

October 24, 2023

To: Interested congressional aides

From: Vicki Gass and Ana Pereyra Baron, Latin America Working Group

Re: Honduras and the right to repeal the ZEDES investment law

On April 21, 2022, President Xiomara Castro announced that Congress had voted [unanimously](#) to [repeal this](#) law, claiming it was a violation of national sovereignty. After the law's repeal, on December 20, 2022, ZEDE Próspera announced that it would sue the Honduran government for [\\$10.7 billion](#) to [two-thirds](#) of the national budget for the 2023 fiscal period, an exorbitant fund that Honduras can ill afford. The damages sought in the lawsuit are higher than the amounts of foreign aid the United States has provided to all three northern Central American countries to address the root causes of migration under the last three U.S. presidents.

Lack of economic opportunity, ungovernability and corruption, are driving factors for out-migration from Honduras. To promote inclusive and sustainable economic development so people aren't forced to migrate, Congress must urge the Biden administration to respect Honduras' national sovereignty and right to repeal the ZEDES law. Congress must also urge the U.S. Trade Representative Tai and Secretary of State Blinken to end investor state dispute settlements (ISDS) in existing and future trade agreements.

What are Zones for Employment and Economic Development (ZEDEs)?

Proponents sell it as a chance for countries to attract investment and increase economic development. In reality, ZEDES is a legal entity allowing foreign investors to buy territory in another country and establish its own constitution and laws separate from the host country's constitution and laws. As designed, ZEDES are a state within a state. There are currently three ZEDES in the country. [Ciudad Morázan](#) outside Choloma, Orquídea, and [Próspera](#), which is located in Roatán, an island in Honduras. Despite the unanimous vote revoking the ZEDES law, a loophole allows them to continue for 10 years after the law is revoked.

What are the ABCs of the ZEDE Law?

[Article 1 and 2](#) of the Honduran law outlines what ZEDES can do and their objectives. Article 1 claims that the investors in these zones "are authorized to establish their own policies and regulations." Essentially, the Honduran government sells land to investors who have the freedom to create their own operating structures and laws. Moreover, the second article gives investors carte blanche to define the purpose of the ZEDE. ZEDES can be "national and international financial centers, international logistics centers, autonomous cities, international commercial courts, special investment districts... or any other **special regime not indicated** in this article."

The ZEDES law further creates a breeding ground for corruption. [Article 3](#) states the ZEDES can create their own autonomous judicial system. With the supposed purpose of attracting more foreign investment, [Article 5](#) declares ZEDES can "develop economic and legal environments appropriate to position themselves as centers of national and international investment." One of the main arguments of ZEDES supporters is that these zones provide an alternative to Honduras' corrupt institutions; however, according to the Center for Economic and Policy Research, the ZEDES structure "combines a lack of public accountability and deep conflicts of interest with the secret financing, thus creating a perfect environment for [corruption](#)."

Furthermore, [Article 22](#) of the ZEDE law states that these economic regimes can have their own internal police force, prison, and intelligence system which holds exclusive jurisdiction in the area. In the ZEDE called Ciudad Morazán, the state's police force is not allowed inside without [“invitation or supervision”](#) from the ZEDE's security forces. If a member of the ZEDE community violates the human rights of neighboring Indigenous or Afro-Hondurans whether through labor exploitation, rape or theft, the Honduran National Civilian Police could be prevented from investigating the case or bringing the perpetrator to justice. [Article 41](#) provides differential treatment to those who commit crimes such as extortion, drug and human trafficking, money laundering, genocide, child pornography, terrorism, child exploitation, and organized crime. Further, this article prevents a fugitive from being extradited.

Articles [25, 26, 27, and 28](#) allows the Honduran government to expropriate [land](#) to establish or geographically expand ZEDEs if deemed necessary for the development of these special economic zones. [Article 43](#) does state that the government cannot expropriate land from Afro-Indigenous and Indigenous persons if they have been granted land titles. The problem is, however, that many of these communities have not received clear land titles, even though they have occupied the land for decades or centuries. Moreover, this article does not extend the same protections to campesinos who have similarly lived on the land for years.

How can ZEDEs impact the rights of citizens?

In 2021, prior to the election of Xiomara Castro, the [United Nations](#) warned the Honduran government that the ZEDE law could threaten the human rights of Honduran citizens. Although touted as a form of development, the ZEDEs law hands over power from the government to national or international investors, putting the rights of people who work or live in or near ZEDEs at risk for eviction from their lands, labor exploitation, or environmental contamination. The ZEDE law also permits investors access to natural resources, opening the door for usurpation of resources that communities rely on for their livelihoods. Because investors have a free rein to create their own laws and regulations, they cannot be easily [held accountable](#) for any violations of political, social, economic, cultural, or human rights.

This is important because in Honduras, there is a long history of attacks against human right defenders, particularly those defending the land and the environment. Global Witness states that Honduras has the highest [per-capita killings](#) in the world with 14 people assassinated in 2022. This trend continues in 2023, with killings and non-lethal attacks across the country. Disputes over land and natural resources are the main sources of social conflict in Honduras.

The ZEDEs are contributing to this social conflict. For example, Próspera borders a large Black Caribbean Honduran community in Crawfish Rock. The people of [Crawfish Rock](#) have protested against the investors' plans, arguing that people were [pressured](#) to sell their land and were not informed of the implications of the ZEDEs.

Do Hondurans support the ZEDEs?

In Honduras, communities and organizations united to create the [National Movement Against the ZEDEs and for Sovereignty](#) to educate Hondurans about the dangers of ZEDEs and to advocate with Honduran legislators to uphold their April 21, 2022, unanimous vote repealing the law. Over [180 municipalities](#) have declared themselves free of ZEDEs. In September 2022, the Honduran Center for the Promotion of Community Development (CEHPRODEC), an organization that focuses on the defense of human and environmental rights for rural communities in Honduras, filed [two appeals of unconstitutionality against the ZEDES](#).

What can the U.S. Congress do?

To promote inclusive and sustainable economic development and end attacks against environmental defenders so people aren't forced to migrate, Congress must urge the Biden administration to respect Honduras' national sovereignty and right to repeal the ZEDEs law.

In May 2023, LAWG supported a bicameral [letter](#) led by 33 members of congress urging the U.S. Trade Representative Tai and Secretary of State Blinken to end investor state dispute settlements (ISDS) in existing and future trade agreements. The letter also requested Biden intervene in the current ISDS case brought against Honduras on behalf of the Honduran people.

Again, the damages sought in the lawsuit are higher than the amounts of foreign aid the United States has provided to all three northern Central American countries to address the root causes of migration under the last three U.S. presidents.