

Protest and Violence over the Agua Zarca dam

Report on the Agua Zarca Dam, Rio Blanco, Honduras
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In January 2016, Jordy Willems and Anne de Jonghe visited Honduras. Jordy took a gap-year in between his in Political Science and a master Political Economy at the University of Amsterdam. Anne is finished her masters in cultural anthropology at the University of Utrecht a year ago. During a month, they did research on the Agua Zarca Dam Project, partly financed by FMO, the Dutch development bank (51% state owned). Although most of the media in the Netherlands have silenced about the case since 2014, the conflict remains to be a hot topic in Honduras. This report is intended to inform interested parties about the recent situation in Rio Blanco. When possible, credible sources are used to refer to. For further questions, you can always contact us through email: jordy.willems@gmail.com, annedejonghe@gmail.com. Jordy and Anne will be staying in the region until the end of April, 2016.

Content

1. Abstract.....	4
2. References to other reports.....	5
3. Progress of the Construction.....	6
4. FMO's reaction to a letter from BankTrack – January 31st 2014.....	8
5. The Dutch Minister's reply to a Member of the Dutch Parliament – 5th of January 2014.....	12
6. Consultation.....	15
7. FMO's visits to the region of Rio Blanco.....	18
8. DESA and the dam project's website.....	20
9. SERNA.....	21
10. Fiscalia de Etnias.....	22
11. Situation In the community of La Tejera.....	24
12. Incidents.....	27
13. COPINH.....	29

1. Abstract

In the past few years, FMO has been told repeatedly that there are serious problems in the the Agua Zarca investment. Although some amendments have been implemented for the better, FMO's management of the case is not good enough. There are clear signs that FMO did not take serious. This report is a summary of the outcomes of our research, conducted in January 2016 in Honduras. We aim to demonstrate that the mechanisms FMO uses to guarantee social and sustainable responsible investments do not work sufficiently. In the Agua Zarca case the poor indigenous inhabitants are pressured by FMO to proof their accusations of malpractices on the side of DESA, as well as the indigenous organisation COPINH, whom are constantly put under pressure by human rights violations, threats and a lack of means. The indigenous inhabitants, just as COPINH, have a huge deficit in power and economic resources compared to the Honduran government, the company owning the concession DESA and the Dutch bank FMO.

Most important findings:

- DESA has started the construction of the dam in October 2015, since then they have been constructing rapidly. The dam has been relocated to the other side of the river. According to the new plan, the land of the protesting indigenous farmers is no longer build on.
- The construction site is guarded. Among the guards are, alternately, private guards, military, police officers and dozens of *mochateros* (paid inhabitants from other communities carrying machetes, according to the opposition they are used to put up the appearance of conflicts between communities)
- In the community of La Tejera people are still very concerned about the construction of the dam. The inhabitant have no idea what the new plans are and fear for the dehydration of their river and thus their land. They are prepared to defend their river. Also, tensions within the community have increased tremendously, resulting in violence.
- COPINH, the indigenous organisation, is collecting all the necessities to file a complaint with the FMO ICM. Also, they are organizing a trip to the Netherlands and Finland.
- COPINH is under constant threat. Among other things, they mention car chases and the presence of *sicarios* (hitmen).

2. References to other reports

For an overview of the Agua Zarca situation until mid 2014, read the following reports:

- [– BankTrack](#)
- [– Rights Action](#)

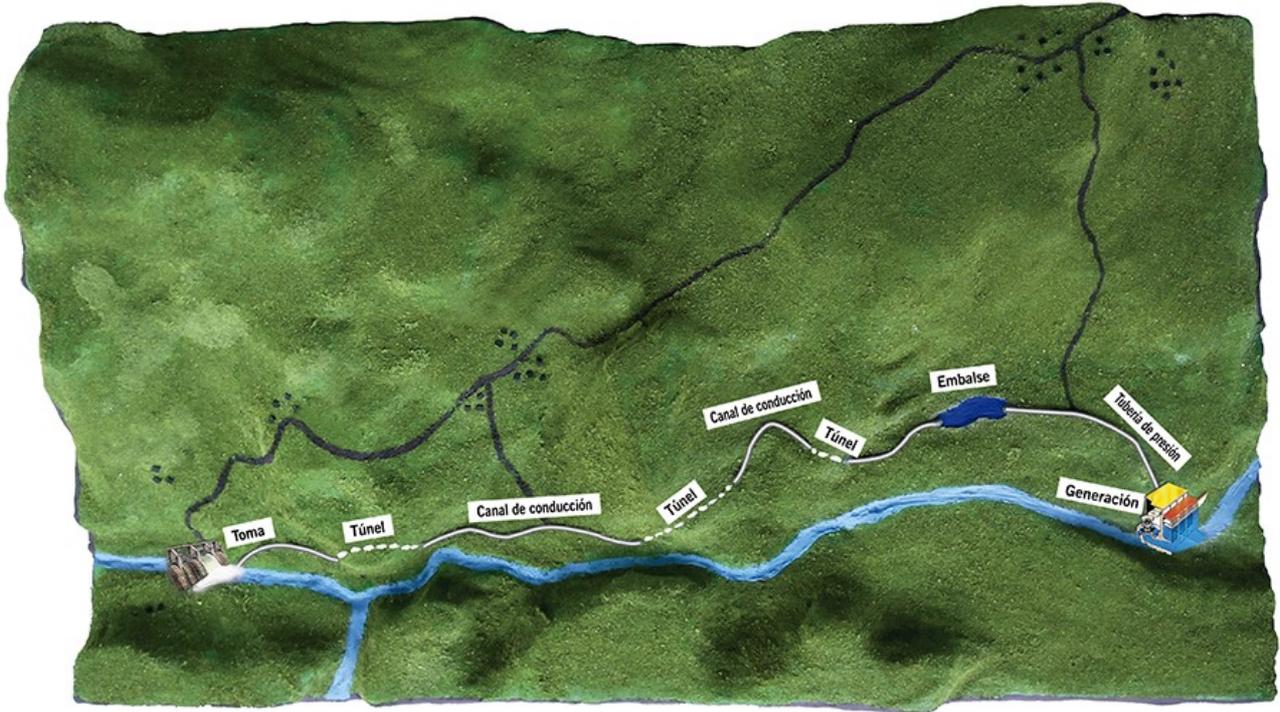
For information on the current situation of violence and human rights in Honduras, see the following reports:

- [– Visit of the UN Rapporteur on Indigenous Rights, end 2015.](#)
- [– Amnesty International Rapport 2014-2015](#)
- [– Human Rights Watch 2014](#)
- [– Commission of Truth 2013](#)

3. Progress of the Construction

After Sinohydro left, DESA started working together with the Honduran company COPRECA. The turbines are delivered by the German company Voith Hydro (joint venture of Voith and Siemens). In Germany, the Agua Zarca project has also been causing controversy. Since October 2015, the constructions on the dam actually took of, following the new project plans. In the new plans, the run-of-the-river dam has been relocated from the original east-side (belonging to La Tejera, Intibuca region), to the west-side of the river (Santa Barbara region). As visible on the drawing below, the current plan is to build a complex of tunnels, through which (a part of) the river is diverted to a reservoir with the size of two football fields. Subsequently, the water will fall through turbines, in order to return to the original river a couple of kilometres further. At this moment, construction is taking place on several locations (see pictures). Some forest has been cut down to create room for the canal and the reservoir. Also, an unpaved road has been constructed, parallel to the river, to let machinery access the site. DESA controls who enters. The site is surrounded by a fence and is being guarded by several people. Aside from the armed guards in their black uniforms, police and military are present as well.





Website Agua Zarca: <http://hidroelectricaaguazarca.hn>

Note that above is West, down is East

During our visit at the Gualcarque river, we were accompanied by inhabitants of La Tejera and Brigitte Snyder of SOAW¹. We could reach the river from the east-side without any trouble, by using the access road that was built by DESA in 2012-2013. This road is no longer used by DESA, as the new construction site is only accessible from the other side of the valley. From where we stood, we had a good view on the other (higher) riverbank, where a surveillance post is situated. Upon our arrival, only 3 armed guards were standing here. After some time, DESA's head of security came to check the situation and started calling some people. Again after some time, some police officers and a dozen 'mochateros' appeared. According to multiple inhabitants of La Tejera, these people come from nearby communities and are paid by DESA to stand there. Some come from San Opalaca XXX. They are getting paid (L200 a day and meals) to guard the site, while armed with machetes. During our visit, the attitude of the people of La Tejera is calm. Everybody observes the other side and some women and children prepare lunch.

¹ School of the America's Watch – <http://www.soaw.org>

4. FMO's reaction to a letter from BankTrack – January 31st 2014

As a reaction to several accusations made by the Dutch NGO BankTrack, FMO sends a letter to BankTrack in January 2014. In this letter, they note to be surprised by the grievance accusations, especially because of a lack of proof. However, while refuting the accusations, FMO fails to come up with proof either. Below, some statements by FMO are reconstructed, provided with a response by us.

'This [consultation] process for Rio Blanco communities was undertaken in 2011 and finished with the signature of a commitment letter between DESA and the communities of Rio Blanco on 14th October 2011.'

This is incorrect. As shown by information that is given by FMO in the same letter, on October 14th, the agreement between DESA and the mayor of Intibucá was signed. On October 1st, the *cabildo abierto* took place, the meeting FMO is referring to. However, in this meeting the residents did not agree with the dam nor signed for it. Some did sign for their presence at the meeting.

[Regarding the charges pressed by COPINH against the mayor of Intibucá] *'For FMO to consider this statement proof this alleged malpractice from the Mayor's part would need to be evidenced from credible sources (e.g. judicial system in Honduras).'*

FMO considers the judicial system of Honduras to be a credible source, but the problem is precisely that this is doubtful²³.

'FMO however does recognize it was unable to speak to members of the opposition in La Tejera, even after many tries.'

Our experience shows that the people from La Tejera are extremely willing to speak about their situation. The vast majority is against the dam. The residents claim that FMO-

2 Amnesty International – Honduras. Failing to Implement Human Rights Commitments, May 2015

3 <http://cepr.net/documents/Main-International-Human-Rights-Subcommittee-2014-12-09.pdf>

representatives never visited La Tejera itself. They do recall a visit from foreigners (Monkey Forest Consultation) to the location of the road block, about 15 minutes by foot from the village. Because the residents from La Tejera have a bad relation with DESA, it is imaginable that they were not willing to make an appointment with them. If FMO depends on DESA for all its contacts in the region, this could be the cause for the failure of speaking with the opposition. In that case, FMO's lack of independent research and objectivity is preventing them from getting a clear picture of the situation.

*[BankTrack's] statement implies that all communities from Rio Blanco (El Barreal, La Union, La Tejera, Valle del Angeles and San Bartolome) were against the project. Besides from the fact that of these communities **only El Barreal and La Tejera are actually impacted by the project**, we spoke to the presidents of the patronatos (the community elected representatives) and some members of the community of all these communities of Rio Blanco (approximately 20 people) and this sentiment of opposition was only mentioned regarding La Tejera. As such FMO believes this statement is incorrect.'*

With this statement, FMO admits that only El Barreal and La Tejera will be directly affected by the dam project. Why it continues to rely on the support of several other communities in the region is therefore unclear. If only La Tejera and El Barreal are directly affected, as FMO states, fierce opposition in one of the two is extremely important and has to be taken seriously by FMO. Especially because La Tejera is far bigger than El Barreal, FMO admits that the 'sentiment of opposition was [...] mentioned regarding La Tejera', it is naïve that FMO does not see this as a serious problem.

In reply to BankTrack's accusation of DESA (with government's help) to the criminalisation of COPINH, FMO states:

'We feel this is a grievous accusation to the Honduran Government and DESA. For such serious statements to be made, please do provide evidence from an independent and recognized party such as the Judicial System of Honduras for FMO to consider. It is not enough that COPINH makes these statements. In addition, our meetings with community members, the founder of COPINH and some of his current members, government officials, other indigenous groups and a religious institution have not confirmed this.'

FMO did not speak with an active part of COPINH. Instead, they spoke to a former member, that is no longer part of COPINH and does not represent the residents of La Tejera. They did not speak with any of the current members.

'As explained before, FMO met with people from El Barreal including the presidentes del Patronato that are elected by the community to represent them, independently if they are Lencas or not Lencas. FMO also met with the presidentes del Patronato as well as members of their community from the remaining Rio Blanco communities. From La Tejera, there were some community members including the former president del Patronato until he was deposed recently, according to him, for no longer supporting COPINH.'

It is strange that FMO has been able to speak with people from El Barreal, but was not able to speak with the opposition from La Tejera. La Tejera is only about 15 minutes further from El Barreal by car. As DESA organised the meetings between FMO and 'the residents of Rio Blanco', only a specific part went to El Barreal to join the meeting FMO is talking about. As only some dozens of families live in El Barreal, of which several are closely tied to DESA, it is not surprising that FMO found little opposition during this visit. The deposed *Presidente del Patronato*, which is mentioned here, has not been deposed because of his lack of support to COPINH, but because he suddenly changed his mind about the dam project and became in favor of it, according to the residents of La Tejera that deposed him. They suspect he was bribed. The Patronato is democratically elected by the community and the deposition of the Presidente may be executed for any reason whatsoever, as long as there is enough support in the community. The election of the Patronato is solely a practice of the community itself and has nothing to do with COPINH.

'As explained earlier we agree that destroyed crops and damaged property should be properly compensated. [...] For community members that have suffered damage to their property and/or their crops, the grievance mechanism is there to ensure these are taken into account and adequately compensated for.'

During our visit, we spoke to several people who's fields were damaged. They stated they

still not have been compensated in any way.

5. The Dutch Minister's reply to a Member of the Dutch Parliament – 5th of January 2014

Reacting on an article on Agua Zarca, that appeared in a Dutch newspaper⁴, Member of Parliament Jasper van Dijk files questions to the Minister of Foreign Trade and Development, Mrs. Ploumen, on May 9th 2014. These questions were answered on June 5th by the Minister⁵. The answers show that Minister Ploumen believes FMO's statements and that she has no reason to decide the bank should withdraw from the project. Some statements from the Minister are reflected below, provided with commentary.

'In the area where the dam project is being developed, there are 9 villages, of which 5 belong to Rio Blanco. In 2011, DESA (the executing company) consulted all 9 villages, in which became clear that at that moment all villages had a large majority in favor of the project. This outcome was underscored with a commitment, signed by both DESA and the villages. In a later stage, the opinion of one of the villages, La Tejera, changed. During a demonstration by residents of this village, a person was killed.'

Firstly, it is unclear why 9 villages are mentioned when the 'area in which the project is being developed' is at stake. As FMO stated earlier, only El Barreal and La Tejera are directly affected by the project, so it is unclear why the opinion of other villages would matter equally as the opinion of these two directly affected villages. It is incorrect that the opinion in La Tejera changed, the residents have always been against the dam project. The Minister draws an incorrect picture of the situation. Moreover, the Minister admits DESA organised the consultations, not the government that is obligated to do so.

'FMO has been informed comprehensively by all related parties, including several local NGO's that represent the interests of the indigenous people of Honduras.'

The Minister is incomplete by not explicitly stating which organizations informed FMO. By

4 <http://www.volkscrant.nl/archief/een-stuwdam-een-moord-en-een-nederlandse-bank~a3649477/>

5 <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2014/06/05/beantwoording-kamervragen-over-het-bericht-dat-ontwikkelingsbank-fmo-doorgaat-met-een-omstreden-stuwdamproject-in-honduras/beantwoording-kamervragen-over-het-bericht-dat-ontwikkelingsbank-fmo-doorgaat-met-een-omstreden-stuwdamproject-in-honduras.pdf>.

far the most important organization that represents indigenous people in this part of Honduras is COPINH. FMO did very little to speak to COPINH, while they play a major part in the case.

'FMO does acknowledge that DESA should have better managed the local expectations. According to FMO this is not because of bad intentions, but because of DESA's inexperience in dealing with complex social situations and associated deficient communication. Also, DESA's complaint mechanism was not adequately set up. Partly because of comments from FMO, conditions have been improved.'

At the time of writing this report, only a couple of weeks after our departure from Honduras, a lot of information suddenly appeared on the project's website. Now, it looks like DESA really set up a complaint mechanism⁶. However, at the time we left Honduras, the residents of La Tejera were not aware of the mechanism. Most communities do not have access to the Internet or computers, and we seriously doubt if they have been informed by DESA. Moreover, these documents were only available on the website since the end of January 2016, more than one and a half year after the statements of the Minister. The improvements thus were not implemented yet at that moment, but only now that the construction has started. If DESA is inexperienced with these kinds of complex social situations, FMO should have been more involved in an earlier stage to prevent trouble.

*'In order to prevent further conflict, DESA decided to change the project design, in which La Tejera will be entirely avoided. However, the offer of DESA to the people of La Tejera to make use of the social provisions of the project (improvement of roads, **free** connection to the electricity network, education and employment) is still open.'*

The adaptation of the project design does keep the dam from being build on La Tejera fields, but does not keep La Tejera from being affected. An unknown part of the river will be detoured, which is likely to cause drought of the fields. Also, to the indigenous Lenca people, the river is part of strong spiritual beliefs. A dam in the river will molest the spirits

6 http://hidroelectricaaguazarca.hn/assets//documentos/MECANISMO_DE_QUEJAS.pdf

that live in the river. The Minister's statement that La Tejera will be avoided entirely, is therefore incorrect.

The social provisions are by no means accessible for the people of La Tejera. On the contrary, where communities on the west side of the river are being supported with road improvements, employment and schooling, such projects are being obstructed in La Tejera, as is made clear elsewhere in this report.

At the moment, part of La Tejera is connected to the electricity network. However, the residents state that they had to pay for this connection, it was not free of charge as stated by the Minister.

Communication between DESA and the residents of La Tejera has not improved since the statements of the Minister. Although DESA is required to continuously inform the people that are affected by the project, all people we spoke stated they do not have any idea on the exact plan. DESA should inform and should have informed the people directly.

'The suggestion that the Chinese firm Sinohydro decided to withdraw from the project, after activist Tomas Garcia was shot in the summer of 2013, is incorrect. DESA terminated the contract with Sinohydro, because Sinohydro did not follow their agreements and acted carelessly, because of which damage had been done to the local residents' fields. This violation of the agreements partly was the reason for the protests, as stated by DESA. FMO has no reason to doubt this.'

Although DESA stated they terminated the contract with Sinohydro, Sinohydro claims the opposite⁷. It is unclear on what grounds both FMO and the Minister believe DESA's statement for not being responsible for the damage of residents' fields.

7 <http://business-humanrights.org/en/honduras-agua-zarca-dam-construction-leads-to-violence-intimidation-against-lenca-indigenous-communities-ngo-says>

6. Consultation

Both COPINH and the indigenous inhabitants of the area claim that the right on free, prior and informed consult (FPIC) has been violated by all parties that were involved in the realisation of the dam.

In an e-mail conversation, FMO states the following:

'Please note that Free and prior informed consent (FPIC) is to be obtained in case indigenous peoples will be removed from their lands (as per ILO Convention 169) or relocated from their customary or traditional lands (as per IFC Performance Standard 7), or forcefully removed from their lands (as per UN Declaration on the Rights of Indigenous Peoples). In addition, the latter requires governments to obtain FPIC prior to approving a project affecting their lands, territories or resources'.⁸

ILO Conventie 169, however, notes the following:

'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'.⁹

Thus, ILO Convention 169 requires FPIC in all cases that involve changes on indigenous territory. Moreover, it requires governments to perform the FPIC process, not private parties that hold interests in the project.

The IFC Performance Standards, which requirements FMO tries to meet, state that clients are always required to abide national and international law:

'In addition to meeting the requirements under this Performance Standard, clients must comply with applicable national law, including those laws implementing host country obligations under international law.'¹⁰

8 E-mail conversation between Jordy Willems and Marleen van Ruijven (FMO's Officer for Sustainable Development), e-mail received on February 15th, 2016.

9 ILO Convention on indigenous and tribal peoples, 1989 (No.169): A manual. ILO, 2003: p. 15.

10 IFC Performance Standards on Environmental and Social Sustainability. IFC, 2012: p. 47.

A free, prior and informed consult has never been executed by the government of Honduras, prior to the granting of the dam concession. However, FMO states, just like DESA on their website, they have been meeting the FPIC requirements. In an e-mail conversation, they argue:

'FPIC was nevertheless obtained through a public consultation process that started in the Right Bank communities in 2011 and with Left Bank communities in 2014. Both processes terminated with the signing of a commitment letter mentioned in point 1 between the company DESA and the communities with government and community leaders as signatories of the letter'.¹¹

In earlier communication with NGO's, FMO stated:

'It is correct that DESA had already obtained the concession however this does not warrant the FPIC they obtained as void since DESA continued moving forward, to obtain this FPIC through the process of Informed Consultation and Participation , called in Honduras as "proceso de socializacion", prior to the start of the project. This process for Rio Blanco communities was undertaken in 2011 and finished with the signature of a commitment letter between DESA and the communities of Rio Blanco on 14th October 2011.'¹²

FMO thus admits DESA was the one leading the FPIC process and that this happened after administrative changes already had been made to the indigenous territory, namely the granting of the concession by the government. This process thus means a violation of ILO 169. Moreover, this process shows that FMO has an incorrect understanding of the requirements they and their clients have regarding this Convention. As FMO invests in many projects that are being carried out on indigenous territory, this is alarming.

What did happen in the name of a consultation process, were several meetings organised by DESA, in which all of them DESA was present, as far as we know:

January 16th 2011

11 E-mail conversation between Jordy Willems and Marleen van Ruijven (FMO's Officer for Sustainable Development), e-mail received on February 15th, 2016.

12 Letter FMO to BankTrack, January 2014.

DESA organised a meeting in La Tejera, which is called a *socializacion*. In the meeting, DESA explains the dam project to the community and tries to convince them to support the project. They promise a reduction of poverty, improvement of public health care and education and 300 available jobs. The community is clearly against the project and declares that it does not give its permission for further investigations of the territory by DESA.

April 11, 2011

In the beginning of April 2011, a tractor appears in La Tejera to begin construction on a road towards the river. The inhabitants of La Tejera block the road and keep the tractor from moving on. For this reason, DESA calls the mayor of Intibucá (this is the first time they have contact, although the whole project was to be constructed on Intibucá territory). On April 11th, the mayor organises a meeting in La Tejera, together with DESA. The mayor asks the community to agree with the dam, but they will not.

October 21st, 2011

This appears to be the meeting that DESA refers to as the one at which the inhabitants signed in favor of the dam. This was the *cabildo abierto*. DESA is present at La Tejera and several communities from Rio Blanco are represented. The subject of the meeting is a water source in La Tejera, that is suggested to be given to El Barreal, a small neighboring community. The inhabitants suspect this water to be intended for the DESA working camp and do not agree. Again, they state that they are against the dam project. When one of the attendants of the meeting asks who is in favor of the dam, only 7 people raise their hand. Part of the attendants signs a document to state that they were present at the meeting. Supplemented by some false signatures, this is the document that DESA refers to as a proof of the consultation process.

7. FMO's visits to the region of Rio Blanco

According to their website, FMO is officially investing in the Agua Zarca dam project since February 2014. In a BCEI report is mentioned that they played a leading role in structuring the finance of the project in 2012¹³. FMO aims to positively affect sustainability through their investments. It does not only maintain the IFC Performance Standards and Equator Principles themselves, they also require their clients to do so. FMO has several ways to guarantee their foreign clients are complying the CSR-guidelines¹⁴. In an e-mail conversation with Marleen van Ruijven (Sustainable Development Officer at FMO), she explains how FMO monitored the Agua Zarca project.

'First, FMO did research on the credibility of DESA by means of a Know Your Customer (KYC) procedure. Second, FMO carried out two due-diligence investigations before signing the contract, performed by both researchers from FMO and independent, international experts. Third, FMO assures they visit the project annually themselves, plus quarterly visits to DESA by E&S experts.

Below, we summarize the testimonies of both COPINH members and residents of La Tejera, related to these visits of FMO-representatives. Their stories show that both the people from FMO as their hired representatives did little effort to speak to members of COPINH and to visit the affected community of La Tejera. Moreover, it shows that FMO fully trusted DESA on arranging and managing the visits.

1st visit – end of 2013

Employees of FMO spoke with DESA and some people in El Barreal, which were invited by DESA. During the visit, they did not speak with COPINH, or with people from La Tejera. They did meet with an ex-member of COPINH. At the time, he had already stepped out of COPINH and had a bad relation with Berta Cáceres, COPINH's presidente. The man in question brought 6 Lenca people to the meeting, in order to represent COPINH. However they were from different communities outside Rio Blanco, and had nothing to do with the

¹³ <http://www.bcie.org/uploaded/content/category/1905796452.pdf> – pagina 37

¹⁴ <https://www.fmo.nl/esg-policy>

project whatsoever.

Monkey Forest Consultation

In 2014, people from Monkey Forest Consultation visited Honduras. They had contact and conversations with COPINH-members. Also, they went to Rio Blanco, but never went to the La Tejera community. They did appear, without permission, on the fields of its residents. At the spot, the residents again stated to be against the dam.

Second FMO visit – January 2015

While Berta Cáceres and other members of COPINH were in Tegucigalpa, accompanied by people of the Goldman Prize, she got a call from David Castillo (DESA's board president). He asked if she was available to talk to some people from FMO, who conveniently were staying in the same hotel. The two ladies, contracted by FMO, told Berta they unfortunately had not been able to visit La Tejera, because the road was in a poor state. However, Berta herself did travel to La Tejera in that same week. In the conversation, Berta stated she was firmly against the dam, just as the people she represented.

It seems that during their visits, FMO or its contractors failed to conduct independent research. DESA appears to be arranging the visits and therefore decides what FMO sees and which people they meet. Especially in case of a conflict, as is the case with Agua Zarca, FMO should not trust one of the conflict's parties blindly.

8. DESA and the dam project's website

DESA's website

A few days before finishing this report, serious adaptations were made to the project's website¹⁵. Since the end of January, many documents are accessible through the website, among which an explanation of the complaint mechanism. It is unclear why this happened suddenly. While there used to be little information on the website, it is now filled with stories and pictures that reflect the positive side of the project. For a couple of months now, DESA's own website is not functioning.

Credibility of DESA's board director David Castillo

FMO remains to trust DESA and their statements and findings. Moreover, they claim to have no reason to doubt DESA's good intentions. However, there is incriminating information available about DESA's board director, David Castillo¹⁶.

David Castillo Mejia has been charged and prosecuted for several violations of the law. First, he received salary in 2007 and 2008 from two different government jobs at the same time. From 2006 onwards, he worked as a sub-lieutenant at Military Intelligence. On May 21st, he also started working for the *Empresa Nacional de Energia Electrica* (ENEE), the national energy company. Although Honduran law allows one to lend services to other government institutions while working for the military, it is not allowed to receive a double salary. David Castillo did receive two salaries.

Second, David Castillo was the owner of an electronics company, DIGICOM. DIGICOM sold material to the Honduran government. By Honduran law, it is illegal for a government employee to sell products to the government.

Third, DIGICOM sold these products for a price that was above the market value. This too is not permitted by Honduran law.

In September 2009, David Castillo was found guilty to these three charges and was imposed with a fine.

15 <http://www.hidroelectricaaguazarca.hn>

16 Tribunal Superior de Cuentas: Informe No 066/2009-DCSD correspondiente a la Investigación Especial practicada en el Estado Mayor Conjunto de las Fuerzas Armadas de Honduras.

9. SERNA

SERNA is the national institute for the environment in Honduras, a public institution. SERNA is responsible for awarding the environmental license and conducting the associated research.

COPINH holds part of the original environmental research, which was conducted by SERNA in 2009. Because the plans have changed, the dam is now being constructed on the other side of the river, SERNA had to conduct a new research. Although the report should be a public document, COPINH has failed to obtain it, despite several attempts. SERNA refuses to hand it over to them.

We visited SERNA in the capital Tegucigalpa, hoping to be able to get a look at the new report. However, we were only able to glance over the original document, which still anticipated the dam to be on the east side of the river. The women at SERNA told us that the new report appeared to be at the Public Prosecutor's office, but she did not know where. Later, we received an official letter that stated that the report is not public.

10. Fiscalia de Etnias

On February 3rd, we had an appointment with Jany del Cid. She is the head of the Fiscalia de Etnias, the Public Prosecutor Office for Indigenous People in Honduras. The Fiscalia de Etnias is supervised by the general Public Prosecutor. They are responsible for all cases regarding indigenous people. Although Mrs. del Cid stated that 20% of the Honduran people are indigenous, only 3 prosecutors are working at the department.

Jany Del Cid tells us that her work is more like a social fight than being a lawyer. She has little resources and is not always taken seriously by her colleagues from other departments. Indigenous peoples are looked down on, they are seen as underdeveloped. Within the public ministry Jany del Cid has to explain again and again why indigenous law is important. Also, law students barely learn anything about indigenous rights. Del Cid states that judges in Honduras do not know anything about ILO convention 169.

On the other hand, indigenous inhabitants generally do not have much faith in the rule of law. Often, indigenous peoples do not file cases when their rights are violated: they lack faith in the rule of law, lack knowledge of their rights and lack resources to be able to travel to Tegucigalpa.

The reason why we wanted to speak to Jany Del Cid was that she understands the rights violated in the Agua Zarca case. Mrs. del Cid confirms some statements that we also heard in La Tejera and from people at COPINH.

- Before the dam project, there were never any violent-related reports from the Rio Blanco area, since the project started, such reports are made regularly.
- The government illegally granted DESA the concession: the government had to carry out a consultation process beforehand.
- COPINH sued a SERNA functionary for the granting of the environmental license to DESA, because a consultation process is required for this license too. This consultation did not take place. The lawsuit is still ongoing, but slowly. However, Mrs. del Cid expects that the punishment will be moderate, because the functionary has powerful friends.
- The mayor of Intibucá has been sued for abuse of his authority: he signed a document

that permitted the dam without consulting the indigenous inhabitants.

- In the process against the soldier that killed Tomas García and heavily wounded his son Allan the public persecutors have been intimidated. They were followed by strange cars and threatened.

In general Jany Del Cid states that the situation for indigenous people in Honduras is alarming and many territories are threatened by projects. Nevertheless, Jany also has hope for the situation of indigenous peoples, mainly because of the visit of the United Nations Special Rapporteur on Indigenous Rights.

When we asked Mrs. del Cid about her thoughts on the acting of FMO, she answered:

'I think nobody told FMO that the concession was illegally obtained and that there were so many problems in the community. In Europe, they follow high standards, so if they would know all this, they would not have invested.'

11. Situation In the community of La Tejera

La Tejera is one of five communities in the Rio Blanco municipality. La Tejera is the closest to the river. Moreover, their fields are situated next to the river, so they are likely to be most harmed by the dam. The exact number of inhabitants is unclear, but people in La Tejera estimate a thousand families. The people are very dependent on their land. The following reflects what people from La Tejera told us during our 3-day visit. We interviewed 9 people and spoke to a few dozen others quickly about the dam. When we went to the river, we were accompanied by more than 20 people. Of all the people we spoke, only one person was not clearly against the dam.

Over the past months, there have been many incidents in La Tejera. The violence in the community has risen sharply since the beginning of the dam project, especially the past year. Also, alcohol problems are more frequent. Small incidents are more likely to become bigger fights, sometimes with a deadly ending. Francisco, one of the community's chosen leaders, says: 'We used to look at each other as brothers. Now, we are divided, we live in war. The dam gives us nothing more than death.' Many of the incidents are appointed to the coming of the dam. People suspect DESA of infiltrating the community and paying people to hurt the opposition's frontrunners. This cannot be proven by any means, but it gives an idea of the tensed situation the community has got into.

Of the people in La Tejera that we spoke, all say they do not have a clear picture of the new plans of the dam. So, DESA did not inform the people of La Tejera, although this is their duty, as the community will still be affected by the project. There are rumours that DESA is building a tunnel, through which a part of the river will be detoured. If the plans are correct, it seems that exactly the part of the river that passes La Tejera will be detoured and fall dry. People fear that if the river dries up, the land will dry out; the humidity in the valley will change; the fish will starve and a food source will disappear; and a place for bathing and the performance of rituals will be lost.

'We will oppose until the end', some women firmly tell us, after Sunday's service. For the moment, the inhabitants of La Tejera, along with the inhabitants of the nearby

communities of San Bartolo, El Naranja, San Pedros and La Union, keep a close look on the progress of construction. The women stress they will not let DESA touch their river. On the other side of the river, many armed people have been seen: guards from DESA, policemen, the military, TIGRES (a special military unit that was trained and financed by the US) and *mochateros* (sometimes up to 70 people).

Again, people of La Tejera stress they never agreed with the dam project. They state there never has been a consultation. There have been a few meetings, organised by DESA, in which the people made their opposition clear. Besides, people state that there have never been FMO representatives in their community. However, there has been a meeting once at the site of the road block, a couple of kilometres out of the community.

Although FMO and DESA made several promises, the inhabitants state these are 'all lies'. The access road to the community was never paved, it was only damaged because of use by heavy machines. Schools have never been built. The village was supposed to be connected to the electricity network for free, but this has not been done. Some houses now have electricity, but they paid for the connection. Additionally, in the centre of the village stands a half-completed building, planned to be come a birth centre. The municipality was supposed to finance this, but they refuse to pay as long as the inhabitants won't sign an agreement with the dam. In 2013, crops were damaged by Sinohydro, contracted by DESA. Reputedly, both DESA and FMO have promised to compensate the affected people for the loss of their harvest. Until today, still nobody has received anything.

Only one person we spoke did not say to be firmly against the dam, although he did not say to be firmly in favor either. We had an uncomfortable conversation with him. He accused us of not obeying the law and working with people who do dirty businesses. He stated that several people of La Tejera do not obey the law and that, just like in the US, they should be punished with a lethal injection. Also, he believed that a line should be drawn in the middle of the river, which no one, not DESA and not the people of La Tejera, should cross. He thinks it is the government that is responsible for not consulting the people, not DESA. His accusations are vague and he does not want to give his full name.

Other inhabitants later tell us that José, as he introduced himself, sold his land to DESA in an early stage.

12. Incidents

Although not every incident is reported by the police, a book of incidents is kept in La Tejera. Also COPINH is trying to document incidents.

When constructions on the dam began in October, the opposition decided to camp by the side of the river, near their fields. From October 12th onwards, they guarded the Gualcarque river day and night. During these vigils, several incidents happened:

- October 12th: Delio Meza is being threatened and shot by Aquilino Madrid¹⁷, because he is against the dam.
- October 13th: After 10 pm, rocks are thrown on the camp site, with the intention to hurt people.
- October 14th: While people are fishing, DESA guards are throwing stones at them.
- October 15th: DESA guards build a camp on the other side of the river.
- October 15th: Around 11 pm, shots are fired on the other side of the river. This is repeated nearly every night from this moment on.
- October 16th: When Dionicio Gomez leaves the camp, heading home, he is being shot by Wilson and Julio Gonzalez.
- October 18th: TIGRES-military approach the camp.

In November, December and January there have been multiple incidents, among which death threats. On the 8th of December the son of one of the members of the *patronato* has been brutally killed. His head and stomach were ripped open with a machete. The suspect has been arrested. The motive of the murder remains unclear, as the victim and the suspect barely knew each other. The investigation had not yet started on the 22th of January. On the 28th of December a *sicario* was arrested in a bus, because he was illegally carrying heavy weapons. This man is known for an earlier murder. A couple of weeks later he has been released by a persecutor and a judge from Intibucá, they are supported with money openly by the security chief of DESA. In the first week of January, signs appeared along the Gualcarque river, on the side of La Tejera. These stated that the river was private property and bathing was forbidden. Also, some small paper notes were lying on the

17 The Madrid family has obtained its land in El Barreal by means of intimidation and coercion. For years there have been tensions surrounding this family, because of their appropriation of indigenous land.

riverbank. The 20th of February opponent of the dam gathered for a march. With more than 200 people they wanted to march to the river to protest the construction of the dam. During the march several people have been arrested, as well as threatened by the army and the police.



13. COPINH

Consejo Cívico de Organizaciones Populares e Indígenas de Honduras is the organisation in which the indigenous Lenca people are united. They represent around 200 communities. In some, they have big support, in others less. Overall, in most communities they can count on much support. In La Tejera a large majority supports COPINH.

At the moment, COPINH is working on filing an official complaint to FMO's independent complaint mechanism. The complaint will be based on the violation of the community's right to be consulted, and the construction of the dam, which is therefore illegal. The dam is being constructed under the same concession with which the project begun. The community has never been consulted for this concession.

COPINH is the victim of a campaign of criminalisation. Several websites are active that picture them as criminals or terrorists¹⁸. Besides, Berta Cáceres, leader of COPINH, has been accused of illegal possession of weapons some time ago. The police/military that arrested her, placed the weapon in her car. Due to the international attention that was drawn to the case, she was not prosecuted¹⁹.

Several members of COPINH talk about threats by *sicarios* (hitmen). In Honduras, it is not uncommon that such assassins are paid to threaten and/or kill defenders of human rights, members of the opposition or journalists. Also, it is noted that pursuit and patrol of unknown cars are regularly happening. Because there is lack of proof, it is difficult to file police reports.

18 <http://www.copinhhonduras.blogspot.com/>

19 <https://www.amnesty.org/en/latest/news/2013/11/honduras-human-rights-defenders-under-threat/>