to boost trade links.²³⁹

The US remains the principal trading partner for Honduras, with bilateral trade totaling US\$9.8 billion in 2013.²⁴⁰ The US embassy in Honduras is promoting US investment in extractive industries in the country. One US mining firm, Electrum, is planning a US\$1 billion investment in Honduras according to the Embassy,²⁴¹ while another US mining company, Inception, operates the Clavo Rico gold mine in southern Honduras that extracts up to 1,000 tons a day.²⁴²

Mining is the principal focus of Honduras’s opening up to international business, with President Hernández declaring 2015 ‘The Mining Year’. By mid-2015, Honduras had received 333 applications for mining concessions,

exploration, and exploitation.²⁴³ This is of particular concern in the current context given that the mining sector is the biggest driver of attacks on land and environmental defenders globally.²⁴⁴ Ninety per cent of all foreign mining investments in Honduras are Canadian.²⁴⁵ Due to the abuses related to mining – as well as hydroelectric, logging, agribusiness and tourism – any potential investors should steer clear of these industries until security for activists is guaranteed, perpetrators of violence are prosecuted and laws are upheld.

WHAT NEEDS TO CHANGE FOR AID AND INVESTMENT

The US and other donors should review their aid policies to Honduras, guaranteeing that they are not encouraging or financing industries which put activists at risk. They should guarantee greater transparency around aid and channel funds away from security forces and towards strengthening the judiciary and empowering civil society. Honduras is clearly not complying with the human rights stipulations which currently condition US aid, and 50 per cent of direct funds should be withheld accordingly until compliance is guaranteed. The US should also use its influence over IFIs to ensure they are not complicit in funding industries which cause attacks against defenders.²⁴⁶

It is paramount IFIs speak out against attacks on defenders and ensure that robust policies are developed and implemented regarding how they will guarantee constructive dialogue with local communities. They should act to prevent threats against land and environmental defenders and respond when aggressions occur. They should also review their ongoing and planned investments in Honduras, freezing funding wherever serious claims occur regarding attacks against defenders or a failure to consult with local communities. It is vital that complete information on projects is accessible to local communities.

Given the current context of corruption and human rights abuses it would be irresponsible for foreign companies to increase operations in the Honduran industries at the center of violence against activists, namely mining, hydroelectric, logging, agribusiness and tourism. To do so would pose both operational and reputational risks to their business and encourage further attacks against activists. There are a range of actions which businesses already operating in Honduras can take to contribute to a safer environment for defenders.²⁴⁷