

April 5, 2021

Secretary Janet Yellen
Secretary of the Treasury
U.S. Governor, IDB Invest
Board Member, U.S. Development Finance Corporation

Dear Secretary Yellen,

We, the undersigned organizations, write to you to express our serious concern that in December 2020, IDB Invest, a member of the Inter-American Development Bank Group, approved a \$20.25 million loan for the Jilamito Hydroelectric Project in Honduras.¹ Additionally, the U.S. Development Finance Corporation (DFC) has indicated it will finance the project.² Sustained opposition to the project by affected communities is well-documented as are egregious acts of violence and intimidation that those who oppose the project have been subjected to. Furthermore, the Broad Movement for Dignity and Justice (MADJ for its Spanish acronym), a well-respected Honduran civil society organization that local residents affected by the project belong to,³ has presented serious complaints to the Honduran authorities alleging corruption and other irregularities related to the project. Investigation of these complaints are still pending. We urge you, in your new position as Secretary of the Treasury, to review this project and immediately halt its financing by IDB Invest and DFC.

In Honduras, corruption is widespread, as is impunity for those in power. As a result the judicial system does not protect the rights of communities impacted by business interests nor uphold rule of law or environmental standards.⁴ To the contrary, it plays a direct role in criminalizing

¹<https://www.IDBinvest.org/en/news-media/IDB-invest-supports-construction-jilamito-hydroelectric-project-honduras>

² <https://www.dfc.gov/media/press-releases/dfc-aims-finance-1-billion-private-sector-investment-honduras>

³ The *Movimiento Amplio por la Dignidad y Justicia* (MADJ) is a civil society organization made up of rural, urban, and Indigenous communities and members that opposes corruption and impunity and defends natural resources, human rights, dignity, and justice. It is well-respected in Honduras and internationally, as evidenced by the accompaniment it receives from the United Nations High Commissioner for Human Rights in Honduras (see <https://twitter.com/OACNUDHHN/status/1316446789030027264>) as well as other national and international recognition.

⁴ Concerns about the lack of independence of the Honduran judicial system and related problems, including political influence in the judiciary and corruption, have been loudly voiced by well respected agencies specialized in this issue. In a 2013 report, the International Commission of Jurists (ICJ), concluded that extreme levels of political interference in the Honduran judicial system compromises the independence of the judiciary, has weakened judicial institutions, and has led to an increase in impunity. In August 2019 the United Nations Special Relator on the Independence of Judges visited Honduras expressing concern that problems with judicial backlog, impunity and human rights violations have called into question the judiciary and the entire political system.

<https://www.icj.org/wp-content/uploads/2014/05/Honduras-Informe-final-en-PDF.pdf>,
<https://news.un.org/es/story/2019/08/1461041>

environmental and human rights defenders.⁵ These dynamics played out on an international stage following the murder of world-renowned Indigenous leader Berta Cáceres, winner of the 2015 Goldman Environmental Prize,⁶ who was murdered for her leadership opposing a similar project, the Agua Zarca Hydroelectric Project.⁷ IDB Invest's decision to move forward with financing the Jilamito Hydroelectric Project despite the violence, threats, and criminalization surrounding it remind us of the Dutch Development Bank's decision to finance Agua Zarca despite the violence, threats, and criminalization surrounding it at the time. Following Cáceres murder, the Dutch Development Bank finally reversed course and exited the project,⁸ but it was too late.

The parallels between the two projects are numerous. To start, both projects have faced sustained opposition by affected communities. In the case of Jilamito, since May 2017, residents of surrounding communities have peacefully maintained a 'Dignified Camp for Water and Life' in defense of the Jilamito River and in opposition to the Jilamito Hydroelectric Project. In November 2015⁹ and March 2019,¹⁰ municipal referendums were held in which the population not only rejected the Jilamito Hydroelectric Project but also rejected any and all hydroelectric projects in the municipality.

Many local residents have concerns that the hydroelectric project will compromise access to water and negatively impact the environment.¹¹ They want the Jilamito River preserved to provide potable water for thousands of families from 16 communities.¹² In 2017, after the project developer began infrastructure construction, local residents presented a complaint to the local Special Prosecutor for the Environment denouncing environmental damage, including contamination of the Jilamito river and stagnation of water sources as a result of the

⁵ <http://www.oas.org/es/cidh/informes/pdfs/criminalizacion2016.pdf>

⁶ <https://www.goldmanprize.org/recipient/bertha-caceres/>

⁷ <https://www.nytimes.com/2018/11/29/world/americas/honduras-bertha-caceres.html>

⁸ <https://www.fmo.nl/news-detail/5a7ee738-23ea-4fc4-b804-d5f7dbdc095a/fmo-seeks-to-exit-agua-zarca>

⁹ On November 20, 2015, at 1pm, an official municipal referendum (*cabildo abierto*) was to be held on the Jilamito Hydroelectric Project. According to complaints 1042-2015, 572-2015, and 545-2015 presented to Honduras' Investigative Police Directorate, Public Prosecutors Office of Tela, and the Prosecutor Against Corruption of Tela, respectively, the Mayor at the time, who was in favor of the Jilamito Hydroelectric Project and aware of the population's rejection of it, bussed in approximately 30 buses with people from other parts of the country and paid them money to hold an assembly at 8am to approve the project. At 1pm, when the scheduled referendum was held, the population voted NOT to authorize the municipal construction permit for the Jilamito Hydroelectric Project and declared the Municipality of Arizona free of hydroelectric and mining projects. This municipal referendum was documented by Honduran notary Marlon Rolando Ávila Enamorado in an affidavit (*acta notarial*) identified as public instrument number 576. See also <https://criterio.hn/arizona-atlantida-se-declara-municipio-libre-mineria-e-hidroelectricas/>

¹⁰ On March 24, 2019, a municipal referendum declared the Municipality of Arizona a zone that produces water exclusively and preferentially for human consumption and authorized the filing of whatever legal motions were necessary to cancel licences and permits that had been issued against the will of the population.

¹¹ <https://criterio.hn/los-protectores-del-rio-jilamito-y-la-guerra-por-el-agua-en-el-caribe-de-honduras/>

¹² IDB Invest claims the project will not affect access to water and that the project developer will carry out a project to provide the communities with potable water. However, there are credible concerns about water scarcity in the region and many residents identify the Jilamito River as the last remaining water source in the area. Local residents have documented pollution of the Jilamito River as a result of project infrastructure construction.

construction.¹³ A study by a MADJ engineer documented environmental destruction and threats to the Jilamito River in the upper river basin caused by project infrastructure construction, including violations of Honduras' General Water Law.¹⁴

Furthermore, as in the case of Agua Zarca, those who oppose the Jilamito Hydroelectric Project have faced threats, false prosecution and murders. This includes the ongoing criminalization of the current local Mayor, Arnaldo Chacon, who was elected on an anti-dam platform, and four other community leaders who are facing criminal charges for their opposition to the Jilamito Hydroelectric project.¹⁵ Notably, Berta Cáceres also faced criminal charges for her leadership in opposing the Agua Zarca Project before she was murdered.¹⁶ In the case of Jilamito, the lawyer defending Mayor Chacon, Carlos Hernandez, was murdered just a month after Chacon was indicted.¹⁷ Chacon had received death threats that he or those close to him would be killed for his opposition to the Jilamito project.¹⁸ However, despite the threats, judicial persecution, and police intimidation, opposition to the Jilamito Hydroelectric Project is so strong that area residents have maintained the protest camp day in and day out since 2017.¹⁹

Moreover, there are serious concerns about corruption related to both projects. The Power Purchase Agreements (PPA) for both projects were signed with Honduras' National Electricity Company (ENEE), a government agency, in the period after the 2009 military coup d'état when the government of Honduras was not recognized by the international community. The de facto ENEE officials signed dozens of power purchase agreements (PPAs) with political insiders from Honduras' business elite. Following the murder of Berta Cáceres, the OAS' anti-corruption mission in Honduras (MACCIH) and Honduras' anti-corruption public prosecutors presented criminal charges related to ENEE's PPA contract for Agua Zarca.²⁰ MACCIH has expressed

¹³ On June 15, 2017, they presented a complaint to the Special Prosecutor for the Environment in the Honduran city of La Ceiba.

¹⁴ Technical Environmental Report 'The Ecological Impact in the Upper Basin of the Jilamito River due to the Realization of Basic Infrastructure Activities for the INGELSA company Hydroelectric Project' by MSc. Juan Antonio Mejía Guerra, May 31, 2017.

¹⁵ In December 2017, criminal charges of 'encroachment in its modality of holding public space' were filed against Arnaldo Chacon, Mayor of the Arizona Municipality, Tulio Lainez, Julio Leiva, Elena Gaitan, and Claudio Ramirez for their peaceful protest against the Jilamito Hydroelectric Project. The trial in the case is currently scheduled for April 2021. See

<https://www.theguardian.com/environment/2018/may/02/honduran-dam-protesters-face-trial-in-ongoing-crackdown-against-defenders>

¹⁶ In 2013, Cáceres was also charged with 'encroachment' and other charges for her leadership against the Agua Zarca Project. See

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

¹⁷ <https://www.frontlinedefenders.org/en/case/carlos-hernandez-killed>

¹⁸ <https://www.theguardian.com/environment/2018/may/02/honduran-dam-protesters-face-trial-in-ongoing-crackdown-against-defenders>

¹⁹ <https://criterio.hn/los-protectores-del-rio-jilamito-y-la-guerra-por-el-agua-en-el-caribe-de-honduras/>

²⁰ Organization of American States Mission of Support Against Corruption and Impunity in Honduras (OEA-MACCIH), "MACCIH-OEA y UFECIC-MP presentan noveno caso de investigación penal integrada: "Fraude sobre el Gualcarque", MCH-004/19, 4 de marzo de 2019,

[http://www.oas.org/es/sap/dsdme/maccih/new/docs/MCH-](http://www.oas.org/es/sap/dsdme/maccih/new/docs/MCH-004.MACCIH-OEA-y-UFECIC-MP-presentan-noveno-caso-de-investigacion-penal-integrada-Fraude-sobre-elGualcarque.pdf?sCodigo=MCH-004/19)

004.MACCIH-OEA-y-UFECIC-MP-presentan-noveno-caso-de-investigacion-penal-integrada-Fraude-sobre-elGualcarque.pdf?sCodigo=MCH-004/19

concern about corruption in other ENEE contracts, suggesting that the PPAs for other hydroelectric and renewable energy projects be reviewed.²¹ The same director of the ENEE who was indicted and is awaiting trial on criminal charges related to overly favorable pricing in the Agua Zarca PPA also authorized the Jilamito Hydroelectric Project PPA.²² MADJ has requested an investigation of the ENEE contracting process for the Jilamito Hydroelectric Project.²³

Concerns about corruption and irregularities are not limited to the Jilamito Hydroelectric Project's ENEE contract. The complaint that MADJ presented to anti-corruption prosecutors also requests an investigation into irregularities in the environmental license process for the Jilamito Hydroelectric Project.²⁴ Additionally, in October 2020, local residents who are part of MADJ presented an administrative action to Honduras' Secretary for Energy, Natural Resources, Environment, and Mines requesting the annulment of the Jilamito Hydroelectric Project's environmental license.²⁵

Furthermore, a complaint against the former mayor and municipal secretary was presented to the Public Prosecutor's Office alleging the falsification of the official minutes from the November 2015 referendum on the Jilamito Hydroelectric Project and other crimes.²⁶ This is particularly relevant given that IDB Invest has cited these minutes as supposed evidence of community

²¹ Ibid, page 2.

²² In April 2019, Roberto Martinez Lozano was indicted on charges of abuse of authority in relation to the Agua Zarca Hydroelectric Project PPA, ENEE Contract 043-2010, and the trial is currently scheduled for March 2021. He also signed the Jilamito Hydroelectric Project's PPA, ENEE Contract 073-2010.

²³ In October 2020, MADJ presented a complaint to Honduras' Special Prosecutor against Corruption Networks alleging irregularities and requesting an investigation into possible abuse of authority and fraud by ENEE officials and representatives of INGELSA, the company developing the Jilamito Hydroelectric Project, and other companies in relation to the ENEE contracting process.

²⁴ October 2020 complaint to Honduras' Special Prosecutor against Corruption Networks.

²⁵ The administrative action requesting annulment of the environmental licence number 077-2014 for the Jilamito Hydroelectric Project was presented on October 10, 2020 to file 2013-LA-00035 of the Secretary for Energy, Natural Resources, Environment, and Mines.

²⁶ Complaint presented to the Regional Prosecutor of La Ceiba for falsification of public documents, removal of public documents, and cover-up. The allegation of falsification of public documents refers to Minutes no. 30 of the Municipality of Arizona's Book of Referendum Minutes about the November 20, 2015 referendum on the Jilamito Hydroelectric Project. According to the complaint, Minutes no. 30 says that the municipal referendum did *not* occur due to a lack of quorum and a tense atmosphere but subsequently, almost 30 pages later in the book of minutes, an amendment was added. The complaint alleges one page (with front and back content) of this amendment were removed, but those that appear contradict the original minutes and suddenly claim the Jilamito Hydroelectric Project was socialized in the referendum. In contrast to Minutes no. 30 and its amendment, a notary public attended the referendum and recorded the population's rejection of the Jilamito Hydroelectric Project in an official notarized document.

support for the project.²⁷ Separate complaints have also been filed against the former mayor alleging other illegalities to falsely claim support for the project.²⁸

Given the widespread concern over the high levels of corruption in Honduras' judicial system, it is not a surprise that the complaints and requests for investigation into alleged acts of corruption, abuse of authority, irregularities, and environmental damages have not been swiftly resolved. Nor is it a surprise that nobody has been prosecuted for the murders of project opponents.

It is disturbing that in December 2020, IDB Invest approved a loan for the Jilamito Hydroelectric Project given the threats, human rights violations, and credible allegations of corruption and irregularities described above. The impunity in Honduras' judicial system is not an excuse for ignoring corruption and human rights violations. IDB Invest's decision to engage MFC Social and Environmental Performance Ltd (MFC) and claims that IDB Invest's involvement will help ensure this project meets 'rigorous environmental and social standards to mitigate and manage the possible impacts of the project'²⁹ do not allay our concerns about the project. MFC also served as consultants for the Agua Zarca Project;³⁰ their reports served to whitewash the serious human rights issues surrounding the project. Development banks claimed their involvement would hold the project to meet higher standards, but Berta Cáceres was murdered after repeatedly warning the Dutch Development Bank about the threats and violations related to the project.³¹ We do not want a high profile murder to have to occur for IDB Invest and the DFC to pull out of this project.

President Biden has indicated it is a priority for his administration to address the root causes of migration from Central America, including corruption and human rights violations. On February 2, 2021, President Biden issued an Executive Order that called for the preparation of a strategy to address the root causes of migration from Central America, including 'combating corruption, strengthening democratic governance, and advancing rule of law; promoting respect for human

²⁷ IDB Invest cites Minutes No. 30 of the Municipality of Arizona's Book of Referendum Minutes as evidence the project has community support in its September 2020 letter to MADJ. See <https://www.IDBinvest.org/en/download/11351> IDB Invest does not appear to have considered the credible allegations these minutes were falsified nor have done due diligence on this point. It should have been a red flag that the original content and the amendment contradict themselves and that the supposed approval only appears in an amendment, not the original minutes. Furthermore, a notary public documented the rejection of the project in the referendum.

²⁸ See footnote 6.

²⁹ Letter from IDB Invest to MADJ, December 2020.

³⁰ MFC Social and Environmental, Performance Ltd (MFC formerly known as Monkey Forest Consulting) are the same consultants used by Dutch Development Bank for the Agua Zarca project.

³¹ Cáceres' children and organization COPINH have filed a civil suit against the Dutch Development Bank. <https://www.theguardian.com/global-development/2018/may/18/bank-faces-lawsuit-over-honduras-dam-project-spirit-of-bertha-caceres-fmo-agua-zarca>

rights' as well as preventing violence.³² U.S. financing of the Jilamito Hydroelectric Project, via IDB Invest, the DFC, or any other agency, would directly undermine these priorities.

We urge you to use the United States' voice within IDB Invest and your role as a Board member of the DFC to suspend the proposed financing for the Jilamito Hydroelectric Project, ensure that no disbursements are made, and that the financing is definitively canceled. Furthermore, there needs to be improvements to current safeguards and safeguard enforcement mechanisms to prevent this type of situation in the future. Please act to ensure that the U.S. is not complicit in financing projects that undermine rule of law and human rights.

Thank you,

Organizations based in the United States

A Legacy of Equality Leadership and Organizing (LELO)

Alliance for Global Justice

Alliance of Baptists

Americas Program

Bergen County Immigration Strategy Group

Center for Gender & Refugee Studies

Central American Resource Center - Los Angeles

Chicago Religious Leadership Network on Latin America

Church Women United in New York State

Cities of Peace Detroit

CODEPINK

Columban Center for Advocacy and Outreach

Committee in Solidarity with the People of El Salvador (CISPES)

Community Alliance for Global Justice

Denver Justice and Peace Committee

Family Farm Defenders

Friendship Office of the Americas

Global Exchange

Grassroots Global Justice Alliance

Honduras Solidarity Network in North America

Indivisible NJ5 - New Jersey

Interfaith Movement for Human Integrity

InterReligious Task Force on Central America - Cleveland

La Voz de los de Abajo - Chicago

Latin America Caucus of Interfaith Council for Peace & Justice - Ann Arbor

³² Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border.

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/>

Latin America Solidarity Committee - Corvallis
Latin America Solidarity Committee - Milwaukee
Latin America Working Group (LAWG)
National Lawyers Guild International Committee
New Mexico Interfaith Power and Light
Occupy Bergen County - New Jersey
Partnership for Earth Spirituality
Pax Christi USA
Peace Brigades International - USA
Portland Central America Solidarity Committee
Promise Institute for Human Rights, UCLA School of Law
School of the Americas Watch
Sisters of Mercy of the Americas - Justice Team, Washington, DC
Sisters of Saint Francis, Rochester, Minnesota
St. Louis Inter-Faith Committee on Latin America
SOAW San Francisco
Task Force on the Americas
The Cross Border Network for Justice and Solidarity - Kansas City
The Wei LLC - New Jersey
Unitarian Universalists for a Just Economic Community
Witness at the Border
Witness for Peace Solidarity Collective
Witness for Peace Southeast
350NYC

Honduran and Regional Organizations

Movimiento Amplio por la Dignidad y la Justicia (MADJ) - Honduras
Bufete Estudios para la Dignidad (BED) - Honduras
Comite Municipal de Defensa de los Bienes Comunes y Públicos - Honduras
Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH) - Honduras
Coordinadora de Organizaciones Populares del Aguan (COPA) - Honduras
Fundación San Alonso Rodríguez - Honduras
Instituto de Derecho Ambiental de Honduras (IDAMHO) - Honduras
Plataforma Agraria Regional del Bajo Aguan - Honduras
Protection International Mesoamérica
Peace Watch Switzerland en Honduras
Honduras Forum Switzerland
Collettivo Italia Centro America - Italy
Nicaragua Center for Community Action