

# Dam Violence

THE PLAN THAT KILLED BERTA CÁCERES

*November 2017*



**GAIPE**

Grupo Asesor  
Internacional de  
Personas Expertas

# EXECUTIVE SUMMARY

On March 2, 2016, armed men murdered human rights defender Berta Isabel Cáceres Flores, and shot Mexican environmental activist Gustavo Castro Soto in the town of La Esperanza, Department of Intibucá, Honduras. Their relatives and the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH) immediately requested an independent investigation due to concerns that Honduran authorities would not identify the intellectual authors of the crime.

The relatives of Berta Cáceres and COPINH made this request before the Inter-American Commission on Human Rights (IACHR), the United Nations and many other national and international actors. Nevertheless, they were disregarded by the Honduran State.

In light of this inaction, the family and COPINH together with the Wide Movement for Dignity and Justice (MADJ), the Center for Justice and International Law (CEJIL) and other national and international organizations, insisted on an investigation by a group of independent experts. As a result, in November 2016, the International Advisory Group of Experts (GAIPE) was created and its members are Dan Saxon, Roxanna Altholz, Miguel Ángel Urbina, Jorge Molano and Liliana Uribe-Tirado.

GAIPE has conducted four on-site visits to Honduras; interviewed more than thirty individuals, analyzed different reports by international human rights organizations; and reviewed ten criminal cases resulting from COPINH complaints as well as legal actions filed due to a lack of prior, free and informed consultation related to the Agua Zarca Project. Furthermore, GAIPE has had partial access to the evidence of the criminal investigation of Berta Isabel Cáceres' murder and the attempted assassination of Gustavo Castro.

## EXECUTIVE SUMMARY

GAIPE recognizes that, to date, state authorities have identified and charged eight individuals. Their names are public. These individuals include: Sergio Ramón Rodríguez Orellana, Douglas Giovanni Bustillo, Mariano Díaz Chávez, Henry Javier Hernández Rodríguez, Óscar Aroldo Torres Velásquez, Elvin Heriberto Rápalo Orellana, Edilson Atilio Duarte Meza and Emerson Eusebio Duarte Meza.

As of October 2017, telephone data is the main evidence that supports the Public Prosecutor's Office charges against the eight indicted individuals. GAIPE has had access to a fraction of this digital information, which is comprised of telephone records, and extracts of electronic devices and SIM cards that contain text messages, phone calls, e-mails, contacts, images, videos, recordings, GPS tracking, etc. Based on the analysis of the evidence collected, GAIPE has documented criminal conduct and irregularities in the investigation, and has identified the possible intellectual authors of the murder.

The main findings are summarized below:

Based on its analysis of the evidence, GAIPE has concluded that Berta Isabel Cáceres' murder is not an isolated incident.

This report demonstrates that shareholders, executives, managers, and employees of Desarrollos Energéticos Sociedad Anónima (DESA), private security companies working for DESA; and public officials and State security agencies implemented different strategies to violate the right to prior, free and informed consultations of the Lenca indigenous people. The strategy was to control, neutralize and eliminate any opposition. These actions included:

The instrumentalization of communities to rupture their social fabric; smear campaigns, infiltrations, surveillance, threats, contract killing, sabotage of COPINH's communication equipment; cooperation of justice officials and security forces, and strengthening of parallel structures to State security forces.

The Secretariat of Security of Honduras fulfilled two roles. On one hand, it deployed personnel and resources for the protection of the Agua Zarca Project facilities, influenced by its relations with DESA's shareholders and executives. On the other hand, it failed to protect Berta Isabel Cáceres Flores, despite the serious and imminent threat to her life and integrity.

The information reviewed by GAIPE also demonstrates that DESA lacked sufficient capital to build the Agua Zarca Hydroelectric Project. The company appears to have used funds originating from the financial system to increase the levels of violence in the zone influence of the company and to systematically attack members of COPINH and Berta Isabel Cáceres Flores, among others.

Based on its analysis, GAIPE has established the willful negligence by financial institutions such as the Central American Bank for Economic Integration (CABEI), the Netherlands Development Finance Institution (FMO) and the Finnfund. These entities, through repeated complaints and reports by international consultants, had prior knowledge of the strategies undertaken by DESA. Nevertheless, they failed to implement appropriate, effective and timely measures to guarantee respect for the human rights of indigenous communities affected by the Agua Zarca dam, much less to protect the life and integrity of Berta Isabel Cáceres Flores. Nor did they make sufficient efforts to ensure the appropriate criminal investigations.

With respect to the specific event on March 2, GAIPE established, with evidence that has been in the possession of the Public Prosecutor's Office since May 2, 2016, that the planning, execution and

cover-up of Berta Isabel Cáceres Flores' murder started in November 2015. That period coincides with the mobilization of indigenous communities and COPINH in opposition to the Agua Zarca Project.

During the months of January and February of 2016, several of the accused, together with unidentified individuals, carried out surveillance in the city of La Esperanza, Berta Isabel Cáceres Flores' place of residence and the location of COPINH's offices and headquarters. According to the evidence, on February 5 and February 6, 2016, there was an operation to commit the crime, in which several of the accused participated. However, for logistical reasons, the operation was "aborted."

According to the information analyzed by GAIPE, during the morning of March 2, 2016, at least four of the alleged perpetrators met in La Ceiba and travelled to the city of La Esperanza, Intibucá. Upon their arrival to La Esperanza, they carried out surveillance before committing the murder.

Through analysis of the telephone call traffic between the accused, GAIPE concluded that other persons participated in the execution of the murder, but they have not yet been identified by the Public Prosecutor's Office.

State officials in charge of the investigation constructed hypotheses lacking any foundation. They attributed Berta Cáceres' murder to a former partner, creating the connotation of a crime of passion. They also maintained that the attack arose from conflicts of interest from within COPINH.

Moreover, by denying access to the criminal file, the Public Prosecutor's Office has prevented the timely and diligent participation of victims through their legal representative. This decision has limited access to documents, investigative actions and evidence related to the identification, prosecution and trial of other intellectual and material authors of Berta Cáceres' murder and Gustavo Castro's attempted murder.

The failure to provide access to this information has also promoted impunity for criminal attacks against members of COPINH and Lenca communities that oppose the Agua Zarca Hydroelectric Project.

Despite the secrecy of the Public Prosecutor's investigation, GAIPE has been able to establish the participation of executives, managers and employees of DESA, of private security personnel hired by the company, of state agents and parallel structures to State security forces in crimes committed before, during and after March 2, 2016, the day of the assassination. Those crimes remain unpunished.

In addition, based on telephone data analysis, it is possible to deduce that shareholders and executives of DESA maintained contact with authorities from the Secretariat of Security and the Preventive Police to ascertain details of the initial judicial proceedings related to the murder, even before the family of Berta Isabel Cáceres Flores or her legal representatives were informed. At the same time, it demonstrates that these actors exerted influence so that the initial proceedings targeted members of COPINH or persons who were close to Berta.

Based on the information provided by the Public Prosecutor's Office as well as the data collection and analysis undertaken by GAIPE, the report makes the following recommendations:

To the Government and Legislative Branch: A) Review the legislation and, in this case, revoke, in compliance with the provisions of the legal system and international human rights standards, the concession, licenses, and other benefits granted for the Agua Zarca Project due to the fact that the obligation to conduct a prior, free and informed consultation was violated; B) Comply with the July 2011 agreement signed between COPINH and Porfirio Lobo-Soso, President of the Republic of Honduras,

which establishes the commitment “not authorize the construction of dams in Lenca communities if free, prior and informed consultations were not made”; C) Adopt and implement administrative and legislative measures to 1) prevent companies that have been granted concessions or other benefits for the exploitation of the State’s natural resources and assets from using financial and human resources to control, neutralize, and eliminate social concerns, expressed individually or collectively, about potential violations of human rights. Additionally, adopt measures to investigate and sanction those companies shown to have made inappropriate use of these resources; 2) guarantee the full exercise of the right to promote and defend human rights; 3) ensure the regulation and subordination of private security companies to civilian security forces of the State; 4) repeal the judicial functions granted to the National Directorate of Intelligence, and transfer those powers and resources to civilian institutions; 5) strengthen investigative mechanisms that dismantle criminal structures responsible for violating the rights of human rights defenders.

Justice System: A) Effectively guarantee a serious, comprehensive and exhaustive investigation of the assassination of Berta Isabel Cáceres Flores and the attempted murder of Gustavo Castro Soto, in order to prosecute and punish all persons responsible, as intellectual or material authors, by action or omission, for the crimes and related criminal behavior; B) Investigate the actions of the authorities in charge of the investigation of the events that occurred on March 2, 2016 to determine their misconduct by action or omission; C) Investigate, prosecute and punish those people linked to DESA, and the State security bodies who were part of and strengthened the criminal structures that acted against the Lenca communities of Rio Blanco and members of COPINH with the aim of dismantling these structures and preventing future intimidation and violent acts; D) Allow the participation of the victims in the domestic proceedings and, relatedly, give them timely access to all the investigative activities, in addition to granting access to the accused to exercise their right of defense in compliance with the Honduran legislation and international human rights standards.

To Companies, Financial Institutions and Donor Countries: Assure that development and investment projects respect and guarantee the obligation to carry out prior, free and informed consultations with indigenous peoples and Afro-communities; and ensure that the Honduran State fully respects the work of human rights defense carried out by civil society organizations, persons from communities affected by policies related to the exploitation of natural resources and State assets, and establishes sanctions for violations of provisions of International Labour Convention 169.

To the International Community: A) Promote monitoring and public scrutiny of serious human rights violations, as well as the promotion and defense of human rights regarding projects that exploit natural resources and State assets; B) Accompany demands for truth, justice and reparation as mechanisms to construct and consolidate less violent societies in which respect for human rights is incorporated as a daily practice by state officials, private companies and the financial system; C) Support the family of Berta Isabel Cáceres Flores, members of COPINH, international and national organizations, as well as the legal team, to overcome impunity and arbitrariness in the performance of public duties; D) Strengthen norms and implement measures to assure the full exercise, individually or collectively, of human rights, in general; and, especially, those related to the policies of exploitation of resources and State assets.

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ISBN: 978-1-938722-07-3