

WHAT'S DRIVING THE ATTACKS? CORRUPTION, A LACK OF CONSULTATION, AND A FAILURE TO PROTECT ACTIVISTS

Threats and attacks against land and environmental defenders in Honduras do not occur in a vacuum. Without the widespread corruption currently characterising government and the natural resource sector, abusive projects could not go ahead so easily, and impunity for those responsible would not flourish. The fact that communities are rarely properly informed about projects or consulted on the use of their land breeds conflict which puts activists, and ultimately investments too, at risk. The Honduran government has completely failed to put in place adequate protection policies and prosecute the perpetrators of violence, some of whom are state actors.

But Honduras is not a failed state and has, on numerous occasions, demonstrated that it can tackle the issues outlined in this report, when high-level officials have the political will to do so. For example, and as documented in some of the case studies above:

- On 10 June 2016, Norman Gilberto Ochoa, a high-ranking official at the Ministry for Natural Resources and the Environment was found guilty of having approved an environmental license for La Aurora dam without consulting indigenous groups, thus breaching international law.¹⁸⁷
- On 6 May 2016, five men were charged for the killing of Berta Cáceres, one of Honduras's most prominent environmental and indigenous rights activists,¹⁸⁸ and in September 2016 and January 2017 a sixth and seventh person were also charged with her murder.¹⁸⁹
- The ex-mayor who granted the Agua Zarca dam's licence is currently facing charges for failing to consult with Cáceres' organisation COPINH and Lenca indigenous communities.¹⁹⁰
- In December 2015, a Honduran soldier was sentenced for COPINH member Tomas García's murder.¹⁹¹
- In November 2014, Wilfredo Fúnez, LenirPérez's security chief, was sentenced to three years in prison for kidnapping the international observers assigned to protect Concepción Gutiérrez.¹⁹²
- National Party mayor David Zaccaro, associated with Pérez's Buena Vista I mine, is currently being investigated for embezzlement of public funds during his time in office.¹⁹³

- In Tolupan territory, ex-local mayor for the ruling National Party, Arnaldo Ubina Soto, is currently in jail accused of leading a gang of hitmen involved in drug-trafficking, murder and money laundering.¹⁹⁴

- Ex-army general Filánder Uclés is currently facing charges for continually threatening Tolupan community members to leave their lands.¹⁹⁵

- 64 community members, as well as their leaders, from the Garifuna community of Barra Vieja had charges of 'illegal squatting' dismissed by local courts who ruled in favour of their rights to their ancestral lands.

And yet, sadly these examples stand out because they are so unusual. The norm is that corruption means projects that wouldn't otherwise get approval, get the green light. Authorities turn a blind eye to illegal acts, particularly the failure to get consent for projects that impact indigenous peoples. Finally, the government neglects to protect activists from threats, legal cases and in the worst cases, murder. Through their inaction, and sometimes their active involvement, the Honduran authorities are complicit in the attacks against land and environmental defenders. It is high time that President Juan Hernández urgently addresses these root causes and guarantees a way of doing business which respects the voice of defenders and protects the rights of his citizens.

Women human rights defenders working on land and environmental issues face additional risks due to gender discrimination. © Giles Clarke/Global Witness



THE FACILITATORS: CORRUPTION AND IMPUNITY

Honduras is beset by entrenched corruption, and by the unscrupulous self-interest of many of those with a purchase on the reins of power or with financial or political influence. Five principal methods of corruption reoccur throughout the cases investigated by Global Witness, which are used to acquire official access to land, to buy or silence opposition, and ultimately to get away with murdering those who get in the way.

Firstly, **political influence** is used by the elites to land lucrative contracts, gain official licenses and get projects underway. This is clear from many of the cases in this report, including the Los Encinos and La Aurora dams, which are controlled by the husband of the president of the National Party, Gladis López (see case study 1). Secondly, legally-established **processes are routinely ignored** without consequence. A series of processes and permissions are required for most megaprojects to go ahead, yet – as shown by the case of the Agua Zarca dam – even where international financing is in place, businesses are allowed to bypass these in the pursuit of quick profit (see case study 2).

When communities question these shady deals a third tactic comes into play: large **bribes** are offered to activists to keep quiet. César Alvarenga, a well-respected community leader in Nueva Esperanza, said that businessman Lenir Pérez offered him whatever he wanted to stop opposing the construction of the Buena Vista I iron oxide mine (see case study 3). Accusations of bribery are rarely investigated, in spite of President Hernández's promise to combat corruption. When payoffs don't work, project backers resort to force and often **enlist military support** to halt defenders. The involvement of the military in the killing of Berta Cáceres and her compatriots is a grim example of this (see case study 2).

Finally, **impunity** is the oxygen provided to perpetrators by the justice system. Those inflicting violence are not held to account, and reports of threats or attacks are rarely investigated. The failure of authorities to prosecute those responsible for attacks on the Tolupan community in San Francisco de Locomapa, as identified by the Inter-American Commission on Human Rights (IACHR), exemplifies this starkly (see case study 4).

In spite of its international commitments to the contrary, Honduras has neither a special prosecutor nor a specific investigative protocol for crimes against human rights defenders, and the national human rights protection programme lacks sufficient staff and resources.¹⁹⁶ The special prosecutor's office for indigenous rights has the potential to act as a mechanism for obtaining access to justice but according to UN experts, it lacks the financial and human resources to do so. Meanwhile, the newly-established Organisation of American States (OAS)

Mission to Support the Fight against Corruption and Impunity in Honduras could represent a crucial catalyst in tackling corruption, but the Honduran state has so far failed to allow it to fulfill its mandate without interference (see 'The MACCIH' box on page 30).

ATTACKS AGAINST WOMEN HUMAN RIGHTS DEFENDERS

Women human rights defenders working on land and environmental issues face additional risks due to systemic gender discrimination. They suffer from specific harassment, repression and smear campaigns, facilitated by the context of discrimination already facing women in Honduras. Verbal and sexual assault are also used to silence their opposition to business projects affecting their land and source of livelihood. Environmental damage caused by these projects impacts women's capacity to provide food and water for their families and communities. With the theft of their land, the work that women are already expected to do to support their family, increases. As a result, many women have become leaders in defending their communities; bucking stereotypes, challenging gender discrimination, raising their profile and exposing them to greater risk. Discrimination and violence within their organisations, communities and families can make their role less visible and increase their vulnerability.

In Honduras, women defenders challenge deep-seated social and cultural norms that expect women to play a passive role in an overwhelmingly patriarchal society. Honduran women activists have reported harassment, stigmatization, physical and verbal abuse, threats of sexual violence or death, criminalisation and murder. Our case studies show how women defenders have faced numerous attacks linked to their struggle against natural resource projects.

- Indigenous activist Ana Miriam and her sister-in-law Rosaura were hospitalised and suffered exponentially from the brutal police raid on their home; they were pregnant at the time.
- Concepción Gutiérrez received death threats for refusing to sell her land. An international human rights observer assigned to her protection was sexually harassed by armed men.
- Consuelo Soto's life was threatened for opposing illegal logging in her community. She is now living in hiding after her house was peppered by bullets.
- Berta Cáceres was killed by gunmen linked to a dam project she opposed. Before her murder, she was threatened with sexual violence.



The demands of Honduras' indigenous people are routinely ignored. © Giles Clarke/Global Witness

THE ROOT CAUSE: A LACK OF COMMUNITY CONSULTATION AND CONSENT

As we have seen throughout this report, a major failing of the Honduran authorities, and the businesses with whom they work, is their routine lack of consultation with indigenous or local communities at the outset on decisions regarding their land. This in turn is what places so many environmental defenders at risk, because they are forced belatedly to challenge projects that are already underway, rather than realising their rights to participation and to free, prior and informed consent. Approval of the Los Encinos dam was riddled with illegalities, whilst the La Aurora hydroelectric project went ahead without any consultation whatsoever. The mayor who granted the Agua Zarca dam project's licence is currently facing charges for failing to consult with Lenca indigenous communities, and mining and logging operations continue in Tolupan territory without community approval.

“If communities and environmental defenders were active partners in the design of projects from the very beginning, it would make them less vulnerable to attacks later.”

– UN special rapporteur on human rights defenders¹⁹⁷

A recent UN report called upon states, businesses and investors to prevent attacks against defenders by guaranteeing their participation in all aspects of decision-making around development projects.¹⁹⁸ In Honduras, both international and local municipal laws guarantee communities the right to be consulted on the use of their land. However, these rights are not being protected, exclusion is the norm, and companies, the government and foreign investors are failing to engage meaningfully with affected communities and local activists.¹⁹⁹ For example, the UN recently highlighted mass violations of international law on free, prior and informed consent with the authorisation in 2010 of 21 hydroelectric projects affecting indigenous communities.²⁰⁰

National laws and practices must change in order to guarantee the right of communities to meaningfully participate in all decisions which might affect the possible use or abuse of their land, natural resources and environment. Investors and businesses, meanwhile, have a responsibility to uphold the highest standards in consultation and consent.²⁰¹

THE MACCIH: OAS MISSION TO SUPPORT THE FIGHT AGAINST CORRUPTION AND IMPUNITY IN HONDURAS

In January 2016, the Honduran government signed an agreement with the Organisation of American States (OAS) allowing an independent and autonomous body to work towards combating corruption and impunity in the country. Whilst the mandate of the Mission to Support the Fight against Corruption and Impunity in Honduras fell short of the Guatemalan model favoured by protesters, it could nonetheless combat the roots of abuse, so long as the government allows it to.²⁰²

The mission, known by its Spanish acronym MACCIH, is headed by five international experts and employs a team of prosecutors, judges and forensic specialists to investigate cases of corruption. It can also propose legal and institutional reforms, monitor their implementation and encourage compliance with other OAS recommendations. The MACCIH's jurists must follow the evidence to the highest levels if this historic opportunity for systemic change is not to be squandered.

In order to strengthen the fight against corruption and impunity in Honduras:

- The MACCIH should investigate at least one high profile case of corruption in the natural resource sector, including the identification of intellectual authors and chains of command in attacks against land and environmental defenders.
- The MACCIH should build upon its existing efforts and increase the involvement of civil society in its work, including through broad, iterative and country-wide consultations ahead of policies and activities.
- The Honduran government must cooperate fully with the MACCIH, allowing the body complete and prompt access to the information it requires, and implementing its recommendations.
- Foreign states and international institutions should do everything possible to provide the MACCIH with ample resources to operate and to encourage the Honduran government to cooperate.

INTERNATIONAL AND HONDURAN LAW ON FREE, PRIOR AND INFORMED CONSENT

Outlined in the International Labour Organization (ILO) convention 169 on indigenous and tribal peoples - which Honduras has ratified - free, prior and informed consent (FPIC) is the right of indigenous peoples to make free and informed choices about whether and how their land and natural resources should be used and developed. According to the UN, indigenous peoples should not be coerced or intimidated, their consent should be sought and freely given prior to the authorisation or start of any activities, they should have full information about the scope and impacts of any proposed developments, and ultimately their choices to give or withhold consent should be respected.²⁰³

The UN declaration on the rights of indigenous peoples establishes that 'Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return'.²⁰⁴ Meanwhile article 25 of the UN's international covenant on civil and political rights, which has been ratified by Honduras, guarantees the right of all citizens to participate in public affairs.²⁰⁵

The Honduran Congress is currently drafting a law regarding the FPIC of indigenous and Afro-Honduran peoples. It is of vital importance that this law reflects the proposals which these communities have put forward,²⁰⁶ as well as incorporating international standards and experiences.²⁰⁷ To be effective, the law should establish

that 'prior' means before bidding for licences and land takes place; that a consultation ought to occur before any significant change or phase in a project and that the right to reject a project outright is guaranteed.

However, a number of other measures are also required if Honduran communities are to have a greater say in the use of their natural resources:

- Where doubts exist regarding the quality or authenticity of community consultation or indigenous consent, business projects should be stopped immediately until a free, prior and informed consultation provides the local consent necessary.
- The Honduran state and businesses must guarantee the participation of local communities and human rights defenders in impact assessments and policies pertaining to energy, sustainability human rights and the environment.
- Policies on transparency and access to information must be strengthened and implemented across the board: from the details of US aid and investment, through the nature of IFIs investment in renewable energy, down to the organisation of local environmental impact assessments.
- Honduras must strengthen land titling policies, increasing budget for the National Agrarian Institute's land-titling programme, and complying with the Inter-American Commission on Human Rights' decision on Triunfo de la Cruz guaranteeing the land rights of Garifuna peoples.

THE RESPONSE: A FAILURE TO PROTECT

Almost all of the activists whose murders are described in this report had reported that they were in danger and had already asked for protection. Of particular note are the defenders who have been granted emergency protection by The Inter-American Commission on Human Rights (IACHR). Since 2006, Honduras has been ordered by the IACHR to implement emergency protection in 49 cases. Shockingly, 13 of the beneficiaries have been assassinated and 99 per cent do not believe their security is guaranteed.²⁰⁸ A recent civil society report argues that the biggest obstacle is the government's 'lack of political will to comply'.²⁰⁹

In May 2015, in response to concerted advocacy by local and international civil society, Honduras passed the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners (See 'Honduras' human rights defender law' box below).²¹⁰ The law foresees the establishment of a protection mechanism to assess requests from at-risk

defenders, assigning them protection according to the dangers they face. The various protection measures included in the law's regulations have the potential to help overcome the historically narrow and ineffective response by the state. However, there were numerous deficiencies in the rushed legislation²¹¹ and although recently approved regulations address some of these²¹² a clear lack of political will means that the necessary staff, resources and political backing are absent, rendering implementation effectively impossible.²¹³

If the Honduran government is serious about ending the abuse of environmental activists and indigenous populations at the expense of unscrupulous developers and corrupt politicians, it must do more than propose laws and pay lip service to regional or international regulation. It must ensure protection is guaranteed, laws are enforced and those responsible for attacks are publicly held to account. Failure to do so will ultimately undermine the country's reputation and its drive to attract investment, by making the context too lawless and risky for respectable companies.





Julia Francisco Martínez's husband was killed for defending the ancestral lands of the Lenca people. © Giles Clarke/Global Witness

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