

# **EWS Project Alert:**

## **IDB Support to Investment Attraction and Job Creation in Honduras (ZEDEs)**

### **PROJECT SUMMARY**

**Project Number:** HO-L1191

**Risk Assessment:** B (Downgraded from Category A)

**Project Summary:** The IDB proposes to support the Honduras government in “the conceptualization and preparation of technical studies and designs for the establishment of Employment and Economic Development Zones (ZEDEs) that aim to foster: (i) the increase in investment in employment-intensive sectors, (ii) the creation of formal jobs, and (iii) the reduction of unemployment and informal employment.”

**Location:** Honduras-unspecified

**Resources needed:** Would depend on the project – there is no size limit for a ZEDE nor definition of what type of project in can be.

**Link to Project Site:** <http://www.iadb.org/en/projects/project-description-title,1303.html?id=HO-L1191>

### **TYPE OF INVESTMENT**

**Bank financing:** Inter-American Development Bank

**Project type:** Loan

**Borrower:** Honduras

**Amount of Proposed Investment:** \$20 million

### **ANALYSIS OF PROJECT**

#### **SOCIAL & ENVIRONMENTAL STANDARDS TRIGGERED BY THE IDB**

As of the date of this project alert, the IDB has not yet produced any project documents or triggered any specific policies.

#### **OUR RISK ASSESSMENT**

This project has been flagged to the dramatic changes to public policy-policy making, governance, oversight, accountability – as well as the fundamental rights of Hondurans – and the absence of any defined environmental and labor standards, social protections; vague consultation requirements; and its lack of coherency with IDB’s stated mission, principles and policies.

About ZEDEs: The Honduran ZEDE law (Decree No. 120-2013) was passed in 2013 and legalized the special development zones to be governed by private entities, with little transparency and at the expense of Hondurans’ constitutional rights. The law was hugely controversial and was almost immediately subject to a legal challenge by over 50 Honduran organizations representing a broad cross section of communities and geographic regions. The Honduran Constitutional Chamber rejected the legal challenge. Honduran communities, lawyers and civil society organizations continue to express concerns about ZEDEs and their possible impacts.

A ZEDE has no size limit and is financially and administratively autonomous, and operates an

independent judicial system that can opt to use foreign judicial traditions and foreign judges. ZEDEs also have the legal authority to create their own public policies, utilize a private police force, and create their own educational curriculum. ZEDEs have the potential to nullify existing labor contracts and labor laws in their territory.

ZEDEs do not align with the IDB mission to reduce poverty and inequality, as there are no protections in the ZEDE law to ensure a living wage and no protections against forced displacement. At the same time, there is no public control over taxation or public spending, and no clear avenues for Honduran citizens to protect their rights in Honduran courts. This structure creates dramatic inequality between the corporate “owner” of the ZEDE and the local population, and exacerbates the vulnerability of marginalized communities.

Although there are no project documents available at present, the ZEDE Law itself represents concrete violations of IDB goals, policies, and social and environmental standards. Any support from the IDB to the Honduran government to implement the Law should trigger all of its Operational Policies due to the risks presented by this project:

- *Access to Information (OP-102)*: The Bank expresses its commitment to “transparency in all aspects of its operations” to “demonstrate its transparent use of public funds,” and Principle 1 of this policy is to “**maximize access to information.**” Yet by their very nature, ZEDEs are private business ventures and in Honduras may be legally exempt from the transparency laws which apply to municipal governments. ZEDEs could fall under Exception 4.1(f) which protects corporate administrative information from public disclosure, including information related to corporate expenses such as real estate. While by law a ZEDE must make its internal norms public, there has been no transparency as to the procedures a ZEDE will use to design and implement policies or what standards will apply.
- *Disaster Risk Management (OP-704)*: The Bank recognizes that “adequate institutional capacities and a meaningful participation of civil society are particularly important to manage risks related to natural hazards at the regional, national and local levels and for the successful achievement of this policy’s objectives.” Specifically, the policy states that “special care” should be taken to assess “sectors such as housing, energy, water and sanitation, infrastructure, industrial and agricultural development, and critical health and education installations,” and that “consideration should be given to both structural and non-structural mitigation measures [including] **the capacity of the relevant national institutions to enforce proper design and construction standards.**” The private leadership structure of a ZEDE, while it has all of the responsibilities both of local government and of some national institutions, it has none of the obligations. It is unclear what standards will be applied in the key sectors identified by the IDB and what responsibility the CABP will take to regulate, enforce and respond to natural disasters. This raises questions about the ability of the IDB to ensure compliance with OP-704 during the implementation of the ZEDE law.
- *Environment and Safeguard Compliance (OP-703)*: Policy Directive 4.7 states that the Bank will proactively support operations designed specifically to: (i) **enhance environmental governance**, policy development and institutional capacity building; (ii) reverse environmental deterioration; and (iii) promote the conservation and sustainable use of natural resources and ecological services. Policy Directive 4.9 adds that the Bank will support regional and transboundary environmental and natural resources management initiatives. ZEDEs weaken environmental governance and oversight, privatize policy-making and include no details about the environmental standards that should be implemented.
- *Public Utilities Policy (OP-708)*: Principle 3.3 of this policy explicitly states: “The Policy holds that governance for decision-making in public utilities management, as well as the policy and/or regulatory framework that regulates and supervises the utilities are the primary factors determining

their performance, quality, and sustainability. This requires the following: (a). Promoting integrity, transparency, and accountability. Bank-financed operations will drive basic institutional arrangements so the region's countries **adopt measures that promote integrity and increase transparency in the delivery of public utilities services**, in order to improve accountability and strengthen the observance of users' rights. The ZEDE Law dismantles local democratic governance and requirements for public transparency, including in public utilities.

- *Operational Policy on Involuntary Resettlement (OP-710)*: This policy aims to minimize the disruption of the livelihoods of people living in the project's area of influence. In cases where the "universe of physical infrastructure investments is not specifically identified prior to project approval" (as is the case with this technical assistance for the establishment of ZEDEs), Bank policy states that the project must include provisions to "**ensure that any resettlement eventually required is carried out in accordance with Bank policies and guidelines.**" Since the ZEDE law explicitly exempts low-density areas from consultation and prioritizes land expropriation, it is difficult to see how this loan can ever be in compliance with OP-710.
- *Operational Policy on Gender Equality in Development (OP-761)*: This policy strives to both promote equality and to prevent adverse impacts. It is the Bank's ability to support preventive action that raises the most concern. Because the ZEDE law doesn't always require local consultation, Bank support for the Law's implementation will undermine efforts to ensure effective participation of women in decision-making. The lack of transparency and lack of strict labor protections may also undermine the Bank's requirement to avoid adverse impacts, such as (b) Disregarding the right of women to inherit and own land, homes, and other assets or natural resources and (c) Introducing conditions that restrict the participation of women or men in project activities and benefits based on pregnancy, maternity/paternity leave, or marital status.
- *Operational Policy on Indigenous Peoples (OP-765)*: In the Policy Preamble, the bank states that it "seeks to support sociocultural development processes that are appropriate to the economy and governance of indigenous peoples, giving **priority to territorial and cultural integrity**" and recognizes "the need to consolidate conditions that **enable indigenous peoples to exercise the right to participate effectively in determining their own political, economic, social, and cultural future** within the framework of participation in democratic systems and of the construction of multicultural states." Support for the implementation of the ZEDE Law contradicts the Bank's stated principles, as well as specific objectives and goals in relation to indigenous peoples, including: respect for development with identity, respect for internationally-recognized indigenous rights, strengthening of land titling and territorial management, support for indigenous governance, and support for mechanisms for appropriate consultation, among many others.

More generally, the ZEDE Law reduces protections under the Honduran Constitution. The law explicitly states (Art. 1) that the only Constitutional Articles to be fully enforced are 10, 11, 12, 13, 15, 19. In Art. 8, the law stipulates the normative hierarchy that applies to ZEDEs, including "The Honduran Constitution **where it applies**" – implying that some constitutional protections will not be recognized.

The ZEDE Law also undermines Honduras' international obligations. The fact that communities would have no guaranteed opportunity to elect local representatives at all is a violation of Honduras's treaty obligations under the American Convention on Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social, and Cultural Rights. Having ratified the Indigenous and Tribal People's Convention (ILO 169) and the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), Honduras is obligated to consult with indigenous groups whenever consideration is being given to legislative or administrative measures that may affect them directly.

## RESOURCES/OPPORTUNITIES TO PREVENT HARM & SEEK JUSTICE

The Independent Consultation and Investigation Mechanism (MICI) is the independent complaint mechanism and fact-finding body for people who have been or are likely to be adversely affected by an Inter-American Development Bank Group (IDB)-funded project. If you submit a complaint to MICI, they may assist you in addressing the problems you raised through a dispute-resolution process with those implementing the project and/or through an investigation to assess whether the IDB is following its own policies for preventing or mitigating harm to people or the environment. You can submit a complaint by sending an email to [MICI@iadb.org](mailto:MICI@iadb.org). You can learn more about the MICI and how to file a complaint at <http://www.iadb.org/en/mici/mici,1752.html> (in English) or <http://www.iadb.org/es/mici/mici,1752.html> (Spanish).

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*Nov. 16, 2017*