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**ON INTERNATIONAL HUMAN RIGHTS DAY PBI HONDURAS URGES THE
INTERNATIONAL COMMUNITY TO MONITOR THE SECURITY SITUATION OF SMALL
SCALE FARMERS AND INDIGENOUS PEOPLES IN THE MUNICIPALITY OF SANTA
ELENA, DEPARTMENT OF LA PAZ, HONDURAS**

Peace Brigades International (PBI) is writing to you today to draw your attention to the security situation of the member communities of the Independent Indigenous Lenca Movement of La Paz - Honduras (*Movimiento Independiente Indígena Lenca de La Paz- Honduras* - MILPAH) in relation to the construction of hydroelectric projects in their territory. The Honduran Centre for the Promotion of Community Development (*Centro Hondureño de Promoción al Desarrollo Comunitario* - CEHPRODEC), accompanied by PBI since May 2014, provides advice to MILPAH in cases under litigation where negative impacts have been identified in relation to their rights to water, land and territory. PBI has observed patterns of attack in this case that are replicated in other regions of the country which have led to severe conflicts over land. In light of this situation, PBI considers that preventive actions should be taken and early warnings should be emitted, aimed at guaranteeing the respect, promotion and implementation of international human rights law.

Background

In the institutional crisis following the coup d'état, the Honduran Congress passed the General Water Law¹ that allows the country's water resources to be granted under concession to third parties. In October 2011, 47 concessions were granted under this Law without prior consultation with affected communities², which caused the rejection of these concessions by broad sectors in the affected areas.

Since its first visit to the country in May 2011, PBI has observed an increase in violence caused by the implementation of projects involving the exploitation of natural resources, particularly towards human rights defenders and community leaders. Along with these attacks, it has also been reported that there is a tendency to criminalize this group. These processes take place amid an institutional weakness in the judiciary due to the lack of firm guarantees for the independence and autonomy of justice operators.

Context

La Paz, Lempira, Intibucá and the south of Santa Barbara, are departments inhabited by the Lenca people. These territories are characterized by the existence of high rates of malnutrition due to the limited access that the communities have to natural resources. In the case of Chinacla River, which runs through La Paz and Intibucá, and supplies water to communities in seven municipalities, two concessions have been approved for the construction of hydroelectric projects: Aurora SA, in the municipality of San Jose, and Los Encinos SA, in the town of Santa Elena. This has led to tensions between the communities and the authorities in the area.

¹ Ley de Aguas (Decreto 181-2009)

² PBI Honduras: "The Defence of Human Rights: A high-risk activity". Project Committee Exploratory In Situ Visit, September 23 - October 7, 2012.

A bad precedent: In San José, hydroelectric projects have affected five municipalities in La Paz, where lands declared to be private and protected because they provide water to a number of municipalities, were fraudulently granted to businessmen³. Civil society asked the municipal authority to conduct a consultation in compliance with Convention 169; however, the company installed itself without this consultation ever having taken place. In 2011, members of the affected communities filed the corresponding complaints with the Office of the Prosecutor for Ethnic Groups and the Prosecutor for Anticorruption, alleging procedural violations in relation to the implementation of the project. CEHPRODEC is monitoring these complaints which remain unresolved to date.

In Santa Elena the project was installed on legally-registered common lands⁴ that had been occupied for more than five years by the Lenca indigenous people. The indigenous councils took action to recover the land as established in the Agrarian Reform Law. They oppose the Los Encinos SA project because they were neither informed nor consulted about it. In particular, they express serious concerns about violations of their rights to food and access to water, as well as harassment and criminalization against members of the communities and their families. They also report an increase in violence and social unrest in the affected communities.

Lack of reliable information about the concession of the river and surrounding areas

The population located in the project area has on many occasions requested detailed information from the Ministry of Natural Resources, but according to statements made by CEHPRODEC in conversations with PBI, the data provided is incomplete and inconsistent. Firstly there was no record of a concession in the municipality of Santa Elena but instead there was a record of a concession in San Marcos de la Sierra, in the department of Intibucá. On October 18, 2013, without explanation to the communities, the former mayor of Santa Elena, Alexis Ventura Vásquez, granted permission to conduct a feasibility study for the company "Inversiones los Encinos Sociedad Anónima de capital variable". According to the minutes of the Municipal Corporation of Santa Elena, the sole director of the company is Mr. Arnold Castro, husband of Gladys Aurora López, current deputy from the National Party and Vice President of Congress⁵. According to Honduran legislation, neither public officials nor their relatives can conduct business with the State⁶.

Effects on the consultation process as established in ILO Convention 169

In November 2013 in response to the mayor's decision on the feasibility study, MILPAH and other organisations held a peaceful demonstration to prevent the entry of machinery for the construction of the plant. The demonstration remained in situ until January 2014, when the newly elected mayor, Victor Santos Ventura, committed to performing a municipal consultation (**cabildo**) in accordance with the provisions of Municipal Law.

On October 6, 2014 PBI was present at the municipal consultation convened by the Municipal Corporation of Santa Elena, during which acts of intimidation were observed, according to some of those present, as well as elements which show lack of compliance with the abovementioned international standards. These were: i) the presence of the National Police and the Armed Forces accompanying the municipal corporation and taking photos of the opponents to the hydroelectric project; ii) the presence of representatives of the company; iii) the reduced space for the consultation, with room for only 400 people when, according to vice president of MILPAH Martín Gómez Vázquez, the dam would directly displace about 120 families comprised of more than 700 people⁷; and iv) during the municipal consultation when Gómez Vázquez took the floor to speak about the illegal nature of the consultation, the sound was turned off and the microphone was snatched by a policeman.

The minutes of the municipal consultation recorded that permission had been approved for the company to conduct the feasibility study. MILPAH members, with legal advice from CEHPRODEC, requested certification of this point in the municipal consultation minutes. This information was given to

³ National Association for the Promotion of Organic Farming (Asociación Nacional de Fomento a la Agricultura Ecológica - ANAFAE), "Violaciones de Derechos Humanos en Proyectos Extractivistas en Honduras", document presented to the UN Human Rights Council 19th session UPR Working Group, 2015.

⁴ In Honduras land can be classed as national, communal or private property. This is enshrined in the 1982 Constitution of the Republic of Honduras. According to the Law on Agrarian Reform national land can be allocated to farmers and indigenous groups when it can be shown that it is vacant.

⁵ Municipal Mayor's Office in Santa Elena, certification of the points of the minutes of October 18, 2013

⁶ Ley General de Minería Capítulo IV, artículo 75 incisos a,b,c,d y e.

⁷ "Indígenas de La Paz defienden sus bienes naturales y cultura en medio de amenazas", Radio Progreso and ERIC, November 7, 2014

them several weeks later, however, the minutes do not specify any names or identifying people who voted for or against, they only mention that the entire population agreed. CEHPRODEC has requested the detailed minutes to present an appeal for the consultation to be declared void, alleging that it did not respect the minimum standards established under ILO Convention 169.

Increase in violence linked to the implementation of this project

According to information from MILPAH and CEHPRODEC, since November 2013 several serious security incidents have been reported against community members. Martín Gómez Vázquez, Félix de Benítez, Pedro Amaya, Calixto Vázquez, Juan Bautista and Julio González have all received death threats from supporters of the hydroelectric dam, in an attempt to dissuade them from their opposition to it. Their homes have also been kept under surveillance. CEHPRODEC claims that dividing the community is part of the company's strategy to undermine their opposition to the project installation. In addition, there have been several attempts to evict communities. The latest took place on September 3, 2014, when police and armed civilians arrived at the premises occupied by the Indigenous Council of Santiago Apóstol and, according to the testimony of the community, fired several shots to scare them, burned their belongings, destroyed their crops, and stole their farm implements. All this was carried out without a warrant and without the presence of the judicial authorities⁸. The information received by PBI from the national police in Marcala contradicts this version of the events.⁹

Criminalization used to curb community movements who are against the construction of the hydroelectric projects

MILPAH has publicly denounced defamation against and prosecution of its members. The municipality, with the help of the National Police, has initiated a process of preparing profiles to assemble a dossier accusing some of the MILPAH members of sedition and treason¹⁰. These crimes are not generally punishable by alternative measures to prison, which means that they would be imprisoned throughout the whole process. In this same vein, on November 3, 2014, during a peaceful march, indigenous rights defender Calixto Vázquez was arbitrarily arrested. After his arrest he was taken to the Marcala police station and released that same day without charges¹¹. According to Martín Gómez Vázquez, on that day the municipality and its surroundings had been heavily militarized, as well as the territories where the company has begun work¹².

In light of this situation PBI asks the international community to:

- Urge the Honduran State to comply with its international human rights obligations, especially in relation to the rights of indigenous peoples as established in ILO Convention 169.
- Urge the Honduran State to take into account the UN Guiding Principles on Business and Human Rights and ensure their effective implementation and enforcement.
- Ensure that international cooperation efforts are directed towards strengthening the enjoyment and protection of human rights and the prevention and non-violent resolution of conflicts.
- Take positive steps to recognize the work of human rights defenders and to allow them to carry out their work safely and freely, as specified in the European Union Guidelines on human rights defenders. Some of these measures include visits to affected communities and organizing roundtables with stakeholders: authorities, companies, defenders, communities and the diplomatic corps.

⁸ Denuncia de FELIPE BENITEZ VASQUEZ, con identidad número 1216-1970-00064 puesta ante la Fiscalía de Marcala el 5 de septiembre de 2014.

⁹ Informe policial del 5 de septiembre del 2014, realizado en Marcala, La Paz, por SANTOS DAMIAN GALINDO ZUNIGA, Jefe municipal. D.N.I.C. Marcala, La Paz AHORA EX JEFE, dirigido al Sub-Comisionado de Policía Don: Ramón Martínez Hernández. Jefe Departamental Jefatura No. 12, La Paz.

¹⁰ Ibid 7.

¹¹ "Honduras - Detention and subsequent release of human rights defender Mr Calixto Vázquez", Frontline Defenders, November 6, 2014

¹² Ibid 7.